FLORIDA REAL ESTATE
SALES ASSOCIATE
PRE-LICENSE COURSE
13TH EDITION
Congratulations on starting your new career in real estate and choosing Gold Coast as your school. Gold Coast is Florida’s leading real estate school and has helped hundreds of thousands of students like you since 1970! As with learning anything new, the volume of material can seem somewhat daunting. Remember, thousands of students before you have completed the course and you will, too.

The key to passing the course and the state exam on your first attempt is preparation. We strongly recommend that you read each chapter carefully, learn each of the key terms, and carefully answer the review and practice exam questions at the end of each chapter.

This book is divided into two main sections. Part 1 contains the chapter material that will be used in your pre-licensing course. Part 2 contains more than 1,000 questions that you should complete at least three times after passing the end-of-course final exam, but prior to taking the live cram course. A blank answer sheet is available to download and print on www.goldcoastschools.com under “Student Resources,” “Downloads & Links,” “Real Estate Downloads,” “Sales Associate Pre-license,” “Helpful Downloads and Links,” “1001 Q&A Blank Answer Sheet.” Please be sure to read the information in the “Gold Coast Guide to Passing the State Exam … the First Time!” on the next page for these and other important tips for success.

In addition to the material in this textbook, we strongly recommend that you download and read F.S. 475 and F.A.C. 61J2. Links to the rules and statutes can be found on our Web site at www.goldcoastschools.com. Gold Coast also provides classroom students with online homework and links to PowerPoint presentations that are used in class. Your instructor will provide details in your class. If you are an online student, all information is contained in your course.

This book is intended to be an educational resource. It is not in any way intended as a substitute or replacement for the rules and statutes of the state of Florida.

The authors do not intend to give legal or accounting advice. If you are involved in a situation or transaction that requires a legal or financial opinion, we recommend that you seek the advice of a properly licensed attorney or accountant.

This edition of the book is the culmination of the efforts of many people over a number of years. Gold Coast would like to recognize and thank the following people for their input, hard work, and dedication: Melodee Ashby, Jack Bennett, Dennis Gershwin, Keith Grandy, Wayne Hasse, Debby Hancock, and Toni Golden.

I want to personally thank you for choosing Gold Coast and wish you the best with your new career. If you have any questions or suggestions to improve this material or your course, I would like to hear from you. Please contact me at dshaver@goldcoastschools.com. Feedback from previous students is invaluable for future students.

Now, let’s get started!

Sincerely,

Dave Shaver
General Manager
Gold Coast Guide to
Passing the State Exam ... the First Time!

Passing the Course

Whether you are taking the course online or in the classroom, it is imperative for your success that you study all of the information and utilize all the tools in this textbook as follows:

- Read and study each chapter
- Complete each end-of-chapter practice exam
- Take the 15-Question Math Practice Exam and 100-Question Practice Final Exam

When reading the chapter material, you will find many references to the Florida Statutes (F.S.) and Florida Administrative Code (F.A.C.). It is a good idea to look up these references and read the actual text of these laws and rules.

Classroom students should also complete the online homework questions, which are the same as the required online course chapter quizzes. These questions are carefully designed to help you review the major topics for your end-of-course final exam. Students who complete all of the online homework (or do well on the online course chapter quizzes) generally score better on the end-of-course exam than those who do not.

Whether you are taking a practice exam or doing the online classroom homework, use these tools provided to help you assess your readiness for the final exam and identify areas for further study. Don’t memorize the answers to the questions; learn why each answer is either correct or incorrect.

To best prepare you, follow these guidelines for taking practice exams and quizzes:

1. Take the whole practice exam and thoughtfully attempt to answer each question. Record your answers on a separate piece of paper. For math questions, write down the steps you took to arrive at the answer so you can compare what you did with the solutions later.

2. Note any questions that you don’t understand or where you are simply guessing at the answers. You will want to go back and review these topics.

3. After answering all of the questions, look up the answers in the answer key and mark your incorrect answers.

4. For any questions you missed or guessed on, go back and review the topic in the textbook and try to determine the rationale for the correct answer. For the math questions, compare your math steps with the math solutions in the answer key, and then review any examples or formulas in the textbook.

5. You might even find it helpful to retake the Practice Final Exam at a later time, as if you were taking it for the first time. Think through every question and redo any math to make sure you have retained the concepts.
Additional online practice exams are available for purchase from the Gold Coast Web site if you want additional review and practice after completing the steps above.

**Passing the End-of-Course Final Exam**

The end-of-course final exam (for the classroom or online course) is simply a state-required assessment of whether you can demonstrate that you are ready to move on to the state exam. The final exam contains 100 multiple-choice questions (45% principles and practices, 45% law, and 10% math) that must be completed in three hours (180 minutes) or less. A passing score of 70% or higher is required on the end-of-course exam to complete the course and to be eligible to take the state exam. If you fail the final exam, you will be able to take an alternate final exam no sooner than 30 days after failing the first exam. For additional details, please refer to Chapter 2, Section “Obtaining a Florida Real Estate License” “Pre-License Education Requirements.”

Although a passing score for the end-of-course final exam is 70%, we recommend that you strive for a much higher score. On average, students score approximately 10% lower on the state exam than on the end-of-course final exam. All students need to study hard for the state exam, but those who scored less than 85% on the school exam need to ramp up their studying efforts in order to pass the state exam.

Once you have passed your end-of-course final exam, Gold Coast will send you a certificate of completion (pass slip). This pass slip is required in order to take the state exam and is valid for two years from the date of issue.

**Passing the State Exam**

In addition to the above recommendations, we recommend several specific steps for students who are preparing for the state exam:

1. Download and review the following information. We provide links to these documents (and other useful resources) on www.goldcoastschools.com under “Student Resources,” “Downloads & Links,” “Real Estate Downloads,” and “Sales Associate Pre-license.”
   a. Candidate information booklet provided by the state. This booklet contains important information about areas students miss and areas of concentration on the state exam are explained in detail.
   b. F.S. 475 and F.A.C. 61J2. Many state exam questions are word-for-word out of the statutes or the rules.

2. Complete each of the ten practice final exams in the 1001 Q&A Cram Review near the end of this book. These questions have been compiled over many years from feedback we have received from students after taking the state exam. After completing the questions, score the exams. Look up every incorrect answer and math solution, and learn why it was incorrect. We suggest that you complete this process three times. Classroom and full service online students should flag any questions that are not clear for review in the live cram course. By the third time, you should be scoring in the 90% range and be ready for the cram review course.

3. Attend the live cram weekend review course (included for classroom or full service online students). The instructor will review the material and clear up any questions that are still not clear. To register for the live cram, you must have already passed the end-of-course final exam.
4. Take the state exam within a reasonable time of completing the pre-licensing course (three to six weeks). Students who attempt the state exam months after completing the course generally do not pass. If you cannot take the state exam soon after the class, it will be necessary to ramp up your studying efforts, and possibly review the course again.

Thanks for choosing Gold Coast Schools. Good luck!
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CHAPTER

1

THE REAL ESTATE BUSINESS

OVERVIEW

Real estate professionals provide specialized services to members of the general public. The real estate profession offers a wide variety of opportunities in specialized areas, many of which require substantial education and experience beyond that available in this pre-license course.

This chapter provides you, the student, with information about many of the specialized services provided by real estate professionals, discusses the opportunities available to the real estate licensee, and introduces real estate-related services provided by other licensed professionals. The role of government and the effect of regulation on real estate are also discussed.

OBJECTIVES

After completing this chapter, you should be able to do all of the following:

- Describe the various activities of real estate brokerage
- Distinguish among the major areas of specialization within the real estate profession
- Identify the role of property managers
- Understand the role of the appraiser and when a licensed appraiser is required
- Understand the role of mortgage loan originators in the transaction of real estate
- Explain the three phases of development and construction
- Distinguish among the three categories of residential construction

KEY TERMS

Absentee owner
Appraisal
Appraiser
Broker price opinion (BPO)
Business opportunity
Comparative market analysis (CMA)
Dedication
Farm area
Federally related transaction
Florida REALTORS® (FAR)
Follow-up

Local Board (Association) of REALTORS
Multiple listing service (MLS)
Mortgage loan originator (MLO)
National Association of REALTORS (NAR)
Property management
Real estate brokerage
Residential transaction
Subdivision plat map
Uniform Standards of Professional Appraisal Practice (USPAP)
INTRODUCTION TO THE REAL ESTATE BUSINESS

The real estate industry plays a large role in the national economy. Some economists estimate that close to one third of the country’s gross domestic product is related to the real estate industry. Construction, sales, rentals, housing renovation, taxes, fees, and commissions all contribute to the economy. Many industries such as real estate offices, title companies, insurance companies, retail, and service businesses, and construction businesses all rely on a flow of real estate transactions as a source of business and income.

A real estate brokerage is a business in which real estate-related activities are performed under the authority of a licensed real estate broker. The broker acts as an agent or intermediary between two or more people in the negotiation of the sale, purchase, or rental of real estate. A sales associate works for the broker, providing services to prospective buyers and sellers on behalf of the broker. A real estate licensee, whether a sales associate or broker, is a person who has met the requirements of law and is licensed and permitted to perform specified services for members of the public in connection with real property transactions.

People may buy or sell real estate only four or five times in their lifetimes. Consider the fact that people buy real estate for one of two reasons, they need a place to live, or they are buying for investment purposes. In either event, information about real estate can best be found through local sources, which makes the real estate market local in nature. Licensees bring local knowledge and expertise in many areas to the real estate transaction. They are expected to have expert knowledge in property transfer, valuation and market conditions, and marketing. It is more efficient for members of the public to acquire this information through a real estate professional than to obtain these skills on their own. That is the basis for the need and success of licensed real estate professionals.

Many licensees will concentrate on one type or style of property or on one particular neighborhood, a practice called farming. Finding and specializing in a particular neighborhood or type of property, referred to as a farm area or target market, is considered to be one of the best ways to succeed in the real estate business.

The following is a discussion of the areas of expert knowledge required for all real estate licensees.

Property Transfer

Conveying ownership or rights in property is a complex process not commonly understood. There are laws, documents, disclosures, and technicalities that can be bewildering and even frightening to those who are unfamiliar with them. Deeds, mortgages, surveys, appraisals, contracts, title insurance, floodplains, zoning and building codes, and finance are some of the components of a transaction that can be overwhelming. Licensed real estate professionals provide knowledge concerning these and many other aspects of the transaction and the expertise necessary to effect a successful transfer of ownership or rights.

Valuation and Market Conditions

No two properties are ever exactly alike. Real estate licensees must be able to discern important differences and properly understand how those differences translate into value. Although much information is available to the public concerning real estate transactions, the factors that most affect value are not readily understood by those without proper training.

Real estate licensees typically prepare what is known as a comparative market analysis, which is a value estimate based on recent sales of similar properties in the same neighborhood. The comparative market analysis, frequently called a CMA, utilizes many of the concepts used in an appraisal. However, a CMA may not be referred to as an appraisal.
A lender may hire a real estate professional to perform a broker price opinion (BPO) in a short sale transaction to help determine the selling price of the property since the licensee typically has knowledge of the local market. The licensee will be asked to take photos of the property and complete a BPO report form provided by the lender. The report includes a neighborhood analysis of comparable properties along with local and regional market information. BPOs are less thorough than an appraisal but require more analysis than a basic CMA.

A real estate licensee who wishes to perform an appraisal must do so under the development and reporting requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). (For more information on this topic, read the section titled “Appraising” found later in this chapter.)

**Marketing**

Markets are constantly changing. Knowing where and how to market a property is knowledge the licensed professional brings to the transaction. Supply and demand relationships are ever changing; laws related to property and to taxes can have a major effect on value in the market.

The multiple listing service (MLS) system provides an extensive marketing tool for real estate licensees. The MLS provides the opportunity to market listings to thousands of other local and statewide licensees in addition to potential buyers around the world. It provides a detailed database of properties of all kinds, which are available for sale or lease on a local and state level, in addition to market data and statistics. Real estate licensees must be knowledgeable and proficient in the use of the MLS and all it has to offer.

In addition to having the necessary knowledge and skills, it is imperative that real estate licensees act in a professional manner. Referrals from past customers are an important source of future business. Therefore, consistent and repeated follow-up with customers is key to maintaining good relationships and obtaining new prospects. It is a good idea to follow-up with past customers at least twice a year with such things as a note or postcard on the anniversary of their purchase, flyers, and other correspondence that includes your company’s name, your name, current photo, and contact information.

**SPECIALIZATION WITHIN THE REAL ESTATE PROFESSION**

The real estate profession offers a wide variety of choices of activities in which licensees may specialize. Many of these choices are directly related to a specific type of real estate. Others relate to support services that real estate professionals provide to the general public. The following are some examples that illustrate the wide variety of opportunity.

**Residential Sales or Rentals**

Residential sales or rentals can provide a rewarding career for new or experienced real estate professionals. The overwhelming majority of real estate licensees are involved in residential brokerage.

According to Florida Statute [F.S. 475.278(5)(a)], a residential transaction is defined as:

- The sale of any improved residential property of four units or fewer,
- Unimproved property intended for four units or fewer,
- Agricultural properties of ten acres or less,
- Leases with options to purchase all or a portion of improved property of four or fewer residential units, and
- Dispositions of business interests involving property of four or fewer residential units.
Commercial Sales or Leasing

Real estate licensees specializing in commercial real estate must have extensive knowledge of commercial property. They must be capable of analyzing the past and future potential income derived from investment property. Potential commercial properties that an investor might consider include apartment buildings, office buildings, and shopping centers. Commercial real estate brokers must also have a basic knowledge of tax laws that affect income earned from commercial property as well as the tax consequences of buying and selling investment property.

Industrial Sales or Leasing

Industrial properties include warehouses and manufacturing facilities. Industrial sales generally involve users/owners, rather than investors. Industrial real estate brokers seek to locate properties that meet the future owner's requirements. Knowledge concerning government regulations of land use, environmental considerations, transportation, labor costs, and utility charges are important when attempting to meet the requirements of such purchasers.

Agricultural Sales

Large tracts of land and significant sums of money are the two common characteristics of agricultural sales. Brokers involved in agricultural sales must be able to analyze the profitability of current agricultural uses and estimate the potential of properties under consideration.

Business Brokerage

A real estate broker who specializes in the listing and sale of businesses, referred to as business opportunities, must be able to estimate the value of a business being offered for sale or purchase. Valuing a business requires an analysis of financial statements and balance sheets.

The value of a business, called going concern value, includes its income, tangible and intangible assets, and goodwill, in addition to the value of the real property. If the sale of a business involves the transfer of ownership of shares of stock, a real estate licensee would be required to have a securities license also. (Refer to Chapter 17 for additional information.)

Property Management

Owners who buy income property as investments and depend on professionals to manage them are called absentee owners. Managing income-producing properties for absentee owners has grown over the years and has become a major service offered by real estate professionals due to the increasing trend in absentee ownership. A property manager's scope of work is detailed in a management agreement. Typically, compensation of property managers is based on a percentage of the rents collected from tenants. Percentage compensation is beneficial to both the owner and the manager.

Property management differs from simply being a rental agent. A rental agent merely finds tenants for properties and collects a fee for the service, but usually does not manage the property once the tenant has been located. A property manager's responsibilities include locating tenants, collecting rents, handling the payment of taxes, insurance, and other operating expenses, maintaining records, and scheduling maintenance. Property managers do not write (prepare) leases, but they may assist prospective tenants in completing attorney-prepared leases. Ultimately, the function of good property management is to...
protect the owner’s investment while maximizing the profitability of the investment for the owner.

Certain property managers who are employed and compensated by community associations are required by Florida law to obtain and maintain a community association management (CAM) license. A CAM license is required when the community association employs a property manager who receives compensation for certain management services, and the community association served contains more than ten units or has an annual budget in excess of $100,000. [F.S. 468.431(2)]

Counseling

Counseling is the service of analyzing existing or potential projects and providing expert advice to members of the public based on their personal judgment. Real estate counselors are usually compensated on a flat fee, regardless of whether or not the advice is used. Counseling is a highly specialized service and requires a greater level of knowledge and experience than any other facet of the real estate profession. Counselors must not only have a superior knowledge of real estate investment, but also have detailed knowledge of alternative investments and strategies.

REAL ESTATE RELATED SERVICES

Appraising

Appraising is the process of developing an opinion of value of real property. An appraiser conducts an independent, impartial, and objective analysis based on research and data pertaining to the value of the specified real property. Appraisal fees are based on the time, effort, and expense involved for completion of the assignment, not on the value of the property.

An appraisal may be required in a variety of situations. Lenders may require an appraisal to determine whether the value of property being used as collateral for a loan is adequate. Appraisals may also be required in connection with federal income tax claims, federal estate taxes, protesting real estate tax assessments, eminent domain, investment planning, insurance claims, and in many other circumstances.

In the early 1980s, banks and savings and loan associations in the United States went through a period of instability, with many institutions failing financially. Although there were many reasons associated with these failures, part of the responsibility was placed on the appraisal profession for preparing faulty appraisals. Congress subsequently passed sweeping legislation designed to correct many of the problems discovered during the hearings into the collapse of lending institutions in the United States. This legislation was titled the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Title XI of FIRREA was directed toward the appraisal profession and required that appraisals utilized by federally regulated lenders in federally related transactions be developed and reported in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP). The USPAP was developed by the Appraisal Foundation, made up primarily of national appraisal organizations and educators as a standardized method by which all appraisals should be prepared and reported.

All appraisals, whether or not they are used in a federally related transaction, must be prepared in compliance with USPAP. A federally related transaction is one in which a loan is made by a federally regulated lending institution that uses real property.
Real estate licensees can perform a valuation under the real estate license law if the valuation is not to be used in a federally related transaction, such as an inheritance, a divorce, a sale in cash, an insurance company, etc. As discussed earlier in this chapter, real estate licensees usually prepare a CMA and/or give a BPO.

Since the valuation of property is a fundamental aspect of the profession, real estate licensees must understand the appraisal process. Appraising is explored more completely in Chapter 16 of this book.

Financing

Most real estate transactions involve financing to some extent. Borrowed money is the lifeblood of the real estate business. Understanding financing methods and alternatives is crucial to the success of real estate professionals. It is also necessary to understand the various sources of financial assistance available to borrowers.

Knowledge of the practices of various lending institutions, the availability and cost of credit, and the requirements borrowers must meet to qualify for various financing plans is necessary. Mortgage loans can be obtained through mortgage companies, commercial banks, savings and loans, credit unions, life insurance companies, trusts, and even individuals.

Mortgage lenders lend money to fund loans that are secured by interests in real estate. They often act as loan correspondents for insurance companies or investment funds. After making the loan, the mortgage lender usually continues to service the loans. They charge a fee for servicing the loan.

Mortgage loan originators are individuals or businesses that arrange loans between lenders and borrowers; although they do not make loans, mortgage loan originators are an important source of funds as well. Mortgage loan originators must have a separate license issued by the Florida Department of Financial Services (FDFS). (Refer to Chapter 13 for additional information.)

Property Insurance

Insurance is not only desirable, it may be mandatory in many instances. Although a separate license is required to sell insurance, real estate licensees must be knowledgeable concerning certain aspects related to insurance. Many real estate offices offer home warranty programs. Lenders usually require homeowner’s insurance as a condition of a loan. A large number of properties lie within federally designated flood hazard areas that require adherence to specified construction standards and must be covered by flood insurance to qualify as security for a loan.

Construction and Development

There are three general phases of development and construction: land acquisition, subdividing and development, and recording of the subdivision plat map. Contractors and developers add the homes, offices, factories, and other improvements to the land to make land suitable for occupancy, purchase, and profit. Developers often acquire land and subdivide it into streets, lots, and sometimes blocks. Each street is named, and each block and lot is numbered. Once approved by the city or county government, a subdivision plat map is recorded. Building permits cannot be issued until the plat has been made part of the public record.
The ownership of streets and sidewalks is typically conveyed by a developer to the city or county upon completion of construction of a subdivision. This transfer of ownership is referred to as dedication and gives the public the right of use.

Of particular interest to real estate licensees is the distinction between types of residential construction, including custom building, speculative building, and tract building, each of which is defined below.

- **Custom building** is when a contractor is employed to build a structure according to the customer's specifications.

- **Speculative building** is when a contractor builds a structure before securing a buyer with the hope of selling the finished structure. This is also referred to as building on spec.

- **Tract building** is when a developer acquires a large tract of land, records a subdivision plat map, and uses a model center from which sales may be made.

**PROFESSIONAL ORGANIZATIONS**

Professional organizations are formed by voluntary membership of individuals interested in improving their knowledge, skill, and the quality of their profession. Belonging to a professional trade organization adds credibility as a real estate professional and provides many benefits. In addition to educational opportunities, these organizations offer access to tools such as downloadable forms, opportunities to network with other real estate professionals, and, in some cases, access to an online multiple listing service (MLS) system. Professional organizations are also the first place members look to find the latest changes and trends in the real estate industry. Associations exist at the national, state, and local levels.

**National Association of REALTORS (NAR)**

Chief among the many such organizations in the field of real estate is the National Association of REALTORS (NAR). NAR is the nation's largest trade and professional association, with a goal of preserving the right of individuals to own real property through an exchange of information.

Members are called REALTORS and include practitioners from all areas of expertise in the real estate profession. Members must agree to abide by a strict Code of Ethics and conduct their business under the Standards of Practice, which are designed to specify conduct required under the Code of Ethics and provide optimum service to the public. The term REALTOR® is a registered trademark of the NAR and may be used only by those who are members of the organization.

The NAR offers many programs and services to assist members through various societies and institutes to increase their professional knowledge and skills. NAR and its affiliates award professional designations indicating successful completion of required courses of study.

A partial list of the institutes and societies of NAR includes the following:

- The Institute of Real Estate Management (IREM) awards the designation of Certified Property Manager (CPM).
• The REALTORS National Marketing Institute (RNMI) awards the designations of Certified Real Estate Brokerage Manager (CRB) and Certified Residential Specialist (CRS).
• The REALTORS Land Institute (RLI) awards the designation of Accredited Land Consultant (ALC).
• The Society of Industrial and Office REALTORS (SIOR) awards the designation of SIOR.
• The Commercial Investment Real Estate Institute (CIREI) awards the designation of Certified Commercial Investment Member (CCIM).
• The American Society of Real Estate Counselors awards the designation of Counselor in Real Estate (CRE).
• NAR Appraisal Group awards the designations of General Accredited Appraiser (GAA) and Residential Accredited Appraiser (RAA).

Florida Association of REALTORS (FAR)

The Florida Association of REALTORS (FAR) is the largest trade association in the state. FAR does all its business as Florida REALTORS.

Members can take advantage of a host of membership benefits, including business contacts, networking opportunities, educational offerings, research and legislative representation, discount programs, online forms, and technology services.

Florida REALTORS is one of the number one resources for support and information in a licensee’s real estate business. This organization offers complete access to all of the necessary real estate forms, help with technology, legal advice, Florida market studies, educational tools and services, and much more.

For more information on FAR, please visit the Florida REALTORS website at www.floridarealtors.org.

Local Association of REALTORS

Many real estate licensees choose to join local boards or associations of REALTORS. Joining a local association also gives the licensee membership in FAR, as well as NAR. If a broker is a member, all sales associates must also join.

Local REALTOR associations provide access to the multiple listing service (MLS), which is a major tool in the success of a real estate business. In addition, it affords unlimited networking possibilities, specialty education, local market research, technology, websites, school information, and code of ethics enforcement and arbitration. These are just some of the many benefits of belonging to the local REALTOR Association.

GOVERNMENT REGULATION

The role of government and its effect on the real estate industry cannot be overlooked.

• Local level. Planning and zoning, property taxation, building and health code regulations are controlled by local governments. Local government bodies can also impose a moratorium or temporary delay for a building project. This can be due to environmental concerns, or ensuring that adequate utilities are in place to support new housing developments, etc. Building permits would be held until these situations are corrected. (Refer to Chapter 19 for further discussion on these topics.)
• **State level.** At the state level, Developments of Regional Impact (DRI), the Department of Environmental Protection (DEP), and the Department of Economic Opportunity (DEO) all play an important part in real estate development. Roads, waterways, and other factors that affect multiple political jurisdictions are impacted at the state level.

• **Federal level.** At the federal level, legislation that affects the operation of lending institutions has had an enormous effect on the real estate profession. Monetary policy adopted by the Federal Reserve System has a daily influence on the construction and real estate industries. (Refer to Chapter 13 for additional information on the Federal Reserve System.)
CHAPTER 1 REVIEW QUESTIONS

1. A contractor who builds on their own lot in the hope of finding a purchaser upon completion is building on ________________.

2. One type of a residential sales transaction involves the sale of any improved residential property of ___________ units or less.

3. The term ________________ is a registered trademark of the National Association of REALTORS and may be used only by members of the organization.

4. Most real estate licensees are involved in ________________ brokerage.

5. Property management has grown as a service of real estate primarily because of an increase in ________________ ________________.

6. The portion of the Federal Financial Institutions Reform, Recovery and Enforcement Act that requires the use of state-licensed or state-certified appraisers in federally related transactions is ________________.

7. An estimate of the value of property developed by a real estate licensee for use in listing or selling property is known as a ________________ ________________ ________________.

8. Mortgage loan originators are licensed in Florida by the ________________ ________________ ________________.

9. The category of construction that applies when a property owner employs a contractor to build according to their individual specifications is called ________________.

10. After completion of construction of a subdivision, the streets, sidewalks, and common areas are frequently conveyed to the city or county in a process called ________________.

11. Appraising is the process of developing an ________________ of value.

12. Valuing a business requires an analysis of ________________ and ________________ ________________.

13. The three areas of expertise real estate licensees bring to the transaction relate to ________________ ________________ ________________.

14. The composite value of the real and personal property, plus the intangible assets of a business, is called ________________ ________________ ________________.

15. A real estate ________________ is a business in which real estate related activities are performed under the authority of a licensed real estate broker. A sales associate works for the ________________, providing services to prospective buyers and sellers on behalf of the ________________.
CHAPTER 1 PRACTICE EXAM

1. Which of the following statements is true regarding a mortgage loan originator?
   a. A mortgage loan originator is the same as a mortgage lender.
   b. A mortgage loan originator must have a separate license.
   c. A mortgage loan originator makes loans.
   d. A mortgage loan originator must have a real estate license.

2. A real estate appraiser’s fee for professional service is based on which of the following?
   a. A percentage of the property’s gross income
   b. A percentage of the fair market value of the property
   c. The time and difficulty of the appraisal
   d. A percentage of the property’s sales price

3. Which of the following best describes the real estate brokerage business?
   a. Service business
   b. Simple business
   c. Business with few opportunities available
   d. Construction business

4. When a developer completes construction of a new subdivision, all streets, electric, water, and sewer installation are finished and deeded to the city or county. What is this process called?
   a. A quit claim deed
   b. An easement
   c. Annexation
   d. Dedication

5. All of the following are responsibilities of a property manager, EXCEPT:
   a. Renting property for an absentee owner
   b. Collecting rent
   c. Overseeing maintenance
   d. Preparing leases

6. What does the term “farming” refer to in real estate?
   a. Specializing in one geographic area
   b. Working in a cooperative manner
   c. Specializing in agricultural properties
   d. Specializing in the sales of orange groves or cattle farms

7. Which insurance policies can a real estate licensee offer to the public without additional state licensing?
   a. Flood insurance
   b. Fire insurance
   c. Renter’s insurance
   d. None of the above

8. What is the purpose of the National Association of REALTORS?
   a. Preserve the right of individuals to own real property through an exchange of information
   b. Organize antigovernment activities
   c. Promote unethical practice of real estate professionals
   d. Award unearned educational designations

9. What does the designation of REALTOR signify?
   a. Anyone in possession of a real estate license is a REALTOR.
   b. The designation identifies the real estate professional as a member of NAR.
   c. The designation is evidence that the licensee has an extensive background in the real estate profession.
   d. The designation is evidence that the licensee has completed extensive real estate studies.

10. A developer contracts to build a home according to the buyer’s specifications. This is an example of which type of building?
    a. Tract
    b. Custom
    c. Speculative
    d. Subdivision
11. The federal, state, and local governments all play a role in the regulation of real estate. In which of the following areas would the local government have the most impact?
   a. Property taxes, building moratoriums, and zoning
   b. Primary and secondary mortgage markets
   c. Documentary stamp taxes, intangible taxes, and note taxes
   d. Civil rights enforcement and monetary policy

12. Which of the following best describes licensees who are involved in business opportunity brokerage?
   a. They must be able to analyze financial statements and understand balance sheets.
   b. They are not required to know much about the business they are selling.
   c. They must have a separate license.
   d. They never become involved in the tax aspects of the business.

13. Real estate licensees are expected to be knowledgeable in all of the following areas, EXCEPT:
   a. Marketing
   b. Valuation
   c. Property transfer
   d. Accounting

14. Which service provided by real estate licensees requires the most experience and knowledge?
   a. Property management
   b. Counseling
   c. Appraising
   d. Agricultural sales

15. An appraiser, who is registered, licensed, or certified under F.S. 475, Part II, must be utilized in which of the following?
   a. All appraisals
   b. Comparative market analysis (CMA)
   c. Broker price opinion (BPO)
   d. Valuation in non-federally related transactions
OVERVIEW

In this chapter, we examine a brief history of the license law and how it is implemented and regulated. These additional topics are also discussed:

- The qualifications for obtaining a license
- How licenses are issued and maintained
- Post-license and continuing education requirements
- The various services that may be provided by real estate licensees
- Exemptions from licensure that are allowed

OBJECTIVES

After completing this chapter, you should be able to do all of the following:

- Explain the history and purpose of the license law
- Identify the qualifications for a sales associate’s license
- Describe the application requirements for licensure including nonresident application
- Explain the importance of responding accurately and completely to the background information questions on the licensure application
- Understand the background check procedure conducted by the DBPR
- Describe the educational requirements for pre-license and post-license, and continuing education
- Distinguish among the various license categories
- Identify the services for which a real estate license is required
- Recognize exemptions from real estate licensure
- Distinguish between registration and licensure
- Explain mutual recognition agreements

KEY TERMS

<table>
<thead>
<tr>
<th>Adjudication withheld</th>
<th>Mutual recognition</th>
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<tr>
<td>Broker</td>
<td>Nolo contendere</td>
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<tr>
<td>Broker associate</td>
<td>Post-license education</td>
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<tr>
<td>Caveat emptor</td>
<td>Pre-license education</td>
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<tr>
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<td>Prima facie evidence</td>
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<tr>
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<tr>
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<td>Licensure/registration</td>
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REAL ESTATE LICENSE LAW

Purpose of the Law

The purpose of the Florida Real Estate License Law, F.S. 475, is to protect the public. The Department is essentially a consumer protection agency. Before statutory law existed for real estate, the principle of caveat emptor applied which means, “let the buyer beware.” Under this principle, there was no express warranty ensuring the condition of the property. It was “buyer beware” on property defects that rendered the property unfit for ordinary purposes. The exception was if the seller actively concealed defects or made material misrepresentations constituting fraud.

History of the Law

The following is the chronology of the real estate licensing law history:

- **1919.** California enacted the first real estate license law.
- **1923.** Florida enacted its first real estate license law. Florida’s first law required violations to be pursued in the courts, which was both time consuming and expensive. As a result, this law was ineffective.
- **1925.** The first Florida Real Estate Commission (FREC or the Commission) was created to administer and enforce the law, thereby streamlining the process by removing the necessity for court enforcement.
- **1941.** The Real Estate License Law was officially designated as Chapter 475 of the Florida Statutes.
- **1979.** The state responsibilities were overhauled. The Florida Real Estate Commission was renamed as the Board of Real Estate and placed under the jurisdiction of the newly formed Department of Professional Regulation (DPR).
- **1982.** The law was changed again to create a new Division of Real Estate within the DPR with all real estate related activities assigned to this Division. The name of the Florida Real Estate Commission was reinstated.
- **1988.** F.S. 475 was reviewed under Florida’s Sunset Review Law, which requires certain laws to be analyzed to determine whether those laws should be eliminated or modified. During this review, post-licensing educational requirements were instituted for brokers and sales associates, and a certification program for appraisers was created.
- **1991.** F.S. 475 was revised by the creation of Part I and Part II of the law. Part I is concerned with the licensure and regulation of real estate licensees, while Part II, administered by the newly created Florida Real Estate Appraisal Board (FREAB), deals with the registration, licensure, and certification of appraisers required in federally related transactions.
- **1993.** The Department of Occupational Regulation and the Department of Business Regulation were combined into one agency, which created the Department of Business and Professional Regulation (DBPR or the Department).
- **1993.** New and expanded disclosure requirements for use by real estate licensees were made part of F.S. 475.
- **2005.** In October 2005, Parts III and IV were added to F.S. 475. Parts III and IV are concerned with the Commercial Real Estate Sales and Leasing Commission Lien Acts, respectively.
Terminology

The following terminology is used throughout this textbook:

- “Commission” refers to the Florida Real Estate Commission (FREC).
- “Department” refers to the Department of Business and Professional Regulation (DBPR).
- “Division” refers to the Division of Real Estate (DRE).
- “License” means any permit, registration, certificate, or license issued by the Department.
- “Licensee” refers to any person to whom a permit, registration, certificate, or license is issued by the Department.

Activities Requiring a Real Estate License

Florida Statute 475, the Florida Real Estate License Law, prescribes the conditions under which a real estate license is required and the services that may be performed by real estate licensees.

Persons Who are Required to be Licensed

A Florida real estate license is required when anyone performs a service that is specified under F.S. 475 and when all of the following conditions are simultaneously present, unless that individual is otherwise exempt under the law.

- Performing a service of real estate. This statement refers to performing a statutory service that is stipulated in F.S. 475.01 (as described below).
- In the state of Florida. The real estate license is a state license and may only be used in the state of Florida.
- For another. This statement indicates that the service is performed for another person or entity, not for the one who performs the service.
- For compensation. Compensation has been defined to include anything or any service of value for which is paid, received, expected to be paid, or received in exchange for the performed service.

Statutory Services of Real Estate

F.S. 475.01 specifies the real estate services that require those who perform such services to possess a current and valid active Florida real estate license. The list of specified services is shown below:

- Advertising real estate services
- Appraising (in a non–federally related transaction)
- Auctioning
- Business brokerage, both opportunities and enterprises
- Buying
- Counseling
- Exchanging
- Leasing
- Listing
- Property management
- Renting
- Selling
- Syndicating
- Selling timeshare units
Any activity in the furtherance of the above services such as soliciting real estate business, showing property, providing leads or referrals, or attempted performance is included within the definition of real estate services and requires a real estate license.

Licensees must not perform unauthorized services beyond the scope of their real estate license, such as the practice of law, accounting, or insurance, without the required additional license.

**Memory Device: “A BAR SALE”**

The most common services of real estate are:

- A = Appraising
- B = Buying
- A = Auctioning
- R = Renting
- S = Selling
- A = Advertising
- L = Leasing
- E = Exchanging

**Auctioning Real Estate**

The marketing of real estate by auction is becoming more common. Auctioneers are licensed and regulated by the DBPR under Part IV of F.S. 468. Real estate licensees are exempt under F.S. 468.383 from obtaining a separate auctioneer’s license since auctioning real estate is a service of real estate that is authorized under F.S. 475.01(1)(a).

The practice of using *by-bidders* to drive up the price of property that is being auctioned with no intention of buying is illegal. This practice is a violation of the real estate license law and other laws that deal with fraudulent or deceptive practices.

**Exemptions**

F.S. 475.011 identifies those persons or entities that are exempt from licensure requirements under the law. An exemption allows certain unlicensed persons or entities to perform services in the state of Florida for compensation that might otherwise require a real estate license. A list of exempted individuals is provided at the end of this chapter.

**OBTAINING A FLORIDA REAL ESTATE LICENSE**

**License Categories**

Real estate professionals practice real estate when licensed as one of the following: sales associate, broker, or broker associate. Each is defined below.

- **Sales associate.** Generally speaking, someone who is new to the real estate profession applies for, and must complete all pre-license requirements to obtain their initial license as a *sales associate*. A sales associate must be employed by a real estate broker or owner-developer to practice real estate.
Licensed sales associates must also complete all post-license requirements prior to their initial license expiration in order to keep their sales associate license and continue practicing real estate. After that, ongoing biennial (every two years) continuing education requirements must be met to maintain a sales associate license.

- **Broker.** Generally speaking, a broker is a person who performs services of real estate as an agent for another and receives compensation for those services either directly or indirectly.
  
  A broker must maintain an office and may hire sales associates or broker associates to perform services of real estate on their behalf. Sales associates and broker associates receive their compensation from their employing broker. They are never compensated directly by the customer.
  
  A licensed sales associate who wishes to apply to be a broker must have been employed under one or more actively licensed brokers for at least 24 months within the preceding five years before becoming eligible to take the state broker examination. Licensure under an owner-developer does not satisfy this requirement. Refer to the “Employment” section of this chapter for additional information on owner-developers.
  
  Broker applicants must complete all broker pre-license requirements to obtain an initial broker license. Licensed brokers must also complete all broker post-license requirements prior to their initial broker license expiration to continue practicing real estate as a broker. After that, ongoing biennial continuing education (CE) requirements must be met to maintain a broker license, whether active or inactive.
  
  The following applicants may also qualify to apply for a broker license [F.A.C. 61J2-2.027(1)(b)]:
  
  - Actively licensed real estate sales associates from another state or nation who have been licensed for at least 24 months during the preceding five years
  - Salaried employees of governmental agencies who have performed services similar to real estate licensees for at least 24 months within the previous five years
  - Investigators for the Department who have had at least 24 months’ experience dealing with real estate license violations

- **Broker associate.** An applicant for a broker license may choose to continue employment in a sales associate capacity with a current employer subsequent to passing the state broker examination. If so, the applicant will be registered as a broker associate after passing the broker examination.
  
  A broker associate is qualified to receive a broker license but chooses instead to be employed under the direction, control, and management of an actively licensed broker or owner-developer. In this capacity, the broker associate acts as a sales associate, not as a broker. Should a broker associate become inactive, their license status will be changed to an inactive broker license. [F.S. 475.01(1)(b)]

**General Qualifications for Licensure [F.S. 475.17(1), F.A.C. 61J2-2.027]**

Qualifications for a real estate license include:

- Must have a Social Security number
- Must be at least 18 years of age (the age of majority in Florida)
- Must hold a high school diploma or the equivalent
• Must be honest, truthful, trustworthy, and of good character, and have a good reputation for fair dealing

An applicant for a Florida real estate license is not required to be a resident of the state of Florida, or to be a citizen of the United States. [F.S. 455.10]

The Licensing and Renewal Process

The licensing and renewal process for sales associates and brokers consists of three required phases:

1. Pre-licensing to obtain the initial license. To complete pre-licensing, the candidate must:
   a. Complete the required sales associate or broker pre-license education and pass the pre-license course final exam with a score of 70% or higher
   b. Submit an application for the state exam, along with payment of a fee for the initial license
   c. Submit electronic fingerprints that will be used in a background check to determine any criminal history
   d. Pass the state examination with a score of 75% or higher (to obtain an inactive license)
   e. Obtain employment and file employment information (to obtain an active license)

2. Post-licensing for the first license renewal. To complete post-licensing you must:
   a. Complete the required sales associate or broker post-license education and pass the post-license course final exam
   b. Pay a renewal fee

3. Continuing education (CE) for all subsequent two-year renewal periods.
   a. Complete the required CE
   b. Pay a renewal fee

Licensure is a privilege that carries with it an element of responsibility. It is the licensee’s responsibility to know which education is required, when it is required, and to comply with all renewal dates. Failure to do so may result in loss of licensure. Ignorance of the appropriate laws is not an excuse.

Obtaining a License by Mutual Recognition

The state of Florida has entered into contractual agreements, referred to as mutual recognition, with a limited number of states that recognize the similarity in the content of their mutual educational and experience requirements for real estate licensing. Mutual recognition applies to specific states and is not the same as reciprocity, which would allow for licensees from one state to practice in another state. Florida does not have reciprocity with any other state with regard to real estate licensing.

At the time of this book printing, Florida has mutual recognition agreements with the real estate commissions of the following states: Alabama, Arkansas, Connecticut, Georgia, Illinois, Mississippi, Nebraska, and Rhode Island. Refer to the Department Web site (myfloridalicense.com) for the most up-to-date list of mutual recognition states and state-specific qualification information.
A qualifying nonresident of Florida who has been actively licensed in another state and wishes to become licensed in Florida, and resides in a state, with which Florida has entered into a mutual recognition agreement, may bypass the pre-licensing requirements. Instead, qualified mutual recognition applicants may apply and take a 40-question law examination. A score of 75% or higher (answering 30 or more questions correctly) qualifies the individual for an initial Florida license that is equivalent to their out-of-state license (i.e., brokers licensed as brokers; sales associates licensed as sales associates). Mutual recognition applicants must submit a certification of license history from the state where they are claiming mutual recognition.

Nonresident licensees whether from a mutual recognition state or otherwise, must take all post-license and continuing education courses required of Florida licensees.

For mutual recognition purposes, residency is defined as anyone who has resided in the state four months or more during the previous year, or who presently resides in Florida with the intent to reside continuously for a period of four or more months. Residency can include a recreational vehicle, hotel, rental unit, or any temporary or permanent location in Florida.

[F.A.C. 61J2-26.002]

Initial License Application

To be approved to take the initial license state exam, whether applying for a sales associate or broker license, an applicant must first submit a completed online application package to the Department. The package must include the following items:

- **Completed license application.** Sales associate applicants must submit form #DBPR RE 1. The online form and complete instructions can be obtained on the Department Web site. The same form is used for Florida residents, non-Florida residents, or mutual recognition applicants by checking the appropriate application type. The application must contain the applicant’s full name as it appears on their Social Security card. All required personal information, including mailing address, contact information, and any current or prior license information must be submitted. Prior name information, such as nicknames, maiden names, or other aliases, must also be included.

- **Fee payment.** The Department charges an initial license application fee. The check must be made payable to the Florida Department of Business and Professional Regulation.

- **Electronic fingerprints.** Electronic fingerprinting is mandatory for all real estate sales associate and broker applicants. The applicant’s fingerprints are scanned and electronically submitted to the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigation (FBI). [F.S. 475.175(1)] The Department will retain the fingerprint results for 12 months from the date that the digital fingerprints were received by the FDLE. If your prints have expired at the time your application is submitted, you must submit new electronic fingerprints.

- **Supporting legal documentation.** Documentation must be provided that pertains to background issues listed on the application, if applicable. Criminal convictions, other than minor traffic infractions, must also be disclosed. Failure to answer honestly may result in disciplinary action, which might include the denial or revocation of licensure.
Answering Background Questions

The following background questions must be answered in the Application for Sales Associate License (Form # DBPR RE 1):

1. **Yes** (If yes, please complete Section IV (b))  **No** Have you ever been convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction, or are you currently under criminal investigation? This question applies to any criminal violation of the laws of any municipality, county, state or nation, including felony, misdemeanor and traffic offenses (but not parking, speeding, inspection, or traffic signal violations), without regard to whether you were placed on probation, had adjudication withheld, were paroled, or pardoned. If you intend to answer “NO” because you believe those records have been expunged or sealed by court order pursuant to Section 943.0585 or 943.059, Florida Statutes, or applicable law of another state, you are responsible for verifying the expungement or sealing prior to answering “NO.” YOUR ANSWER TO THIS QUESTION MAY BE CHECKED AGAINST LOCAL, STATE AND FEDERAL RECORDS. FAILURE TO ANSWER THIS QUESTION ACCURATELY MAY RESULT IN THE DENIAL OR REVOCATION OF YOUR LICENSE. IF YOU DO NOT FULLY UNDERSTAND THIS QUESTION, CONSULT WITH AN ATTORNEY OR CONTACT THE DEPARTMENT.

2. **Yes** (If yes, please complete Section IV (c))  **No** Has any judgment or decree of a court been entered against you in this or any other state, province, district, territory, possession or nation, related to the practice or profession for which you are applying, or is there any such case or investigation pending?

3. **Yes** (If yes, please complete Section IV (c))  **No** Have you ever had an application for registration, certification, or licensure in Florida or in any other jurisdiction denied, or is there now pending a proceeding or investigation to deny such an application?

4. **Yes** (If yes, please complete Section IV (c))  **No** Has any license, registration, or permit to practice any regulated profession, occupation, vocation, or business been revoked, annulled, suspended, relinquished, surrendered, or otherwise disciplined in Florida or in any other jurisdiction, or is any such proceeding or investigation now pending?

Question 1 specifically asks, “Have you ever been convicted or found guilty of, or entered a plea of nolo contendere (no contest) or guilty to, regardless of adjudication, a crime in any jurisdiction, or are you currently under criminal investigation?” The question further defines which offenses are covered. For practical purposes, this question requires the disclosure of ANY criminal convictions, including felony or misdemeanor convictions or pleas (other than minor traffic offenses), regardless of adjudication. Driving under the influence (DUI) is not a minor traffic offense, and must be disclosed.

Applicants are cautioned to be very careful when answering question 1 regarding criminal history on the state application. Some applicants do not fully understand what their actual criminal history is, and what needs to be disclosed. One area of confusion is with records that have been expunged, or removed. In order to have records expunged, the defendant must file a petition for expunction with the court where the case was filed. Courts do not automatically expunge criminal histories.

A second area that creates confusion for applicants is when the applicant has had adjudication withheld. Typically, adjudication withheld means that a sentence such as probation, community service, or a fine was imposed against the defendant, but no conviction of guilt was imposed. Any offenses for which adjudication was withheld must be disclosed.

Often, either applicants will leave offenses off of their applications and later state that they thought adjudication was withheld, or the records were expunged. This is not a valid excuse. The Commission reviews dozens of these cases each month and is very familiar with the procedures. The Commission also sees cases where applicants with longer criminal histories will list one or two minor offenses, but will neglect to mention more severe offenses. Remember, the information you provide as an applicant is being checked against the FBI/Florida Department of Law Enforcement (FDLE) database. It is imperative for you be honest and thorough on your application. When reviewing criminal history, the Commission will look at the honesty and character of the applicant. If the applicant has been less than...
truthful on the application, they will be required to explain themselves at a hearing before the Commission.

An answer of “Yes” to any of the background questions requires additional explanation on the application. Answering “Yes” to background question #1 requires the following:

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<th>EXPLANATION</th>
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<tr>
<td>Offense</td>
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<tr>
<td>County</td>
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<tr>
<td>Penalty/Disposition</td>
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<td>Date of Offense (MM/DD/YYYY)</td>
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<tr>
<td>Description</td>
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The applicant must affirm under penalty of perjury, that all facts stated in the application are true, as follows:

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<th>AFFIRMATION BY WRITTEN DECLARATION</th>
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<td>Signature: Date: Print Name:</td>
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Applicants submit their application along with any uploaded supporting documents online on the Department website. All information received by the Department from an applicant, including email address, is a matter of public record, except for the following: financial and medical information, school transcripts, examination questions and answers, papers, grades, and grading keys. [F.S. 455.229(1)]

**Application Approval or Denial**

The Department has 30 days in which to review an applicant’s application for errors or omissions. The application will be approved or denied within 90 days after receipt of the completed application. [F.S. 120.60]

An application can be denied for many reasons. If the application is found to be incomplete or contains a minor error, such as forgetting to include the application fee or omitting a required section or signature, the application would be denied “without prejudice.” The application will be returned to the applicant for correction and resubmission. However, if an applicant misrepresents themselves by falsifying the application or not including their criminal history, the Commission may deem the candidate not eligible for a license.
• **Application approval.** The Department will notify the applicant and the approved testing vendor once the applicant has been approved to take the state exam. Once an applicant has been approved, the applicant must pass the state exam within two years. Failure to do so will require the applicant to file a new application with the Department. [F.S. 475.181(2)]

• **Application denial.** If an application to take the state exam is denied by the Department, the applicant will be notified in writing. The notification will identify the reasons for denial and advise the applicant that they have 21 days from the date of receipt to request a formal hearing before an administrative law judge in accordance with F.S. 120, the Administrative Procedure Act. [F.A.C. 61J2-2.030]

**Members of the Armed Forces**

• **Fee waiver program for unlicensed military veterans and their spouses.** The Department has the ability to waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for military veterans and their spouses at the time of discharge who apply to the Department for a state professional license. The "Military Veteran/Spouse Fee Waiver Request" application must be submitted within 60 months after the veteran has been honorably discharged from any branch of the United States Armed Forces, including the Florida National Guard. This waiver does not include examination fees or other incidental fees. [F.S. 455.213(13)]

• **Maintaining license status for discharged military licensees and their spouses.** Military licensees can keep their license in good standing without renewing or paying dues or fees for a period of two years after discharge from active duty as long as they do not engage in real estate activities during this time. Spouses, while married to active duty military members stationed outside of Florida, and for a period of two years after the military member is discharged from active duty, are exempt from license renewal requirements, provided they do not engage in real estate activities during this time period. [F.S. 455.02(1-2)]

• **Professional license for active duty service members or spouses.** The Department will issue a professional license to applicants who are or were active duty members of the United States Armed Forces. Former military members must have received an honorable discharge. A professional license will also be issued to a spouse or to one who was married at any time to the member during any period of active duty, or to a surviving spouse who was married to the active duty member at the time of their death. The applicant must hold a valid professional license issued by another state, the District of Columbia, any possession or territory of the U.S., or any foreign jurisdiction. The initial application fee will be waived. [F.S. 455.02(3)(a)]

**Pre-License Education Requirements**

Those who wish to apply for an initial real estate license will be required to satisfy the pre-license education requirements by completing an approved pre-license course of instruction. However, applicants who have received a four-year degree in real estate from an accredited institution of higher learning may be exempt from the pre-license education requirements. The subject matter must be deemed by the Commission to be equivalent to the FREC-prescribed course subject matter. [F.A.C. 61J2-3.012]

Any applicant who suffers an extreme hardship due to physical limitations or other factors may apply to the Commission and be prescribed alternative educational requirements to those ordinarily specified. [F.A.C. 61J2-3.013]
Pre-license courses are offered by many colleges, universities, vocational, and proprietary real estate schools. All course materials, including final examinations, must be approved by the Department. Schools that offer such courses must certify the student’s satisfactory completion to the Department.

Courses may be completed by classroom instruction or distance learning (online).

- **Classroom instruction.** When completed by classroom, attendance is mandatory. Absence in excess of eight classroom hours disqualifies the student from taking the timed end-of-course final examination. A student who makes up missed hours must do so and take the missed final examination within 30 days of the original examination date. Make-up hours must consist of the original course materials that were missed. [F.A.C. 61J2-3.008(7)]

- **Distance learning (online).** When completed by distance learning, the student must affirm that they have personally completed the required number of study hours. A timed final examination must be completed to receive credit for the course.

Anyone who fails the end-of-course final examination may take an alternate final examination after waiting a minimum of 30 days, without having to take the entire course over again. The retest must be completed within one year of the original examination. Failing the alternate exam requires that the student repeat the entire course. A student may bypass the 30-day wait period by retaking the entire course from the beginning. [F.A.C. 61J2-3.008(6)]

A score of 70% or higher is required to pass the timed, 100-question, end-of-course final examination. Upon passing, the student will receive a Certificate of Completion, which is required in order to take the state examination. The certificate is valid for two years from the date of issue. An applicant must present the Certificate of Completion to the exam vendor at the time of the scheduled state examination. [F.A.C. 61J2-3.015(1)]

**Pre-License Education for Sales Associates (FREC I)**

An applicant for an initial real estate sales associate license must satisfactorily complete an approved FREC I course that consists of 63 hours including the final examination. The course includes basic fundamental real estate principles and practices, basic real estate, and license law. [F.A.C. 61J2-3.008(1)]

Actively licensed Florida attorneys who are in good standing with the Florida Bar and are otherwise qualified under the real estate license law are exempt from taking the 63-hour pre-license course and final examination. However, they must take the real estate license exam. A copy of the applicant’s Florida Bar membership card must accompany the application to take the state examination. [F.A.C. 61J2-3.008(8)]

**Pre-License Education for Brokers (FREC II)**

A sales associate who wishes to become licensed as a broker must satisfactorily complete the required pre-license FREC II education course. This course consists of 72 classroom hours including an end-of-course final examination. [F.A.C. 61J2-3.008(2)]

**The State License Exam**

The state exam is conducted by an independent testing service under contract with the state of Florida. Information regarding approved testing vendors may be obtained on the Department’s Web site or from the school. After completing the pre-license educational requirements and obtaining a Certificate of Completion, the applicant must contact the testing service to schedule an appointment to take the state exam. The testing service
charges a fee for the applicant to take the state exam. This fee is in addition to the
application fee initially charged by the Department.

The state exam is comprised of 100 multiple-choice questions, 45 regarding real estate
license law, 45 regarding real estate principles and practices, and 10 regarding real estate
mathematics. Questions and answers used on state exams are considered to be
classified and are not made public.

The state exam is a pass or fail only exam. Successful completion is achieved by
scoring at least 75% (answering at least 75 out of 100 questions correctly). Exam results are
provided immediately upon exam completion.

- **Passing the state exam.** If an applicant passes the state exam, the Department will
  send a letter that includes the applicant’s photo indicating that the applicant has
  successfully passed the exam. The exam score will not be provided. At this point, the
  applicant has achieved the status of an inactive licensed sales associate. To obtain
  an active license, the licensee must be employed under the direction of an active
  broker and register this information with the Department.

- **Failing the state exam.** If an applicant fails the state exam, the Department will
  send a letter that includes the applicant’s photo and provides a breakdown of the
  exam score by category: law, principles and practices, and math. Cumulatively, the
  total score was less than the required 75% to pass the exam. The applicant must
  wait at least 24 hours before reapplying to take another exam. An appointment can
  be scheduled with the testing service so the applicant can review the questions that
  were answered incorrectly. A fee is charged for the review and cannot be conducted
  on the same day as a retest. If the applicant wishes to challenge any state exam
  questions, the challenges must be submitted in writing during the scheduled review.

  [F.A.C. 61-11.017(3)(g)]

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**Pre-License Requirements**

<table>
<thead>
<tr>
<th>State Application (with Social Security Number)</th>
<th>Application Fee</th>
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</thead>
<tbody>
<tr>
<td>Electronic Fingerprints</td>
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<td></td>
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<tr>
<td><strong>Sales Associate</strong></td>
<td><strong>Broker</strong></td>
</tr>
<tr>
<td>63-Hour Course (FREC I)</td>
<td>72-Hour Course (FREC II)</td>
</tr>
<tr>
<td>Pass: 70% or Higher</td>
<td>Pass: 70% or Higher</td>
</tr>
</tbody>
</table>

- Course Completion Certificate
- State Exam
- Pass: 75% or Higher

---

**Qualification of Immigrants for Examination [F.S. 455.11]**

In order for all Florida citizens to receive better professional services, F.S. 455.11 allows
foreign-speaking Florida residents, who are qualified to take the state licensing examination,
to request the exam in their native language. However, the exam will be administered in
English unless 15 or more such applicants request the exam in their native foreign
language. The full cost to the board for preparing and administering that exam must be
borne by those applicants.
EMPLOYMENT

Florida real estate license law requires a sales associate or broker associate to be employed as an agent of either a broker or an owner-developer before performing real estate services for compensation. A sales associate or broker associate may not be directly employed or compensated for real estate services by a member of the public. They may only be compensated by their employing broker or owner-developer.

- **Employment by a broker.** When employed by and licensed under a broker, a sales associate or broker associate acts as the broker’s agent in performing services of real estate. A sales associate or broker associate can only work for one broker at a time. Brokers are registered and licensed with the Department. [F.S. 475.215(2)]

- **Employment by an owner-developer.** An owner-developer is an individual or entity who is in the business of buying, owning, and/or developing real estate. The owner-developer must register with the Department but does not receive a real estate license. When employed by and licensed under an owner-developer, a sales associate or broker associate acts as the owner-developer’s agent in performing services of real estate and can perform services for compensation only with regard to property belonging to the owner-developer.

  Owner-developers can hire unlicensed sales persons to sell property they own, as long as the sales persons are paid a salary. If an owner-developer pays commissions or transaction-based fees, they must hire licensed sales associates or broker associates. [F.A.C. 61J2-6.006 and F.S. 475.011(2)]

A newly licensed sales associate cannot practice real estate until they have filed the appropriate paperwork with the Department to provide employment information and activate the license. The specific form is titled Change of Status for Sales Associates and Broker Sales Associates Form #DBPR RE 11 and can be obtained on the Department’s website. This is a universal form used by the Department to change license status. Once completed and signed by the prospective employer, the form is mailed or faxed to the Department.

Once the completed form is received by the Department, the applicant is considered to be actively licensed and may immediately begin practicing real estate. The actual real estate license will be mailed by the Department to the licensee’s home address, usually within two to three weeks. The letter from the testing service serves as a temporary license until the actual license is received. A licensee’s status can be checked at www.myfloridalicense.com.

LICENSURE AND REGISTRATION

Licensure refers to the granting of licenses to practice a profession. The use of the term license with regards to real estate indicates an individual’s right to provide real estate services. A real estate license issued by the Department certifies that the individual named on the license has met all of the requirements to provide real estate services for the period indicated on the license.

Registration refers to the placing and keeping on record the name and address of an individual or business. The use of the term registration indicates the status and place of operation for both individuals and businesses. The Division of Real Estate (DRE or the Division) maintains a registration list of all brokers, sales associates, and businesses that employ licensees who are engaged in the real estate business.

Individual brokers, broker associates, and sales associates are licensed and registered automatically upon passing the state exam, while brokerage corporations, partnerships, branch offices, and owner-developers are only registered. Individuals are licensed and registered, whereas businesses are registered only. [F.A.C. 61J2-5.014]
An individual must have an active real estate license to provide real estate services. Possession of a current and valid real estate license by the individual named on the license is considered to be *prima facie* evidence in court that the holder is a licensee. Prima facie evidence is sufficient proof of a claim in the absence of further evidence to the contrary. Possession of the license is sufficient proof that the holder is a licensed real estate professional, in the absence of further evidence to the contrary.

**Form of the License**

The real estate license indicates the name of the licensee, type of license, licensee’s address, effective date (date the license was issued), expiration date (date the license is no longer valid), seal of the State of Florida, name of the governor, and name of the secretary of the DBPR.

![License form](image)

**RENEWING A FLORIDA REAL ESTATE LICENSE**

**Post-License (First Renewal) Requirements [F.S. 475.17]**

All licensees, whether active or inactive, must satisfactorily complete a Commission-prescribed post-licensing course prior to the first renewal expiry following initial licensure. The renewal form includes an affirmation that the licensee must sign to indicate that they have satisfied this requirement prior to the application for renewal. The licensee must take the post-licensing course(s) at an accredited university, college, community college, area technical center in Florida, or registered real estate school. [F.A.C. 61J2-3.020(1)]

Licensees with a four-year degree in real estate from an accredited college or university are exempt from the post-license education requirements. However, Florida licensed attorneys are not exempt from the post-license course requirements. As with pre-licensing, the post-license course(s) may be completed by classroom or distance learning. When completed by classroom, attendance is mandatory. A classroom student who misses more than 10% of the instruction may not take the end-of-course final examination. A student who makes up missed hours must do so and take the missed final examination within 30 days of the original examination. Make-up hours must consist of the original course materials that were missed. [F.A.C. 61J2-3.020(8)]

- **Sales associate first renewal.** A sales associate must complete a 45-hour post-license course prior to the expiration date of their initial license period. The license of a sales associate who fails to complete this requirement will become void and the licensee will be out of business. If the licensee wishes to continue in the real estate profession, they are required to take the 63-hour pre-license course again and pass another state examination.
Broker first renewal. A broker must complete one or more courses that total 60 hours of post-license education prior to the expiration date of their initial license period. The license of a broker who fails to complete this requirement will become void and the licensee will be out of business. The licensee may revert to an active sales associate by taking a 14-hour CE course during the six months immediately following expiration of the broker’s license, submit proof of completion, and request an active sales associate license. To be licensed as a broker again, the licensee would be required to complete the 72-hour broker’s pre-license educational course and pass another state examination. [F.S. 475.17]

Licensees must successfully pass the post-license end-of-course examination with a score of 75% or higher to receive credit for the course. Upon passing the examination, licensees will receive a course completion certificate. Upon successful course completion, the course provider will electronically submit the licensee’s results to the Department.

Anyone who fails an end-of-course final examination may immediately take an alternate final examination without having to take the entire course again. The retest must be completed within one year of the original examination. Failing the alternate exam, however, requires that the licensee repeat the entire course.

Licensees who successfully complete the required post-license education during the initial license period are not required to complete the 14-hour CE requirement during the same renewal period.

Post-License (1st Renewal) Requirements
- Sales Associate
  - 45-Hour Course
  - Pass: 75% or Higher

- Broker
  - 60 Hours
    - (One or More Courses)
    - Pass: 75% or Higher

- Course Completion Certificate
- State Renewal Fee
- No State Exam
- Course Provider Reports Completion to DBPR

Continuing Education (CE)

All active or inactive licensees, whether a broker or sales associate, must complete 14 hours of Commission-approved continuing education (CE) and pay a renewal fee during each license renewal period, excluding the first renewal period of their current license. If the CE requirement is not met within the renewal deadline, the licensee’s license status will be changed to involuntary inactive. [Refer to Chapter 3 for additional information on involuntary inactive license status.]

Actively licensed Florida attorneys who are in good standing with the Florida Bar and are otherwise qualified under the real estate license law are exempt from the CE requirements. [F.A.C. 61J2-3.009(6)]
CE courses may be completed by classroom instruction or distance learning.

- **Classroom instruction.** When completed by classroom, attendance is mandatory. Licensees must attend a minimum of 90% of each of the classroom hours for successful completion of the course. There is no end-of-course examination.
  [F.A.C. 61J2-3.009(3)]

- **Distance learning (online or correspondence).** When completed by distance learning, the student must pass a 30-question end-of-course examination with a score of 80% or higher (answering 24 out of 30 questions correctly).
  [F.A.C. 61J2-3.009(4)(a)]

Upon successful course completion, the course provider will electronically submit the CE results for the licensee.

### Continuing Education (CE) Requirements

<table>
<thead>
<tr>
<th>Sales Associate or Broker</th>
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</thead>
<tbody>
<tr>
<td>14-Hour Course</td>
</tr>
<tr>
<td>Classroom: No Course Exam</td>
</tr>
<tr>
<td>Distance (Online): Pass 80% or Higher</td>
</tr>
</tbody>
</table>

- Course Completion Certificate
- State Renewal Fee
- No State Exam
- Course Provider Reports Completion to DBPR

### Retention of Course Completion Certificates

When renewing a license, a licensee will be asked to affirm that they have successfully completed the required educational course or courses. Licensees are subject to audit by the Department; therefore, all completion certificates for pre-licensing, post-licensing, and CE courses should be retained for at least two years in order to show compliance with the appropriate educational requirement.

The Department has instituted a 100% compliance policy whereby course providers must electronically submit all post-license and CE results. A licensee who is not reported will not be permitted to renew their license.

### Individuals Who Are Exempt from Licensure

Individuals who are exempt from real estate licensure include the following:

- **Attorneys-in-fact** are persons who are granted authority under a *power of attorney* to act for others in some capacity, such as signing documents.

- **Attorneys-at-law** may perform legal services on behalf of their clients; they may prepare documents, handle closings, and give legal advice. They may not perform services of real estate for compensation, receive sales commissions, or referral fees without a real estate license.
• **Certified public accountants** may perform accounting services on behalf of their clients; they may prepare documents and handle closings. They may not perform services of real estate for compensation, receive sales commissions, or referral fees without a real estate license.

• **Court appointees** are persons who are appointed by a court of law to perform services of real estate. They may do so for a fee or salary, but not a commission. Court appointees include:
  - Trustees
  - Receivers
  - Masters in chancery
  - Court-appointed appraisers

• **Salaried employees** who are employed by the following entities may perform real estate services for their employers:
  - Government agencies
  - Railroads
  - Rural electric cooperatives
  - Public utilities

• **Salaried employees** of an owner, or of a registered broker for an owner, of an apartment community who work in an onsite rental office of the apartment community in a leasing capacity. A tenant in an apartment community may receive up to $50 cash, personal property, or credit toward rent for the referral of a new tenant for the same complex.

• **Individuals** may buy, sell, or perform services of real estate for themselves without having a real estate license.

• **Partners in a partnership** who perform real estate services for the partnership are dealing for themselves, as well as for the other partner(s). If each partner receives a pro rata share of profit based on their ownership interest in the partnership, no real estate license is required for any of the partners. However, if a partner or partners receive a share of profit in excess of their ownership interest in the partnership, all partners are in violation of the license law.

• **Corporations** that sell, exchange, or lease its own real property.

• **Salaried employees** of individuals, partnerships, or corporations who own real estate may perform real estate services on behalf of their employers without being licensed. However, any such employee who receives a bonus, commission, or transactional compensation in addition to a normal salary must be licensed.

• **Persons who deal strictly in personal property transactions** do not have to have a real estate license. As an example, mortgages are personal property. Those who deal in mortgages must have a mortgage loan originator license.

• **Cemetery lot salespersons** are exempt.
• **Renting of a mobile home lot or recreational lot** in a mobile home park or travel park.

• **Salaried managers of condominium or cooperative apartment complexes** are exempt when renting individual units within such condominium or cooperative apartment complex if rentals arranged by the person are for periods no greater than one year.

• **Radio, television, or cable enterprise employees** may perform real estate services on behalf of the employer that relate to the sale, lease, or transfer of the Federal Communications Commission (FCC) license to broadcast. However, if a sale or lease of the physical land or buildings used by the enterprise is a part of the transaction, a real estate broker must be retained for the portion of the transaction that relates to the land or building.

• **Full-time graduate students** who are enrolled in a commission-approved degree program in appraising at a college or university in this state are exempt. The student must be acting under the direct supervision of a licensed or certified appraiser and engaged only in appraisal activities related to the approved degree program. Any appraisal report by the student must be issued in the name of the supervising appraiser.

• **Owners of one or more timeshare periods** for the owners’ own use and occupancy that later offers one or more of such periods for resale are exempt.

• **Timeshare exchange companies** are exempt to the extent that the exchange company is engaged in exchange program activities as described in, and complies with F.S. 721.18, the Florida Timeshare Act.

• **Appraisers** who are registered, licensed, or certified under F.S. 475, Part II and perform appraisal services authorized under that part are exempt.

• **Appraisers** who appraise under the unit-rule method of valuation of a railroad or railroad terminal company assessed for ad valorem tax purposes pursuant to F.S. 193.085 are exempt.

• **Any person or other entity who rents, or advertises for rent, transient occupancy** of public lodging establishments such as hotels, motels, and rooming houses is exempt.

• **Dealers who are registered under the Securities and Exchange Act of 1934** as amended, or any federally insured depository institution and any parent, subsidiary or affiliate thereof, in connection with the sale, exchange, purchase, or rental of a business enterprise to or by a person who is an accredited investor as defined by 15 U.S.C. s 77b, the Securities Act of 1933, or any regulation adopted under the Act are exempt. This exemption applies whether stock or assets of the business enterprise are purchased or sold. The exemption does not apply to a sale, exchange, purchase or rental of land, buildings, fixtures, or other improvements to the land that are made in connection with the sale, exchange, purchase, or rental of a business enterprise.
CHAPTER 2 REVIEW QUESTIONS

1. A sales associate license will be ___________ if they do not complete the required post-license education during the initial license period.

2. A broker who does not complete the required post-license education prior to expiration of their initial license period may request a(n) ___________ ______________ license by completing a continuing education course within ______________ ______________.

3. A broker associate acts in the capacity of a ________________ ________________.

4. Residency in Florida may be claimed by anyone who resides, or has resided, in the state for not less than ________________ ________________ within the previous 12 months.

5. The first real estate license law in Florida was enacted in __________.

6. Upon passage of the state examination, an applicant for a sales associate license will receive a(n) __________ license.

7. Florida does not reciprocate with other states but does have ________________ ________________ with some states that have educational requirements that are similar.

8. The post-license educational course for sales associates consists of ____________ hours.

9. The continuing education requirement consists of ____________ hours.

10. Florida sales associates who desire to become brokers must wait _____ _____ before taking the state examination.

11. The notice of satisfactory completion of a pre-license course is valid for _____ _____.

12. Owner-developers are ______________ but do not receive a license.

13. A tenant in an apartment complex may receive up to _____ for referral of a new tenant for the same complex.

14. ________________ education must be completed during the initial sales associate’s license period.

15. Legal authority to sign a document on behalf of another requires a(n) _____________ ________________.

16. Individuals who have no intention of buying at an auction but are used to driving the price up are called ________________.

17. Licensees who are members of the armed forces have all fees, dues, continuing education, and other requirements waived during their military service and for _____ _____ after returning to civilian life.
CHAPTER 2 PRACTICE EXAM

1. In what year was the Florida Real Estate Commission created?
   a. 1932
   b. 1925
   c. 1923
   d. 1919

2. What is the purpose of the real estate license law?
   a. To protect the public
   b. To protect licensees
   c. To clarify the law
   d. To grant licenses

3. Why was the Florida Real Estate Commission created?
   a. To protect the public
   b. To administer and enforce the law
   c. To discipline licensees
   d. To award professional designations

4. A sales associate failed to complete the required post-license education prior to renewal. What is the status of the license?
   a. Revoked
   b. Suspended
   c. Involuntarily inactive
   d. Void

5. What does the registration of an active sales associate with the Department refer to?
   a. Placing and keeping on record the sales associate’s name and home address
   b. Placing and keeping on record the sales associate’s name, home address, and business address of their employing broker
   c. The broker’s name and business address
   d. Placing and keeping on record the sales associate’s name and the business address of their employer

6. How may a licensed sales associate be paid by their owner-developer?
   a. On a salary basis only
   b. On a commission basis only
   c. On a commission basis without a bonus
   d. On a commission or salary basis

7. What are the minimum employment requirements for a licensed sales associate to qualify for a real estate broker’s license?
   a. Employed for 6 months under one actively licensed broker
   b. Employed for 12 months under one actively licensed broker
   c. Employed for 24 months under one or more actively licensed brokers
   d. Employed for 6 months under one or more actively licensed brokers

8. How many hours of post-license education are required to renew a broker license?
   a. 14
   b. 30
   c. 45
   d. 60

9. All of the following services require a real estate license, EXCEPT:
   a. Leasing
   b. Mortgaging
   c. Buying
   d. Selling

10. All of the following information appears on a Florida real estate license, EXCEPT:
    a. The seal of the state of Florida
    b. An expiration date
    c. The signature of the governor
    d. The name of the secretary of Department of Business and Professional Regulation
11. What must an applicant for a real estate license do if they have been convicted of a crime?
   a. The applicant must disclose the crime only if it was a felony or resulted in jail time.
   b. The applicant does not need to disclose it on the application unless there was an order of restitution.
   c. The applicant must disclose all arrests and convictions.
   d. The applicant must disclose all convictions on the application.

12. Which condition must exist for an applicant to qualify for a Florida real estate license?
   a. The applicant must be a citizen of the United States.
   b. The applicant must be a Florida resident.
   c. The applicant must be at least 21 years of age.
   d. The applicant must have a high school education or equivalent.

13. Which of the following statements best describes an attorney-in-fact?
   a. An attorney-in-fact must be a member of the Florida Bar.
   b. An attorney-in-fact may be paid a commission for services of real estate.
   c. An attorney-in-fact is authorized by a power of attorney to act for another.
   d. An attorney-in-fact is required to hold an active real estate license.

14. Which individual is exempt from the licensing requirements of Florida Statute 475?
   a. A partner in a real estate partnership who receives compensation in excess of their interest in the partnership for performance of real estate services on behalf of the partnership.
   b. A condominium manager who is paid on a commission basis for rentals of less than one year.
   c. An appraiser who is certified under Florida Statute 475, Part II, when performing brokerage services.
   d. An attorney who performs legal duties in connection with a real estate transaction.

15. Complete this statement. An actively licensed attorney who is a member in good standing with the Florida Bar
   ____________________________.
   a. May charge commissions in connection with real estate activities
   b. Is exempt from continuing education requirements to maintain a real estate license
   c. Is not allowed to simultaneously hold a real estate license
   d. May be licensed as a broker but not as a sales associate

16. What is a broker associate?
   a. A broker who employs sales associates
   b. A sales associate
   c. A broker who is employed as a sales associate
   d. A sales associate who is employed as a broker

17. Florida has an agreement with some other states that recognizes the similarity in education and experience requirements for licensees. What is the agreement called?
   a. Reciprocity
   b. Mutual recognition
   c. Cooperative licensure
   d. Intrastate licensing
18. Which of the following statements is true regarding a plumber who has been appointed by a court to appraise a small business?
   a. The plumber is in violation of F.S. 475.
   b. The plumber may charge a commission.
   c. The plumber may do so and be paid a fee.
   d. The plumber must first be licensed under F.S. 475, Part II.

19. All of the following individuals are exempt from the real estate license law, EXCEPT:
   a. Employees of a corporation who are paid on a salary basis
   b. Partners in a partnership who receive a pro rata share of the profits
   c. Condominium managers who rent units within the complex for periods up to one year
   d. Funeral directors performing duties of real estate for compensation

20. A Georgia broker with extensive experience in conducting auctions was asked by a local real estate broker to auction a small motel in Jacksonville. The auction did not result in a sale. The Florida broker paid the Georgia broker for out-of-pocket expenses, but did not pay a commission. Which of the following statements is correct?
   a. The Georgia broker violated license law.
   b. The Florida broker did not violate license law.
   c. The Florida broker is not subject to discipline by the Commission.
   d. The transaction is perfectly within the license law.
CHAPTER 3

REAL ESTATE LICENSE LAW
AND COMMISSION RULES

OVERVIEW
This chapter will inform the student regarding the administrative role of the Department of Business and Professional Regulation, the scope of its authority, and its organizational structure. The organization, operation, and powers of the Florida Real Estate Commission are also discussed. The purpose and duties of the Division of Real Estate, the type and status of various license classifications, and the circumstances that require a license to be renewed or reissued are examined.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Describe the composition, appointment, and member qualifications of the Florida Real Estate Commission (FREC or the Commission)
- Define the powers and duties of the Commission
- Explain the different licensure statuses: initial issue, reissue, and renewal of license
- Distinguish between active and inactive registration
- Distinguish between multiple and group licenses
- Describe the regulations regarding involuntarily inactive status

KEY TERMS
Active license
Cancelled license
Ceases to be in force
Current license
Group license
Inactive license
Involuntary inactive license
Multiple licenses
Null and void license
Voluntary inactive license

THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Authorization and Administration

F.S. 455 created the Department of Business and Professional Regulation (DBPR or the Department) to provide licensing, oversight, and regulation of businesses and professions in the state of Florida. The Department is under the executive branch of the governor and is governed by F.S. 120. The Department is structured according to the requirements of F.S. 20.165. The head of the Department is the secretary, who is appointed by the governor and is subject to confirmation by the senate. There is no set term limit; the secretary serves at the pleasure of the governor. The secretary is responsible for planning, directing, coordinating, and executing the powers, duties, and functions vested in the Department, its divisions, bureaus, and other subunits. The principal offices of the Department are in Tallahassee, Florida.
The intent of F.S. 455 is to regulate professionals in the most cost-efficient manner so as to maximize competition, minimize the cost of licenses, and maximize public access. The statute specifies that professions should only be regulated when:

- The unregulated practice of a profession can cause harm to the public health, safety, or welfare.
- The potential for such harm is recognizable and clearly outweighs any anticompetitive impact that may result from regulation.
- The public is not effectively protected by other means such as federal, state, or local legislation, statutes, or ordinances.
- Less restrictive means of regulation are not available. [F.S. 455.201]

One of the divisions of the Department is the Division of Real Estate (DRE or the Division). The Division protects the public by regulation of real estate and appraisal licensees through education and compliance, pursuant to F.S. 475. The Division is responsible for the examination, licensing, and regulation of over a quarter of a million individuals, corporations, real estate schools, and instructors. The director of the Division is appointed by the secretary of the Department and is subject to approval by a majority of the members of the Florida Real Estate Commission (FREC, or the Commission). The Division director is a salaried state employee who acts as the day-to-day manager of the Division. The Division offices are located in Orlando, Florida and may not be moved without permission of the legislature.

F.S. 475 contains the following four parts:


- **Part II.** Appraisers [F.S. 475.610-475-631]; defines the Florida Real Estate Appraisal Board (FREAB). [F.S. 475.613]; F.A.C. 61J1 contains additional FREAB rules that apply to appraisal licensees.

- **Part III.** The Commercial Real Estate Sales Commission Lien Act [F.S. 475.700-475.719]; allows a broker to place a lien on an owner’s net proceeds (personal property) for commissions earned during a sales transaction. [F.S. 475.703]

- **Part IV.** The Commercial Real Estate Leasing Commission Lien Act [F.S. 475.800-475.813]; allows a broker who has earned a commission to place a lien on an owner’s real estate interests in commercial real estate that has been leased. [F.S. 475.803]
An overview of the Department structure and real estate related divisions is shown in the diagram below. There are many other divisions under the Department (not shown) for other professions.

<table>
<thead>
<tr>
<th>Governor of Florida</th>
<th>DBPR The “Department”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Created by F.S. 455 (Business &amp; Professional Regulation)</td>
<td>Governed by F.S. 120 (Administrative Procedures Act)</td>
</tr>
<tr>
<td>Governed by F.S. 455 (Business &amp; Professional Regulation)</td>
<td>Structured according to F.S. 20.165</td>
</tr>
<tr>
<td>F.S. 718 and F.S. 721</td>
<td>Division of Florida Condominiums, Timeshares, and Mobile Homes (61B)</td>
</tr>
<tr>
<td>F.S. 475</td>
<td>Division of Real Estate (61J) - The “Division”</td>
</tr>
<tr>
<td>o Part 3: Commercial Real Estate Sales Commission Lien Act</td>
<td>o Part 4: Commercial Real Estate Leasing Commission Lien Act</td>
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</table>

**DUTIES OF THE DBPR (THE DEPARTMENT)**

The Department is responsible for licensing and regulation of the real estate profession. The Department delegates rule-making and disciplinary authority for the real estate profession to the FREC (Commission). The Commission is an administrative agency that has only seven members and no employees, so the day-to-day work of regulation of the real estate profession falls to the Division of Real Estate (Division). The Commission and the Division carry out the following Department duties:

- Conduct the investigation of applicants, licensees, and unlicensed persons
- Prosecute those individuals and entities charged with violations of law or rules
- Issue, renew, and reissue licenses

**Powers of the Department**

The Department may seek an injunction from a court against a licensee for failure to follow a Department order. The Department does not have the authority to issue injunctions against unlicensed persons, but may seek an injunction from the courts for failure to follow a Department order. The Department also has the power to issue a cease-and-desist order against an unlicensed party for violation of any rule or law under its administration. The Department may issue a notice of noncompliance or a citation to a licensee for specified offenses. Citations may include the payment of an administrative fine not to exceed $5,000 per offense. [F.S. 455.228(1)]

The Department is authorized to issue cease-and-desist orders, administer oaths, take depositions, issue subpoenas, and adopt rules concerning violations that may be submitted for mediation. Mediation offenses are defined as those that are economic in nature, and are caused by and can be corrected by licensees. Fourteen days are allowed after contact by a mediator for the parties to agree to mediation. The matter must be resolved within 60 days. [F.S. 455.223 and 455.2235(2)]

The Department conducts investigations and the prosecution of complaints through the Division. Enforcement costs are to be borne by the profession being regulated. A fee of $5.00 is collected from all applicants for licensure and all those who request a renewal of license to pay for investigation and prosecution of unlicensed activity. [F.S. 455.2281]

The Department may also act as a plaintiff in a civil action, in which case, a civil penalty of not less than $500 or more than $5,000 for each offense may be imposed. [F.S. 455.228(2)]
Issuing and Renewing Licenses

The Department issues and renews all licenses for all professions administered under F.S. 455, including real estate licenses. The statute establishes procedures for biennial renewal of licenses; however, certain licenses may be issued for a four-year period. Fees for licenses are determined by the budgetary requirements of each board or division, but may not exceed limits established by statute. A board is allowed neither to operate with a negative balance nor to become a profit center. [F.S. 455.203(1)]

Applications for new and renewal licenses are screened in accordance with F.S. 409 to confirm compliance with child support obligations. New applicants can be denied and renewal applicants can be suspended if found to be delinquent with child support obligations. Licenses can be reinstated after notification to the Department that a licensee has complied with child support terms imposed by the court. [F.S. 455.203(9)]

Giving false information when applying for or renewing a license is a felony of the third degree, which is punishable by a criminal court. In addition, the Commission may take punitive action against those applying for a renewal under such circumstances. [F.S. 455.2275]

Real Estate School Licensing [F.S. 475.451]

Any school, institution, or person offering to prepare students for a state examination for a sales associate or broker license must first be approved and issued a permit by the Department. Each school must have a permit holder, and each location from which the courses are offered must be individually issued a permit. Each instructor must also be issued a permit. All permits are issued for a two-year period, which expires on September 30th of odd-numbered years (e.g., September 30, 2025). A permit to teach the Department-approved courses cannot be used as an endorsement by the Commission.

Testing New Applicants

The Division of Professions is responsible for providing testing services designed to ensure competency to practice in an applicant’s chosen field. Currently, a private testing service is under contract with the Department to provide testing services for real estate and appraisal applicants. [F.S. 455.217(1) and 455.2171]

Examination questions and answers are confidential. The theft or reproduction of such material is a third-degree felony. [F.S. 455.2175]

THE FLORIDA REAL ESTATE COMMISSION

Powers of the Commission

The Commission is an administrative agency that has been delegated certain powers under F.S. 475 and F.A.C. 61J2. The Commission’s specific powers include the following:

- **Executive powers.** Executive powers include the publication of books and newsletters to keep licensees and the public informed of new and important changes in the law and rules governing the real estate profession, furthering the education of potential and current licensees, and the investigation of complaints against licensees. The executive powers can be exercised by the chairperson acting alone or can be delegated by quorum vote to any other Commission member.
• **Quasi-legislative powers.** Quasi-legislative powers give the Commission the power to make and pass rules that regulate the operation of licensees and the real estate profession. Rules enacted by the Commission are not laws, but have much the same effect. The purpose of the rule-making authority is to allow the Commission to interpret and implement the law. These “FREC rules” are in Chapter 61J2 of the Florida Administrative Code. [F.A.C. 61J2]

  The quasi-legislative powers cannot be delegated; a quorum vote of the Commission is required to exercise this authority. Rules enacted by the Commission do not require approval of any agency or the legislature. They do not become effective, however, until 20 days after they have been filed with the secretary of state. Rules cannot be in conflict with the U.S. Constitution, the laws of the state of Florida or the United States.

• **Quasi-judicial powers.** Quasi-judicial powers allow the Commission to impose disciplinary action for violations of laws or rules. These powers are similar to the actions of a court of law. The Commission has the authority to deny an application, and to reprimand, fine, or place a licensee on probation, or suspend or revoke a license. The procedure by which disciplinary actions are taken is discussed later in this book. The quasi-judicial powers cannot be delegated and require a quorum vote to be exercised.

• **Ministerial powers.** Ministerial powers include record keeping and clerical functions. Since the Commission has neither staff nor employees, Division employees perform these functions on behalf of the Commission.

**Disciplinary Authority of the Commission**

The Commission may deny an application for licensure or may discipline licensees for violation of F.S. 475 or any rule enacted under its authority. A licensee who is found to be guilty of a violation may receive one of the following disciplinary actions, be issued a reprimand or an administrative fine up to $5,000 per offense, be placed on probation, or have their license suspended for up to ten years or permanently revoked. [F.S. 475.25(1)]

  The Commission must inform the Division of Florida Condominiums, Timeshares, and Mobile Homes when any disciplinary action is taken against any of its licensees. [F.S. 475.455]

  The Commission is also required to report any violation of law to the proper prosecuting authority for possible criminal prosecution. [F.S. 475.25(7)]

**Composition of the Commission**

There are seven members on the Commission who are appointed by the governor and subject to confirmation by the senate. Four members must be licensed brokers, each of whom has held an active license for the five years preceding appointment; one member must be a licensed broker or a licensed sales associate who has held an active license for the two years preceding appointment; and two members, called *lay members*, must be persons who are not, and have never been, brokers or sales associates. The function of the lay members is to give public input into the regulation of the profession. At least one member must be 60 years of age or older. [F.S. 475.02(1) and F.A.C. 61J2-20.040]

**Term of Office**

Commission members are appointed for four-year terms. Members may not serve more than two consecutive terms, although there is not a maximum number of years in which they may serve as long as no more than two terms are consecutive. Appointments are staggered
so that no more than two members’ terms will expire in any one year. Should a member die during their term, the governor will appoint a replacement for the remaining portion of the term. Members are allowed to continue their professions as licensed brokers, broker associates, or sales associates while serving on the Commission. Lay members may also maintain their separate professions while serving.

Although Commission members are not salaried, each member receives a per diem (allowance per day) for each day they work on Commission business, plus expenses as outlined in F.S. 112.061(6)(a).

Meetings of the Commission

The Commission meets at least once a month, usually in the offices of the Division located in Orlando. One meeting each year is an organizational meeting during which the members select, from among themselves, the chairperson and vice chairperson for the current year. There is no specific order in which the selection must occur. The most recent appointee could be chosen as chairperson or vice chairperson.

A quorum (majority of the members) must be present in order to conduct certain duties authorized by law.

Real estate licensees may earn three hours of specialty CE credit per renewal cycle for attending one legal session of the FREC meeting. The legal docket is the first day of a two-day FREC meeting. Licensees must contact the Division of Real Estate to make prior arrangements to receive credit for attending the meeting.

Documentation of Proceedings of the Commission

The Commission is required to take and maintain on file minutes of all meetings, as well as any records accumulated in the performance of its duties. The official seal of the Commission must be placed on all meeting records and on other records and papers reflecting actions of the Commission. The purpose served by the official seal is to authenticate the records. [F.S. 475.10]

Once signed by either the chairperson or vice chairperson and impressed with the official seal, documents and papers that reflect the actions of the Commission become certificates of those meetings and actions. Certificates entered into evidence in court proceedings are called prima facie evidence, which literally means “on the face of it.” Prima facie evidence is a rebuttable presumption that facts presented are true and correct. This means that the evidence can be overcome by other evidence sufficient to contradict its authenticity. Prima facie evidence may be accepted in a Florida court as evidence. [F.S. 475.05]

LICENSING PERIODS

As discussed in Chapter 2, the licensee is responsible for completing the requirements of the licensing and renewal process. The licensee’s actions determine the status of their license, and if they may transact real estate or not.

Initial Issue

An applicant’s initial issue is the first license received in the category in which they are qualified. The license is valid on the date the applicant receives official notification that they have passed the state exam. Upon passing the state exam, an applicant receives an inactive license status. Once employed, the licensee can request an active real estate license by filing employment information on the completed DBPR transaction form with the Division.
The initial license is valid for a maximum of two years. All licenses expire on either
March 31st or September 30th in any given year. All newly licensed sales associates and
broker licensees must complete the post-licensing education before the end of the first
license renewal period. The expiration date is on the license.

Example: An initial license valid on April 15, 2023, will expire March 31, 2025.
September 30, 2025 would be too late since it exceeds the two-year maximum.

Renewal

A renewal replaces a prior license and is requested by a licensee when a license is
about to expire. The Department mails a notice of renewal to the last known address of the
licensee approximately 60 days prior to the license expiration date. Renewals are effective
when received by the Department. All renewals are valid for two years. If the renewal
request is received by the Department prior to the expiration date, the next licensing period
still begins on the day following the expiration date of the current license. The request for
renewal must be made prior to the expiration of the current license to prevent the license
from expiring. Requests for renewal must include the applicable fee and an affirmation that
the requirements for post-license or CE, as appropriate, have been successfully completed.
First and subsequent renewals are defined below.

- **First renewal.** For the first renewal following an initial license, licensees must renew
  by completing the post-licensing requirements prior to the expiration of the initial
  license. Failure to do so will result in a null and void license status. When the license
  status is null and void, a sales associate may not practice real estate and must
  obtain a new initial license to re-enter the real estate profession.

  A broker’s license status will also become null and void as a result of failing to
  complete their post-licensing (first renewal) requirements prior to the expiration of
  their initial broker license. However, a broker may choose to revert to a licensed
  sales associate by completing the 14-hour CE within six months of their broker
  license becoming null and void.

- **Subsequent renewals.** For all subsequent (biennial) renewal periods following the
  initial license, licensees must renew by completing the 14-hour CE requirements.
  Failure to renew a license prior to the expiration, in other than the initial license
  period, will put the license into involuntary inactive status. The licensee may not
  practice real estate while their license is involuntary inactive. The license can remain
  in this status for up to two years. Involuntary inactive license status is discussed in
  more detail later in this chapter.

Reissue

A licensee may not operate with a void or invalid license. A real estate license is void,
ineffective, invalid, or not in-force if not renewed prior to the expiration date, suspended, or
revoked, or if changes have occurred that affect the registration of the licensee.

A reissue is required any time the information related to a licensee on the record with the
Department is no longer correct. This applies to changes in a licensee’s name. The licensee
must notify the Department of any change no later than ten days after the change has
occurred, and request a license reissue.

In the event of the loss or destruction of a license, a reissue is required with an affidavit
attesting to the circumstances must be included with the request for the replacement. If the
license is recovered, it must be returned to the Department.
To request a license reissue, a licensee must complete the appropriate DBPR transaction form and submit it to the Department. The effective date of a reissue is the date the Department receives the properly completed form. The license is reissued for the remainder of the licensee’s license period with the expiration date in accordance with the expiration schedule.

If a licensee wishes to reinstate a license following a period of suspension, they must submit a request to the Department along with proof that the terms of the suspension have been fulfilled.

**ACTIVE AND INACTIVE LICENSE STATUS**

A real estate license status (either active or inactive) depends on the desires and actions of the individual licensee.

**Active License**

A licensee must have an active license to perform the services of real estate. As discussed in Chapter 2, in order to obtain a license, an individual must complete the required educational course and successfully pass the state exam for licensure. If an active status is desired, a sales associate must obtain employment with either a broker or owner-developer and submit a completed DBPR transaction form to the Department. Once received, the licensee becomes active and may begin performing services of real estate for compensation.

To maintain active status, a licensee must complete the required post-license education or CE as necessary, pay the required renewal fee, and submit a request for renewal prior to expiration of the current license.

When a sales associate changes employers, the license “ceases to be in force.” The sales associate must notify the Commission of the change no later than ten days after the change, on a form provided by the Commission. [F.S. 475.23]

**Inactive License**

There are two types of inactive license status, voluntary inactive and involuntary inactive. A licensee with an inactive license (whether voluntary or involuntary) cannot legally perform or be compensated for real estate services. An inactive license status allows individuals to leave the real estate business and return without having to complete all of the license requirements again. Both are explained below.

- **Voluntary inactive.** An individual who has attained their license but does not wish to engage actively in the real estate business can request a voluntary inactive license. A licensee who has a voluntary inactive license must pay the required fees, complete the Commission-prescribed education, and renew the license prior to expiration to maintain a current voluntary inactive real estate license. A license may remain in this status indefinitely. If desired, an employed licensee may activate their license at any time without the payment of an additional fee by filing a completed DBPR transaction form.

- **Involuntary inactive.** An individual who does not request renewal of their second or subsequent license, pay the required fees, or maintain their CE requirements will have their license automatically placed in an involuntary inactive status. A license may remain in an involuntary inactive status for no more than two years.
A licensee may change the involuntary inactive status of their license to voluntary inactive or active at any time during the first 12 months. To change the status, the licensee must complete the required 14-hour CE course and pay an additional fee. If a licensee does not change the involuntary inactive status of their license within the first year, the licensee must complete a 28-hour reactivation course and pay an additional fee within months 13 through 24. If the license is not brought current within two years, the license automatically expires. [F.S. 475.183(2) and F.A.C. 61J2-3.010(1)]

**Void and Ineffective Licenses**

A license may appear, on the face of it, to be valid and effective when, in fact, it is not. No real estate service may be performed for compensation under a license that is void or ineffective. If a broker’s license is suspended, revoked, or otherwise void or ineffective, the licenses of all persons who are employed under such broker become automatically inactive. [F.S. 475.31]

During any period of time in which a real estate brokerage corporation, partnership, limited partnership, limited liability partnership, or limited liability corporation does not have at least one active broker registered with the firm, the registration of the firm and the licenses of all licensees within the firm become automatically inactive. [F.S. 475.17]

If a licensee decides to no longer practice real estate, they could return the license to the Department. The license would be cancelled.

**Summary of License Status Terminology**

- **Current vs. ineffective (not current).** A license is *current* when the license expiry date has not yet been reached. The license will remain current if it is renewed prior to the expiry date. After the expiry date, the license is sometimes referred to as *ineffective*, or not current, if it was not renewed.

- **Active vs. inactive.** A sales associate license is *active* if it is current and the licensee is employed by a broker or owner-developer to practice real estate. The license may become *inactive* by losing employment or failing to renew prior to the license expiry. A licensee may also choose to be voluntarily inactive.

- **Disciplinary actions.** Certain disciplinary actions, discussed further in Chapter 6, can affect license status.
  - **Suspended.** The licensee is prohibited from practicing real estate for a period-of-time.
  - **Revoked.** The license is permanently removed; the licensee is no longer licensed as a real estate professional.

- **Valid vs. invalid.** A license is *valid* if it is current, active, and not suspended or revoked by any disciplinary actions. A license is *invalid* if any one of these conditions exists. A cancelled license becomes invalid. Real estate licensees may only practice real estate with a valid license.

- **Null and void.** A *null and void* license is no longer valid, and the license holder is out of the real estate business.
Licensing periods and license status are shown clearly in the diagram below.

**GROUP LICENSE AND MULTIPLE LICENSES**

**Group License**

A sales associate or broker associate may have only one registered employer at a time. A group license is a single real estate license that can be obtained if the sales associate or broker associate works for one owner-developer with affiliated organizations, which provides real estate services in different geographic areas. The owner-developer must submit proof that various properties are owned in the name of different entities, but that the real estate ownership is connected and essentially the same. [F.S. 475.215 and F.A.C. 61J2-6.006]

**Multiple Licenses**

A broker can be issued additional licenses in two or more capacities by requesting multiple licenses. The broker must show that the additional licenses are necessary for legitimate business reasons. The request for issuance of multiple licenses cannot be prejudicial to the broker’s business associates or the public. Multiple licenses are not available to sales associates or broker associates. [F.S. 475.215]

**LEGAL ADVICE**

The Department of Legal Affairs office, which is part of the Florida Office of the Attorney General, provides legal advice to the Department, the Commission, and the Division. Assistant attorneys may be assigned to the Division in Orlando. The primary purpose of the Department of Legal Affairs is to represent the interests of the citizens of this state. Advice and legal assistance provided serves as protection to the public.

Outside counsel and investigative services can be obtained when necessary. However, outside personnel cannot offer advice and provide legal services in the same matter. [F.S. 455.221]
CHAPTER 3 REVIEW QUESTIONS

1. A quorum to conduct certain duties of the Commission requires __________ members.

2. The Commission’s ability to impose disciplinary actions against licensees is known as ______________ power.

3. The rule-making authority of the Commission is called _________________ power.

4. The Commission is composed of __________ members.

5. To become effective, rules enacted by the FREC must be filed with the __________ ________ _________________.

6. Members of the Commission may serve no more than ______________ consecutive terms.

7. Establishing educational requirements for licensees is an example of the exercise of the ______________ powers of the Commission.

8. When a sales associate changes employers, they must notify the Commission of the change no later than __________ days after the change to keep the license in force.

9. To become a broker member of the Commission, a broker must have been actively licensed in Florida for a minimum of __________ ____________.

10. The offices of the Division of Real Estate are located in ________________.

11. The principal office of the Department is located in ________________.

12. The Director of the Division of Real Estate is ______________ by the ____________ of the _____________ subject to approval by a majority of the members of the _________________.

13. After the initial license renewal, a licensee who fails to renew when required to do so will have their license placed on _______________ ______________ status.

14. When a licensee changes employers, they should request a _________________ of the license with a new employer before performing services of real estate for compensation.
CHAPTER 3 PRACTICE EXAM

1. The Department of Business and Professional Regulation has the authority to issue all of the following, EXCEPT:
   a. A cease-and-desist order
   b. A subpoena
   c. An injunction
   d. A notice of noncompliance

6. Which of the following entities issues real estate licenses?
   a. The state of Florida
   b. The Department of Business and Professional Regulation
   c. The Department of Revenue
   d. The Florida Real Estate Commission

2. What is the maximum number of years a member may serve on the Florida Real Estate Commission?
   a. 4
   b. 8
   c. 12
   d. No maximum

7. After being active in the real estate business for over five years, a licensee's license expired on September 30th. What is the status of the license on October 1st?
   a. Suspended
   b. Revoked
   c. Involuntary inactive
   d. Voluntary inactive

3. Which statement is true regarding the secretary of the Department of Business and Professional Regulation?
   a. The secretary is a member of the Florida Real Estate Commission.
   b. The secretary is appointed by the governor.
   c. The secretary must be an attorney.
   d. The secretary answers to the state legislature in the performance of duties.

8. The Florida Real Estate Commission held a meeting for the purpose of passing a new rule. This is an exercise of which Commission power?
   a. Executive
   b. Quasi-legislative
   c. Quasi-judicial
   d. Ministerial

4. The Division of Real Estate is an administrative part of which of the following?
   a. The state of Florida
   b. The Department of Commerce
   c. The Department of Banking
   d. The Department of Business and Professional Regulation

9. Which of the following statements is true regarding the director of the Division of Real Estate?
   a. The director is appointed by the secretary of the Department of Business and Professional Regulation.
   b. The director is a member of the Florida Real Estate Commission.
   c. The director is not subject to confirmation or approval by the Florida Real Estate Commission.
   d. The director answers only to the governor in the performance of their duties.

5. Which statement is true regarding examination questions and answers?
   a. They are published in the Administrative Weekly before appearing in an examination.
   b. They may not be challenged.
   c. They may be reviewed by any member of the public upon request.
   d. They are confidential.

10. The Department of Business and Professional Regulation is created by which statute?
    a. F.S. 120
    b. F.S. 455
    c. F.S. 475
    d. F.S. 494
11. If an applicant for a real estate license provides false information, they commit which of the following criminal violations?
   a. First-degree misdemeanor
   b. Second-degree misdemeanor
   c. Second-degree felony
   d. Third-degree felony

12. What action may the Department take if it determines that an unlicensed person has operated in violation of a law or rule under its administration?
   a. None, since the Department has no jurisdiction over unlicensed individuals.
   b. It may issue an injunction prohibiting such activity in the future.
   c. It may imprison the violator for up to five years.
   d. An administrative fine of up to $5,000 may be imposed.

13. Educational requirements of applicants for a real estate license are promulgated under what authority of the Florida Real Estate Commission?
   a. Ministerial
   b. Executive
   c. Quasi-legislative
   d. Quasi-judicial

14. When is a request for the renewal of a license effective?
   a. When received by the Department
   b. The day following expiration
   c. On the date the application is mailed
   d. On the date indicated on the license

15. When does a real estate license expire?
   a. On the date shown on the license
   b. Every two years
   c. On the effective date
   d. At the end of one year

16. New Commission rules must be approved by which of the following?
   a. The Department of Business and Professional Regulation
   b. The secretary of state
   c. The governor
   d. No one

17. How long may a license remain in voluntary inactive status?
   a. Two years
   b. Four years
   c. Ten years
   d. Indefinitely

18. Which of the following best describes certificates that are entered into court as evidence?
   a. Of no value
   b. Disqualified
   c. Prima facie evidence
   d. Proof of a fact

19. Violations of the Commission rules are prosecuted by which agency?
   a. Florida BAR Association
   b. Department of Business and Professional Regulation
   c. Florida State Attorney General
   d. Sheriff of the county in which the violation occurred

20. A sales associate is employed by a broker Monday through Friday and for a builder on the weekends. The sales associate feels the added experience is beneficial especially since both employers pay an attractive commission split. Which statement is correct?
   a. The sales associate must obtain a group license.
   b. Multiple licenses are required in this situation.
   c. This arrangement violates the license law.
   d. This is permissible if both employers agree to the arrangement.
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CHAPTER 4
AUTHORIZED RELATIONSHIPS: DUTIES AND DISCLOSURES

OVERVIEW
This chapter examines the obligations and duties of a broker within the alternative relationships specified in F.S. 475. The law provides the following three options under which a broker may be employed, transaction broker, single agent, and nonrepresentation (no brokerage relationship). There are distinct legal differences between the duties of a broker who performs services within these three alternatives.

It is critically important for a sales associate to understand the nature of these relationships, how they are created, and their inherent obligations, duties, and legal ramifications.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:
- Describe the provisions of the Brokerage Relationship Disclosure Act that apply only to residential real estate sales and list types or real estate activities that are exempt from the disclosure requirements
- Define a residential transaction
- Distinguish between single agent, transaction broker, and nonrepresentation (no brokerage relationship)
- List and describe the duties owed in the various authorized relationships
- Compare and contrast the fiduciary duties owed in a single agent relationship with the duties owed in a transaction broker relationship
- Distinguish between and explain the disclosure requirements and forms pursuant to Florida Statute for the various agency relationships
- Describe the disclosure procedures for the various authorized relationships
- Explain the procedure for transition from a single agent to a transaction broker
- Describe the disclosure requirements for non-residential transactions where the buyer and seller have assets of $1 million or more
- List the events that will cause an agency relationship to be terminated

KEY TERMS
Agent
Caveat emptor
Consent to Transition to Transaction Broker
Customer
Designated sales associate
Dual agent
Fiduciary
General agent
Kickbacks
Limited representation
Nonrepresentation
Principal
Procuring cause of sale
Residential sale
Single agent
Special agent
Subagency
Transaction broker

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TYPES OF LAWS AND THEIR PURPOSES

Laws are intended to specify and control levels of behavior that are acceptable to society. There are three categories of law that are of great significance to licensees. These are common law, statutory law, and administrative law.

Common Law

Common law is unwritten law, which is derived from old English common law. It develops from court decisions that tend to reflect the attitudes of the community. The decisions of civil courts establish guidelines that other courts may follow in similar situations. When one party sues another party in a civil action, the court has a duty to review the actions that brought about the suit and determine whether or not the actions conform to society’s standards. The decision is available to other courts to review and apply in similar cases.

Common law, then, is not a series of statutes passed by a legislature or congress. It is the sum of these court decisions over time. As society changes, court interpretations of events must respond to those changes.

Agency law, discussed on the next page, derives from common law. Therein lies the greater danger in the practice of real estate; no book can be read and no statute researched. Conduct must be acceptable and conform to standards acceptable to society or be subject to potentially severe consequences.

The words or actions of a party can create an agency relationship; no compensation needs to be paid, no written agreement entered into, no formal contract is required. Once created, the law imposes fiduciary duties on the agent. Violation of these duties may have severe consequences.

Civil courts may impose civil penalties called compensatory damages and, in some cases, impose an additional monetary penalty called punitive damages. In theory, compensatory damages are those that can be determined from a measurable loss. Punitive damages, as the name suggests, are imposed as additional damages to punish the party whose actions gave cause for the suit.

Statutory Law

Statutory law is based on written statutes that have been enacted by an appropriate unit of government. Statutory law is enforced by criminal courts. Criminal courts often impose monetary fines but are most commonly thought of in terms of imprisonment.

F.S. 455 and F.S. 475 are statutes enacted by the state legislature. As discussed in a later section, criminal fines and imprisonment are potential penalties for violation of these statutes.

Administrative Law

Statutes can authorize the creation and operation of administrative agencies to administer and enforce certain laws. The Department of Business and Professional Regulation (the Department), created by F.S. 455, and the Florida Real Estate Commission (the Commission), created by F.S. 475, are examples of administrative agencies empowered by statutes.

Administrative agencies may also have the power to levy monetary fines for rules they have enacted in the furtherance of their legislative duties or violation of laws they administer. This power will be discussed in detail in Chapter 6.
AGENCY LAW

The law of agency is the body of law that addresses the rights, duties, and related obligations that arise from a principal-agent relationship. An agent acts on behalf of and represents the interests of another party. Agency relationships are based on trust and confidence and are similar to that between a husband and wife, doctor and patient, or attorney and client.

An agent is entrusted to work on behalf of their employer, called a principal, and to represent the principal’s best interests. The principal delegates some authority to the agent that empowers the agent to work on their behalf.

Of particular importance in the practice of real estate is the fact that agency relationships may be created by the words and actions of a licensee. No formal agreement or written document is required and no compensation needs to be promised or paid. This relationship can be created accidentally, inadvertently, or may be implied by words or actions. Once this relationship has been created, the law imposes certain duties on the agent, violation of which could result in severe penalties.

The three types of agency relationships in the law of agency, which are distinguished by the extent of granted authority, are special agent, general agent, and universal agent. Each is defined below.

- **Special agent.** A special agent is authorized under agency law by the employer to perform a single act. The employment contract between the employer and agent establishes the limit of authority granted.

  **Example:** A broker employed under a single agency listing for the sale of a property is authorized to locate a purchaser on behalf of the owner. This is a single act. The broker becomes a special agent of the owner, who is the broker’s principal.

- **General agent.** A general agent has the principal’s authority under agency law to act for them on a continuing basis, but with authority limited to a specific trade or business.

  **Example:** A broker employed by an investor to manage all of their real estate is a general agent of the principal. A sales associate or broker associate is a general agent of their employing broker or owner-developer.

- **Universal agent.** A universal agent is authorized under agency law to act for and represent the principal in all matters, without limitation. This agent is generally authorized by a power of attorney.

  All agents have limited authority and cannot perform any act on behalf of their principals, which the principal has not authorized.

  **Example:** A broker cannot sign a contract that obligates their principal unless the principal has given the broker a power of attorney to authorize the act.

**Subagent**

A subagency is not a type of agency; it is an extension of another agency. In other words, a subagent is a party who has been granted authority to act on behalf of another agent. Under agency law, a subagent has the same duties to the principal as the agent who was empowered by the principal. A sales associate is a general agent of the broker and
automatically becomes a subagent of all the broker's principals. As an agent of the broker, a sales associate has the same duties to the broker’s principals, as does the broker.

**Brokerage Relationship Disclosure Act**

In the past, consumers have not always been aware, or correctly advised, of the role of a real estate broker or sales associate. Disclosures serve to notify consumers of available relationships and the role of the broker in that relationship. The purpose served by disclosures in a real estate transaction is to both inform and educate the public.

The Brokerage Relationship Disclosure Act became effective on October 1, 1997, and has since been amended. Representatives of the Department, the Commission, and the Florida Association of REALTORS (FAR) worked together to formulate this law, specified in F.S. 475.2701 through F.S. 475.278.

The Act specifies and defines the relationship between a broker and the broker’s employer in residential real estate transactions. The law details alternative relationships that are allowed when providing brokerage services and specifies appropriate disclosure forms that must be utilized for residential transactions when the broker is operating under each alternative.

Violations of the brokerage relationship duties or disclosure requirements may result in administrative and/or civil penalties.

**Definitions**

The Brokerage Relationship Disclosure Act and F.S. 475 define the parties and various relationships a broker may have with them in a real estate transaction. Specific definitions include the following:

- **Customer.** A *customer* is a member of the public who is or may be a buyer or seller of real property. The customer may or may not be represented by a real estate licensee in an authorized brokerage relationship. Nothing in Florida law states that a customer must be represented by a licensed real estate agent. Customers may represent themselves, if so desired. Anyone who is not represented in a single agency relationship is a customer. [F.S. 475.01(1)(d) and 475.278(1)(b)]

- **Single agent.** A *single agent* is a broker who represents, as a fiduciary, either the buyer or seller, but not both in the same transaction. [F.S. 475.01(1)(k)]

- **Principal.** A *principal* is the party with whom the real estate licensee has entered into a single agent relationship. A customer becomes the principal once a single agency relationship has been established. [F.S. 475.01(1)(h)]

- **Transaction broker.** A *transaction broker* is a broker who provides limited representation to a buyer, a seller, or both, in a real estate transaction, but does not represent either in a fiduciary capacity or as a single agent. [F.S. 475.01(1)(l)]

  It is presumed that all licensees are operating as transaction brokers unless a Single agent or nonrepresentation (no brokerage relationship) is established, in writing, with a customer. [F.S. 475.278(1)(b)]

- **Consent to transition to transaction broker.** To avoid an illegal dual agency, a broker cannot represent both the buyer and seller as a single agent in the same transaction. To assist both parties in a real estate transaction, the licensee must change from a single agent relationship to a transaction brokerage relationship, with
written consent of the principal. This is the only brokerage relationship form that must be signed. [F.S. 475.278(3)(b)(2)]

- **Notice of nonrepresentation (No Brokerage Relationship Notice).** Florida law requires that licensees who have no brokerage relationship with a potential seller or buyer disclose their duties to sellers and buyers. This notice must be described and disclosed in writing before showing a property.

- **Residential sales.** A *residential sales* transaction is any one of the following:
  
  - The sale of improved residential property of four units or fewer
  - The sale of unimproved property intended for four units or fewer
  - The sale of agricultural properties of ten acres or fewer [F.S. 475.278(5)(a)]
  - Leases with options to purchase all or a portion of improved property of four or fewer residential units
  - Dispositions of business interests involving property of four or fewer residential units

**Disclosure Requirements [F.S. 475.278]**

A broker may be employed by a member of the public in one of the following three different relationships, transaction broker, single agent, or nonrepresentation (no brokerage relationship). Written disclosure, which specifies the nature of the relationship a broker has with a member of the public and the duties inherent in the relationship, is required in single agency and nonrepresentation. Written disclosures are not required when acting in the capacity of a transaction broker or in nonresidential real estate transactions. Licensees are not required to disclose the duties associated with transaction brokerage.

Regardless of the relationship that is established, sellers of residential property, along with licensees, must disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer.

**Disclosure Exemptions [F.S. 475.278(5)(b)]**

Disclosure requirements do not apply when a licensee knows that a transaction broker or a single agent is representing a potential seller or buyer. A disclosure is not required when an owner is selling new residential construction units built by the developer in which the circumstances or settings should reasonably inform the potential buyer that the licensee is acting on behalf of the owner. This might occur when the office location, signage, placards, or a name badge indicates that the licensee is acting in such a capacity.

The following situations are exempt from the disclosure requirements:

- Nonresidential transactions
- The rental or lease of real property, unless an option to purchase all or a portion of the property improved with four or fewer units is given
- A bona fide open house or model home showing that does not involve eliciting confidential information, the execution of a contractual offer or an agreement for representation, or negotiations concerning price terms, or conditions of a potential sale
• Unanticipated casual conversations between a licensee and a seller or buyer that do not involve eliciting confidential information, the execution of a contractual offer or agreement for representation, or negotiations concerning price, terms, or conditions of a potential sale
• Responding to general factual questions from a potential buyer or seller concerning properties that have been advertised for sale
• Situations in which a licensee’s communications with a potential buyer or seller are limited to providing general factual information, oral or written, about the qualifications, background, and services of the licensee or the licensee’s brokerage firm
• Auctions
• Appraisals
• Dispositions of any interest in business enterprises or business opportunities, except for property with four or fewer residential units

Retaining Disclosure Documents

The Brokerage Relationship Disclosure Act requires licensees to keep copies of disclosure documents that are related to residential sales transactions for five years from the date of execution in all transactions that result in a written residential sales contract. Retention of the disclosure documents is required regardless of whether the transaction closes or fails to close. [F.S. 475.5015]

AUTHORIZED REAL ESTATE BROKERAGE RELATIONSHIPS

A potential customer can choose representation and establish an authorized brokerage relationship by electing to be represented as a transaction broker, single agent, or nonrepresentation (no brokerage relationship). The relationship is determined by agreement between the broker and the buyer or seller.

All licensees, in any type of brokerage relationship, including nonrepresentation, must perform the following duties:

• Deal honestly and fairly.
• Account for all funds entrusted to the licensee. A licensee is required to account for all money and property of which the licensee comes into possession. A licensee must account for all documents such as deeds, title policies, abstracts, and mortgages belonging to others.
• Disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer.

All licensees in a transaction broker or single agent relationship must perform the following additional duties:

• Use skill, care, and diligence in the transaction. Licensed professionals are held to a higher standard of conduct than are members of the public. Licensees must investigate all aspects of a transaction before allowing a buyer or seller to proceed.
• Present all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing.
Presenting Offers

A broker has a duty to transmit any and all offers to the employer including oral offers or offers made without a binder deposit. Failure to present an offer could be considered concealment or a breach of trust, and could result in disciplinary action against the broker. Unless the employer has specifically instructed the broker to the contrary, all offers must be presented. A licensee cannot refuse to present an offer that is received after a binding contract for sale and purchase has already been obtained. The employer may be inclined to accept a back-up contract that is contingent on whether or not the first contract closes.

A broker cannot accept or reject an offer on behalf of their employer. A broker may be authorized to accept an offer by a power of attorney or by terms specified within a listing contract.

Transaction Broker [F.S. 475.278(2)]

A broker is presumed to be acting as a transaction broker unless a single agency or nonrepresentation has been established by a written agreement with a customer. [F.S. 475.278(1)(b)]

The role of a transaction broker is to provide limited representation to a buyer, a seller, or both in a real estate transaction. Limited representation allows a licensee to facilitate a real estate transaction by working with both the buyer and the seller equally.

In addition to the duties listed above for all licensees, a transaction broker’s duties also include:

- Provide limited confidentiality, unless waived in writing by a party. Under this limited confidentiality, the licensee has a duty not to discuss price (other than the price quoted in the listing), motivation, terms, or other information a party deems to be confidential, which may harm that party’s bargaining position.
- Perform any additional duties that are mutually agreed to with a party.

The transaction broker has no fiduciary duties to either party, and neither the buyer nor the seller is responsible for the actions of the broker. When customers accept the broker’s role as a transaction broker, they give up the right to the broker’s undivided loyalty. The transaction broker may not represent one party to the detriment of the other.

A transaction broker must speak and act in a way that maintains a careful balance between the parties to avoid any impression that a single agency has been created. Civil law allows a member of the public to assume the role of a professional based on their words and actions, rather than on the strength of any disclosure forms that may have been used or discussed.

Single Agent [F.S. 475.278(3)]

An agency relationship is created when a broker accepts employment under a single agency agreement. A broker may represent a seller or a buyer. Any attempt to represent both parties in a transaction would create an illegal dual agency. [F.S. 475.01(k)]
In a single agency relationship, the employer becomes the principal, who authorizes the broker as agent to perform certain services on their behalf. The party whom the broker does not represent as an agent, and with whom the broker attempts to be successful in achieving the purpose of their employment by the principal, is the broker’s customer. A sales associate or broker associate is registered with the broker as their agent and is never an agent of the broker’s principal.

The principal in an agency relationship, whether they are a buyer or seller, may be responsible for the actions and statements of a licensee who is registered with the broker while acting on their behalf. For example, if a licensee, who is acting as an agent of the broker, makes a misstatement about a seller’s property, the seller (principal) could inevitably be responsible for those actions or statements.

The single agency relationship is the only one that establishes a fiduciary relationship, which legally allows the seller or buyer as principal to place trust and confidence in the broker as their agent. An agent has fiduciary duties to the principal imposed by law; these duties are not a matter of contract or compensation. [F.S. 475.01(1)(f)]

The following additional fiduciary duties are owed by a broker to the principal in a single agency relationship:

- **Confidentiality.** An agent is required to keep any harmful information received from the principal confidential. Any such information the broker learns about the principal may not be disclosed, even after the relationship ends. Confidential information obtained by an agent must remain so for the life of the agent. However, information obtained during a single agency relationship may be used for the broker’s benefit if no harm results to the principal. Only personal information about the principal is confidential. Material defects of a property are not confidential and must be disclosed to all parties.

- **Obedience.** An agent must obey all legal instructions of the principal. If an agent cannot comply with the legal instructions of the principal, the agent must withdraw from the relationship. If a principal gives an illegal instruction, the agent should advise the principal that they are unwilling to proceed. The agent must withdraw from the transaction if the principal persists.

- **Loyalty.** An agent is required to act in the best interest of the principal and may not place the interests of anyone else above those of the principal. An agent has a duty to obtain the most favorable price and terms on behalf of the principal. If representing a seller, the agent must attempt to obtain the highest price possible; if representing a buyer, the agent must attempt to obtain the lowest price possible.

- **Full disclosure.** An agent is required to report any fact or rumor to the principal that may affect their decision. The principal may rely upon all material statements made by the agent, without the need to verify those statements.

If an agent breaches fiduciary duties owed to their principal, the principal can bring civil action against the agent for damages. Such violation may also be seen as a criminal violation of F.S. 475 and bring an action by the state’s attorney general. The licensee is also subject to potential disciplinary action by the Commission.

The single agency relationship must be disclosed in a written agreement as described in the next section.
Single Agency Relationship

- Broker (agent) represents and has a fiduciary relationship with Principal
- Employs
- Is an agent of and acts on behalf of
- Sales Associate or Broker Associate (general agent)
- Is a subagent of the broker’s principal

Single Agent Notice [F.S. 475.278(3)(b)(1)]

Duties of a single agent must be fully described and disclosed in writing either as a separate and distinct disclosure document or included as part of another document, such as a listing agreement or other agreement for representation.

The written disclosure titled Single Agent Notice must be completed before, or at the time of, entering into a listing agreement, agreement for representation, or before showing property, whichever occurs first.

If a brokerage firm elects to incorporate the Single Agent Notice into the listing or representation agreements, the law requires specific language and formatting. The brokerage firm must ensure that all such documents conform to requirements of the disclosure law.

When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document; however, the first sentence of information must be printed in bold uppercase. The notice must be conspicuous in its placement so as to advise the customer of the duties of a single agent. It is not necessary to list the name of every associate on the Single Agent Notice form; instead, you may use the words, “and its associates.”

See the Single Agent Notice form at the end of this chapter.

Consent to Transition to Transaction Broker [F.S. 475.278(3)(c)(2)]

Transition from one role to another may become necessary when a broker has been employed as a single agent by a seller and is subsequently employed by the buyer as a single agent. If the buyer becomes interested in the seller’s property, the broker would have two principals, which would be an illegal dual agency. A broker can both list and sell a property in what is called an in-house transaction. The broker, however, cannot be an agent for both parties. Transition from single agent to transaction broker would resolve this conflict.

A single agent relationship may be changed to a transaction broker relationship at any time during the relationship between an agent and principal, provided the agent gives the written disclosure required and the principal gives their written consent before a change in the relationship occurs. This transition disclosure either must be in writing to the principal as a separate and distinct document or included as part of other documents such as a listing agreement or other agreement for representation. If the principal does not initial or sign the form, thereby refusing to give their consent to the broker’s transition, the broker must continue to act as a single agent.
When incorporated into other documents, the required notice must be of the same size type, or larger, as other provisions of the document; however, the first sentence of the information must be printed in bold uppercase. The notice must be conspicuous in its placement so as to advise the customer of the duties of the limited representation. This is the only brokerage relationship form that must be signed before the licensee can proceed. The authorization to change roles can be obtained early in the transaction and it is not required to be repeated at the point in which an in-house transaction seems possible. Both seller and buyer could be alerted to this possibility at the time in which they enter into a single agency relationship with the broker. If the parties agree, they may sign or initial the Consent to Transition to Transaction Broker form at that time or use a listing agreement containing the seller’s consent. This would allow the broker to transition in the relationship should such a situation develop.

Each party must understand the role of the broker. A party is entitled to a different level of representation when the broker is a single agent than when the licensee is a transaction broker. When transitioning from a single agent relationship to a transaction broker relationship, the principal has agreed to become a customer rather than a principal. It is not necessary for a licensee to remind the parties at the time of the transition from a single agent relationship to a transaction broker relationship. However, a verbal disclosure at the point of the transition is recommended to avoid possible problems later.

Caution, again, is necessary when making the transition from single agent to transaction broker. A single agent who has come into possession of confidential information may not use or disclose this information to anyone for the rest of their life. Transition from one role to another does not remove the confidentiality created under the fiduciary relationship that was established in the original single agency relationship.

See the Consent to Transition to Transaction Broker form at the end of this chapter.

Nonrepresentation (No Brokerage Relationship) [F.S. 475.278(4)]

When working in a no brokerage relationship, a broker may provide specified services for a fee. Care must be taken not to confuse or mislead the customer by inappropriate words or acts that could suggest the licensee has assumed a role that is different from the one originally agreed upon. A licensee can create an implied agency that would impose fiduciary duties on the broker and lead to potential civil damages.

A customer may choose not to be represented, in which case the broker must provide the customer with a separate written No Brokerage Relationship Notice (usually a for-sale-by-owner). The duties of a licensee who has no brokerage relationship with a buyer or seller must be fully described and disclosed in writing before the licensee shows the property.

When incorporated into another document, the notice must be of the same type size, or larger, as other provisions of the document; however, the first sentence of information must be printed in bold uppercase. The notice must be conspicuous in its placement so as to advise the customer of the duties of a licensee who has no brokerage relationship with them. The notice is not required to be signed or initialed, although licensees should note the time, date, and place in which the disclosure notification to the consumer occurred. A copy of this disclosure form should then be retained in the broker’s transaction file as evidence that the disclosure was provided.

See the No Brokerage Relationship Notice at the end of this chapter.
**Summary of Brokerage Relationship Duties (Residential Sales)**

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<thead>
<tr>
<th>Duty</th>
<th>Nonrepresentation</th>
<th>Transaction Broker</th>
<th>Single Agent</th>
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<tr>
<td>Account for all funds</td>
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<tr>
<td>Disclose all known facts that affect the value of residential property</td>
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<tr>
<td>Skill, care, and diligence</td>
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<tr>
<td>Present all offers and counteroffers</td>
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<tr>
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**Nonresidential Sales**

The written disclosure requirements cited above do not apply to nonresidential sales. Therefore, no written disclosures must be made to comply with the law in commercial or industrial transactions, auctions, or appraisals, or when renting or leasing nonresidential real property, or the sale of business opportunities or business enterprises.

Nonresidential brokers are only exempt from using written disclosures in these transactions. All other requirements of the law apply. Licensees involved in nonresidential sales must choose to operate as a transaction broker, single agent, or with no brokerage relationship (nonrepresentation). Licensees may utilize the written disclosures previously discussed in nonresidential transactions if they so desire.

**Designated Sales Associate [F.S. 475.2755]**

A significant departure is allowed in the law for brokerage offices in nonresidential sales transactions. If both the seller and the buyer have assets of $1 million or more, and both request single agent representation, the broker may, at the request of the parties, designate sales associates to act as single agents for the different customers in the same transaction.

One or more sales associates, each titled designated sales associate, may be designated to act as agents for the seller, and one or more may be designated to act as agents of the buyer. Although this is technically a dual agency that would otherwise be illegal, this provision has been incorporated into the law. The broker acts to assist the sales associates and be available to give advice. Any harmful information gained by the sales associates or the broker is considered to be confidential and may not be used to the detriment of either party.

This relationship must be disclosed in writing to both parties, using specific language provided in the law that describes the duties and obligations of the broker. Both parties must sign the disclosure and confirm that their assets meet the required threshold.

**Arm’s Length Relationship**

When parties are dealing at arm’s length, they are acting in their own best interest in an adversarial relationship, which is the opposite of a fiduciary relationship. The terms caveat emptor and buyer beware are synonymous with an arm’s length relationship. Buyers and sellers typically operate at arm’s length; the seller wants a price that is as high as possible and the buyer wants a price that is as low as possible.
Licensees may never deal with anyone at arm’s length since the law requires licensed persons to treat everyone with fairness and honesty.

**BROKER’S RIGHT TO COMPENSATION**

Brokers are entitled to compensation for professional services when they have performed that which they were employed to perform. The amount of compensation charged for their services is determined by agreement between brokers and their employers.

**Listing Contract**

A *listing* is the broker’s employment contract that states the terms and conditions that the broker must meet to become eligible for compensation. A broker may be employed by an owner to find a purchaser or to effect a sale of the property.

When a broker is employed to find a purchaser, they are entitled to compensation when a ready, willing, and able buyer has met all of the seller’s requirements. This is accomplished when the buyer makes an offer in accordance with the terms of the listing agreement, whether or not a sale is consummated.

When employed to *effect a sale*, the broker is entitled to compensation upon consummation (the closing) of the contract.

Florida listing agreements are written as *find a purchaser* contracts.

**Buyer’s Employment Contract**

A contract with a buyer states the terms of the broker’s employment when employed by a potential buyer. A broker employed by a buyer attempts to find a property that meets the buyer's criteria. If a broker locates a property that meets the specifications of the employment contract and a contract of sale is concluded, the broker may be entitled to compensation, whether or not the employer closes on the transaction since the broker has performed that upon which was agreed.

**Payment of Commission**

A real estate broker must be properly licensed to earn compensation legally. In addition, the law requires any sales associate who represents a broker in a real estate transaction to be properly licensed when the service is performed in order for the broker to collect a commission. The commission is determined by agreement and is based upon a percentage of the sales price. A broker may collect a commission from both parties in a transaction provided both parties know of and agree to the dual commission. A broker cannot compensate an unlicensed person who is unaffiliated with the transaction for a service of real estate.

A broker earns the right to compensation by performance. Once the broker has performed, the employer owes a commission to the broker even if the employer fails to conclude the transaction. In cases where the amount of the compensation has not been specified by terms of an employment contract, a customary commission rate would be due based on the type of property and fee the broker would normally charge.

A broker may lose the right to be compensated by renouncing any right to a commission, by abandoning their employment, or by misconduct that results in damage to their employer.

A broker cannot file a lien on residential property in an attempt to collect an unpaid commission unless a judgment for the amount of the commission due from an employer has been rendered by a Florida court, or the lien is permitted by agreement in a listing or other employment contract. The right to file a lien in a nonresidential transaction will be discussed in Chapter 9. [F.S. 475.42(1)(i)]
Commission Disputes between Competing Brokers

Brokers involved in a transaction may agree to split or divide a commission if permission of all parties to the transaction has been obtained. If one of the brokers collects the entire commission and refuses to share with the other broker as agreed, the broker can be charged with failure to account, which is a form of fraud.

Procuring Cause of Sale

If two or more brokers are competing for a sale, the broker who first produces a purchaser who is ready, willing, and able to buy is the procuring cause of sale. It is not sufficient to be the first broker to show the property to claim to be the procuring cause of sale. The broker must prove that it was their efforts that interested the buyer in the property. Procuring cause can be defined as “a continuous and uninterrupted series of events that results in the conclusion of a sale.”

Uniform Commission Rates

Antitrust laws make the establishment of uniform commission rates illegal between real estate companies. The Sherman Antitrust Act and the Clayton Act are federal laws that make it illegal to discuss or establish a uniform price or fee for services in any industry. Therefore, it is illegal for competing brokers to discuss or attempt to fix the rate that is charged for their services. The fee a broker charges is always, by law, a matter of negotiation. Commissions are negotiated between the broker and the buyer or seller and finalized with a signed agreement.

Illegal Commissions

A broker cannot collect a commission from both parties in a transaction without the knowledge and consent of both parties. The collection of an illegal commission is an act of fraud. The broker would be liable for the return of both commissions, and subject to disciplinary action by the Commission.

Overage, Secret Profit, or Unjust Enrichment

A broker cannot manipulate a transaction in a manner so as to profit at the expense of the employer. It is illegal for a broker to receive more than the agreed upon or customary commission without the knowledge of the employer. A broker could be sued by both parties and disciplined by the Commission for receiving an overage (also known as an unjust commission). The seller could sue the broker for money lost due to the failure of the broker to submit an offer. The buyer could sue the broker for money lost because the broker marked up the price of the property.

Example: Assume that a broker received an offer in excess of the listed price for a property. Instead of submitting the offer, the broker buys the property for the listed price, minus their commission, and then resells it at the higher price. The broker would have received an overage (or unjust commission) and would be liable for the return of the commission. Additionally, the broker would be liable to the seller and the buyer for the amount of the markup. The broker would also be subject to disciplinary action by the Commission.
Kickbacks

Section 8 of the federal Real Estate Settlement Procedures Act (RESPA) prohibits a broker from giving or accepting a fee, kickback, or anything of value in exchange for the referral of real estate settlement (closing) services in connection with federally related mortgage loans. The exception is if a broker performs a service that entitles them to any such fee, has the appropriate license to perform the service (if one is required), and discloses and receives consent from all interested parties regarding the fee payment. A broker could also accept a legal kickback fee not involving a service of the settlement if the kickback is disclosed to all interested parties. [F.A.C. 61J2-10.028(1)]

Example: A real estate broker, who is also licensed as a mortgage loan originator, arranged the financing on behalf of a buyer and charged a fee for the service. This fee appears on the closing statement and serves to advise the parties of the payment.

Referral Fees [U.S. Code, Title 12, Chapter 27 § 2607]

The federal Real Estate Settlement Procedures Act (RESPA) allows brokers to pay referral fees between real estate agents and brokers without disclosure. A Florida broker may pay a referral fee to, or share a commission with, a broker licensed or registered by another state or foreign country. The out-of-state or foreign broker may accompany the customer to Florida but may not participate in the transaction in any manner. If the out-of-state or foreign broker comes into Florida and provides real estate services within the transaction, no referral fee or commission can be paid.

A Florida broker may not pay compensation, fees, or share a commission with unlicensed individuals in exchange for soliciting or referring business. Compensation includes gifts or reimbursement of expenses. The sharing of brokerage compensation by a licensee with a party to the transaction with full disclosure to all interested parties is not considered a violation of F.S. 475. [F.S. 475.25(1)(h) and F.A.C. 61J2-10.028(2)]

Policy and Procedures Manual

Each brokerage firm should have a policy and procedures manual which provides guidance for sales associates and broker associates. Not all offices have such a manual. Brokers are also responsible for training licensees under their employment. Although not required by law, it may relieve a broker from future liability if they disclose rules, laws, and acceptable practices that must be followed by licensees in performing their duties. It is also an effective tool to maintain good relations within an office and may prevent unnecessary disagreements.

In particular, an office’s policy that regards representation and relationships with customers should be in writing. The law concerning a broker’s relationship with members of the public is complex; the consequences for violation of the law can be severe.

Brokerage relationships are established between the broker and the broker’s employer. All licensees in that office, as agents of the broker, are subagents of the buyer or seller and are obligated to recognize that relationship and have the same duties to the employer as the broker.
MULTIPLE LISTING SERVICES

A multiple listing service (MLS) is a marketing tool comprised of member-brokers and their associates who share information that pertains to currently listed properties among other members of the service. When a member-broker of the service places a listing in the MLS, they may offer a commission split or fee arrangement to other brokers who may have a buyer for the property listed. The fee split or compensation agreement may be the same or different for brokers acting as buyer agents, transaction brokers, or in no brokerage relationships.

A single agency listing contract can authorize the listing broker to offer a subagency to other brokers and their associates. If other brokers and their sales associates accept the offer of a subagency from the listing broker, they share exactly the same agency relationship with the principal as the listing broker.

Should a brokerage firm decline an offer of a subagency from a listing broker, it may cooperate in the sale by acting as a single agent for the buyer, as a transaction broker, or may assist the buyer in a no brokerage relationship.

REQUIRED DISCLOSURE FORMS

The following pages provide examples of the required disclosure forms used in order to be in compliance with the Brokerage Relationship Disclosure Act.

SINGLE AGENT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

As a single agent, (Insert the name of the Real Estate Entity) and its Associates owe to you the following duties:

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
9. Disclosing all known facts that materially affect the value of residential real property and are not readily observable.

Date     Signature
CONSENT TO TRANSITION TO
TRANSACTION BROKER

FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM A SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

As a transaction broker, (Insert the name of the Real Estate Firm) and its Associates provide to you a limited form of representation that includes the following duties:

1. Dealing honestly and fairly;
2. Accounting for all funds;
3. Using skill, care, and diligence in the transaction;
4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or of any other information requested by a party to remain confidential; and
7. Any additional duties that are entered into by this or by separate written agreement.

Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when acting as a transaction broker to both parties.

________________________ I agree that my agent may assume the role and duties of a transaction broker. (Must be initialed or signed.)
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<tr>
<td><strong>NO BROKERAGE RELATIONSHIP NOTICE</strong></td>
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<tr>
<td><strong>FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES WHO HAVE NO BROKERAGE RELATIONSHIP WITH A POTENTIAL SELLER OR BUYER DISCLOSE THEIR DUTIES TO SELLERS AND BUYERS.</strong></td>
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<tr>
<td>As a real estate licensee who has no brokerage relationship with you, <em>(Insert the name of the Real Estate Entity)</em> and its Associates owe to you the following duties:</td>
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<tr>
<td>1. Dealing honestly and fairly;</td>
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<tr>
<td>2. Disclosing all known facts that materially affect the value of residential real property which are not readily observable to the buyer; and</td>
<td></td>
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<td>3. Accounting for all funds entrusted to the licensee.</td>
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CHAPTER 4 REVIEW QUESTIONS

1. In agency law, an agent that is empowered to perform a single act on behalf of their principal has a _______________ agency.

2. In agency law, an agent whose continuing authority is limited to a single trade or business has a _______________ agency.

3. A sales associate is a(n) _______________ of the broker’s principal.

4. A licensee can create an agency relationship _______________ or _______________.

5. Before showing a property, allowing a buyer to sign an offer to buy, or a seller to sign a listing agreement, a licensee must provide the party with a written brokerage relationship form when acting in the capacity of a _______________ or _______________ _______________ relationship.

6. A member of the public may select from one of three options when working with a broker, which are _______________ _______________, _______________ _______________, and ____________________________.

7. In a nonresidential transaction, a broker may assign one or more sales associates to represent a buyer and one or more sales associates to represent a seller in the same transaction as single agents if both parties have assets of ________________ or more.

8. The Consent to Transition to Transaction Broker notice is required to be _______________ or ________________ for transition to occur.

9. If the principal refuses to sign or initial the Consent to Transition to Transaction Broker notice form, the broker is required to continue to act as a(n) ________________ ________________.

10. Brokers are required to retain copies of all disclosure documents for transactions that have resulted in a contract being entered into for a period of at least ___________ years.

11. The only brokerage relationship that includes fiduciary duties is ________________ ________________.

12. A licensee assigned by a broker to act as a single agent of a buyer or seller in a nonresidential transaction is titled a _______________ _______________.

13. Brokers in a nonresidential sale are not required to use ________________ ________________.

14. A licensee who uses words or actions that mislead a member of the public can result in the creation of a(n) ________________ ________________.

15. Agency relationships are legally based on ________________ and ________________.

16. For a broker to legally be paid a kickback or rebate, they must have performed a ________________, held an appropriate ________________, and all parties must be ________________ of the payment.
CHAPTER 4 PRACTICE EXAM

1. Who owes fiduciary duties in a single agency relationship?
   a. The broker only
   b. The principal only
   c. Both parties
   d. Neither party

2. All of the following activities are exempt from the requirement to provide disclosures under the Brokerage Relationship Disclosure Act, EXCEPT:
   a. Sales staff at a new development center
   b. Showing property to a party that is not being represented
   c. A bona fide open house or model home showing that does not involve eliciting confidential information, the execution of a contractual offer or an agreement for representation, or negotiations concerning price terms, or conditions of a potential sale
   d. Responding to general factual questions from a potential buyer or seller concerning properties that have been advertised for sale

3. As an agent, a broker is employed by and acts on behalf of whom?
   a. A buyer
   b. A seller
   c. A customer
   d. A principal

4. In which of the following situations does a general agency relationship exist?
   a. When a broker is employed to market a property
   b. When a sales associate is working with a customer
   c. When a sales associate is employed by a broker
   d. When a broker is employed by a buyer

5. Broker Joan just received an oral offer to purchase a listed property. No earnest money accompanied the oral offer. Which of the following statements is correct?
   a. Joan must present the offer.
   b. Joan should not present the offer since no earnest money deposit was received.
   c. Joan must advise the customer that an earnest money deposit is required to make an offer valid.
   d. Joan should reject the offer on behalf of the seller.

6. Which of the following statements best describes a transaction broker?
   a. A transaction broker is an agent of both parties.
   b. A transaction broker has fiduciary duties to the seller.
   c. A transaction broker has fiduciary duties to the buyer.
   d. A transaction broker may provide limited representation to both parties.

7. An agent failed to advise a principal regarding the value of the owner’s property prior to accepting a listing. Which fiduciary duty did the agent breach?
   a. Loyalty
   b. Disclosure
   c. Accounting
   d. Obedience

8. Broker Tom sold a property, which was listed with broker Alice. Tom was unable to attend the closing, so Alice collected the entire commission. Alice refused to pay Tom his share of the commission. What could Alice be charged with?
   a. Failure to account
   b. Collecting an overage
   c. Commingling
   d. Fraud
9. Mary, an Ohio broker, accompanied a customer to Florida and met with broker Stan in his office in Miami. While Stan showed the customer property and obtained a binding contract for the purchase of a condominium, Mary took some time off and went to the beach. When Mary returned to Stan’s office, she discovered that Stan had written a contract and demanded a share of the commission. Which statement is correct?
   a. Stan may share the commission with Mary.
   b. Mary violated the real estate license law by accompanying the customer to Florida.
   c. If Stan pays Mary a share of the commission, Stan will be in violation of the license law.
   d. If Stan pays Mary a share of the commission, both Stan and Mary will be in violation of the license law.

12. Each of the following is contained in the definition of a residential transaction, EXCEPT:
   a. Unimproved property intended for four units or fewer
   b. Agricultural properties of ten acres or less
   c. Leases with options to purchase all or a portion of improved property of four or fewer residential units
   d. Dispositions of business interests involving property of five or more residential units

13. When can both parties in a transaction pay a broker a commission?
   a. When the broker has performed
   b. When both parties are aware of the dual commission
   c. When both parties are being represented by the broker
   d. When both parties agree to the dual commission

14. All of the following provide control of agency relationships, EXCEPT:
   a. F.S. 475
   b. Common law
   c. The Brokerage Relationship Disclosure Act
   d. The Department of Financial Services

15. Which of the following statements best describes policy and procedures manuals?
   a. Policy and procedures manuals are maintained by all real estate offices.
   b. Policy and procedures manuals are required by law.
   c. Policy and procedures manuals are a major cause of arguments.
   d. Policy and procedures manuals are useful in maintaining good relations within a brokerage office.
16. A broker has appointed two sales associates to act as agents in a nonresidential transaction, one for the seller and one for the buyer. Which statement is correct?
   a. This is an illegal dual agency.
   b. The sales associates are referred to as designated sales associates.
   c. Buyer and seller must have combined assets of $1 million.
   d. The FREC will revoke the licenses of the broker and both sales associates.

17. Each of the following relationships is adversarial, EXCEPT:
   a. Arm’s length
   b. Buyer beware
   c. Caveat emptor
   d. Fiduciary

18. In which circumstance are licensees expected to act with fairness and honesty?
   a. Single agency only
   b. Transaction brokerage only
   c. Nonrepresentation only
   d. Any real estate transaction

19. According to the Brokerage Relationship Disclosure Act, which is the only brokerage relationship form that must be signed or initialed?
   a. Single Agency Disclosure
   b. Transaction Broker Disclosure
   c. Consent to Transition to Transaction Broker
   d. Important Information Disclosure

20. Which of the following statements is correct regarding a broker’s authority to act on behalf of the principal?
   a. A broker can refuse offers on behalf of the principal.
   b. A broker can buy the listed property without consent of the principal.
   c. A broker must follow all legal instructions of the principal or withdraw.
   d. A broker must ignore the instructions of a principal when the instructions are not in the best interests of the principal.
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CHAPTER 5
REAL ESTATE BROKERAGE
ACTIVITIES AND PROCEDURES

OVERVIEW
The real estate law, F.S. 475, prescribes the requirements for establishing and operating a real estate brokerage office. Rules of the Commission specify and implement the law and establish standards for advertising, record keeping, and the proper handling of funds entrusted to a broker for safekeeping. The rules and regulations of the Commission impose legal responsibilities upon brokers and sales associates alike.

Information concerning how various businesses are formed, and those that can register to broker real estate are discussed in this chapter. The relevance of securities licensing and how securities laws interface with real estate transactions are also examined.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Identify the requirements for the real estate brokerage office(s) and the types of business entities that may register
- Explain the factors that determine whether or not a temporary shelter must be registered as a branch office
- List the requirements related to office sign regulation
- List the requirements related to the regulation of advertising by real estate brokers
- Explain the term “immediately” as it applies to earnest money deposits
- Describe the four settlement procedures available to a broker who has received conflicting demands or who has a good-faith doubt as to who is entitled to disputed funds
- Explain the rule regarding the advertisement of rental property information or lists or negotiation of rentals
- Describe the obligations placed on a sales associate who changes employers and/or address

KEY TERMS
Arbitration
Blind advertisement
Commingle
Conflicting demands
Corporation (Inc.)
Deposit
Earnest money
Escrow account
Escrow disbursement order
General partnership
Good-faith doubt
Interpleader
Limited liability company (LLC)
Limited liability partnership (LLP)
Limited partnership
Litigation
Mediation
Ostensible partnership
Point of contact information
Professional association (PA)
Sole proprietorship
Trade name (fictitious name)
**BROKERAGE OFFICE REQUIREMENTS**

**Principal Office Requirements**

Each active broker is required to open and maintain an office, which must be registered with the Department of Business and Professional Regulation (DBPR or Department). The office must consist of at least one enclosed room in a building of stationary construction where negotiations and the closing of real estate transactions can be conducted with privacy. The law does not require a broker to have a telephone, desk, or checking account.

A principal office registration is transferable to a new location for the remainder of the current registration period.

A broker must maintain books, records, and files that pertain to transactions of others in the broker’s office for a period of at least five years. A broker can have an office or branch office in their home, if not in conflict with local zoning ordinances.

[F.S. 475.22 and F.A.C. 61J2-10.022]

**Branch Office Requirements**

If a broker desires to conduct business from more than one office, each additional office must be registered individually as a branch office with the appropriate fee paid. If a broker closes a branch office, the registration of the branch office cannot be transferred. Each new branch office location must be registered with the Department, and the appropriate fee must be paid.

If a branch office is closed and then later reopened in the same location during the same two-year license period, a reissue of the license may be requested, without the need to pay an additional fee. If a branch office is moved, a new application for registration and payment of the proper fee are required for the new location.

Unless transactions are closed or sales associates are permanently assigned, a temporary shelter used by a broker as protection for sales associates and customers is not considered to be a branch office. The permanence, use of a location, and the character of activities conducted there determine whether registration is required or not.

[F.S. 475.24 and F.A.C. 61J2-10.023]

Sales associates and broker associates may be licensed at the broker’s main office or at a branch office at the option of the broker.

**Office Signs**

A broker is required to have a sign on or about the entrance to the office, and all branch offices, where it can be easily observed and read by persons entering the office. It may be placed on either the exterior or interior of the office.

The sign of a broker operating as a sole proprietor must contain the broker’s trade name, if any, the name of the broker, and the words “Licensed (or Lic.) Real Estate Broker.” The sign of a brokerage partnership or corporation must contain the name of the partnership or corporation along with the name of at least one broker and the words “Licensed (or Lic.) Real Estate Broker.” [F.S. 475.22]

The names of other brokers, as well as those of sales associates and broker associates, may also appear on the broker’s office sign provided they are placed beneath and clearly separated from the required text described above. The licensed status of each person must be included.
Advertising

All legal advertising must be in the name and under the supervision of the broker. All advertising must be done in a manner so that a reasonable person would know that they are dealing with a real estate licensee. All real estate advertisements, including yard signs, newspaper ads, business cards, and/or any other advertisements must include the registered name or trade name of the brokerage firm. Anyone may prepare advertising copy; however, the broker is still responsible for its content. [F.A.C. 61J2-10.025]

A sales associate or broker associate’s name may appear in the ad in addition to the registered name of the brokerage. If a licensee includes their personal name in the ad, the licensee’s last name must appear exactly as it is registered with the Commission. A sales associate or broker associate, who violates the rules by advertising listed property in their name instead of the broker, may only be charged with acting as a broker.

Two forms of advertising, institutional and specific, are outlined below:

- **Institutional advertising.** Institutional advertising is designed to create an image in the market for a brand or product. Real estate firms and franchising companies use ads that the public will relate to whenever it thinks of real estate. These ads are designed to create an image, but not to sell a particular product.

- **Specific (or product) advertising.** Specific (or product) advertising is designed to sell a particular product or service. An ad that features a particular home for sale is an example of such advertising.

Internet Advertising

Internet advertising is any advertisement that is placed online. Internet ads must conform to the same requirements as printed material. The brokerage firm’s name or trade name must be placed adjacent to, immediately above, or below the point of contact information. The point of contact information includes the broker’s mailing address, phone number, fax number, or e-mail address. [F.A.C. 61J2-10.025(3)]

Blind Ads

A blind ad is an illegal advertisement that does not contain the registered or trade name of the broker, or for which there is doubt that the ad is that of a real estate broker. [F.A.C. 61J2-10.025(2)]

False Advertising

No real estate advertisement placed or caused to be placed by a licensee can be fraudulent, false, deceptive, or misleading. A broker cannot use a name or insignia of any organization that relates to real estate unless the broker is currently a member in good standing. A broker would be guilty of false advertising if names or insignia were used in a manner that would lead people to believe the broker is a member of the organization when they are not. [F.A.C. 61J2-10.025(1) and 61J2-10.027]

**Example:** The term REALTOR is a registered trademark of the National Association of REALTORS (NAR). Only individuals who are members of the NAR are entitled to use this designation.
**Personal Transactions**

Brokers, sales associates, and broker associates are entitled to deal in real property for personal benefit. Licensees should make clear that they are dealing on their own account and not acting on behalf of others. Licensees should make known their status as licensees to members of the public. This disclosure should take place prior to entering into serious negotiations, but is not required to take place in the preliminary stages of a transaction, such as newspaper advertising. The licensee should also ensure that this disclosure is in writing in the Purchase and Sale Contract.

In advertising a property for sale that the licensee owns, two options exist: 1) the licensee may advertise the property strictly as an individual and may make no mention of real estate licensure, or 2) the licensee may advertise the property through a registered brokerage office and follow the normal advertising requirements.

**ESCROW FUNDS**

*Escrow funds* are funds held by a third party on behalf of two parties in a transaction. Generally speaking, the escrow funds are held by the third party escrow service until it receives the appropriate instructions for disbursement or until the contracted obligations have been fulfilled. In real estate transactions, the real estate broker may act as the third party escrow service, or funds may be held by another escrow service, such as a title company.

**Earnest Money Deposits**

An *earnest money deposit* that shows good faith on the part of the buyer usually accompanies an offer. If no contract results, the deposit is returned to the buyer. Should the offer become a contract, the deposit acts to protect the seller in the event the buyer later defaults. Default by the buyer usually requires the deposit to be forfeited in favor of the seller to compensate for having removed the property from the market. This is called *liquidated damages*.

A deposit may be in the form of money, personal property, real property, or anything of value that is capable of being converted into cash. Typically, the deposit is intended to become a partial payment of the purchase price at closing. Postdated checks are considered to be promissory notes and can be accepted as earnest money with the seller’s approval. [F.A.C. 61J2-14.008(1)(a)]

A broker is not responsible for the payment of any check or draft accepted as a deposit on real property. A broker who accepts a personal check as an earnest money deposit would not be held responsible if the check is returned due to insufficient funds, as long as the broker deposits the escrowed funds immediately. [F.A.C. 61J2-14.008(1)(b)]

When a deposit is placed, or is to be placed, with a title company or an attorney, the licensee who prepared or presented the sales contract must indicate on that contract the name, address, and telephone number of the title company or attorney with whom the deposit was placed. Within ten business days after each deposit is due under the sales contract, the licensee’s broker must make written request to the title company or attorney to provide written verification of receipt of the deposit. Within ten business days of the date in which the licensee’s broker made the written request for verification of the deposit, the licensee’s broker must provide the seller’s broker with either a copy of the written verification, or, if no verification is received by licensee’s broker, written notice that the licensee’s broker did not receive verification of the deposit. If the seller is not represented by a broker, then the licensee’s broker must notify the seller directly in the same manner as above. [F.A.C. 61J2-14.008(2)(b)]
Escrow Account

A broker is not required to be an escrow agent or to have an escrow account. If a broker is to be an escrow agent, they must open and maintain a separate account for such purpose in an authorized depository institution. A real estate broker is allowed to deposit escrow funds from sales transactions and rental management in the same trust account. However, the Commission recommends separate escrow accounts for sales and rental transactions to facilitate accounting.

An escrow account or trust account may be held in a commercial bank, title company which has trust powers, credit union, or savings and loan association located in the state of Florida. The escrow account cannot be held in a stock or bond brokerage house. A broker is not allowed to commingle or deposit the personal funds of any person with any funds being held in escrow, trust, or on condition. [F.A.C. 61J2-14.008(2)(a)]

Escrow funds entrusted to a broker may be placed in an interest-bearing account with the written authorization of all interested parties, and with agreement as to who shall receive the interest earned. Said escrow account must be held in a title company, banking institution, credit union, or savings and loan association that is located and doing business in Florida. The interest-bearing account cannot be held in a stock or bond brokerage house.

A broker is authorized to place and maintain up to $1,000 of personal or business funds in a sales escrow account, and up to $5,000 of personal or business funds in a property management escrow account for the purposes of opening the account, keeping the account open, and paying for ordinary service charges. [F.A.C. 61J2-14.010(2)]

Escrowed funds must be maintained separately from the broker’s business and personal funds. The misuse, commingling or intermingling of, or failure to account for funds or property entrusted to any licensee is known as conversion, which is a form of fraud.

If a broker either cannot or will not produce money or property belonging to another when required, failure to account would occur. This is a form of conversion that would occur if a broker collected a commission, a portion of which was due to a sales associate or another broker, and failed to disburse the other party’s share.

Depositing Escrow Funds

A sales associate or broker associate who receives an earnest money deposit on behalf of their employer must deliver the deposit to the employer no later than the end of the next business day following receipt. Saturdays, Sundays, and legal holidays are not considered business days. [F.A.C. 61J2-14.009]

A broker must “immediately” place the earnest money deposit in an escrow or trust account. “Immediately” is defined as “no later than the end of the third business day following receipt.” If the deposit is in the form of securities that are to be converted into cash, the conversion should be made at the earliest practical time with the proceeds immediately placed into the escrow account. A broker who receives a deposit must keep an accurate account of each escrow deposit transaction. [F.A.C. 61J2-14.010]

See the timeline graph.

Weekly Reconciliation

Tuesday Wednesday Thursday Friday
Deposit Received To Broker Deposited

Monthly Reconciliation

A broker’s books and account records are subject to inspection by the Department or by an authorized representative at all reasonable times during regular business hours. A broker must reconcile escrow accounts by preparing a monthly written statement that compares the broker’s total trust liability with the monthly bank statement and reconciled checkbook.
balance. The monthly reconciliation must be reviewed, signed, and dated by the broker. No one else is authorized to sign the escrow reconciliation.

If the broker’s trust liability does not agree with the account balances of the bank, the broker’s reconciliation must explain the reason for any differences, and specify any corrective action taken to correct any shortage or overage in the account.

A broker will be allowed a reasonable time to correct escrow errors if there is no shortage of funds in the account and the errors pose no significant economic harm to the public.

Record Keeping

A broker’s books and records must be preserved for a period of not less than five years from the date escrow funds were received by the broker. If any transaction record has been the subject of, or has served as evidence in, litigation, the file must be retained for at least two years after conclusion of the litigation. Upon request, the broker must make available to the Department, or an authorized representative, all deposit slips and bank account statements together with all agreements between the parties to the transaction.

A broker is ultimately responsible for the funds in the escrow account(s), and must be a signatory on all such accounts. [F.S. 475.5015 and F.A.C. 61J2-14.012]

Broker’s Rights to Escrowed Funds

When a broker becomes an escrow agent, they are an escrow agent for both parties. However, until a binding contract has been entered into, the funds remain the property of the buyer. The broker has no rights to the escrowed funds until a contract is entered into, signed by both the buyer and seller. At that point, the deposited funds are under the joint control of the buyer and seller and the broker must continue to hold the funds. The seller would be entitled to the deposit if the buyer defaulted on the contract, and the broker usually has a right to a share of the defaulted deposit. The deposit is typically a portion of the sales price, and the broker is entitled to a commission when the transaction closes.

Should a dispute arise regarding the amount of a commission that is due to a broker, or the time for the payment thereof, a broker may retain the exact amount of the claimed commission in the escrow account until the dispute is settled by either agreement, arbitration, or court order. Any amount above that claimed by the broker must be disbursed. [F.A.C. 61J2-14.011]

Escrow Disputes

Escrow funds are under the mutual control of the buyer and seller. A broker holds funds in trust for both the buyer and the seller. The law establishes how escrowed funds are to be handled, and the broker must abide by the law. The buyer and seller must both agree to any disbursement of any funds held by the broker.

Conflicting requests in which both the buyer and seller demand that the broker release escrowed funds is called an escrow dispute. If a broker receives conflicting demands for escrowed funds, or if the broker has good faith doubt as to which person is entitled to the escrowed property, the broker must give written notification to the Commission within 15 business days from the date of the last party’s demand. The broker is required to institute an authorized settlement procedure to resolve the dispute within 30 business days from the last party’s demand. [F.S. 475.25(1)(d) and F.A.C. 61J2-10.032]
Dispute Settlement Procedures

If a broker implements one of the following settlement procedures within 30 business days from the last party’s demand, the broker will not be charged with failure to account for, deliver, or maintain escrowed property. The following authorized procedures, sometimes referred to as escape procedures, are available to settle an escrow dispute:

- **Mediation.** If all parties give written consent, an escrow dispute can be submitted to mediation. If the parties submit the dispute to mediation, the parties appoint a third party to assist in reaching an agreement. The mediator has no power to impose a decision on the parties. The mediation process must be successfully completed within 90 days following the date of the last demand for the escrowed funds from the parties, or the broker must promptly employ one of the other authorized resolution procedures.

- **Arbitration.** If all parties give written consent, an escrow dispute can be submitted to arbitration. If the parties submit the dispute to arbitration, they agree in advance by contract to abide by the arbitrator’s decision. After a hearing in which both parties have an opportunity to be heard, the arbitrator decides how the funds should be disbursed and issues an award. The award is binding and can be enforced in a civil law suit if the responsible party fails to abide by the decision.

- **Litigation.** A suit in court (court action) can be used to resolve the escrow dispute. Two methods are available. The one chosen depends on whether or not the broker feels they are entitled to some or all of the funds in dispute. Alternative court actions are as follows:
  - The broker would file a bill of interpleader if they do not claim any rights to the deposit under dispute. The escrowed funds would be turned over to the registry of the court, pending a settlement. If this method is selected, the broker may be awarded court costs and attorney’s fees since the broker is making no claim for any of the funds in dispute.
  - A declaratory decree would be requested if a broker feels that they are entitled to some or all of the deposit in dispute. The deposit would be turned over to the registry of the court, pending a settlement. Since the broker is a claimant to some or all of the money in dispute, the broker must pay their own court costs and attorney’s fees when this alternative is selected.

- **Escrow disbursement order.** The broker requests the Commission to determine the party entitled to the escrowed property. The Commission then issues an escrow disbursement order for the distribution of the funds. If the Commission issues an order, the broker, by law, must follow it or be in violation of the law. The parties are advised of the decision by the Commission. If they disagree, they may file an appeal with the district court. Should the appeal be upheld, the broker could be subject to civil damages for disbursing the funds, even though they were legally required by the escrow disbursement order to do so. This constitutes double jeopardy for the broker. The law recognizes this and makes provision for the broker to be reimbursed for any damage award. This will be discussed later in the discussion of the Real Estate Recovery Fund.
If the broker has requested an escrow disbursement order, and the dispute is subsequently settled or goes to court before the order is issued, the broker shall notify the Commission within ten business days of such event.

**Memory Device: “MEAL”**

The four dispute settlement procedures are:

- **M** = Mediation
- **E** = Escrow Disbursement Order
- **A** = Arbitration
- **L** = Litigation (Court action)

**Escrow Disbursement Exemptions**

By rule, the Commission may establish the circumstances under which a broker may disburse funds from the escrow account without notifying the Commission or utilizing one of the escape procedures discussed above. The Commission has identified the following three exemptions:

- In the resale of a residential condominium where a potential buyer is allowed a three-day rescission period, the broker is permitted to refund the escrow deposit within the rescission period upon receipt of the buyer’s written notice of intent to withdraw from the contract.

- When a sales contract is subject to financing, and the broker is acting as an escrow agent, the broker may refund the deposit to the buyer without notification to the Commission if the financing cannot be obtained.

- If the buyer contracts to purchase a property from HUD, the broker can release the escrow deposit to the buyer as directed in the HUD contract.

In any one of these instances, the broker is not required to follow the escrow dispute procedures. However, the broker may be held liable for damages should a court later find the broker acted inappropriately.

**Disputed Commission**

A dispute between a broker and a party regarding the commission for the transaction is not an escrow dispute. The resolution steps discussed earlier do not apply in this situation, and a request for an escrow disbursement order from the Commission is not appropriate. The matter must be resolved between the parties or by civil court action.

**RENTAL INFORMATION**

If a broker or sales associate attempts to negotiate a rental, or furnishes rental information to a prospective tenant for a fee paid by the tenant, the licensee must provide the prospective tenant with a written contract that reads as follows:
The form of the contract or receipt agreement must be as prescribed by the Commission as shown above. Each rental data company must furnish the Department with a copy of its current contract or receipt agreement within 30 days prior to use.

There are two different situations that could arise: 1) the tenant applicant did not like any of the rental properties available, or 2) the tenant applicant was misled or deceived concerning the terms or availability of the property offered.

If the tenant applicant did not obtain a rental (they did not like or accept what was offered), they may request a refund of 75% of any fee paid. If the tenant applicant was misled or deceived by the broker concerning the terms of availability of the property offered (broker material misrepresentation), they may request a full 100% refund of any fee paid. In either case, the request must be made within 30 days of the contract date.

Rental information violations are considered to be a misdemeanor of the first degree, punishable by up to one year of imprisonment and/or a fine of up to $1,000. In addition, the license of any broker or sales associate who is found guilty of a rental information violation is subject to disciplinary action by the Commission. [F.S. 475.453 and F.A.C. 61J2-10.030]

**Broker’s Liability for Fraudulent Activity**

A broker is legally liable for the acts of partners, sales associates, and broker associates if the actions are within the scope of their employment. In a civil suit for damages, a broker is responsible for the actions of partners or employees, regardless of whether the broker knew about the actions. If the Commission wishes to take disciplinary action against the broker for the actions of others, the Commission must prove that the broker had knowledge of, or participated in, the improper act.

Under Florida law, a broker renders a professional service. If a plaintiff accuses a broker of fraud, the plaintiff needs to show only that the broker’s statement was relied upon or was material to their decision in order to prove the charge of fraud. [F.S. 95.11(4)(a)]

Fraud can occur inadvertently or accidentally. It is not necessary to have intent for fraud to occur. Restitution is not a defense against a fraud charge.

Laws and rules that concern fraud and other improper activities by brokers apply equally to sales associates and broker associates. If an act is considered to be fraud for a broker, the act is considered as fraudulent if committed by a sales associate or broker associate. A licensee may not deal fraudulently with a principal or customer. [F.S. 475.25(1)(b)] (Refer to Chapter 6 for examples of fraudulent activities.)

**Sales Associate’s Duties**

**General Duties**

A sales associate or broker associate is an agent of the broker or owner-developer. As such, all activities are legally in the name and under the control of the broker or owner-developer. An agent is not allowed to perform any activity not authorized by the employer. A sales associate may not accept money or property except in the name of the employer. A sales associate must register under their legal name; they may not use a trade name. All
listings, contracts, and the like are the property of the employer. A sales associate or broker associate is never an agent of the broker’s principal.

Compensation

A sales associate or broker associate can only work for one broker or owner-developer at a time and may only perform real estate services under the direction and supervision of that broker or owner-developer.

A sales associate or broker associate cannot contract with, or collect commissions directly from, a member of the public. All commissions due to a sales associate or a broker associate must be paid to the employer, who in turn compensates the sales associate or broker associate within a reasonable period of time.

The sales associate’s commission is determined by agreement with the broker. The Commission has ruled, however, that a broker can give written permission to a closing agent to disburse a commission check directly to a sales associate or broker associate.

[F.S. 475.42(1)(d)]

A sales associate can be paid any money due after their license becomes invalid for services performed while actively licensed.

A sales associate who is not compensated as agreed upon by their employer may not file suit against anyone other than the employer.

Change of Employer or Address

A sales associate or broker associate must report any change of employer to the Commission within ten days. [F.S. 475.23]. A change of mailing address must be reported within ten days of the change to the Department on a form prescribed for such use.

[F.S. 455.275(1) and F.A.C. 61J2-10.038(2)]

Any resident licensee who becomes a nonresident must notify the Commission of the change in residency within 60 days and comply with nonresident requirements.

[F.S. 475.180(2)]

When their employment is terminated, a sales associate or broker associate may not take copies of listings, records, books, or other materials without permission of the employer. To do so constitutes a breach of trust. Taking original listings, records, papers, or contracts may result in a charge of larceny.

TYPES OF BUSINESS FORMATIONS

Businesses can be formed in a variety of ways, by one person, by two or more individuals, or by two or more businesses.

Sole Proprietorship

A sole proprietorship is a business formed by an individual. The individual is personally liable for their actions and can be sued individually. A sole proprietor is also liable for the acts of their employees when the acts are within the scope of the employee’s employment. Filing papers or documents with the state is not required to form a sole proprietorship.

A sole proprietor can buy and sell real estate for use in their own business. Real estate is held in the personal name of the sole proprietor.
Sole Proprietor Broker

A sole proprietor can register and operate as a real estate broker if they have a current active and valid broker’s license. A broker can operate in their personal name or under a trade name. [F.A.C. 61J2-10.034]

General Partnership

A general partnership, often simply called a partnership, is a business formation in which two or more people agree to share the profits or losses of a business. A partnership agreement can be expressed or implied, orally or in writing. No documents need to be filed with the state to create a partnership.

In forming a partnership, the interests of the partners are not required to be equal. For example, one partner can have a 50% interest while the other two partners each have a 25% interest.

Not all partners are required to work actively in the business. For example, one partner could invest money, real property, or personal property only, while the other partners actively work the business.

A husband and wife can be business partners, but marriage does not automatically make the husband and wife business partners.

The principal characteristic of a partnership is that each partner is personally liable for the partnership business and, therefore, may be sued individually. The acts of one partner within the scope of the partnership business are also binding on other partners whether they knew about or took part in the acts or not. Partners are jointly (together) and severally (individually) liable for all debts and liabilities of the partnership. If a partnership is sued, the partners are named personally and as partners of the partnership.

A partnership may buy and sell real estate in the name of the partnership.

A general partnership is dissolved by any of the following events: the death, withdrawal, or addition of a partner; agreement of the partners; the bankruptcy of any partner or the partnership; or by court order.

Real Estate Brokerage Partnership

A real estate brokerage partnership must have at least one partner licensed as an active broker. A broker with an inactive license and an unlicensed person can be partners, but cannot perform real estate services. However, they must register with the Department. Each partner who provides real estate services to the public either directly or indirectly must hold an active broker’s license. A sales associate or broker associate cannot be a partner in a real estate brokerage partnership. [F.A.C. 61J2-4.007 and 61J2-5.016]

A real estate brokerage partnership must be registered with the Department in the name of the partnership. [F.S. 475.15]

In the event that a partnership has only one active broker, and the broker dies or resigns, the vacancy must be filled within 14 calendar days. During this time period, the partnership may conclude any business that was already in progress, but may not acquire any new brokerage business. No new business may be performed until a new active broker is appointed and registered. Failure of the partnership to appoint another active broker within the 14-day period will result in cancellation of the partnership registration. The real estate licenses of all partners and sales associates will automatically change to inactive status.

A distinction should be made between a real estate general partnership and a real estate brokerage partnership. A real estate general partnership may buy and sell real estate for its own purposes, but may not provide real estate brokerage services to the public. A real estate brokerage partnership is registered with the Department and may provide real estate brokerage services for others.
Real Estate Brokerage Partnership Organizational Structure

<table>
<thead>
<tr>
<th>Partners</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Must have at least one licensed or registered active broker</td>
</tr>
<tr>
<td>• Other partners may be active brokers, inactive brokers, or unlicensed persons registered with the Department</td>
</tr>
<tr>
<td>• May not include sales associates or broker associates</td>
</tr>
<tr>
<td>• General partners are jointly and severally liable</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td>• May be licensed or unlicensed</td>
</tr>
<tr>
<td>• Licensed staff includes sales associates and brokers associates</td>
</tr>
<tr>
<td>• Only licensed persons may perform brokerage services</td>
</tr>
</tbody>
</table>

Limited Partnership

A limited partnership consists of at least one general partner and at least one limited partner. A general partner in a limited partnership is jointly and severally liable just as a general partner in a general partnership. A general partner is also personally liable for all of the activities of the partnership, and conducts the business of a limited partnership.

A limited partner in a limited partnership has limited liability. They can lose their investment, but are not personally liable beyond the extent of that investment. To acquire an interest in the partnership, a limited partner must make a stipulated investment of money, real property, or personal property, but not services. The limited partner must not take part in the management or control of the business. If the limited partner takes an active role in the business, or if the name of the limited partner appears as a part of the partnership name, the limited partner loses their limited status and becomes a general partner with personal liability.

A certificate of limited partnership must be filed with the Secretary of State at the Department of State to form a limited partnership. A certified copy must be recorded with the clerk of the circuit court in the county where the business is located. Periodic reports and fees must be filed with the Secretary of State. [F.S. 620]

Real Estate Brokerage Limited Partnership

A real estate brokerage limited partnership must have at least one general partner that is an active licensed broker. A general partner may either be a non-licensed registered person, or hold an active or inactive broker’s license. A limited partner may be anyone who is not licensed or holds an active or inactive license. A limited partner who has an active license may perform real estate brokerage services on behalf of the partnership, but may not take part in the management of the business.

A sales associate or broker associate may not be a general partner in a real estate brokerage limited partnership.

A real estate brokerage limited partnership must be registered with the Department. [F.S. 475.15 and F.A.C. 61J2-4.007, 61J2-5.016]
Limited Liability Partnership (LLP)

A partner in a *limited liability partnership* is only jointly and severally liable for acts and debts incurred or in connection with partnership business. Individual partners and their employees or agents are not liable for the acts or debts of other individual partners, as is the case with a general partnership.

A limited liability partnership must register with the Secretary of State. The words “limited liability partnership” or the letters “L.L.P.” or “LLP” must be included in the name of the partnership. The partnership is required to carry liability insurance in a minimum amount equal to $100,000 for each partner. Liability of the partners or the partnership is not limited to the amount of the insurance. [F.S. 620.782–620.788]

Limited Liability Brokerage Partnership

A *limited liability brokerage partnership* may register with the Department and operate as a brokerage partnership under the same requirements as a general partnership.

Joint Venture

A *joint venture*, or joint adventure, is similar to a partnership in some respects. The participants in a joint venture are jointly and severally liable; however, a joint venture is a temporary business that involves a single transaction or a predetermined number of transactions. Since their relationship is temporary, the participants cannot bind one another to any new transactions. A joint venture can be formed either orally or in writing. No documents must be filed with the secretary of state to create a joint venture.
A joint venture can provide real estate brokerage services if composed of separate real estate brokers. In this situation, the joint venture is not required to register with the Department since the brokers are already licensed and permitted to perform services of real estate.

**Corporation for Profit**

A **corporation for profit** is an artificial person created by law. The owners of the corporation are issued shares of stock in the corporation and are known as stockholders. The stockholders elect a board of directors to manage the affairs of the corporation. The board appoints corporate officers, such as a president, vice president, secretary, and treasurer, to carry out the day-to-day business of the corporation. One person can form a corporation in Florida, own all of the stock, and hold all of the positions and officers’ positions on the board of directors.

The board of director’s members and officers are not individually liable for their actions in connection with corporate business. The law views the actions as those of the artificial person; the **corporate veil** protects the individuals from personal liability. The corporate veil can be pierced to allow action against individual officers, directors, and stockholders in cases, which involve fraud or civil wrong doings, called **torts**.

To form a corporation in Florida, a proposed **charter (or articles of incorporation)** must be filed with the secretary of state in the department of state. A corporation created under Florida law is a **domestic corporation**. Any corporation organized under the laws of another state is classified as a **foreign corporation**. A corporation organized under the laws of another country is classified as an **alien corporation**.

The corporate charter specifies the name, life span, and powers of the corporation. Since the name of the corporation is the actual name of an artificial person, the corporate name is not considered to be a trade name or fictitious name. The corporate name must include the word “corporation,” “company,” “incorporated,” or the abbreviation “Corp.,” “Inc.,” or “Co.” No business is allowed to use the word “company” in its name unless it is formed legally as a corporation or unless the words “not Inc.” are added. The life span of a corporation can be for a set period-of-time or be perpetual. The powers of the corporation are the activities in which the corporation is authorized to engage, such as lending money or brokering real estate. [F.S. 607.0401]

A corporation can be dissolved by the stockholders, courts, or failure of the corporation to file an annual report and pay the applicable fees as required by the state. However, a corporation is not dissolved because of bankruptcy.

**Real Estate Brokerage Corporation**

A **real estate brokerage corporation** must provide proof of legal corporate existence prior to its initial registration with the Department. The corporation and the names of all officers and directors of the corporation must be registered. At least one corporate officer must have an active real estate broker’s license. [F.S. 475.15 and F.A.C. 61J2-5.012, 61J2-5.014]

In the event that a corporation has only one active broker, and the broker dies, resigns, or is otherwise removed from the position, the vacancy must be filled within 14 calendar days. During this time period, the corporation may not acquire any new brokerage business but may conclude existing business. No new brokerage business may be acquired until a new active broker is appointed and registered.

Failure of the corporation to appoint another active broker within the 14-day period will result in cancellation of the corporate registration. Additionally, the real estate licenses of corporate officers, directors, and sales associates will automatically be placed in an involuntarily inactive status.
However, if the corporation has more than one active registered broker, neither the corporate registration nor the real estate license of any corporate officer, director, or sales associate will be affected by the vacancy. [F.A.C. 61J2-5.018]

All corporate officers and directors, who provide real estate services to the public either directly or indirectly, must hold an active real estate broker’s license. Brokers who have an inactive license, and persons who are unlicensed and serve as corporate officers or directors may not perform real estate services, but must be registered with the Department. A sales associate or broker associate may not be an officer or director in a real estate brokerage corporation. Anyone can be a stockholder whether they are licensed or not. [F.S. 475.15 and F.A.C. 61J2-4.007, 61J2-5.015, and 61J2-5.016]

A distinction should be made between a real estate corporation and a real estate brokerage corporation. A real estate corporation may buy and sell real estate for its own purposes, but may not provide real estate brokerage services. A real estate brokerage corporation is registered with the Department to perform real estate services for others.

Real Estate Brokerage Corporation Organizational Structure

- **Stockholders**
  - Stockholders are the owners; anyone may be a stockholder

- **Board of Directors**
  - Elected by the stockholders to manage the business
  - May be active brokers, inactive brokers, or unlicensed registered persons
  - May not include sales associates or broker associates

- **Officers**
  - Carry out the directives of the board
  - Include president, vice president, secretary, and treasurer
  - May be active brokers, inactive brokers, or unlicensed registered persons
  - Must include at least one active broker
  - Only licensed brokers may perform brokerage services and/or manage licensees
  - May not include sales associates or broker associates

- **Staff**
  - May be licensed or unlicensed
  - Licensed staff includes sales associates and broker associates
  - Only licensed persons can perform brokerage services

Limited Liability Company (LLC)

Professional service corporations, professional limited liability companies, or individuals, all of which are licensed and authorized to render the same professional service, can form a limited liability company for profit. Members are liable only for the acts of their agents or employees but not for the acts of other members. Limited liability companies may not engage in any business other than that permitted by their professional licensure. A company or individual not licensed in the profession for which the limited liability company was formed cannot be a shareholder. The limited liability company relationship must be severed with any member, officer, shareholder, agent, or employee who becomes disqualified to continue to practice in their licensed profession. Failure to do so is cause for judicial dissolution of the limited liability company.
A limited liability company is registered with the Secretary of State and its name is required to be on file. The name of the organization can be the name of one or more of the shareholders or individual members, and must contain the word “chartered.” However, in the case of a professional association, the words “professional association,” or the letters “P.A.,” and, in the case of a limited liability company, the words “limited liability company” or the abbreviation “LLC” must be included. The word “company,” “corporation,” or “incorporated” may not appear in the name. Identification is limited to the word “chartered,” “professional association,” or “P.A.” [F.S. 621.051 and 621.13]

### Limited Liability Brokerage Company

A limited liability brokerage company may register with the Department, and conduct real estate brokerage activities in the same manner as a real estate brokerage corporation.

### Incorporation by a Sales Associate or a Broker Associate

A sales associate or a broker associate may form, and be registered as, either a professional association (PA) or limited liability company (LLC). The license, however, will be issued only in the legal name of the individual. The formation of a professional association or limited liability company will not allow such individuals to serve as officers in a brokerage corporation or as partners in a brokerage partnership.

### Not-for-Profit Corporation

A proposed charter must be filed with the Secretary of State to create a not-for-profit corporation. A not-for-profit corporation may buy, sell, and lease real estate in limited amounts for its own use. Employees of the corporation may perform services of real estate for the corporation without possessing a license, provided that they are paid only on a salary basis.

A licensee who deals with a not-for-profit corporation should seek the advice of an experienced attorney. Not-for-profit corporations are frequently charitable organizations that are subject to various restrictions that affect their ability to buy or sell real estate.

A not-for-profit corporation may register with the Department as a real estate brokerage corporation.

### Cooperative Association

A cooperative association (commonly referred to as a co-op) is a corporation formed under Florida statutes to engage in limited commercial business. To create a cooperative association, documents must be filed with the secretary of state.

A cooperative association is formed by a group of businesses that wish to market or promote a specific product. Citrus growers, for example, have formed co-ops to enable them to market citrus products effectively.

A cooperative association may buy, sell, and lease real estate for its own use. It may not register as a real estate brokerage corporation. [F.S. 619]

### Corporation Sole

A corporation sole is formed under common law principles for religious purposes. A corporation sole is not required to file any documents with the state.
A corporation sole can buy and sell real estate for its own use, but the title of the property is not taken in the corporate name. An appropriate clerical personage takes title as the sole titleholder. In the event of the death or removal of the sole titleholder, title passes to their successor in office.

Anyone who deals with a corporation sole should exercise caution as title to real property owned in such fashion can be subject to various restrictions.

A corporation sole may not register as a real estate brokerage corporation.

Business Trust

A business trust, also known as a common law trust or Massachusetts Trust, is created by filing a declaration of trust with the secretary of state. Units in the trust, similar to shares of stock, are sold to the public as securities and must receive the approval of the Florida Securities Commission under the Department of Financial Services. [F.S. 609]

Unit holders make a stipulated investment per unit. A board of trustees manages the trust. The trust may buy, develop, and sell its own real estate. Usually, the unit holders and trustees are not liable for debts of the trust beyond the extent of their investment. However, unit holders are liable for the return of distributions made when the trust is insolvent.

A business trust may not register as a real estate brokerage corporation. Anyone who performs services of real estate on behalf of a trust must have an active real estate license. [F.S. 475.011]

Unincorporated Association

An unincorporated association results if individuals group together for some purpose without creating one of the previously discussed organizations. Frequently, homeowner associations or community improvement associations are unincorporated associations.

An unincorporated association poses a risk for their members because they are treated like partners who are jointly and severally liable for all actions of the association. When an unincorporated association purchases real estate, a trustee holds title.

Anyone who deals with an unincorporated association should exercise caution due to its peculiar nature. An unincorporated association may not register as a real estate brokerage corporation.

Ostensible Partnership

An ostensible partnership (or quasi-partnership) is not a true partnership. It is created when two or more parties, such as brokers, act or operate in a manner that deceives or misleads someone into believing that a partnership exists. Once a party has been deceived or misled, the ones who created the impression of a partnership become jointly and severally liable.

One party can become liable for the acts of the other parties if the public is misled into believing that they are partners. A court can judge a party liable for the actions of all of the parties as if a true partnership exists. Furthermore, the Commission can take disciplinary action against all of the parties involved.

The real estate license law does not prohibit two or more brokers from sharing the same office space; however, each broker must clearly indicate their separate status. Each must use a separate desk, telephone, stationery, and must have an individual business sign as required by statute. They may share the expense of a secretary.

All advertising must clearly indicate the separate status as well. Advertisements that reflect a registered broker as a member of a franchise organization do not fall under the meaning of an ostensible partnership or quasi-partnership.
Trade Name (or Fictitious Name)

A trade name, or fictitious name, is any name under which a person transacts business, other than the person’s legal name. An individual broker, partnership, or corporation may conduct business under a trade name or fictitious name by filing an application to register the name with the Department of State, Division of Corporations. The name must be advertised one time in a newspaper that is distributed within the county where the offices of the business are located. [F.S. 865]

A sole proprietor real estate broker who desires to use a trade or fictitious name is exempt from registering the name with the Department of State but must register the name with the DBPR. [F.A.C. 61J2-10.034]

No trade or fictitious name may be used by a sales associate. Sales associates must register under their true name only.

Real Estate Investments Classified as a Security

A real estate syndicate is an organization formed for the purpose of real estate investment. The most common legal entity used in real estate syndication is a limited partnership. Buying shares of stock in a corporation that invests in real estate is another common form of syndication. Syndications may also be formed as investment trusts, general partnerships, joint tenancies, and tenancies in common.

A licensee should be cautious when dealing with legal entities other than individuals to avoid violation of securities laws. Advice of an experienced attorney should be elicited before dealing with such entities. For example, many condominiums were formed and operated under rental management agreements with the individual unit owners. These were marketed as investment properties, not for owner-occupancy, and those handling such sales must possess a securities license as well as a real estate license.

A real estate licensee can list and sell property owned by a limited partnership, but cannot list or sell an interest in the partnership. A licensee can list and sell property owned by a corporation but cannot list or sell shares of stock in the corporation.

SUMMARY OF BUSINESS FORMATIONS

The following businesses may register with the Department to perform brokerage services:

- Sole proprietorship
- Corporation for profit
- Not-for-profit corporation
- Limited liability company
- General partnership
- Limited partnership
- Limited liability partnership

The following businesses may not register to broker real estate:

- Corporation sole
- Cooperative association
- Business trust
- Unincorporated association
- Joint venture
Any business that provides protection from personal liability is required to file documents that identify who those persons are with the Secretary of State. The following must file:

- Corporation for profit
- Not-for-profit corporation
- Limited liability company
- Cooperative association
- Limited partnership
- Limited liability partnership
- Business trust

Businesses whose participants are jointly and severally liable do not have to file documents. The following businesses are not required to file with the Secretary of State:

- Sole proprietorship
- General partnership
- Joint venture (joint adventure)
- Corporation sole
- Unincorporated association
CHAPTER 5 REVIEW QUESTIONS

1. A trade name must be registered with the _______________ _______________ _______________ at the Department of State.

2. A sales associate can be a stockholder in a brokerage corporation but may not be a(n) _______________ or _______________.

3. A real estate brokerage corporation must have at least _______________ active broker serving as a(n) ________________.

4. Anyone, whether licensed or not, can be a(n) _______________ _______________ in a real estate brokerage limited partnership.

5. Two or more brokers who share office space but do not maintain their separate status as independent brokers could be charged as being _______________ _______________.

6. The party who holds title to corporation sole property is called the ________________ ________________.

7. A sales associate and a broker associate must report any change of employer or address change to the Department within _______ days on a form prescribed for such use.

8. When a broker has conflicting demands for funds held in escrow, they must report such conflict to the Commission within _______ days.

9. A broker who feels they are entitled to some or all of escrowed funds that are the subject of a dispute may submit the dispute to the court by filing an action for a(n) ________________ ________________.

10. A broker who places business or personal funds with escrowed funds has committed a form of fraud called ______________________.

11. A brokerage firm that operates under a fictitious name is required to register the name with the ________________, or ________.

12. Fraud can occur ________________ or ________________.

13. If rental information is sold to a prospective tenant, and the information is found to be materially incorrect, the applicant may request a refund of ________________, provided the request is made within _______ days of the date of the contract.

14. A broker is responsible for the actions of their ________________ or ________________, regardless of whether or not the broker knew about the actions.
CHAPTER 5 PRACTICE EXAM

1. A sales associate licensed with a real estate brokerage corporation can be which of the following?
   a. An officer
   b. A stockholder
   c. A director
   d. An officer and a director

2. Six individuals decide to form a real estate brokerage partnership. All six individuals are planning to be active in real estate sales. Which of the following statements best applies?
   a. The partnership must be registered with the Department, and all six partners must be active real estate brokers.
   b. At least one partner must be licensed as an active broker.
   c. Only two partners must have a real estate license.
   d. A partnership cannot be formed as a brokerage business.

3. Which of the following statements is correct regarding a licensed broker associate who is with a real estate brokerage partnership?
   a. The broker associate may be a member of the partnership.
   b. The broker associate may make earnest money deposits with the broker’s permission.
   c. The broker associate must hold an active broker’s license.
   d. The broker associate may not provide real estate brokerage services to others.

4. All of the following business formations can register to conduct real estate transactions, EXCEPT:
   a. Corporation for profit
   b. Not-for-profit corporation
   c. Corporation sole
   d. Limited partnership

5. If a broker has conflicting demands on money held in escrow, what is the first thing the broker should do?
   a. Consult with a real estate attorney who is experienced in handling escrow problems.
   b. Refer the parties to FREC
   c. Notify the Florida Real Estate Commission in writing
   d. Give the escrow money to the closing agent

6. If a sales associate receives a postdated check, which of the following is the most appropriate action?
   a. The sales associate should immediately give the check to their employing broker.
   b. The sales associate should refuse to submit the offer without a cashier’s check.
   c. The sales associate should hold the check and give the check to their broker when it becomes valid.
   d. The sales associate should cash the check and deposit the funds into their broker’s escrow account.

7. Which of the following statements regarding an ostensible partnership is correct?
   a. An ostensible partnership is required to file documents with the Secretary of State.
   b. An ostensible partnership is not a true partnership.
   c. An ostensible partnership cannot be created by real estate brokers.
   d. An ostensible partnership will not be treated as though the participants were partners.
8. **Who has the right to inspect a broker’s escrow account records?**
   a. The parties to a real estate transaction
   b. The Department of Business and Professional Regulation or its authorized representatives
   c. The state attorney general
   d. A public defender

9. **All of the following businesses are required to file documents with the state, EXCEPT:**
   a. Corporation for profit
   b. Not-for-profit corporation
   c. Corporation sole
   d. Cooperative association

10. **Which condition would require a location to be registered as a brokerage branch office?**
    a. Tables and chairs are provided for sales associates and customers
    b. The location is used as a shelter to get out of the sun or rain
    c. Literature which contains the broker’s office address is handed out
    d. Sales associates are permanently assigned to the location

11. **Which statement best describes the sign requirements for a brokerage office?**
    a. Only one sign per firm is required regardless of the number of offices.
    b. Each sales associate associated with the firm must have a separate sign.
    c. Every active broker must maintain a sign at each brokerage office or branch office.
    d. Office signs are permitted but not required by law.

12. **All of the following actions are authorized alternatives for a broker to use in order to resolve an escrow dispute, EXCEPT:**
    a. Seek an escrow disbursement order from the Commission
    b. Submit the escrow dispute to mediation or arbitration
    c. Seek a court decision to resolve the escrow dispute
    d. Obtain an attorney’s opinion

13. **A real estate brokerage firm advertises a listed property. Which requirement is correct?**
    a. The name of at least one sales associate must be included in the ad.
    b. The name of the brokerage must be included in the ad.
    c. An ad may not be prepared by a sales associate.
    d. The names of sales associates may not be included in the ad.

14. **Which of the following is an approved depository for earnest money?**
    a. A bank within the state of Florida
    b. A stock brokerage firm
    c. A broker’s personal checking account
    d. A safe in a real estate office

15. **What must a sales associate do upon receiving an earnest money deposit?**
    a. Deposit the funds in an insured bank account
    b. Deliver the funds to their broker or owner-developer
    c. Deposit the funds in an escrow account
    d. Deposit the funds with the Florida Real Estate Commission
16. What action should a broker take if a commission dispute arises prior to closing?
   a. Return the deposit to the buyer or seller based on which party asks for it first
   b. Withdraw the amount of the commission from the escrow account
   c. Retain the exact amount of the disputed commission in the escrow account until the dispute is settled
   d. Distribute the escrow funds according to the directions of the company attorney

17. A prospective tenant pays a licensee for a rental information list. What percentage of the fee paid may the prospective tenant receive if the licensee provides inaccurate information?
   a. 100%
   b. 75%
   c. 25%
   d. 0%

18. Three individuals decide to open a real estate brokerage office. Which statement best describes the legal requirements?
   a. Sales associates are not permitted to own stock in the entity.
   b. All sales associates, broker associates, and brokers who are registered with the firm must be either officers or directors.
   c. If a sales associate wishes to be an officer or director, their license must be placed on inactive status.
   d. At least one officer must be an active broker.

19. A buyer drops off an escrow check on Tuesday. To avoid any trouble with FREC, on which day must the broker deposit the check by close of business?
   a. The following Monday
   b. Wednesday
   c. Thursday
   d. Friday

20. When two or more real estate brokerage companies participate together in one transaction where no formal paperwork or registration is completed, which type of business relationship has typically been formed?
   a. Joint venture
   b. Corporation
   c. General partnership
   d. Limited partnership
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CHAPTER VI

VIOLATIONS OF LICENSE LAW: PENALTIES AND PROCEDURES

OVERVIEW
F.S. 455 requires licensing boards and agencies to implement rules that provide for disciplinary actions that may be taken for violation of law or rule under each board or agency’s jurisdiction. Accordingly, the Florida Real Estate Commission has adopted disciplinary guidelines that provide a range of penalties that may be imposed against licensees for violations of the real estate license law and rules implemented by the Commission.

The Commission administers and enforces the real estate license law by formulating rules and regulations that prescribe the conduct of licensees. The Commission determines applicant qualifications for licensure and imposes discipline for violations of the license law. The Division of Real Estate within the Department investigates complaints and prosecutes licensees for violation of the law or rules of the Commission.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Explain the procedures involved in the reporting of violations, the investigation of complaints, and the conducting of hearings
- Define the elements of a valid, legally sufficient complaint
- Discuss the composition of the probable cause panel
- Recognize events that would cause a license application to be denied
- Distinguish between actions that would cause a license to be subject to suspension or revocation
- Identify eligible individuals and know the procedure for seeking reimbursement from the Florida Real Estate Recovery Fund
- Describe the monetary limits imposed for collection from the Real Estate Recovery Fund
- Explain the penalty for a first- and second-degree misdemeanor and identify real estate activities that would warrant those penalties
- Provide examples of the unlicensed practice of law
- Recognize what constitutes culpable negligence

KEY TERMS
Breach of trust  Misrepresentation
Citation  Moral turpitude
Complaint  Notice of Noncompliance
Concealment  Permanently revoke
Conversion  Probable cause
Culpable negligence  Recommended order
Failure to account  Stipulation
Formal or administrative complaint  Subpoena
Fraud  Summary (Emergency) suspension
Legally sufficient  Voluntarily relinquish
Mediation
LICENSE LAW VIOLATIONS

There are three separate entities capable of imposing discipline: criminal courts, civil courts, and administrative agencies. Criminal courts, civil courts, and administrative agencies operate separate and apart from one another. Any one of the three may impose a penalty for a given offense, but all three could impose a penalty for the same offense. It is important to distinguish the differences and understand the nature of the penalties that each is able to impose. A violation of F.S. 475 by a real estate licensee or an unlicensed person may result in criminal, civil, and administrative penalties.

The Florida Real Estate Commission (FREC or the Commission) can impose an administrative penalty against a licensee. The courts may impose criminal and civil penalties against both licensed and unlicensed persons. A member of the public may file civil action against either a licensee or an unlicensed party. The civil penalty imposed for the unlicensed practice of real estate is a minimum fine of $500 and maximum of $5,000. The Department has certain civil authority as well.

The Department and the Commission may also refer suspected violations of law discovered during an investigation to the State Attorney’s office for investigation and possible prosecution.

CRIMINAL PENALTIES

Criminal penalties are imposed by criminal courts. A violation of F.S. 475 may be a first- or second-degree misdemeanor or a third-degree felony.

Corporations cannot be imprisoned, although a criminal fine may be levied. Imprisonment is possible for officers and directors of corporations who are guilty of violations.

First-Degree Misdemeanors

The following action is the only activity that is classified in F.S. 475 as a first-degree misdemeanor, which is punishable by a fine of up to $1,000 and/or imprisonment not to exceed one year.

- Violating the requirements concerning rental lists, information, and contracts [F.S. 475.453]

Second-Degree Misdemeanors

A criminal violation of F.S. 475 by a licensee typically would be classified as a second-degree misdemeanor, which may be punishable by a criminal fine of up to $500 and/or imprisonment for up to 60 days. Examples of second-degree misdemeanors include, but are not limited to, the following:

- Disseminating false or misleading advertising [F.S. 475.42(1)(n)]
- Any sales associate who collects money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer [F.S. 475.42(1)(d)]
Third-Degree Felonies

The following are examples of actions pertaining to real estate licensees, which constitute a felony of the third degree and are subject to criminal court proceedings, and punishable by a criminal fine of up to $5,000 and/or imprisonment of up to five years.

- Acting as a broker or sales associate without being the holder of a valid and current active license [F.S. 475.42(1)(a)]

- Knowingly giving false or misleading information in the course of applying for or obtaining a license [F.S. 455.2275]

- Stealing or reproducing an examination administered by the Department [F.S. 455.2175]

Civil Penalties

Civil penalties are fines or other financial payments imposed by a state or federal agency for violation of laws or regulations. A civil fine is not considered to be a criminal punishment since it is primarily imposed to compensate for harm or wrongful conduct.

If a licensee commits fraud in a transaction or an unlicensed person performs a real estate service, a commission is not owed; therefore, a civil suit for collection of a commission in court would not be successful. If a commission had already been paid, a suit to recover the money paid to anyone not entitled to the commission would be successful.

Occasionally, the Commission uses its administrative powers to assist citizens in the event of fraud by a licensee. The Commission may make the return of an improperly collected commission part of the order of suspension with a stipulation that the order of suspension will not be removed until the money is voluntarily repaid.

Administrative Penalties

Florida Real Estate Commission (FREC or the Commission)

The Commission can impose administrative penalties. F.S. 455, “Business and Professional Regulation: General Provisions,” provides the Commission with the legal authority under which investigations and hearings are conducted. Hearing procedures are established by F.S. 120, the Administrative Procedure Act.

The Commission can give consideration to either mitigating or aggravating circumstances. Mitigating circumstances are considered to be extenuating, and reduce the degree of culpability. Aggravating circumstances add to the injury caused by the act.

Violations that involve mitigating circumstances will generally carry a lesser penalty than those that involve aggravating circumstances. If the charge against a licensee includes multiple counts or a combination of violations, the Commission can impose a higher penalty.

[F.S. 455.2273]

F.S. 455.2273 requires licensing agencies to adopt guidelines under which disciplinary actions may be imposed on those persons and entities under their jurisdiction. The Commission has adopted such guidelines, which are incorporated into F.A.C. 61J2-24.001. For example, being found guilty of fraud, misrepresentation, concealment, false promises, false pretenses, dishonest dealing by trick, scheme, or device, culpable negligence, or breach of trust in any business transaction can result in an administrative fine of $1,000 to $2,500 and a 30-day suspension to revocation (for first offenses) or $2,500 to $5,000 fine and 6 months suspension to revocation (for subsequent offenses). (See Exhibit 6.3 in this chapter.)
Administrative complaints must be filed within five years of the time of the act giving rise to the complaint, or within five years from discovery of the act with due diligence.

Fraudulent Activities

The following are examples of fraudulent activities:

- **Breach of trust.** A *breach of trust* occurs when a broker violates their duties to the principal in an agency relationship. This includes any actions that put the broker’s self-interests ahead of the principal’s interests, acting in excess of authority, or misappropriating funds entrusted to the broker by the principal.

- **Concealment.** *Concealment* occurs when a broker fails to disclose information to a party, to whom the broker has such a duty, and that is material to their decision. Typically, a broker must disclose any fact, report, or rumor concerning the transaction to the principal. If the broker is aware of the ignorance of a customer, however, the broker may have a duty to speak as well.

- **Conspiracy.** A *conspiracy* occurs when a broker forms a scheme or design with another person with the intent to defraud a third party.

- **Conversion.** *Conversion* occurs when a broker uses the funds or other property that belongs to another for their personal or personal business use.

- **Culpable negligence.** *Culpable negligence* occurs if a broker operates in a reckless, careless, and excessively negligent manner. Culpable negligence is negligence for which one can be held legally accountable. A sales associate who forgets to collect an escrow deposit, as specified in a sales contract, may be charged with culpable negligence.

- **Failure to account.** *Failure to account* is a form of conversion that occurs when a broker is required to produce money or property that belongs to another in the normal course of business and either cannot or will not produce the money or property.

- **False or misleading advertising.** No one may disseminate or cause to be disseminated any false or misleading information by any means for the purpose of offering for sale, lease, or rent any real estate located in this state. [F.S. 475.42(1)(n)]

- **Filing false documents.** *Filing false documents* occurs if a broker clouds the title to real estate by filing false, void, or unauthorized documents in the public record such as liens, contracts, or deeds. The broker is guilty of fraud. [F.S. 475.42(1)(i)]

- **Misrepresentation.** *Misrepresentation* is the misstatement or omission of facts. Misrepresentation can lead to fraud if statements are intentional and relied upon. Misrepresentation of value by a licensee could be considered fraud and might lead to breach of contract or breach of trust. Misrepresentation also includes exaggeration in an opinion of value.
• **Moral turpitude.** *Moral turpitude* is conduct that is considered contrary to standards of justice, honesty, or good morals. Florida courts have defined moral turpitude as "the idea of inherent baseness or depravity in the private social relations or duties owed by man to man or by man to society." However, the courts have also held crimes such as bookmaking or selling fake licenses as crimes of moral turpitude.

• **Rendering an opinion of title.** A broker cannot render an oral or written opinion that the title to the property being sold is good or merchantable. Rendering an opinion could be considered as practicing law, which is beyond the scope of a real estate license. If a question relating to the title of property arises, a broker is required by law to advise a prospective purchaser to obtain title insurance or to insist upon or procure an abstract and obtain an attorney’s title opinion. [F.S. 475.25(1)(j)]

• **Promise to resell.** *Promise to resell* is when a broker makes a promise to resell or repurchase property at a future date. The broker must abide by the promise or be guilty of fraud.

• **Properties with liens.** If a mortgage or other liens exist against property, the broker must inform a prospective buyer of such conditions prior to the payment of any portion of the sales price. It is fraudulent and dishonest dealing for a broker to offer a property for sale knowing that the title of the property is un-merchantable.

• **Using lotteries.** A broker who uses *lotteries* or trading schemes that involve the selling of certificates or chances to induce any person to buy real estate is guilty of fraud. Contests where no purchase is required may be permissible.

### Range of Penalties

The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties that normally would be imposed for each count during a formal or informal hearing. Disciplinary guidelines are based on a single violation. The maximum administrative fine per violation of F.S. 475 is $5,000. The disciplinary guidelines do not preclude discipline pursuant to a stipulation, settlement agreement, or a letter of guidance. The Commission cannot deny payment of a commission to a licensee.

For purposes of this rule, the order of penalties ranging from lowest to highest is *reprimand*, *fine*, *probation*, *suspension*, and *revocation or denial of license*. The maximum penalties are revocation or denial of license. Minor violations may be dealt with by issuing a citation or a Notice of Noncompliance. (See Exhibits 6.1 and 6.2.)

• **Reprimand.** A *reprimand* is the minimum penalty for all listed violations. A reprimand is criticism from the Commission that notes that the conduct of the licensee is not considered satisfactory. A reprimand may be given with or without a letter of guidance that advises the licensee regarding conduct that is considered acceptable.

• **Administrative fine.** An *administrative fine* may be imposed by the Commission for violations of law or rules in amounts up to $5,000 per offense.
• **Probation.** *Probation* is a conditional arrangement in which the Commission allows a licensee to continue to practice real estate services if the licensee completes specified requirements. The term of probation is 90 days, unless otherwise stated. [F.A.C.61J2-24.006]

• **Suspension.** *Suspension* is considered to be a temporary penalty. The Commission may suspend the license of a licensee for a maximum period of ten years. The seriousness of the violation determines the length of suspension. A second suspension for a violation can result in revocation of a real estate license.

• **Revocation.** *Revocation* is the maximum penalty for violation of F.S. 475. Revocation permanently removes the license. Revocation plus a maximum fine of $5,000 is the maximum penalty for misrepresentation, concealment, and obtaining a license by fraud.

  If a license is issued by mistake, it will be revoked without prejudice, allowing the individual to reapply.

  If a licensee is under investigation and voluntarily relinquishes their license, the license will be permanently revoked.

• **Denial of license.** *Denial of license* occurs if an individual is deemed by the Department to lack character or competence to deal with the public safely, or is found guilty of acts that could have resulted in the suspension or revocation of a license if the individual had already been licensed. If an application for license is denied, the Department must notify the applicant in writing, give the reason for the denial, and inform the applicant of their right to request a formal hearing to protest the denial within 21 days.

  The Commission may allow evidence to be presented at an informal hearing that may cause the Commission to allow the applicant to reapply and take the state examination for licensure. [F.A.C. 61J2-2.030]

**Division of Real Estate Responsibilities**

The Division of Real Estate (DRE or the Division) within the Department serves as intermediary between the Commission and the Department. The Division handles administrative functions, investigations, and prosecution of complaints in disciplinary proceedings against licensees. Administrative responsibilities include ministerial services such as filing, record keeping, and other clerical functions pertaining to real estate licensees. The offices of the Division and the Commission are located in Orlando and cannot be moved without the authority of the legislature.

The Division routinely inspects and audits licensed real estate professionals to ensure compliance with rules and regulations. It determines if complaints made against licensees should be investigated for alleged violation of the law or rules governing the profession.

**Licensees Must Report Convictions**

Once licensed, all licensees are required to report to the Department within 30 days of being convicted or found guilty of, or having pled *nolo contendere* or guilty to a crime in any jurisdiction. Licensees who fail to report this information are subject to disciplinary action. Completion of the "Criminal Self-Reporting Document" must be mailed to the Department. [F.S. 455.227(1)(c) and 475.25(1)(p)]

Failure to notify the Commission in writing within 30 days after pleading guilty or *nolo contendere* to, or being convicted or found guilty of any crime in any jurisdiction can result in suspension to revocation and an administrative fine of $500 to $2,500 (for first offenses) or $1,000 to $5,000 (for subsequent offenses). [F.S. 455.227(1)(t)]
Brokerage Office Inspections and Audits

The goal of the Division’s brokerage office inspection and audit program is to ensure broker compliance with Commission rules and regulations. Each office is visited approximately every three-to-five years. The investigators conduct both real estate and appraisal investigations.

Investigators for the Division can issue notices of noncompliance or citations to dispose of minor violations of specified rules. The use of notices of noncompliance and citations reduces the number of formal complaints and eliminates the need for lengthy disciplinary proceedings.

If a violation is major, the Division may begin an investigation of the matter by using the procedures described later in this chapter for prosecution of real estate licensees.

Notice of Noncompliance [F.A.C. 61J2-24.003]

The Commission adopted the Notice of Noncompliance Rule to handle first time minor violations by licensees. A violation is considered to be minor if it does not result in economic or physical harm to persons or adversely affect the public health, safety, welfare, or create a significant threat of harm. (See Exhibit 6.1 at the end of this chapter.)

A Notice of Noncompliance can be issued by the Division to a licensee by certified mail or personal service. The notice must identify the rule which the licensee has violated, and provide information to assist the licensee on actions necessary to comply. The licensee is allowed 15 days after receiving the Notice of Noncompliance to correct the violation. Failure to comply with the notice results in issuance of a citation or full disciplinary proceedings.

Citation Authority [F.A.C. 61J2-24.002]

A citation can be issued for specified violations by the Division when no substantial threat to the public health, safety, and welfare exists or if the potential for harm has been removed prior to the issuance of the citation. Specified violations can be handled by the issuance of a citation that requires payment of a fine as a penalty. (See Exhibit 6.2.)

Division investigators, during a brokerage office audit or routine inspection of a brokerage office, commonly find violations that may be dealt with by citation. Prior to the issuance of a citation, a licensee must demonstrate that the violation either has been corrected or is in the process of being corrected. A citation is served upon the subject at the last known address by either personal service, certified mail, or restricted delivery.

The licensee may accept the penalty and pay the fine listed in the citation or go through the formal hearing process. If the citation is not disputed within 30 days, the citation becomes a final order. The subject has 30 days from the date that the citation becomes a final order to pay the fine. All fines are payable to the “Department of Business and Professional Regulation — R. E. Citations.” A copy of the citation and payment of the fine are to be sent to the Division in Orlando.

The Disciplinary Process [F.S. 120, F.S. 455.225]

Violations that cannot be disposed of by issuance of a Notice of Noncompliance or citation require the matter be dealt with in accordance with the Administrative Procedure Act of F.S. 120.
No licensing agency or board may impose discipline against those under their jurisdiction without following the procedures as specified in F.S. 120. The disciplinary process consists of the seven steps as outlined below:

**Step 1: Complaint**

A complaint is an allegation by a complainant (the person who makes the complaint) that a violation of the law or a rule has occurred. The Division handles real estate related complaints made against both licensed and unlicensed individuals. A complaint must be submitted in writing to the Department, Division of Real Estate Consumer Complaint Section. Oral complaints are discouraged, although the Department can initiate a complaint on its own motion if the circumstances appear to warrant such action. If a complainant withdraws a complaint, the Department may also elect to continue to investigate if the original complaint seemed sufficient.

A complaint analyst reviews the complaint form or letter that describes the alleged violation to determine if the complaint is legally sufficient. A legally sufficient complaint is one that alleges a violation of law or rule has occurred and contains sufficient supporting evidence. The Division must investigate legally sufficient complaints. The Commission considers mediation to be an acceptable method of dispute resolution for certain legally sufficient complaints. Mediation is an informal process with the objective of assisting the complainant and the subject of the complaint to reach a mutually acceptable resolution. Mediation can be used for the resolution of violations that are economic in nature or that can be remedied by the subject of the complaint. F.A.C. 61J2-24.004 allows the following violations to be mediated:

- Failure to maintain an office sign at the entrance of an office
- Failure to register a branch office
- Failure to deliver to a licensee a share of a real estate commission if the licensee obtained a civil judgment and the judgment has not been satisfied

**Step 2: Investigation**

If the complaint is legally sufficient, the complaint is sent to the enforcement section of the Division. A case number is assigned, and an investigator is appointed. A copy of the complaint is delivered to the individual against whom the complaint was made. The investigator may demand information from anyone who may have pertinent information or records. Investigators cannot issue a subpoena or offer an opinion concerning the case. The Department, however, can issue a subpoena to anyone if requested by the investigator, and if it is necessary to obtain information not otherwise available. At the conclusion of the investigation, the investigator submits a report to the Division that cannot contain any personal opinions or recommendations of the investigator.

If the investigator finds that a complaint involves a minor violation of a Commission rule, a Notice of Noncompliance or citation can be issued to handle the matter without forwarding an investigative report to the legal section.

After investigation of a complaint involving an unlicensed individual, the investigator may issue a cease-and-desist order before completing their report and forwarding it to the Office of General Counsel (OGC). The OGC will make the decision whether to close the case or prosecute with an administrative complaint. The Department or the Division have the authority to file an injunction in circuit court to enforce a cease and desist order.

If the complaint is found to be of a serious nature, but not an immediate threat to the public, the investigative report is forwarded to the legal section of the Division for further action.
If the complaint is found to be of an extremely serious nature that poses an immediate and serious danger to the safety and welfare of the public, the Secretary of the Department can order a summary or emergency suspension. This order immediately suspends the license, which is followed by a full disciplinary hearing. [F.S. 120.60(6)(c)]

**Step 3: Probable Cause Panel [F.S. 455.225(4), F.A.C. 61J2-20.009]**

Prosecutors from the legal section review the investigative report and make a recommendation regarding prosecution of the case to the Probable Cause Panel.

The Probable Cause Panel consists of two current members of the Commission or past Commission members, of whom no more than one can be a lay member. The panel has 15 days in which to make a request for any additional information. Once a complete report has been received, the panel has 30 days to recommend dismissal of the case or the issuance of a formal complaint.

The panel acts much like a grand jury to determine if probable cause exists. It does not determine guilt or innocence, only the probability of guilt. If the panel determines that there is no probable cause, the case is dismissed. In some cases, the panel issues a letter of guidance in lieu of disciplinary action that advises the nature of its concern and the appropriate action required of the licensee. If probable cause exists, a formal complaint is filed (Step 4).

Investigation of complaints and operation of the Probable Cause Panel are exercises of the executive powers. All information related to the investigation and deliberations of the Probable Cause Panel are confidential until ten days following a finding of probable cause.

**Step 4: Administrative Complaint**

Once the Probable Cause Panel determines that probable cause exists, an administrative complaint, also known as a formal complaint, is filed against the individual who is the subject of the complaint, referred to as the respondent. The administrative complaint constitutes the formal administrative charges made by the Department that are served upon the respondent.

The Commission, by rule, allows 21 days for the respondent to file an Election of Rights form. If the respondent fails to file an answer to an administrative complaint, the Commission will proceed with a hearing. The Election of Rights form requires the respondent to state whether or not they dispute the allegations in the complaint.

A stipulation is an alternative method to settle a charge when a respondent does not wish the matter to go to a formal hearing. The respondent and attorneys for the Department negotiate a settlement agreement in which the respondent, in most cases, neither admits guilt nor denies the allegations in the complaint. The respondent agrees to the imposition of a negotiated disciplinary action instead. A stipulation is very much like a plea bargain.

If the Commission approves the stipulation, the Commission’s final order is entered which accepts the terms of the stipulation. If the Commission does not approve the stipulation, the case proceeds to a hearing (Step 5).

**Step 5: Formal/Informal Hearing**

If a respondent does not dispute the facts, the case is brought to the Commission for an informal hearing. The respondent is entitled to present testimony to explain mitigating circumstances that could reduce the punishment, if taken into consideration by the Commission. The Commission will then impose discipline based upon the specific statutes or rules that have been violated.

If the respondent disputes material facts, the case will be scheduled for a formal hearing before an administrative law judge from the Division of Administrative Hearings (DOAH), which is not part of the Department or the Commission. Administrative law judges must be
attorneys who have been members of the Florida Bar for at least five years prior to their appointment. The respondent by law must be given no less than 14 days’ notice of a formal hearing.

The issuance of the formal complaint begins exercise of the quasi-judicial power. The administrative law judge conducts a hearing similar to a trial at which testimony and witnesses can be presented. All proceedings are electronically recorded.

The respondent has the right to respond to or answer the complaint, the right to present evidence and cross-examine witnesses, and the right to be represented by legal counsel. The administrative law judge can issue subpoenas for witnesses and compel attendance of a witness. A respondent may request that an administrative law judge subpoena a witness.

The Commission may discipline a licensee who fails to respond to a subpoena. If an unlicensed person fails to comply with a subpoena, a court order may be obtained. Violation of the court order may result in a $500 fine.

Within 90 days following conclusion of the hearing, the administrative law judge submits a recommended order to the Commission based on findings of fact and conclusions of law. The findings of fact and conclusions of the administrative law judge must be based on clear and convincing evidence.

All parties are served copies of the recommended order, with the original copy delivered to the DOAH. A period of 15 days is allowed for the parties to file exceptions to the recommended order. After the 15-day period has expired, the recommended order, together with any exceptions, is delivered to the Commission.

**Step 6: Final Order of the Commission**

A final order panel of the Commission reviews the administrative law judge’s recommended order together with any exceptions. The final order panel is composed of all Commission members except those who served in the probable cause finding. The Commission then enters its final order.

For a licensee, if the final order were for suspension or revocation, the licensee would be out of business. The final order becomes effective in 30 days during which time the licensee can continue to practice real estate. The respondent can either accept the final order or file an appeal (Step 7).

For an unlicensed individual, the administrative law judge’s findings of fact are sent to the Secretary of the Department for a final order. The Secretary’s final order can petition the court for enforcement against the unlicensed individual. The unlicensed party can appeal the order (Step 7).

**Step 7: Judicial Review (Appeal Process)**

If the licensee does not agree with the final order of the Commission, a petition for review may be filed with the Florida District Court of Appeals within 30 days of the final order. The review of the case by the district court can either affirm or reverse the final order of the Commission.

During the appeal process, a licensee is out of business unless a stay of enforcement is granted. A stay will be granted unless a threat of probable danger to the welfare of the public is shown. The District Court of Appeals issues the stay and grants a writ of supersedeas, which supersedes the action of the Commission and allows the licensee to continue to practice until the case can be heard on appeal.

If the appeal reverses the final order of the Commission, the District Court will issue a writ of mandamus, which is an order by the court to the Commission to restore the licensee’s privileges. If the District Court of appeals affirms the action of the Commission, the defendant may appeal to the Florida Supreme Court. If the Florida Supreme Court affirms the action of the Commission and district court, the final order is effective.
If either the District Court of Appeals or the Florida Supreme Court reverses and sets aside the final order, the matter decided may not later be reexamined by the Commission or any court.

**Florida Real Estate Recovery Fund [F.S. 475.482]**

The Florida Real Estate Recovery Fund (the Recovery Fund) was established for the purpose of reimbursing those persons or entities who have suffered monetary damages as the result of violations of F.S. 475 committed by real estate licensees. To be eligible for reimbursement from the Recovery Fund, a suit for damages must first be brought in a civil action against a broker, broker associate, or sales associate. After a judgment has been obtained, the personal assets of the licensee must first be used to satisfy the judgment. If the assets of the licensee are insufficient to satisfy the judgment, the party awarded the judgment may request reimbursement from the Recovery Fund. When multiple parties have valid claims against a licensee, the order of payment is by date of the claim.

A broker who follows a Commission escrow disbursement order and is later sued in court may be reimbursed from the Recovery Fund for damages imposed by the court. The broker’s reasonable attorney’s fees and court costs will be paid from the Recovery Fund as well. If the plaintiff prevails, the plaintiff’s attorney’s fees and court costs will also be paid. No action will be taken against the licensee. [F.S. 475.483(3)]

Payment from the Recovery Fund will not be made to the spouse of a judgment debtor, or to any licensee who operated as a licensee in the transaction. If a licensee acted in the capacity of a buyer or seller only, the licensee would be eligible to collect following the same procedures as any other member of the public. [F.S. 475.483(2)]

Reimbursement from the Recovery Fund for a single judgment is limited to a maximum of $50,000 or the unsatisfied portion of the judgment, whichever is less. If multiple judgments are awarded against a licensee, the maximum reimbursement from the Recovery Fund is limited to $150,000. Only actual or compensatory damages awarded by a court can be reimbursed from the Recovery Fund. Punitive damages cannot be paid from the Recovery Fund.

Once a payment is made from the Recovery Fund in the name of a licensee, the real estate license of that individual is automatically suspended until the money plus interest has been repaid. The filing of bankruptcy by a licensee does not relieve them of any obligation or penalty associated with the Real Estate Recovery Fund.

The Commission requires the holder of the judgment to assign the judgment to the Commission as a condition of reimbursement from the Recovery Fund. This gives the Commission the power to enforce repayment to the Recovery Fund by the licensee, as the Commission will then have a lien against all property owned by the licensee, which can be foreclosed if the money is not voluntarily repaid.

The Recovery Fund is maintained by fees and fines paid by licensees. A fee of $3.50 per year is added to the license fee for both new and renewal licenses for brokers. A fee of $1.50 per year is added for new and renewal licenses for sales associates. If the total amount in the Recovery Fund reaches $1,000,000, collection of these fees is discontinued until the amount in the recovery fund falls below $500,000.
Exhibit 6.1 Violations that May be Disposed of by Notice of Noncompliance

A Notice of Noncompliance may be issued for any of the following minor, initial offenses:

(a) Failure to have a distance education course instructor available. [F.A.C. 61J2-3.009(5)(e)]
(b) Failure to inform students of course standards and requirements. [F.A.C. 61J2-3.009(6)]
(c) Failure to provide a course completion report to a student. [F.A.C. 61J2-3.015(2)]
(d) Sales associate or broker associate serving as an officer or director of a registered brokerage corporation. [F.A.C. 61J2-5.016]
(e) Failure to maintain the office entrance sign as required. [F.S. 475.22(1)]
(f) Failure to perform the required act within the stated time frame but does so no later than 30 days after the stated time frame. [F.A.C. 61J2-10.032(1) and (2)]
(g) Failure to register a trade name with the Division of Real Estate. [F.A.C. 61J2-10.034]
(h) Initial offense of failure to indicate the name, address, and telephone number of the title company or attorney on the contract will receive a notice of noncompliance without citation for a period of 12 months after the effective date of this rule. [F.A.C. 61J2-14.008(2)(b)]
(i) Initial offense of failure to provide Seller’s broker, or Seller if not presented by a broker, within ten business days of the date the Licensee’s broker made the written request for verification of the deposit with either a copy of the written verification, or if no verification is received by Licensee’s broker, written notice that Licensee’s broker did not receive verification of the deposit, will receive a notice of noncompliance without citation for a period of 12 months after the effective date of this rule. [F.A.C. 61J2-14.008(2)(b)]
(j) Failure to sign the escrow account reconciliation if the account balances. [F.A.C. 61J2-14.012]
(k) Failure to stop interest from accruing prior to disbursement. [F.A.C. 61J2-14.014(2)]
(l) Failure to keep registration records, course, rosters, attendance records, a file copy of each examination and progress test, and all student answer sheets for a period of at least three years subsequent to the beginning of each course and make them available to the department for inspection and copying upon request. [F.S. 475.451(8)]
(m) Improper use of a guest lecturer. [F.A.C. 61J2-17.014]
(n) Improper recruiting; failure to post the required statement. [F.A.C. 61J2-17.015]
(o) For a first violation, failure to adhere to team advertising requirements after July 1, 2019. [F.A.C. 61J2-10.026]

Source: F.A.C. 61J2-24.003 Notification of Noncompliance 2/11/19
### Exhibit 6.2 Violations for which a Citation May be Issued

<table>
<thead>
<tr>
<th>Violation</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) A resident licensee failed to notify the Commission of becoming a nonresident as prescribed. [F.S. 475.180(2)(a)]</td>
<td>$300</td>
</tr>
<tr>
<td>(b) Failed to provide the required number of classroom hours for an approved or prescribed course. [F.S. 475.17(2)(a), 475.17(3)(a), 475.17(4)(a), F.A.C. 61J2-3.008, and 61J2-3.009]</td>
<td>$500</td>
</tr>
<tr>
<td>(c) Failed to provide a course completion report to a student. [F.S. 475.175(2) and F.A.C. 61J2-3.015]</td>
<td>$100</td>
</tr>
<tr>
<td>(d) Failed to maintain the required office as prescribed. [F.S. 475.22(1) and F.A.C. 61J2-10.022]</td>
<td>$500</td>
</tr>
<tr>
<td>(e) Failed to maintain the required office entrance sign. [F.S. 475.22(1)]</td>
<td>$100</td>
</tr>
<tr>
<td>(f) Failed to register an out-of-state Florida broker’s office. [F.S. 475.22(2)]</td>
<td>$500</td>
</tr>
<tr>
<td>(g) Failed to register a location as a branch office. [F.S. 475.24, F.A.C. 61J2-10.023]</td>
<td>$200</td>
</tr>
<tr>
<td>(h) Failed to immediately deposit trust funds provided the deposit is not more than 3 days late. [F.S. 475.25(1)(k) and F.A.C. 61J2-14.010(1)]</td>
<td>$200</td>
</tr>
<tr>
<td>(i) Failed to give the appropriate disclosure or notice at the appropriate time under the provisions of F.S. 475.275 or 475.278. (A citation may only be given for a first-time violation.) [F.S. 475.25(1)(q)]</td>
<td>$300</td>
</tr>
<tr>
<td>(j) Failed to include the required information in a listing agreement; failed to give a copy to a principal within 24 hours; contains a self-renewal clause. [F.S. 475.25(1)(r)]</td>
<td>$200</td>
</tr>
<tr>
<td>(k) Sales associate operating as a sales associate without a registered employer due to failure to renew or properly register. [F.S. 475.42(1)(b)]</td>
<td>$500</td>
</tr>
<tr>
<td>(l) Having a lis pendens placed by an attorney. (Citation may be issued only if no other violation is present.) [F.S. 475.42(1)(i)]</td>
<td>$500</td>
</tr>
<tr>
<td>(m) Operated as broker under a trade name without causing the trade name to be noted in the records of the Commission. [F.S. 475.42(1)(i) and F.A.C. 61J2-10.034]</td>
<td>$500</td>
</tr>
<tr>
<td>(n) Failed to obtain a multiple permit. [F.S. 475.451(3)]</td>
<td>$500</td>
</tr>
<tr>
<td>(o) Advertised false, inaccurate, misleading, or exaggerated information. [F.S. 475.451(1)(2)]</td>
<td>$500</td>
</tr>
<tr>
<td>(p) Failed to have a distance education course instructor available per published schedule. [F.A.C. 61J2-3.009(4)(d)]</td>
<td>$300</td>
</tr>
<tr>
<td>(q) Failed to inform students of course standards and requirements. [F.A.C. 61J2-3.008(5)(a)]</td>
<td>$100</td>
</tr>
<tr>
<td>(r) Failed to provide a course completion report to a student; if a licensee, as the result of an audit/inspection, failed to provide a course completion report to the DBPR. [F.A.C. 61J2-3.015(2)]</td>
<td>$200</td>
</tr>
<tr>
<td>(s) Sales associate or broker associate serving as an officer or director of a registered brokerage corporation. [F.A.C. 61J2-5.016]</td>
<td>$200</td>
</tr>
<tr>
<td>(t) Failed to ensure that the corporation or partnership is properly registered; failed to ensure each officer, director, and sales associate is properly licensed. [F.A.C. 61J2-5.019(1)]</td>
<td>$500</td>
</tr>
<tr>
<td>(u) Advertised in a manner in which a reasonable person would not know one is dealing with a real estate licensee or brokerage; failed to include the registered name of the brokerage firm in the advertisement; failed to use the licensee’s last name, as registered with the Commission, in an advertisement. [F.A.C. 61J2-10.025]</td>
<td>$500</td>
</tr>
<tr>
<td>(v) Failed to follow the requirements for team or group advertising; a citation shall only be issued for a second violation of the rule committed after July 1, 2019. [F.A.C. 61J2-10.026]</td>
<td>$500</td>
</tr>
<tr>
<td>(w) Used the name or identification of an association or organization when the licensee was not in good standing or otherwise not entitled to use same. [F.A.C. 61J2-10.027]</td>
<td>$300</td>
</tr>
<tr>
<td>(x) Broker failed to notify the Commission within the prescribed 15 business days but does so within 25 business days; or, if Notice of Noncompliance has been issued pursuant to F.A.C. 61J2-24.003 and not timely complied with, failed to notify the Commission within 45 days but does so within 55 days. [F.A.C. 61J2-10.032(1)]</td>
<td>$100</td>
</tr>
<tr>
<td>(y) Broker failed to institute a settlement procedure within the prescribed 30 business days but does so within 40 business days; or, if a Notice of Noncompliance has been issued pursuant to F.A.C. 61J2-24.003 and not timely complied with, failed to institute a settlement procedure with 60 days but does so within 70 days. [F.A.C. 61J2-10.032(1) and (2)]</td>
<td>$100</td>
</tr>
<tr>
<td>(z) Broker failed to notify the Commission that the dispute settled or went to court, or of the final accounting and disbursement within the prescribed 10 business days, but broker does so within 20 business days; or, if a Notice of Noncompliance has been issued pursuant to F.A.C. 61J2-24.003 and not timely complied with, failed to notify the Commission that the dispute settled or went to court, or of the final accounting and disbursement within 40 days but does so within 50 days. [F.A.C. 61J2-10.032(2)]</td>
<td>$100</td>
</tr>
</tbody>
</table>

Source: F.A.C. 61J2-24.002 Citation Authority 2/11/19
### Exhibit 6.3 Violations Requiring a Full Disciplinary Hearing

The following violations may not be disposed of by either a Notice of Noncompliance or citation.

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>PENALTY RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FIRST VIOLATION</strong></td>
<td><strong>SECOND AND SUBSEQUENT VIOLATIONS</strong></td>
</tr>
<tr>
<td>(a) F.S. 475.22, Broker fails to maintain office or sign at entrance of office</td>
<td>(a) Reprimand to $500 administrative fine</td>
</tr>
<tr>
<td>(b) F.S. 475.24, Failure to register a branch office</td>
<td>(b) Reprimand to $500 administrative fine</td>
</tr>
<tr>
<td>(c) F.S. 475.25(1)(b), Fraud, misrepresentation, and dishonest dealing</td>
<td>(c) $1,000 to $2,500 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>Concealment, false promises, false pretenses by trick, scheme, or device</td>
<td>$1,000 to $2,500 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>Culpable negligence or breach of trust</td>
<td>$2,500 to $5,000 administrative fine and 6 month suspension to revocation</td>
</tr>
<tr>
<td>Violating a duty imposed by law or by the terms of a listing agreement; aided, assisted, or conspired with another; or formed an intent, design, or scheme to engage in such misconduct and committed an overt act in furtherance of such intent, design, or scheme</td>
<td>$1,000 to $2,500 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>(d) F.S. 475.25(1)(c), False, deceptive, or misleading advertising</td>
<td>(d) $250 to $1,000 administrative fine and 30 to 90-day suspension</td>
</tr>
<tr>
<td>(e) F.S. 475.25(1)(d), Failed to account or deliver to any person as required by agreement or law, escrowed property</td>
<td>(e) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(f) F.S. 475.25(1)(e), Violated any rule or order or provision under Chapters 475 and 455, F.S.</td>
<td>(f) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(g) F.S. 475.25(1)(f), Convicted or found guilty of a crime related to real estate or involving moral turpitude or fraudulent or dishonest dealing</td>
<td>(g) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(h) F.S. 475.25(1)(g), Has license disciplined or acted against an application denied by another jurisdiction</td>
<td>(h) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>PENALTY RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) F.S. 475.25(1)(h), Has shared a commission with or paid a fee to a</td>
<td>(i) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>person not properly licensed under Chapter 475, F.S.</td>
<td>(i) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(j) F.S. 475.25(1)(i), Impairment by drunkenness, or use of drugs or</td>
<td>(j) Suspension for the period of incapacity</td>
</tr>
<tr>
<td>temporary mental derangement</td>
<td>(j) Suspension for the period of incapacity</td>
</tr>
<tr>
<td>(k) F.S. 475.25(1)(j), Rendered an opinion that the title to property</td>
<td>(k) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>sold is good or merchantable when not based on opinion of a licensed</td>
<td>(k) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>attorney or has failed to advise prospective buyer to consult an</td>
<td></td>
</tr>
<tr>
<td>attorney on the merchantability of title or to obtain title</td>
<td></td>
</tr>
<tr>
<td>insurance</td>
<td></td>
</tr>
<tr>
<td>(l) F.S. 475.25(1)(k), Has failed, if a broker, to deposit any money in</td>
<td>(l) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>an escrow account immediately upon receipt until disbursement is</td>
<td>(l) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>properly authorized. Has failed, if a sales associate, to place any</td>
<td></td>
</tr>
<tr>
<td>money to be escrowed with his registered employer</td>
<td></td>
</tr>
<tr>
<td>(m) F.S. 475.25(1)(l), Has made or filed a report or record which the</td>
<td>(m) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>licensee knows to be false or willfully failed to file a report or</td>
<td>(m) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>record or willfully impeded such filing as required by State or Federal</td>
<td></td>
</tr>
<tr>
<td>Law</td>
<td></td>
</tr>
<tr>
<td>(n) F.S. 475.25(1)(m), Obtained a license by fraud, misrepresentation,</td>
<td>(n) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>or concealment</td>
<td>(n) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(o) F.S. 475.25(1)(n), Confined in jail, prison, or mental institution;</td>
<td>(o) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>or through mental disease can no longer practice with skill and safety</td>
<td>(o) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(p) F.S. 475.25(1)(o), Guilty for the second time of misconduct in the</td>
<td>(p) $1,000 to $5,000 administrative fine and a 1-year suspension to revocation</td>
</tr>
<tr>
<td>practice of real estate that demonstrates incompetent, dishonest, or</td>
<td></td>
</tr>
<tr>
<td>negligent dealings with investors</td>
<td></td>
</tr>
<tr>
<td>(q) F.S. 475.25(1)(p), Failed to give Commission 30 day written notice</td>
<td>(q) $500 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>after a guilty or nolo contendere plea or convicted of any felony</td>
<td>(q) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(r) F.S. 475.25(1)(r), Failed to follow the requirements of a written</td>
<td>(r) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>listing agreement</td>
<td>(r) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(s) F.S. 475.25(1)(s), Has had a registration suspended, revoked, or</td>
<td>(s) $250 to $1,000 administrative fine and 60-day suspension to revocation</td>
</tr>
<tr>
<td>otherwise acted against in any jurisdiction</td>
<td>(s) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(t) F.S. 475.25(1)(t), Violated the Uniform Standards of Professional</td>
<td>(t) $250 to $1,000 administrative fine and 30-day suspension to revocation</td>
</tr>
<tr>
<td>Appraisal Practice as defined in F.S. 475.611.</td>
<td>(t) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(u) F.S. 475.25(1)(u), Has failed, if a broker, to direct, control, or</td>
<td>(u) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>manage a broker associate or sales associate employed by such broker</td>
<td>(u) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>PENALTY RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(v) F.S. 475.25(1)(v), Has failed, if a broker, to review the brokerage's trust accounting procedures in order to ensure compliance with this chapter</td>
<td>(v) $250 to $2,500 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(w) F.S. 475.42(1)(a), Practice without a valid and current license</td>
<td>(w) $250 to $2,500 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(x) F.S. 475.42(1)(b), Practicing beyond scope as a sales associate</td>
<td>(x) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(y) F.S. 475.42(1)(c), Broker employs a sales associate who is not the holder of a valid and current license</td>
<td>(y) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(z) F.S. 475.42(1)(d), A sales associate shall not collect any money in connection with any real estate brokerage transaction except in the name of the employer</td>
<td>(z) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(aa) F.S. 475.42(1)(f), Makes false affidavit or affirmation or false testimony before the Commission</td>
<td>(aa) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(bb) F.S. 475.42(1)(g), Fails to comply with subpoena</td>
<td>(bb) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(cc) F.S. 475.42(1)(h), Obstructs or hinders the enforcement of Chapter 475, F.S.</td>
<td>(cc) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(dd) F.S. 475.42(1)(i), No broker or sales associate shall place upon the public records any false, void, or unauthorized information that affects the title or encumbers any real property</td>
<td>(dd) $250 to $2,500 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(ee) F.S. 475.42(1)(j), Failed to register trade name with the Commission</td>
<td>(ee) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(ff) F.S. 475.42(1)(k), No person shall knowingly conceal information relating to violations of Chapter 475, F.S.</td>
<td>(ff) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(gg) F.S. 475.42(1)(l), Fails to have a current license as a broker or sales associate while listing or selling one or more timeshare periods per year</td>
<td>(gg) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(hh) F.S. 475.42(1)(m), Licensee fails to disclose all material aspects of the resale of timeshare period or timeshare plan and the rights and obligations of both buyer and seller</td>
<td>(hh) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(ii) F.S. 475.42(1)(n), Publication of false or misleading information; promotion of sales, leases, and rentals</td>
<td>(ii) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(jj) F.S. 475.451, School teaching real estate practice fails to obtain a permit from the department and does not abide by regulations of Chapter 475, F.S., and rules adopted by the Commission</td>
<td>(jj) $250 to $1,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(kk) F.S. 475.453, Broker or sales associate participates in any rental information transaction that fails to follow the guidelines adopted by the Commission and Chapter 475, F.S.</td>
<td>(kk) $250 to $1,000 administrative fine and 90-day suspension to revocation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>VIOLATION</th>
<th>PENALTY RANGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>(II) F.S. 475.5015, Failure to keep and make available to the department such books, accounts, and records as will enable the department to determine whether the broker is in compliance with the provisions of Chapter 475, F.S.</td>
<td>(II) $250 to $1,000 administrative fine and suspension to revocation (II) $1,000 to $5,000 administrative fine and 90-day suspension to revocation</td>
</tr>
<tr>
<td>(mm) F.S. 455.227(1)(s), Failing to comply with the educational course requirements for domestic violence</td>
<td>(mm) $250 to $1,000 administrative fine and suspension to revocation (mm) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(nn) F.S. 455.227(1)(t), Failing to report in writing to the Commission within 30 days after the licensee is convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction.</td>
<td>(nn) $250 to $1,000 administrative fine and suspension to revocation (nn) $1,000 to $5,000 administrative fine and suspension to revocation</td>
</tr>
<tr>
<td>(oo) F.S. 455.227(1)(u), Termination from a treatment program for impaired practitioners as described in Section 456.076 for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program</td>
<td>(oo) $250 to $1,000 administrative fine and suspension to revocation (oo) $1,000 to $5,000 administrative fine and suspension to revocation</td>
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</table>

CHAPTER 6 REVIEW QUESTIONS

1. A licensee who disagrees with a final order of the Commission may _______________ _______________ within ________ days with the _______________ _______________ _______________ _______________.

2. The maximum amount that can be paid from the Real Estate Recovery Fund based on the actions of a licensee with multiple judgments awarded against them is ____________.

3. Formal hearings are conducted before a(n) _______________ _______________ _______________ who is appointed by the _______________.

4. An investigator for the Department may not express any _______________ _______________ concerning the investigation.

5. The balance in the Recovery Fund is maintained by _______________ and _______________ paid by licensees.

6. The criminal penalty for violation of F.S. 475 is typically a fine of up to ___________ and/or imprisonment for no more than _______ ________.

7. The penalty for a first-degree misdemeanor is a fine of up to ___________ and/or imprisonment for no more than ___________ _______________.

8. The criminal fine for an individual who acts as a broker or sales associate without holding a valid and current active license is an amount up to ______ and/or imprisonment for up to ______ years.

9. The operation of the Probable Cause Panel is an exercise of the ______________ _______________ of the Commission.

10. The quasi-judicial powers begin with the issuance of a(n) _______________.

11. The Probable Cause Panel acts much like a(n) _______________ _______________.

12. Citations issued by _______________ assigned by the Division of Real Estate must be paid within ________ days after becoming a final order.

13. The violation cited in a Notice of Noncompliance must be corrected within _______ days.

14. The Commission can enforce repayment of money paid from the Real Estate Recovery Fund by obtaining a(n) _______________ from the holder of the judgment.

15. A licensee that has had a payment made from the Real Estate Recovery Fund as a result of their actions will have their license ________ until the money is ___________ plus ______________.

16. Operating in a careless, reckless, or excessively negligent manner may result in a broker being charged with _______________ _______________.
CHAPTER 6 PRACTICE REVIEW

1. What is the purpose of the disciplinary guidelines?
   a. To extend the meaning of the law
   b. To specify and implement the law
   c. To give new meaning to the law
   d. To give licensees notice of the range of penalties that normally will be imposed for violation of a law or rule

2. Who reports findings of fact to the Commission at the conclusion of an administrative hearing?
   a. An attorney
   b. The Division of Real Estate investigator
   c. The Division of Real Estate prosecutors
   d. The administrative law judge

3. What happens if a respondent fails to answer an administrative complaint?
   a. The defendant will be issued a subpoena.
   b. The Commission will dismiss charges against the licensee.
   c. The Commission will proceed with the hearing.
   d. The Department of Business and Professional Regulation will send investigators to arrest the licensee.

4. The range of penalties that may be imposed on a licensee by the Commission for violation of laws or rules includes which of the following?
   a. Denial, reprimand, fine, probation, suspension, and revocation
   b. Imprisonment only
   c. A fine and imprisonment only
   d. A fine, reprimand, denial, suspension, revocation, and imprisonment

5. An appeal of a Commission final order is filed with which of the following?
   a. Florida Supreme Court
   b. District Court of Appeals
   c. County court
   d. Department of Administrative Hearings

6. Which of the following statements best describes the Probable Cause Panel?
   a. The Probable Cause Panel is composed of three Florida Real Estate Commission members, no more than one of which may be a lay member.
   b. The Probable Cause Panel is an exercise of the quasi-judicial powers of the Florida Real Estate Commission.
   c. The Probable Cause Panel determines guilt or innocence, and submits a recommended order to the Florida Real Estate Commission.
   d. The Probable Cause Panel has 30 days from receipt of a complete report to recommend dismissal or issuance of a formal complaint.

7. What is the charge for anyone found guilty of using false or misleading advertising?
   a. Third-degree misdemeanor
   b. Second-degree misdemeanor
   c. First-degree misdemeanor
   d. Third-degree felony

8. What is the maximum amount of money that can be paid from the Real Estate Recovery Fund to three persons who suffered monetary loss as the result of a fraudulent act committed by a real estate licensee and have been awarded a single judgment?
   a. $150,000
   b. $50,000
   c. $25,000
   d. $10,000
9. In which of the following circumstances may a citation be issued to a licensee?
   a. When no substantial threat to the public health, safety, and welfare exists
   b. The hearing officer recommends one
   c. A final order was served on the licensee
   d. A formal complaint has been received by the Department

10. What is the maximum fine FREC can impose against a licensee who is found to be guilty of two violations of F.S. 475?
   a. $1,000
   b. $5,000
   c. $7,500
   d. $10,000

11. What action might the Secretary of the Department of Business and Professional Regulation take against a broker whose actions pose an immediate serious danger to the safety and welfare of the public?
   a. Suspend the licensee’s license for ten years
   b. Issue a summary suspension
   c. Issue a cease-and-desist order
   d. Place the licensee on probation

12. What action may be taken if either the Florida Real Estate Commission or the licensee disagrees with a recommended order submitted by the administrative law judge?
   a. Seek adjudication
   b. Submit the matter to mediation
   c. File exceptions
   d. Request novation

13. How is the Real Estate Recovery Fund funded?
   a. Property tax dollars
   b. The Florida State Treasury
   c. State intangible taxes
   d. Fees and fines paid by real estate licensees

14. What must an unlicensed individual do when ordered to appear before the DBPR?
   a. Nothing; the Department has no jurisdiction over unlicensed persons.
   b. Appear
   c. File an appeal
   d. Bring an attorney

15. Which activity would be classified as a first-degree misdemeanor under F.S. 475?
   a. Placing false or misleading advertising
   b. Violation of rental information rules
   c. Submitting false information in an application
   d. An unlicensed person operating as a broker

16. A sales contract specifies that the buyer will pay a secondary deposit by March 15th. The sales associate neglected to collect the deposit on time. Which of the following statements is correct?
   a. The sales associate is not responsible for collecting the deposit; this is the broker’s responsibility.
   b. The broker should notify the FREC of an escrow dispute.
   c. By forgetting to collect the deposit, the sales associate may cause harm to the seller, and could be charged with culpable negligence.
   d. The sales associate may be charged with conversion.
# Chapter 7

## Federal and State Laws Pertaining to Real Estate

### Overview

Discrimination in housing has been, and continues to be, an issue that has great significance for real estate professionals. Both state and federal laws have been implemented to deal with this problem. This chapter examines those laws and provides you with information concerning the requirements of those laws.

A very large number of real estate licensees become involved in rental and property management activities. This chapter discusses the Florida Residential Landlord and Tenant Act and its requirements. Several other laws relative to real property development and public safety are also discussed.

### Objectives

After completing this chapter, you should be able to do all of the following:

- Explain the significance of the Jones v. Mayer court case
- List the real estate included under the different Fair Housing Acts
- Recognize the groups protected under the 1968 Fair Housing Act
- List the property that is exempt from the 1968 Fair Housing Act
- Describe the types of discriminatory acts that are prohibited under the 1968 Fair Housing Act
- Describe the HUD process for handling a complaint under the 1968 Fair Housing Act
- Understand the provisions of the 1988 Fair Housing Amendment
- Describe the objectives and major provisions of the Americans with Disabilities Act
- Describe the major provisions of the Florida Residential Landlord and Tenant Act

### Key Terms

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<thead>
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<th>Accessible</th>
<th>Handicap status</th>
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<td>Americans with Disabilities Act (ADA)</td>
<td>HUD poster</td>
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<td>Blockbusting</td>
<td>National origin</td>
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<td>Civil Rights Act</td>
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<td>Color</td>
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<td>Familial status</td>
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<tr>
<td>Florida Residential Landlord and Tenant Act</td>
<td>Sex</td>
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<td></td>
<td>Steering</td>
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FEDERAL FAIR HOUSING LAWS

Civil Rights Act of 1866

The Civil Rights Act of 1866 prohibited discrimination on the basis of race. It was interpreted by the U.S. Supreme Court to prohibit all racial discrimination in the sale or rental of real property.

In 1968, the Supreme Court in *Jones v. Mayer* ruled that discrimination based on race is strictly prohibited. This means there can be no exemptions or exceptions with regard to race.

Federal Fair Housing Act

Title VI of the Civil Rights Act of 1964 prohibited discrimination in government funded housing programs. It paved the way for much larger changes with the Civil Rights Act of 1968.

The Federal Fair Housing Act is officially titled the *Civil Rights Act of 1968*. The Civil Rights Act of 1968 expanded on the 1866 Act and made discrimination in the showing, negotiation, sale, rental, or financing of a dwelling prohibited when based on race, color, religion, sex, or national origin.

Although marital status, age, and occupation may be covered under other civil rights statutes, they are not specifically covered under the Civil Rights Act of 1968.

The Civil Rights Act of 1968 specifically prohibits the following when based on race, color, religion, sex, or national origin:

- Refusing to sell or rent after receiving an offer from a person protected under the Act.
- Changing the terms or conditions of the sale or rental of a dwelling.
- Representing that a dwelling is not available for sale or rent when in fact it is.
- Using discriminatory statements or discriminatory advertising. However, the 1968 Act authorized the slogan "Equal Housing Opportunity" for use in real estate advertisements. If the slogan is used selectively in an attempt to identify racial considerations, it is illegal.
- Employing deed restrictions with references to restrictions based on race, religion, color, or national origin.
- Denying membership in a homeowners’ association or condominium association where membership is required for ownership.

**Blockbusting** consists of inducing an owner to list or sell on the basis that the neighborhood is deteriorating or becoming transitional due to an influx of minority persons. Even unusually heavy solicitation for listings in racially transitional neighborhoods may be unlawful.

The following terms may not be used: “changing neighborhood,” “falling property values,” “bad schools,” or “undesirable elements.” The word “restricted” may not be used unless the exact nature of the restriction is described and is lawful.

**Steering** or **channeling** an individual, directly or indirectly, into or away from a neighborhood or location in a multi-unit building on the basis of race, color, religion, sex, or national origin. The use of a different sales pitch or catchwords that are suggestive of race, religion, sex, or national origin for different types of prospects is unlawful.
• **Redlining** is the refusal by a lender to approve a mortgage loan based on a property being located in a certain geographical area, the age of the property, the income level of the residents, or the racial composition of the area.

**Exemptions to the Civil Rights Act of 1968**

Exemption from provisions of the Civil Rights Act of 1968 does not provide an exemption from the Civil Rights Act of 1866. Therefore, racial discrimination is always prohibited. Generally speaking, the Civil Rights Act of 1968 prohibits discrimination in both single-family and multifamily housing. However, there are several exemptions, which include the following:

- Limited exemptions for the sale or rental of one- to four-family housing, when the owner lives in the property, does not use the services of a real estate broker, and does not use discriminatory advertising;
- Lodging in a private club for the noncommercial benefit of club members;
- Rental of rooms in owner-occupied dwellings of up to four families; and
- Property owned by churches or fraternal organizations used for lodging, provided that the church or fraternal organization does not discriminate in the selection of members.

**1988 Fair Housing Amendment**

The 1988 Fair Housing Amendment expanded the Civil Rights Act of 1968 to include handicap and familial status, including the following:

- People with physical or mental impairments that limit major life activities. Blind and deaf individuals may not be charged a higher security deposit or evicted because of guide dogs or primate helpers.
- Individuals with drug addiction problems. However, current drug users are specifically excluded from protection by the Act.
- Persons with acquired immune deficiency syndrome (AIDS) and recovering alcoholics cannot be refused housing.
- Women who are pregnant and people with children under the age of 18.

**Familial Status Exemptions**

Exemptions from the 1988 Fair Housing Amendment include the following:

- Housing occupied solely by persons who are 62 years of age or older.
- Housing with 80% or more of the units occupied by at least one person who is 55 years of age or older.
- Housing for the elderly or the poor that is financed or subsidized by state or federal government agencies.
The Civil Rights Act requires brokers to display a HUD (Housing and Urban Development) fair housing poster in all places of business, including model homes in subdivisions. Developers using FHA programs must undertake an affirmative marketing program to attract a cross section of the community.

### Summary of Protected Classes

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<thead>
<tr>
<th>Year Added and Legislation</th>
<th>Protected Classes</th>
<th>Memory Aid</th>
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<tbody>
<tr>
<td>1866 Civil Rights Act</td>
<td>Race</td>
<td>Realtors</td>
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<tr>
<td>1968 Title VIII of the Civil Rights Act (Fair Housing Act)</td>
<td>Color, Religion, Sex, National Origin</td>
<td>Can, Really, Sell, Nice</td>
</tr>
<tr>
<td>1988 Fair Housing Amendment Act</td>
<td>Handicap, Family</td>
<td>Houses, Fast</td>
</tr>
</tbody>
</table>

#### HUD Poster

The Civil Rights Act requires brokers to display a HUD (Housing and Urban Development) fair housing poster in all places of business, including model homes in subdivisions. Developers using FHA programs must undertake an affirmative marketing program to attract a cross section of the community.
Americans with Disabilities Act (ADA)

The American with Disabilities Act (ADA) was passed in 1990 with the purpose of providing the same employment opportunities to qualified individuals with disabilities that are available to persons without disabilities. It also provides access for all such persons to public buildings. Owners of properties open to the public are required to remove barriers that limit access or utility to individuals with disabilities.

Some of the features addressed by the ADA include:

- Raised lettering on elevator buttons
- Audible floor signals
- Height of fire extinguishers
- Wheelchair ramps
- Grab bars in restrooms
- Wheelchair accessible toilet facilities
- Handicapped parking

The ADA mandates design specifications for multifamily dwelling units to provide accessible and usable common areas for people with disabilities. The ADA also covers employment opportunities, telecommunications, and access to public transportation, public accommodations, and commercial facilities with the goal of eliminating barriers that affect individuals with disabilities.

For existing properties that do not comply with the ADA, the owners are required to make necessary modifications whenever such changes are readily achievable and economically feasible, which means easy to accomplish without much difficulty or expense. ADA standards must also be considered for new construction and renovation of public accommodations and commercial facilities.

Enforcement of Federal Fair Housing Laws

The Federal Fair Housing laws require that a complainant file a claim of violation of the Federal Fair Housing laws if they suspect a violation. They can file a complaint with the Department of Housing and Urban Development (HUD) or sue for civil damages in Federal district court. The Department of Justice (DOJ) sues on behalf of individuals based on referrals from HUD.

Under the Fair Housing Act, the DOJ may bring lawsuits where there is a reason to believe that there is a pattern or practice of discrimination or where a denial of rights to a group of persons raises an issue of general public importance. Where force or threat of force is used to deny or interfere with fair housing rights, the DOJ may institute criminal proceedings.

A violation of the Federal Fair Housing law is also a violation of F.S. 475. Therefore, a licensee found guilty of a violation of the Federal Fair Housing law would face possible disciplinary action by the Commission.

Florida Fair Housing Act

Florida Fair Housing Act [F.S. 760]

The Florida Fair Housing Act is very similar to the Federal Fair Housing Act. The Florida Commission on Human Relations administers this Act.

Discrimination in housing based on age is contrary to law, unless specific criteria are met. A facility or community can claim an exemption under certain conditions when housing
is provided for persons over the age of 55. Under F.S. 760.29(e), a facility or community must meet one of two criteria:

1. The housing is specifically designed and operated to assist elderly persons and is intended for, and solely occupied by, persons who are 62 years of age or older.

2. The housing is intended and operated for occupancy by persons who are 55 years of age or older and meets the following requirements:
   a. At least 80% of the occupied units are occupied by at least one person who is 55 years of age or older.
   b. The facility or community publishes and adheres to policies and procedures that demonstrate its intent to, in fact, be a provider of housing for older persons.
   c. The facility or community complies with rules established by HUD for verification of occupancy.

To qualify for an exemption, the facility or community is required to meet either criterion 1 or 2 above, but not both.

A facility or community, which claims an exemption under one of these criteria, is required to register with the Florida Commission on Human Relations. To register, the community must submit a certified letter on the letterhead of the facility or community, which must be signed by the president of the facility or community. A nominal fee paid by check, money order, or cashier’s check must be included with the letter. Registration is effective for two years, after which time the facility or community must reregister.

Registration alone does not qualify the facility or community for the exemption. Proof of compliance is required under rules established by HUD.

The law requires the commission to make available to the public a list of all facilities and communities that have requested registration. This list is available on the Florida Commission on Human Relations website at http://fchr.state.fl.us.

**Administrative Penalty**

An administrative fine of $500 will be assessed against any facility or community that knowingly submits false information in meeting the Florida Fair Housing Act requirements. [F.S. 760.29]

Penalties for violation of the Florida Fair Housing Act are specified in F.S. 760.34. The Commission may institute a civil action whenever it is unable to obtain voluntary compliance. The court is authorized to impose a fine of up to $10,000 for a first offense, up to $25,000 if the violator has been found guilty of a previous offense within the previous five years, and up to $50,000 if the violator has been found guilty of two or more offenses within the previous seven years. The court may also impose court costs and attorney’s fees in any action in which the Commission prevails.

**Discrimination Based on AIDS or HIV [F.S. 760.50]**

F.S. 760.50 declares that persons who are infected, or are believed to be infected, with the human immunodeficiency virus (HIV) have suffered and will continue to suffer irrational and scientifically unfounded discrimination. Such discrimination can deprive individuals of the means of supporting themselves, providing for their own health care, housing themselves, and participating in other opportunities.

Under this statute, persons who have acquired immune deficiency syndrome (AIDS), immune deficiency syndrome related complex, or human immunodeficiency virus (HIV) are designated as handicapped and are afforded all protections made available to such persons.
Federal and State Laws Pertaining to Real Estate

It is unlawful to discriminate against an otherwise qualified individual in housing, public accommodations, or governmental services on the basis of the fact that such individual is, or is regarded as being, infected with human immunodeficiency virus.

Any person who violates a provision of F.S. 760.50 is subject to action in court and may suffer liquidated damages of $1,000, or actual damages, whichever is greater. Intentional or reckless discrimination may subject a party to liquidated damages of $5,000 or actual damages, whichever is greater. The court may also impose attorney’s fees and costs to any violator of this section. [F.S. 760.50]

Stigmatized Properties

The fact that a property was or was suspected to have been the site of a homicide, suicide, or death is not a material fact that must be disclosed in a real estate transaction. No action can be taken against a person, including owners, landlords, and real estate licensees for failure to disclose such information. [F.S. 689.25]

FLORIDA AMERICANS WITH DISABILITY ACCESSIBILITY IMPLEMENTATION ACT

The Florida Legislature enacted the Florida Americans with Disability Accessibility Implementation Act in 1993 to incorporate the architectural accessibility requirements of the Americans with Disabilities Act (ADA) into Florida law. The Florida Building Code, F.S. 533, was updated to ensure that Florida standards meet or exceed federal ADA standards.

FLORIDA RESIDENTIAL LANDLORD AND TENANT ACT

The Florida Residential Landlord and Tenant Act (F.S. 83) is intended to reduce inequities and confusion by defining the rights of landlords and tenants in both residential and nonresidential relationships. The Florida Residential Landlord and Tenant Act is divided into three parts: Part I regulates nonresidential tenancies, Part II regulates residential tenancies, and Part III regulates self-service storage. The primary focus of this discussion is the residential section of the Act.

Florida law does not distinguish between a rental and a lease. Both a tenancy at will and a tenancy for years are considered to be leases since both are agreements between a landlord and tenant. These are discussed further in the next chapter.

If a court finds that a lease contract contains provisions that are unconscionable or in material conflict with the statute, the lease provision or the entire lease contract may be declared unenforceable in court. [F.S. 83.45]

Landlord’s Obligation to Maintain the Premises

The landlord must maintain the property in compliance with applicable building, housing, and health codes. [F.S. 83.51]

Landlord Access

The landlord may enter the dwelling unit upon reasonable notice to the tenant. Reasonable notice for the purpose of repair is notice given at least 12 hours prior to the entry. Entry for purposes of making normal repairs must be between the hours of 7:30 a.m. and 8:00 p.m. The landlord may enter at other times with the permission of the tenant.

The landlord’s entry must be for a useful purpose, and not to harass the tenant. The landlord may enter the dwelling unit at any time for the protection or preservation of the premises. [F.S. 83.53]
Landlord Prohibited Practices

In an attempt to collect rent, no landlord can cause, directly or indirectly, the termination or interruption of any utility service furnished to the tenant. The landlord cannot prevent a tenant from gaining reasonable access to the dwelling unit. The landlord cannot remove outside doors, locks, or a tenant’s personal property from the dwelling unit unless the unit has been surrendered, abandoned, or the tenant has been lawfully evicted.

If the landlord violates these provisions, the landlord is liable to the tenant for actual damages or three months’ rent, whichever is greater, and costs including attorney’s fees. [F.S. 83.67]

Security Deposits and Advance Rents

The landlord is required to make clear provisions for the handling of deposit money and advance rent held for periods other than the next immediate rental period. The landlord is required to notify the tenant in writing within 30 days of receiving the security deposit or advance rent as to the manner in which the landlord is holding the funds and the interest being accrued, if any.

The landlord options and procedures for handling the security deposit money and advance rent are as follows: [F.S. 83.49]

- Hold the total amount of the security deposit or advance rent in a noninterest-bearing escrow account in a Florida banking institution for the tenant’s benefit. The landlord cannot commingle the funds with any other funds of the landlord.
- Hold the total amount of the security deposit or advance rent in an interest-bearing escrow account in a Florida banking institution for the tenant’s benefit. The tenant shall receive 75% of the interest earned or 5% simple interest at the election of the landlord. The landlord cannot commingle the funds with any other funds of the landlord.
- Post a surety bond with the clerk of the circuit court in the county in which the dwelling unit is located in the amount of the total security holdings or $50,000, whichever is less.
The security deposit and advance rents may then be commingled with other funds of the landlord. The landlord must pay the tenant 5% simple interest annually on money held in this manner.

If a real estate broker is operating as a rental agent for a landlord, any security deposits or advance rental fees received must be deposited in accordance with these requirements.

Return of Security Deposit

Upon the tenant’s vacating of the premises, the landlord has 15 days to return the security deposit including accrued interest, if any, if there is no intention of making a claim for damages against the deposit. If the landlord intends to make a claim for damages against the deposit, the landlord has 30 days in which to notify the tenant. The landlord’s notice of intention to file a claim must be made by certified mail. Unless the tenant objects within 15 days after receiving the landlord’s notice, the landlord can deduct the amount of the claim from the deposit and return the balance remaining to the tenant within 30 days after the notice of intention to impose a claim. [F.S. 83.49]

A landlord may dispose of personal property left by a former tenant up to a value of $500.
Tenant’s Obligation to Maintain Dwelling Unit

The dwelling unit must be kept clean and sanitary, and the tenant should not destroy, deface, damage, impair, or remove any part of the premises or property belonging to the landlord nor permit any person to do so. The tenant’s conduct should be in a manner that does not unreasonably disturb neighbors nor constitute a breach of the peace. [F.S. 83.53]

Termination of a Lease [F.S. 83.56]

If the landlord does not make repair to or maintain the premises as required by statute or the rental agreement within seven days after receiving written notice from the tenant, the tenant may terminate the rental agreement. If the cause of the landlord’s failure to maintain the dwelling unit is beyond their control, the rental agreement may be terminated or altered by the parties. If the tenant vacates the premises due to untenable conditions, the tenant shall not be liable for rent during the period in which the dwelling unit remains uninhabitable; or, the tenant can maintain occupancy at a reduced rental rate during the period of noncompliance by seeking a temporary rent reduction from the court. If the tenant violates the statute or the rental agreement by not residing in an acceptable manner, the landlord can deliver written notice to the tenant which specifies the noncompliance and the landlord’s intention to terminate the rental agreement. In such event, the landlord may terminate the rental agreement, and the tenant shall have seven days from the date of notice to vacate the premises.

Failure to Pay Rent

If the tenant fails to pay rent when due, the landlord can deliver a written demand for payment of the rent or possession of the premises. If the default continues for three business days after delivery of the demand for payment, the landlord may terminate the rental agreement.

Eviction Process

The eviction process starts when the landlord provides proper notice to the tenant that they must vacate the property. Notice may be given for failure to pay rent or for other reasons, such as criminal activity on the property. F.S. 83 specifies the content and the time periods of the required notices. For example, the tenant may be given a three-day notice for failure to pay rent or a seven-day notice for other lease violations. If the tenant does not remedy the violation within the specified period, the landlord’s next step is to file a complaint with the county clerk. The county clerk will issue an eviction summons to be served by the Sheriff. The tenant has five-business days in which to answer or respond to the summons. If the tenant fails to respond to the summons, the landlord can file a motion for default. If default is granted, a final judgment and a writ of possession are issued. The writ of possession is given to the sheriff to serve upon the tenant. One way in which the sheriff can serve the tenant is to post a 24-hour notice of removal on the tenant’s door. If the tenant does not vacate within 24 hours, the sheriff may physically remove the tenant. However, if the tenant responds to the eviction summons within the specified period, various options for mediation or hearing are available. During this process, the landlord is responsible for any fees, including for the sheriff, locksmith, moving company, and court filings.
Exceptions to the Florida Residential Landlord and Tenant Act

The Florida Residential Landlord and Tenant Act does not apply when:

- A tenant is a resident or is detained in a public or private facility for medical, geriatric, education, counseling, religious, or similar services incidental to the detention.
- A tenant is an occupant of a dwelling unit that is under a contract for sale.
- A tenant is a transient occupant within a hotel, condominium, motel, rooming house, or similar public lodging or within a mobile home park.
- A tenant is an occupant in a cooperative apartment under a proprietary lease.
- A tenant is an occupant of a condominium unit that the tenant owns.

Other State and Federal Laws Affecting Real Estate

Telephone Solicitation Laws

Telephone solicitation is regulated by both state and federal laws. Before attempting to call potential sellers for the purpose of soliciting listings, licensees must become familiar with the following laws:

- **Florida law.** Florida law registration on the state “do not call” list may be made with the Division of Consumer Services. There is a nominal application and annual renewal fee. Anyone making an unsolicited telephone sales call to a listed residential, mobile, or paging device must immediately identify themselves by name and state the name of the business they represent. Violators of this statute may be subject to a fine of up to $10,000. [F.S. 501.059]
  
  An exception to the Florida law is a For Sale by Owner (FSBO). An FSBO owner may be contacted by a licensee to solicit the listing (Florida “do not call” list only).

- **Federal law.** Federal law prohibits telephone solicitation calls before 8:00 a.m. and after 9:00 p.m. Individuals may request to be placed on a federal “do not call” list, which must be observed by any firm using telephone solicitation methods. Violators are subject to a fine of $40,000 per call. There is no charge for registration.
  
  A licensee may call an owner whose name appears on a “do not call” list when representing a buyer interested in buying the property but may not use the showing in an attempt to obtain a listing.

The “do not call” law gives exemptions to political candidates, charities, and those people conducting surveys. Real estate brokerage companies with which customers have existing business relationships are also exempt from the “do not call” rules and registries. A brokerage may call a customer, even if that customer is on the registry, under the following conditions:

- Within 18 months after that customer’s last purchase, delivery, or payment
- Within three months after that customer makes an inquiry, such as signing an open house registry
State and Federal Environmental Laws

Many federal and state laws regulate environmental problems, provide funding for research and development, prohibit certain activities, and require permits for other activities.

- Federal laws include:
  - National Environmental Policy Act
  - Clean Air Act
  - Solid Waste Disposal Act
  - Federal Water Pollution Control Act

- Florida laws include:
  - Beach and Shore Preservation Act
  - Drainage and Water Management Act
  - Salt Water Fisheries Conservation Act
  - Environmental Land and Water Management Act
  - Growth Management Act of 1985 with Amendments in 1992
CHAPTER 7 REVIEW QUESTIONS

1. The 1866 Civil Rights Act prohibited discrimination on the basis of _____________.

2. An owner who does not use the services of a broker and does not discriminate in advertising is ____________ from the Civil Rights Act of 1968.

3. Lenders that refuse to make loans in certain geographical areas based on social or economic considerations are practicing _____________.

4. According to the Americans with Disabilities Act, owners are required to make modifications to properties to comply with the Act whenever the modifications are ____________ ____________.

5. When a violation of the Federal Fair Housing law is suspected, a ____________ can file a complaint with the Department of ____________ ____________ ____________ ____________.

6. A violation of the Federal Fair Housing law is also a violation of _____________. Therefore, a licensee found guilty of a violation of the Federal Fair Housing law would face possible disciplinary action by the _____________.

7. A landlord who maintains advance rents and security deposits in a ____________ ____________ ____________ ____________ is not required to pay interest on the funds being held.

8. Persons who have ____________ or ____________ are designated as handicapped and are afforded all protections under the 1988 Fair Housing Amendment.

9. Under the Civil Rights Act of 1968, denying membership in a ____________ ____________ or ____________ ____________ is prohibited where membership is required for ownership.

10. A landlord who intends to make a damage claim against a security deposit must notify a tenant of any such intention within ____________ days.

11. If a landlord holds security deposits and advance rents in an interest-bearing account but does not commingle them with other funds, the tenant is entitled to ____________ of the interest earned or ____________ ____________ ____________.

12. The fact that a property was a site of a ____________, ____________, or ____________ is not a material fact that must be disclosed in a real estate transaction.

13. A licensee may call a customer who appears on the “do not call” list within ____________ months after the customer purchased a home.

14. Federal law governing telephone solicitations prohibits calls to residences after ____________.

15. A violation of the Florida Telephone Solicitation Act could result in a fine of up to _____________.

CHAPTER 7 PRACTICE EXAM

1. What was the significance of the 1968 Jones v. Mayer Supreme Court ruling?
   a. Handicap and familial status protections were added.
   b. Certain exemptions were upheld for racial discrimination.
   c. Discrimination based on race was strictly prohibited, preventing exceptions of any kind.
   d. Persons with AIDs or HIV were designated as handicapped.

2. All of the following are correct regarding the Americans with Disabilities Act, EXCEPT:
   a. Owners must make all accessibility modifications with no regard to the cost of improvement.
   b. ADA is intended to eliminate barriers that limit access to persons with disabilities.
   c. ADA mandates certain design specifications for accessibility.
   d. Owners of property open to the public may be required to remove barriers to accessibility.

3. Under the Florida Residential Landlord and Tenant Act, a landlord is required to do all of the following, EXCEPT:
   a. Bargain in good faith
   b. Provide maintenance sufficient to comply with code
   c. Notify the tenants within 30 days of the manner in which security deposits and advance rents are being held
   d. Deposit advance rent and security deposits in an interest-bearing account

4. If a security deposit is held by a landlord, what is the landlord required to do?
   a. Deposit the funds in compliance with F.S. 475.
   b. Notify the tenant of the location of the funds within 20 days of receipt of the funds.
   c. Pay interest at the rate of 5% per year, with disbursements at least once each year.
   d. Return the funds within 15 days after the tenant vacates the premise or give notice within 30 days of the intention to impose a claim against the security deposit by certified mail.

5. What term is used to describe a situation in which a real estate licensee tells a customer that an advertised property is NOT available for sale when, in fact, it is?
   a. Steering
   b. Restricting
   c. Conspiring
   d. Blockbusting

6. What term is used to describe the actions of a broker who induces an owner to list or sell on the basis that the neighborhood is deteriorating due to minority influences?
   a. Steering
   b. Channeling
   c. Conspiring
   d. Blockbusting
7. All of the following are protected classes under the 1988 Amendment to the 1968 Fair Housing Act, EXCEPT:
   a. People with physical or mental impairments that do not limit major life activities
   b. Individuals with drug addiction problems who are not current users
   c. Persons with acquired immune deficiency syndrome (AIDS) and recovering alcoholics
   d. Women who are pregnant and people with children under the age of 18

8. A property owner is registered on both the state and federal “do not call” lists. Which statement correctly applies to solicitation calls to this owner by a licensee?
   a. Calls may be made only between 9:00 a.m. and 8:00 p.m.
   b. Calls may not be made when representing a buyer.
   c. Calls could result in a fine of up to $15,000.
   d. Calls are not permitted when attempting to obtain a listing.

9. A real estate licensee refuses to show properties in high-end neighborhoods to minority buyers. The licensee is engaged in which illegal practice?
   a. Blockbusting
   b. Redirecting
   c. Steering
   d. Redlining

10. A real estate licensee attempts to induce sellers to list and sell their properties by starting rumors that minorities are taking over a neighborhood. What could the licensee be charged with?
    a. Steering
    b. Blockbusting
    c. Redlining
    d. Channeling

11. The Fair Housing Act of 1968 prohibits discrimination based on which of the following?
    a. Age
    b. Marital status
    c. Occupation
    d. National origin

12. Which legislation prohibited discrimination based on religion?
    a. Civil Rights Act of 1866
    b. Civil Rights Act of 1968
    c. Civil Rights Act of 1964
    d. 1988 Fair Housing Amendment

13. What is the maximum fine that may be imposed for a first time violation of the Florida Fair Housing Act?
    a. $5,000
    b. $10,000
    c. $25,000
    d. $50,000

14. What is the first step in the eviction process?
    a. The landlord notifies the tenant that they must cure the problem within a specified time period or vacate the property.
    b. The sheriff posts a 24-hour notice of removal on the tenant’s door.
    c. The county clerk issues an eviction summons.
    d. The landlord files a motion for default.

15. When may a landlord commingle a tenant’s security deposit with other business funds?
    a. When the landlord pays the tenant 75% of the interest earned
    b. When the landlord deposits the funds into a non-interest bearing escrow account
    c. When the landlord posts a surety bond
    d. When the landlord places the funds into an escrow account controlled by the property management company
CHAPTER 8

REAL PROPERTY RIGHTS

OVERVIEW
This chapter examines the concept of real property ownership, what it is, and what it is not. The physical aspect of real estate and the legal rights associated with ownership are discussed. Various methods of owning property and limitations that affect ownership are discussed. Certain rights of use are distinguished from actual ownership of property.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Know the F.S. 475 definition of real property
- List and explain the physical components of real property
- Explain the four tests used by the courts to determine if an item is a fixture
- Distinguish between real and personal property
- Describe the bundle of rights associated with real property ownership
- List the principal types of estates (tenancies) and describe their characteristics
- Describe the features associated with the Florida Constitutional Homestead Rights
- Distinguish between condominiums, cooperatives, and timeshares
- Describe the four main documents associated with condominiums

KEY TERMS

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<th>Community development districts</th>
<th>Personal property</th>
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<td>Condominium</td>
<td>Proprietary lease</td>
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<tr>
<td>Cooperative</td>
<td>Real estate</td>
</tr>
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<td>Declaration</td>
<td>Real property</td>
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<td>Fee simple estate</td>
<td>Remainderman</td>
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<td>Fixture</td>
<td>Right of survivorship</td>
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<td>Freehold estate</td>
<td>Separate property</td>
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<tr>
<td>Homeowners’ Association</td>
<td>Tenancy at sufferance</td>
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<td>Homestead property</td>
<td>Tenancy at will</td>
</tr>
<tr>
<td>Joint tenancy</td>
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<tr>
<td>Land</td>
<td>Tenancy (estate) for years</td>
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<td>Leasehold estate</td>
<td>Tenancy in common</td>
</tr>
<tr>
<td>Life estate</td>
<td>Timeshare</td>
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**REAL AND PERSONAL PROPERTY**

**Real Property**

F.S. 475.01 provides definitions related to licensed individuals who receive compensation for the various services of real estate for real property. In this context, the terms *real property* and *real estate* are used interchangeably to refer to any interest or estate in land and any interest in business enterprises or business opportunities, including any assignment, leasehold, sub-leasehold, or mineral right.

Although the terms real estate and real property are often used interchangeably by most people, there are important differences in these terms regarding property ownership rights and use that must be understood. Each is defined below:

- **Real estate.** *Real estate* is physical, tangible, and immobile. It includes the earth’s surface, subsurface, and the air above the surface. It also includes anything growing on the land, anything permanently attached to the land, and all improvements on and to the land. There are, however, certain exceptions. Improvements are anything man-made, such as buildings or other relatively permanent structures attached to or located on the land. The definition of real estate includes everything provided by nature such as mineral deposits, wildlife, timber, fish, water, and soil.

- **Real property.** *Real property* includes the physical land and improvements (real estate), together with legal rights to own or use the property. An individual’s property rights are guaranteed and protected by government.

Although one may own the air extending above the surface of the property, the right to own it is limited. For example, an owner cannot prevent airplanes from flying through their airspace.

As can be seen in this diagram, real estate includes the surface, the subsurface to the center of the earth, and the airspace above the surface.

Ownership of the subsurface extends below the surface to the center of the earth in a “V” shape. This includes ownership of natural resources such as coal, oil, and natural gas.

Surface rights allow property owners to use the surface of the land to build buildings, grow crops, and so on.

The physical real estate can be divided and its components bought and sold separately. Mineral rights, for example, are often sold while ownership of the surface and air is not affected. Buildings can be built on air rights, without the actual transfer of ownership of the land or subsurface.

Of special concern are the rights associated with the use or ownership of water. Water, in some instances, may be the property of the owner; in other cases, it may be considered to be public domain. A man-made lake on an owner’s property is typically considered to be fully owned by the property owner. On the other hand, a natural lake may or may not be.

Laws involving the ownership or use of water are complex. Licensees are cautioned to investigate carefully the rights associated with water that is on or contiguous to a property.
The following two types of water rights are of particular significance:

- **Riparian rights.** Riparian rights are the rights of an owner whose property borders a flowing waterway such as a river or stream. The property owner is not considered to be the owner of the water flowing over or past the property, but has a right of reasonable use of the water. This includes fishing, swimming, and so on, but the property owner is not allowed to divert or pollute the water, thus interfering with the rights of others who have a subsequent right to use the same water.

- **Littoral rights.** Littoral rights are the rights of owners of property bordering non-flowing water, such as an ocean, sea, or lake. These rights generally give the property owner rights only to the shoreline or high-water mark. In the case of ocean- or gulf-front properties, the ownership extends to the mean high-tide mark.

Natural processes related to water and their definitions include the following:

- **Erosion.** Erosion refers to the loss of soil that is carried away by water washing against a riverbank or a beach.

- **Accretion.** Accretion is an increase in land area as moving water deposits soil in other than its original location. This is the opposite of erosion.

- **Alluvion.** Alluvion is soil resulting from accretion.

- **Reliction.** Reliction is the exposure of dry land once covered by water when the level in a lake recedes, or a river or stream changes course.

**Personal Property, Personalty, or Chattels**

*Personal property, personalty, and chattels* are synonymous terms. Personal property is movable, which means that it is not permanently attached to the land or buildings on the land. Personal property includes items such as furniture, automobiles, stocks, bonds, money, and mortgages.

**Tangible versus Intangible**

Something that is tangible has physical existence. Real estate is considered to be tangible. Something that is intangible has no physical existence, which means that it cannot be touched. Stocks and bonds, for example, are intangible.

**Fixtures**

A fixture is an item that was once personal property, but has been installed or attached to the land or building in a permanent way that has caused it to become part of the real estate. When a residential tenant adds a fixture to a property, it cannot be removed at the expiration of the lease and becomes the property of the landlord.

**Trade Fixtures**

*Trade fixtures* are articles of personal property that have been attached to real estate that is rented or leased by a tenant and used in the conduct of business. Personal property installed to conduct a business or trade is not considered part of the real estate and can be removed during or at the termination of a lease.
Real Estate Transaction Property Distinctions

In a real estate transaction, licensees should be careful to distinguish between real and personal property. Unless a contract states otherwise, the sale of real property does not include items of personal property. The potential for conflict between the parties to a real estate transaction can be significantly reduced by clearly identifying in a sales contract those items of personal property that are to be included. It is often wise to identify items of personal property that are not to be included, but may become the subject of a later disagreement.

If a lawsuit should arise between the parties to a real estate sales transaction over which items were to be included in the sale and which were not, courts may be called upon to decide. Courts usually employ four legal tests to decide if an item is real or personal property. Since the sale typically only involves the transfer of real property, this can be an extremely important decision.

The four tests used by courts to determine real or personal property are as follows:

- **Intent of the parties.** By reviewing the listing and sales contracts, the court may be able to decide what was intended. The words and actions of the parties before, during, and after the sale may also be considered in making this decision.

- **Relationship of the parties.** The terms of a lease, for example, may specify that certain improvements made by a tenant during the term of the contract may be removed at the expiration of the lease. This legal relationship may be the basis for the court’s decision.

- **Method of annexation.** How an article is attached to the property may very well determine, in the judgment of the court, whether an item should be removed or not. Typically, if tools are required for the removal, and damage may occur to the item or the property from which the article is to be removed, it is classified as part of the real estate. There are exceptions to this general rule.

- **Adaptation of the article.** This test looks to the manner in which the item in dispute is being used. If the item is necessary to fulfill the purpose and utility for which the building was constructed, the court will usually decide the item is real property.

**Memory Device: “IRMA”**

The four tests used by courts to distinguish between real and personal property are:

- **I** = Intent
- **R** = Relationship
- **M** = Method of annexation
- **A** = Adaptation

Legal Rights in Property

Real property laws in the United States are based on the *allodial system*, which allows private citizens the right to own land. The legal rights of ownership are often compared to a bundle of sticks, with each stick representing a separate transferable right. All property rights taken together may be thought of as a *bundle of rights* with each right representing a separate “stick” in the bundle.
There are five large "sticks" in the bundle of rights:

- **Possession.** An owner has a right to possess or occupy the property.

- **Disposition.** An owner generally has the right to sell the property, to give it away, or leave it in a will. There are exceptions as will be discussed later.

- **Enjoyment.** An owner has the right to quiet use and enjoyment of the property without disturbance by hostile claimants.

- **Exclusion.** Owners have the right to prevent others from entering or using their property.

- **Control.** An owner has the right to determine how the property will be used.

The physical real estate and the legal rights of ownership can be subdivided into a countless variety of smaller "bundles." This divisibility feature is very important to understand, and will be illustrated later in this chapter.

**ESTATES**

**Estates Defined**

An estate is the degree, quantity, nature, and extent of interest or ownership rights a person can have in real property. That portion of the bundle of rights the individual has determines the extent or type of estate held. As was discussed previously, real property ownership can be undivided, or divided into various types of smaller estates.

A party entitled to rights in property is a **tenant.** The word tenant is commonly thought of in connection with rentals; however, at law, the term refers to anyone who has rights in property. An owner of property is a tenant with reference to their property, as is a renter when in possession of someone else’s property.

Obviously, the rights of an owner and those of a renter are quite different. Each, however, has an estate that can be defined by the duration and quality of those rights.

**Freehold Estates**

A **freehold estate** is an estate involving ownership. Anyone who owns real property has a freehold estate. Freehold estates have no specified time for the rights to expire. There are two types of freehold estates: fee simple estate and life estate.

- **Fee simple estate (fee, fee simple, fee simple absolute).** In a **fee simple estate,** the owner has a complete bundle of rights. A fee simple estate is the simplest and yet the most comprehensive estate in land. It is the most desirable and most common type of estate.

  There are four ways the fee simple estate may be held:

  o **Estate in severalty.** An **estate in severalty** is sole ownership of the entire bundle of rights. With an estate in severalty, the owner may leave their interest in a will. If the owner dies intestate (without a will), the interest will descend to the owner’s heirs.

  o **Tenancy in common (estate in common).** A **tenancy in common** is a fee estate held by two or more persons. Each person has an undivided interest in the whole
property. A tenancy in common ownership can be created by the same or different deeds, at the same or different times, with equal or unequal shares of ownership. All owners, however, have equal rights of use and possession.

The owner of a tenancy in common interest may sell their interest during their lifetime without the consent of the other owners, and without affecting any other owner’s rights.

A tenancy in common owner may leave their interest in a will. If the owner dies intestate, the interest will descend to the owner’s heirs.

- **Joint tenancy (joint estate).** A *joint tenancy* is a fee estate shared by two or more persons who must have equal and undivided interests. A joint tenancy can be created only when the four unities of possession, interest, time, and title are present. In other words, all tenants must have equal rights of use and possession, equal and undivided interests, and have acquired their ownership at the same time by the same deed or conveyance.

  The distinctive characteristic of a joint tenancy is the *right of survivorship*. Upon the death of a joint tenant, the interest of the decedent does not pass according to a will or by descent and distribution; it passes instead to the surviving joint tenants.

  The interest cannot be left in a will since the form of ownership dictates the succession of ownership.

  A joint tenant can sell the ownership interest during their lifetime. However, the purchaser will be a tenant in common since the four unities are not present.

  In Florida, a joint tenancy can only be created if the right of survivorship is clearly expressed in the deed or conveyance. If not, a tenancy in common results.

  **Memory Device: “PITT”**

  The four unities required to create a joint tenancy are:

  \[ P = \text{Possession} \]
  \[ I = \text{Interest} \]
  \[ T = \text{Time} \]
  \[ T = \text{Title} \]

- **Tenancy by the entireties.** *Tenancy by the entireties* is an estate for a husband and wife only. The marriage is considered to be the owner of the property in which each spouse has a right of survivorship. Upon the death of one spouse, the surviving spouse will own the property in fee simple as an estate in severalty.

  Since the marriage is the technical owner of the property, one spouse alone cannot do anything that affects the ownership without the other spouse’s consent. Debts incurred by only one spouse cannot be enforced against the property. A spouse, by themself, may not place a mortgage against the property, sell their interest outside of the marriage, or leave their interest in a will. The law serves to protect the marriage against the inappropriate actions of one spouse that negatively affect the other.

  The estate by the entireties is created automatically whenever a husband and wife purchase property at the same time if both names appear on the deed and no other ownership form is specified.

  In the event of a divorce, the ownership converts to a tenancy in common, unless otherwise dictated by a court.
In Florida, a husband and wife are permitted to own property separately from the marriage. Property owned in one spouse’s name before the marriage or acquired by gift or inheritance during the marriage is considered separate property. The spouse owning this property can convey it without the consent of the other. [F.S. 61.075 (4)(b)]

Florida does not recognize community property, which is the case in some states. In a community property state, all property acquired during the marriage is owned jointly by both spouses.

- **Life estate.** A life estate is a freehold estate created when an owner of a fee simple estate conveys ownership to another, but only for the balance of the lifetime of the party to whom the property is conveyed. The party who receives the ownership of a life estate is called a life tenant. During the life of the life tenant, they have all rights in the property. They may lease it, mortgage it, or even sell it. However, the life tenant cannot convey more rights than they possess and must preserve the property for the one who is to receive it upon their death.

  Since the life tenant has no ability to control the property after their death, in the event the property is leased, mortgaged, or sold, those rights terminate upon the death of the life tenant.

  Provision must be made in the deed that creates a life estate for the succession of ownership upon the death of the life tenant. The party who created the life estate, called the grantor, may wish to have the property ownership returned to them or to their heirs. The right to regain the ownership is called a reversion estate. The grantor may instead wish to have the property pass to another person or entity named in the original deed. If someone other than the original owner is to receive the ownership, it is called a remainder estate. The difference between a reversion estate and a remainder estate is simply who is to receive the ownership.

  If the remainderman is certain to receive the rights, they are a vested remainderman. If there is uncertainty as to whether or not the rights will pass to the remainderman, they are a contingent remainderman (e.g. future children). A life estate is usually, but not always, based on the life of the life tenant. Instead, it may be based on the life of a third person. When based on the life of a third person, the estate is called an estate pur autre vie, which means “an estate for the life of another.”

  One who has possession or control of property has an estate in possession. An owner in fee simple or a life tenant has an estate in possession. When a party is to receive rights in the future, they have an estate in expectancy. A remainderman would have an estate in expectancy.

**Non-freehold (Leasehold) Estates**

A non-freehold, or leasehold, estate is an estate in which the tenant does not have an ownership interest in the property. The tenant only has a right of possession and use. There are three types of non-freehold estates as follows:

- **Tenancy at will.** A tenancy at will is a non-freehold estate with the tenant in lawful possession of the property under an agreement with the landlord, but with no definite time limit for the rights to terminate. The agreement can be oral or written, and is referred to as a period-to-period tenancy. All oral leases are tenancies at will.

  A tenancy at will is terminated by the sale of the property or by death of either party. It can also be terminated at the will of either the landlord or tenant by giving proper legal notice.
The length of the tenancy determines the notice period required to terminate a tenancy at will. The frequency of the rental period typically determines the length of the tenancy and establishes the notice period required to terminate the agreement. The required notice periods are:

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<th>Nonresidential</th>
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<td>7 days</td>
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<tr>
<td>Month-to-month</td>
<td>15 days</td>
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<tr>
<td>Quarterly</td>
<td>30 days</td>
<td>45 days</td>
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<tr>
<td>Annual</td>
<td>60 days</td>
<td>90 days</td>
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### Types of Estates (or Tenancies)

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<th>Type</th>
<th>Definition</th>
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<th>Definition</th>
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<td>Freehold (Ownership)</td>
<td>Life Estate Ownership is conveyed to the life tenant only for the balance of the lifetime.</td>
<td>At Will</td>
<td>No definite time limit; oral or written</td>
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<tr>
<td>Life Estate</td>
<td>Ownership is returned to grantor upon death.</td>
<td>For Years</td>
<td>Specified time period; written and witnessed</td>
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<td>In Severalty</td>
<td>Sole ownership; inheritability</td>
<td>Reversion</td>
<td>Ownership is returned to grantor upon death.</td>
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<tr>
<td>In Common</td>
<td>Co-ownership with undivided interest in property; equal or unequal shares of ownership; inheritability</td>
<td>Remainder</td>
<td>Ownership is passed to another.</td>
</tr>
<tr>
<td>Joint</td>
<td>Co-ownership; with equal rights of possession, interest, time, and title; survivorship</td>
<td>At Sufferance</td>
<td>No agreement</td>
</tr>
<tr>
<td>By the Entitiles</td>
<td>Co-ownership between husband and wife; survivorship</td>
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</table>

- **Tenancy for years.** A tenancy for years is a non-freehold estate with the tenant in lawful possession of the property under an agreement with the landlord for a specified period of time. There must be a definite beginning and a definite ending date for the rights to exist, and these dates must be specified. A tenancy for years must be in writing, signed by the landlord, and witnessed by two persons. Termination of a tenancy for years can occur by mutual agreement of the parties, by expiration of the agreed-upon lease period, or by a breach of contract, which may result in a lawsuit. The landlord has an estate in reversion while the tenant is in possession of the property.
Tenancy at sufferance. A tenancy at sufferance is a non-freehold estate that arises when a tenant occupies a landlord’s real estate in the absence of any agreement. The most common example is when a tenant “holds over” after the expiration of a lease. A tenancy at sufferance may be terminated by either landlord or tenant without notice. In this situation, the tenant owes the landlord fair market rent for the period of occupancy. [F.S. 83.58]

Elective Share

Dower and curtesy laws are a common law system, which establish the rights in property of widows and widowers upon the death of a spouse. These laws were repealed in Florida in 1976 and replaced by the elective share. Under dower and curtesy laws, spouses were not treated equally. Florida enacted the elective share provision to create a balance of rights in property between marital partners.

Elective share provides for a surviving spouse to be entitled to 30% of the decedent’s real and personal property owned at the time of death. The purpose of elective share is to prevent a spouse from being harmed by an unfair will. If a decedent left less than 30% to their spouse, the surviving spouse can use this right to override the will and claim at least that amount.

Elective share is not automatic. It must be elected by filing with the court within four months of the date of first public notice of the administration of the estate. If the will is litigated, elective share must be filed with the court within 40 days following the termination of litigation. Elective share is a personal right and cannot be sold or transferred to another person. Once a 30% share has been transferred to the surviving spouse, the surviving spouse owns the property in fee simple and can dispose of it through sale, or use the property as desired.

Elective share does not apply to property owned as a tenancy by the entireties. This protection is unnecessary since a surviving spouse is the sole owner of the property.

Elective share does not apply to homestead property. (For additional information on this topic, refer to the Constitutional Homestead Rights section in this chapter.)

Descent and Distribution

Probate laws provide for the passing of property to legal heirs under the law of descent and distribution. When an individual dies intestate (without a will), the law stands between the property of the decedent (the individual who died) and any possible claimants, to be certain that the assets of the decedent are distributed fairly and in accordance with the law.

The court will appoint a personal representative to administer the affairs of the decedent and distribute the assets according to the law of descent and distribution.

Under the law of descent and distribution, all property passes to a surviving spouse if there are no lineal descendants or no lineal descendants of both spouses. Lineal descendants are persons who are in direct line to an ancestor, such as children, grandchildren, and great-grandchildren. If there are lineal descendants, who are not lineal descendants of both spouses, then the surviving spouse receives one-half of the property. The balance of the property is divided among the lineal descendants. [F.S. 732.103]

The law of descent and distribution does not apply if the decedent dies testate (left a will). Instead, the court will confirm the appointment of the personal representative named in the will and require the personal representative to show that the terms of the will are followed in the distribution of the assets.
Constitutional Homestead Rights

The Florida Constitution defines a *homestead* (or homestead property) as, "any real property owned by the head of a household who resides therein." This includes women or men who live alone. Either spouse can claim to be the head of household.

The Florida Constitution exempts homestead property from the execution and forced sale of the property to satisfy personal judgment liens, such as personal loans or credit card debt, which are held against the head of a household. However, homestead property can be foreclosed upon for debts that are related to the property and debts entered into jointly by both spouses. In other words, homestead property can be sold at foreclosure for nonpayment of any lien, except a judgment lien against the head of household.

The amount of property protected by homestead rights is limited to one-half acre if the homestead is located within a municipality or to 160 acres if located outside of a municipality. The value of the homestead is not considered. If the property is greater than these limits, the amount over these limits may be foreclosed and sold to satisfy creditors.

Special rules apply to the distribution of homestead property upon the death of an owner. If the homestead were owned as separate property of the decedent, the surviving spouse is entitled to a life estate; however, if there are lineal descendants, they become vested remaindermen. A related provision entitles the surviving spouse to $1,000 worth of personal effects, $10,000 worth of home furnishings, and all automobiles.

The homestead rules override any attempted disposition in a will, with only one exception. The homestead property may be left in fee simple to the surviving spouse if there are no minor children. Homestead rights are a provision of the Florida State Constitution and take precedence over the law of descent and distribution, and elective share.

If the homestead is abandoned, homestead rights are lost. These rights are not lost as a result of divorce if there are minor children who continue to live in the property. Both spouses must sign any conveyance or mortgage of homestead property, even if the property is owned as separate property by only one spouse.

The constitutional homestead rights are automatic to those who qualify and do not require the filing of any documents in the public records. The Homestead tax exemption, discussed in Chapter 18, is a statutory benefit rather than a constitutional right and does require the property owner to file for the exemption.

Condominiums, Cooperatives, and Timeshares

The Division of Florida Condominiums, Timeshares, and Mobile Homes within the Department of Business and Professional Regulation (DBPR) is the regulatory agency for the operation of condominiums, cooperatives, mobile home parks, and timeshare facilities. Condominiums, cooperatives, and timeshares are all considered to be real estate; therefore, a real estate license is required to sell or lease these types of properties unless the individual works directly for the owner-developer and is paid a salary.

Condominiums

Consumer demand for condominium ownership is especially popular in areas where desirable land is scarce. Condominium ownership has social and economic advantages over apartment living. Condominium ownership is compatible with the lifestyles of people who desire time to pursue leisure activities and freedom from the personal responsibility for maintaining the exterior of their properties.

Condominiums provide for the ownership of individual units within a multiple-unit building. Each owner owns a three-dimensional airspace within the building and has title to the airspace within the walls, floor, and ceiling of each unit.
The ownership of each condominium unit includes a fractional ownership of the common areas. The building is a common element along with the hallways, elevators, sidewalks, parking lots, driveways, landscaping, and recreational facilities.

A **master insurance policy** insures the common areas and protects individual owners against lawsuits that may arise from accidents that occur in common areas. Individual unit owners must provide their own coverage for the interior of the unit and personal property.

Ownership of the condominium unit can be in fee simple, or any other estate in real property recognized by law. Each condominium unit is mortgaged, taxed, and sold independently of other units. In the event of default by a unit owner, the individual condominium unit is foreclosed and the unit is sold without affecting the other condominium units.

The Florida Condominium Act, F.S. 718, gives statutory recognition to the condominium form of real property ownership. By law, developers of condominiums must file a **declaration** to create a condominium association and execute a **master deed** that conveys the title to the condominium association. The declaration includes the name of the association, the legal description and survey of the land, a description of the unit owners’ membership rights and obligations, a copy of the bylaws and other documents associated with the creation and operations of a condominium are set forth in F.S. 718.503.

Should the documents previously mentioned be requested by the buyer in writing and not provided by the seller, the agreement is voidable. New condominium buyers are allowed a 15-day right of rescission following receipt of the above condominium documents from the developer. Resale condominium buyers are allowed three business days from the date of receipt of these documents to either rescind the transaction or proceed with the sale.

F.S. 718.503 requires any contract for the sale of a condominium to contain certain disclosures with specified language regarding the rights of the parties. Failure to include the disclosure allows a party to void the agreement.

**Cooperative Association**

Cooperative ownership is legally quite distinct from condominium ownership. A cooperative association is a corporation that buys and owns a multiple-unit building. Shares of stock in the corporation are sold to individuals who in turn are given a **proprietary lease** by the corporation, which allows the shareholder to occupy specified space within the building. Even though owners receive a proprietary lease, a real estate license is required to sell units in a cooperative. F.S. 719.503 requires disclosures for the resale of an interest in a cooperative.

The cooperative association (corporation) secures financing and insurance for the building. The individual stockholders divide the operating expenses and mortgage payments proportionately based on the number of shares of stock they own in the corporation. The Cooperative Act, F.S. 719, provides for real property taxes and special assessments to be levied against individual units rather than the corporation. If a cooperative shareholder fails to meet their financial obligations, the remaining shareholders must make up the shortage or the corporation is in default.

Shareholders enjoy the same benefits of ownership as any other owner of real estate, which include the following:

- They may deduct their share of real estate taxes and mortgage interest from their personal income taxes.
- They may realize equity buildup in the property due to reduction of the mortgage debt.
- Appreciation in property value is also possible.
The same rescission periods that apply to condominiums, 15 days for new developer sales and three business days for resale transactions, apply to cooperatives.

**Timeshare Ownership**

Timeshare property is initially organized as a condominium. Each individual condominium unit is further subdivided into time periods. Typically, 50 one-week time periods per year are sold to individuals with the remaining two weeks reserved for annual maintenance and refurbishing. This is known as *interval ownership*.

In the early history of timesharing in the United States, the typical sale was structured as a *vacation lease* or *right to use*. These were built much like hotels. The purchaser was given a right to use an unspecified unit in the hotel facility for a given period-of-time per year, for a specified number of years. The purchaser did not acquire ownership; they acquired a *use right*. These facilities typically allowed unoccupied units in the project to be rented by the developer on a daily or weekly basis, the same as in a hotel.

There are two methods used in the marketing of timeshares. One method conveys title in fee simple to the purchaser as a tenant in common with the other timeshare unit owners. The purchaser receives a deed for the unit purchased, combined with a *use agreement*, which identifies the week or weeks of the year in which the purchaser is allowed to occupy the unit. Another method involves the purchase of a tenancy for years, converting to a tenancy in common after a specified number of years, usually 20 to 40 years.

Timeshare ownership agreements include a waiver of the right of partition. This waiver prevents the owner of a timeshare from forcing the sale of the entire unit. The ownership agreement also provides that each owner is responsible for the payment of their share of the real estate taxes and maintenance.

F.S. 721.065 requires disclosures for the resale of an interest in a timeshare.

**Provisions of the Timeshare Act**

The Florida Timeshare Act, F.S. 721, was enacted in 1981 to regulate the industry and to help prevent fraud and deceptive sales practices. The law is considered to be a model for other states.

The provisions of the Florida Timeshare Act include the following:

- Developers and sellers must provide a copy of the sales contract to each purchaser, which must contain specific information regarding charges for reservations, maintenance, and management.
- Timeshare public offering statements must be provided to each purchaser and must be filed with the state of Florida. All advertising must be filed with the state of Florida. In addition, there are specific limitations on representations that may be made in any advertising.
- All contracts for the resale of timeshares must clearly define the rights and obligations of all parties to the contract.
- The name and address of the managing entity of the timeshare plan, disclosure of closing costs, and a statement that discloses the existence of any mandatory exchange program membership must be provided.
- A ten-day cooling off period must be provided for the purchase of new and resale timeshares, during which time the purchase contract can be cancelled without penalty or obligation by giving written notice to the seller (owner-developer).
Managing Condominiums, Cooperatives, and Timeshare Projects

A salaried manager of a condominium, cooperative, or timeshare project is required to have a Community Association Manager’s (CAM) license if they perform management services. These services include controlling or disbursing funds, preparing budgets or other financial documents, assisting in the noticing or conducting of meetings, coordinating maintenance, and other day-to-day services involved with the operations of a community association. A residential community association is defined as one containing more than ten units or an annual budget or budgets of more than $100,000. This license is issued by the Division of Florida Condominiums, Timeshares, and Mobile Homes.

COMMUNITY DEVELOPMENT DISTRICT (CDD) [F.S. 190]

A community development district (CDD, or district) is a local unit of special-purpose government authorized by F.S. 190. A CDD provides a mechanism for the financing and management of new communities. The district is authorized to fund, plan, establish, acquire or construct, operate, and maintain specific public improvements and community facilities on behalf of its residents, including:

- Water management and control
- Water supply, sewer, and wastewater management
- Bridges or culverts
- District roads
- Street lights, alleys, landscaping, and undergrounding of electric utility lines
- Public transportation, parking improvements, and related signage
- Investigation and remediation costs with the cleanup of environmental contamination
- Conservation areas and wildlife habitats
- Parks and facilities for outdoor recreational, cultural, and educational uses
- Fire prevention and control
- School buildings and related structures
- Security, except that the district may not exercise any police power
- Waste collection and disposal

The district is governed by a board of supervisors, elected by the landowners of the district. The board has the power to levy and assess an ad valorem tax on the taxable property in the district.

The board hires a district manager, who is responsible for the daily operations of the CDD. After six years, the governing of the district must begin to transition to the residents. F.S. 190.048 requires disclosure of the power to impose tax levies or assessments be provided in the sales contract of real estate within a district.

HOMEOWNERS’ ASSOCIATION (HOA) [F.S. 720]

F.S. 720 defines a homeowners’ association (HOA), or association, as a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of property owners. HOA membership is a mandatory condition of property ownership. The HOA is authorized to impose assessments that, if unpaid, may become a lien on the parcel. The term “homeowners’ association” does not include a community development district or other similar special taxing district.
The association must maintain official records that include the following:

- Plans, specifications, permits, and warranties related to common area improvements or other property maintenance
- Association bylaws
- Articles of incorporation of the association
- Declaration of covenants
- Association rules
- Board of directors’ meeting minutes for past seven years
- Member roster with mailing addresses and parcel identifications
- Association insurance policies for past seven years
- Association contracts and bids
- Tax returns and financial and accounting records for past seven years

Required HOA Disclosures

F.S. 720.401 requires that a homeowners’ association disclosure be provided to buyers when membership in such an association is required. If a sales contract does not conform to the requirements of this subsection in Florida law, the buyer may void it within three days, or prior to closing, whichever comes first.

Initial developers and subsequent owners must disclose to a buyer who signs a sales contract that:

- The owner is required to be a member of the HOA.
- Recorded private restrictions govern the use and occupancy of the property.
- The owner is obligated to pay assessments to the HOA with failure to pay leading to possible lien recording and enforcement with foreclosure.
- There may be land use and/or recreation fees. If so, the amounts of such obligations must be disclosed in the contract.
- The developer may have the right to amend the restrictive covenants without the approval of the association membership.
CHAPTER 8 REVIEW QUESTIONS

1. Three legal rights contained in the bundle of rights include ________________, ________________, and ________________.

2. ________________ rights allow a property owner whose property borders on a river or stream the use of the water.

3. Freehold estates involve ________________ by the tenant.

4. The four unities required to create a joint tenancy are ________________, ________________, ________________ and ________________.

5. A ________________ and ________________ may hold a tenancy by the entireties.

6. A joint tenancy and a tenancy by the entireties both include a right of ________________.

7. ___________ days’ notice is required to terminate a week-to-week tenancy at will.

8. A tenancy for years must have a definite beginning date and a definite ________________.

9. The estate that may be created by the same or different deeds is the tenancy ________________ ________________.

10. If title passes upon the death of a life tenant to a party other than the original grantor, the party who receives the ownership rights is called a ________________.

11. The right to occupy specific space granted by a cooperative association is known as a ________________ ________________.

12. The document that creates a condominium is the ________________.

13. Ownership of ________________ ________________ ________________ distinguishes ownership in a cooperative association from other forms of residential property ownership.

14. A timesharing concept that allows use but not ownership is referred to as a ________________ ________________ or ________________ ________________ ________________.

15. Homestead property that is exempt from execution of foreclosure to satisfy a personal debt of the head of the household can be up to one-half acre within a city or up to ________________ acres outside a city.
CHAPTER 8 PRACTICE EXAM

1. All of the following estates include legal title to real property, EXCEPT:
   a. Tenancy for years
   b. Fee simple estate
   c. Life estate
   d. Tenancy by the entirety

2. Florida timeshare projects are regulated by which organization?
   a. Florida Real Estate Commission
   b. Department of Community Affairs
   c. Division of Florida Condominiums, Timeshares, and Mobile Homes
   d. Department of Housing and Urban Development

3. Able, who holds title in fee simple, deeds land to Baker to enjoy until his death. At that time, Charlie is to receive title to the land. Baker’s interest in the land is known as which of the following?
   a. Fee simple estate
   b. Life estate
   c. Remainder estate
   d. Estate for years

4. Based on the information in the previous question, Charlie’s interest in the land is which of the following?
   a. Reversion estate
   b. Remainder estate
   c. Estate for years
   d. Joint estate

5. What rights allow a property owner to have reasonable use of water flowing over or through their land?
   a. Riparian
   b. Littoral
   c. Flowage
   d. Aquifer

6. A potential purchaser of a new timeshare can cancel the contract without penalty within how many days?
   a. 10
   b. 20
   c. 30
   d. 40

7. Which statement best describes a tenancy at sufferance?
   a. The tenant suffers from the landlord’s failure to maintain the property.
   b. The landlord suffers from the tenant’s failure to pay rent.
   c. The lease instrument is valid.
   d. The tenant remained in possession after expiration of a lease.

8. Which of the following best describes a tenancy at will?
   a. A lease which can be terminated at the will of the landlord or tenant by giving legal notice
   b. Any lease for less than a year
   c. A written lease that provides a definite beginning and ending date
   d. Any tenancy created by a written lease

9. What is the elective share right in Florida?
   a. 50% of real estate only
   b. 30% of the real and personal property owned at the time of death
   c. 30% of all property owned and obtained by the decedent during the marriage
   d. One-third of all property

10. What does the bundle of rights in real property include?
    a. Destruction, use, and extinction
    b. Destruction, use, and enjoyment
    c. Use, expatriation, and enjoyment
    d. Disposition, enjoyment, and exclusion
11. Which of the following are the tests used by courts to determine whether an item is real or personal property?
   a. Intent, relationship of the parties, method of annexation, and adaptation
   b. Intent, abandonment, redemption, and accretion
   c. Size, annexation, avulsion, and adaptation
   d. Intent, size, annexation, and redemption

12. What are the four unities required to create a joint tenancy?
   a. Interest, survivorship, possession, and time
   b. Possession, deed, title, and time
   c. Possession, interest, time, and title
   d. Person, use, interest, and purpose

13. The law of descent and distribution passes what percentage to a surviving spouse if there are no lineal descendants?
   a. 30%
   b. 33%
   c. 50%
   d. 100%

14. Which of the following is a form of corporate ownership that allows possession under a proprietary lease?
   a. Condominium
   b. Tenancy in common
   c. Joint tenancy
   d. Cooperative

15. Paul and Paula are husband and wife. They own property as tenants by the entirety. They divorce without a property settlement. Unless otherwise decreed by a court, they now hold the property title as which of the following?
   a. Joint tenants
   b. Tenants in common
   c. Tenants by the entireties
   d. Joint tenants with the right of survivorship
CHAPTER 9

TITLE, DEEDS, AND
OWNERSHIP RESTRICTIONS

OVERVIEW
This chapter examines the subject of a title to real property, how it may be acquired, what instruments are used, and how it can be protected against fraud and claims against ownership. Of particular importance is the fact that real property ownership is never guaranteed. Ownership is a right that can be protected by law, but owners have an obligation to establish first their claim to such rights or they may be lost to another.

Both public and private limitations affect how a property can be used, thus limiting property owners’ rights. These limitations on ownership and use are detailed and explained in this chapter.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Differentiate between voluntary and involuntary alienation
- Explain the various methods of acquiring title to real property
- Describe the conditions necessary to acquire real property by adverse possession
- Distinguish between actual notice and constructive notice
- Identify information that is subject to public record
- Distinguish between an abstract of title and a chain of title
- Explain the different types of title insurance
- Describe the parts of a deed and the requirements of a valid deed
- List and describe the four basic types of deeds and the legal requirements for deeds
- List and describe the various types of governmental and private restrictions on ownership of real property
- Distinguish among the various types of leases

KEY TERMS
- Abstract of title
- Acknowledgment
- Actual notice
- Adverse possession
- Alienation
- Assignment
- Chain of title
- Condemnation
- Construction lien
- Constructive notice
- Deed
- Deed restriction
- Easement
- Eminent domain
- Encroachment
- Escheat
- General warranty deed
- Grantee

- Granting clause
- Grantor
- Gross lease
- Habendum clause
- Intestate
- Lien
- Net lease
- Percentage lease
- Police power
- Quiet enjoyment
- Quitclaim deed
- Sublease
- Testate
- Title
- Variable lease
- Warrant of seisin
- Warranty forever
TITLE

Title to Real Property

Title means ownership. When a party owns property, they have legal title to it. Legal title is an ownership interest that’s enforceable by law. Title to real property is the ownership of specified rights in property that forms an estate. The type of estate, as we have seen, is based on all or specified portions of the bundle of rights that include possession, disposition, enjoyment, exclusion, and control.

Equitable title is the right to gain ownership interest in the future. Equitable title effectively confers a financial or “equitable” interest in a property.

Notice of Ownership

A party entitled to the ownership of property must be able to show they have acquired such right, or risk losing the property to another claimant. An owner must be able to provide evidence of ownership. The two methods that may be used to provide evidence of ownership are actual notice and constructive notice. Each is defined below.

- **Actual notice.** Actual notice of ownership is provided by physical possession. There is validity in the saying “possession is nine-tenths of the law.” Being in possession of property and claiming ownership is called actual notice. A party who has been shown a deed also has been given actual notice. Actual notice can be either expressed or implied.

- **Constructive notice.** Constructive notice, also called legal notice, is achieved by recording documents in the public records. Recording a document has the same legal effect as showing it to the entire world. Documents are recorded in the Office of the Clerk of the circuit court in the county where the property is located.

Although actual notice and constructive notice have the same legal priority, recording an instrument in the public records may be easier to prove; therefore, constructive notice is the best evidence of ownership.

PROTECTING TITLE

Marketable, merchantable, or clear title to real property is title in fee simple that is free from litigation and defects, which enables an owner to hold it in peace or sell it to a person of reasonable prudence for its fair market value. As discussed earlier, there is no such thing as proof of good title to property; there is only evidence to support the claim. To ascertain whether or not title is good and merchantable, the record of ownership must be traced back for a period of time necessary to assure that no outstanding or unresolved claims exist against the title. The time period at which this assertion can be made is called the root of title. In Florida, the root of title extends back 30 years from the recording of the claim. Claims more than 30 years old are extinguished. [F.S. 712]

Property ownership rights may be traced back to a land grant from the state or federal government, or from a land grant given by the king of Spain.

Abstracts

A chain of title is created by a search of the public records that results in a timeline of recorded documents that links all past owners of a parcel of land from the root of title to the present day. Also contained in the public records are other documents such as mortgages.
judgments, divorces, deaths, births, tax liens, and other documents that may have an effect on the title to property.

Abstracting and title insurance companies compile copies of the documents from the public records into a title plant. The title plant contains all of the documents that pertain to real estate, which are arranged according to the date of recording in the public records.

Since many different types of documents may affect the title to property, a search of all such documents must be made. Notations are made regarding any documents that could affect the title. This process is called a title search.

In some cases, it may be desirable to have copies made of all documents that have an effect on the title to the property that is investigated. These can then be assembled in date order and placed in a binder. A cover page that identifies the property is called the caption, or caption page. When compiled in this fashion, it is called an abstract. The chain of title located in the abstract is a timeline of the recorded documents used to transfer title from one owner to the next.

Since an abstract ends at a certain point in time, it may become necessary to obtain current information about the property in the future. An update is a newer version of a prior abstract. Using a prior abstract as a basis, starting from the last date of the last document, an abstractor copies all documents of record since that date to bring the original abstract current.

The abstract can be considered a history of the title to the property. In and of itself an abstract is useless. Unless an attorney who is experienced in land titles reviews the abstract and forms a legal opinion as to the quality of title, the abstract has little value.

When an attorney conducts such a review and renders a written opinion, it is called an opinion of title. It is not a guarantee of good title. The opinion of title is only the attorney's opinion, and that opinion could prove to be faulty. A lawsuit against the attorney could be necessary if a defect is later discovered.

Title Insurance

Title defects, also referred to as a cloud on title, are any claims or other factors that could cause the title to a property to be declared invalid. The title defect can be any issue that causes the current title to be questioned including: failure to comply with local real estate document laws, or the discovery of other claims or liens on the property that were not acknowledged at the time the deed was issued.

Title insurance provides financial protection against losses sustained as the result of a defective title. Title insurance does not offer protection from all defects. Real property can be encumbered thereby restricting the use of the property for both the current and future owners. These prior encumbrances are exceptions to the title policy and restrict the current owner's use. Basic title policy coverage protects owners against issues that may arise with clear title to the property, incorrect signatures on documents, forgery, fraud, restrictive covenants, encumbrances, or judgments.

Mortgage lenders will insist that a borrower obtain a mortgagee (lender's) title insurance policy before making a loan. This policy protects the lender by paying the unpaid balance of the loan if the borrower should lose title to the property as the result of a title defect. If the loan is sold to another lender, the mortgagee policy is transferable to the new lender.

The property owner may also wish to obtain protection and may do so by purchasing a mortgagor's (owner's) title insurance policy. The mortgagor's title insurance policy is not transferable; each new owner who wishes to be insured must obtain a new policy. The policy is in effect, however, for as long as the original purchaser of the policy owns the property, even if it is for the rest of the policyholder's life. It should be noted that the amount of the insurance does not change over time. Therefore, should the value of the property increase, the amount of insurance remains the same. An owner could buy a new, updated policy to increase the amount of the coverage if desired.

There is no Florida law that requires a mortgagor (borrower) to obtain title insurance.
METHODS OF ACQUIRING TITLE

Transferring or conveying ownership from one party to another is called alienation of title. Alienation may be voluntary or involuntary.

Transfer by Voluntary Alienation

Title to real property can be acquired by any of the following voluntary methods:

- **Deed.** A deed is a document that conveys title from one party to another when real property is sold or conveyed by gift. Deeds are the most common document used to transfer title.

- **Will.** A will is a document that provides for the transfer of title upon the death of an individual (decedent) who died testate (left a will). The decedent is referred to as a testator (if a male) or a testatrix (if female).
  
  The willful disposition or gift of real property is called a devise and the recipient of the real property is referred to as the devisee. The disposition or gift of personal property is called a bequest and the recipient of the personal property is referred to as the beneficiary.

Transfer by Involuntary Alienation

Title to real property can be acquired by any of the following involuntary methods:

- **Descent and distribution.** Descent and distribution is a statutory system created by law. This system provides for the transfer of title to legal descendants (heirs) upon the death of an individual who died intestate (without a will). Probate law establishes the order in which such assets must be allocated and provides for the distribution of property to those entitled to receive them. This is a form of involuntary alienation because the state, not the decedent, determines the disposition of property.

- **Escheat.** Escheat is the reversion of property to the state if someone dies intestate and has no known heirs.

- **Eminent domain.** Eminent domain is the government’s right to take private property, through a process called condemnation, for public benefit. Eminent domain is further described later in this chapter.

- **Adverse possession.** Adverse possession is a legal principle under which an owner may lose title to another person who has taken control of the property. The person who claims ownership must enter into open, adverse, hostile, and exclusive possession of the property for a period of seven continuous years. Possession must be hostile to the true owner and must be under a claim of ownership, even if the claim is imperfect. The possessor must pay all real estate taxes for all years of possession and meet other requirements of Florida statutes. If the true owner slept on his rights and failed to eject the trespasser, title may be lost to the hostile claimant.
DEEDS

Transferring Title

Transferring or conveying ownership from one party to another, called *alienation of title*, is accomplished by executing a document called a *deed*. The parties to the deed are the *grantor*, the party who voluntarily conveys the ownership, and the *grantee*, the party who voluntarily receives the ownership.

Requirements for a valid deed include the following:

- The deed must be in writing. (See “Statute of Frauds” in the “Contracts” chapter.)
- The parties (grantor and grantee) must be named.
- The grantor must have the legal capacity (be of legal age and have the legal right) to grant ownership.
- Consideration must be described. The sales price is not required, and rarely is ever included. “Ten dollars and other good and valuable consideration” is the consideration description most often used in a deed.
- A granting clause or words of conveyance must be included.
- A habendum clause must define the quality of the ownership interest (rights) being conveyed.
- A legal description of the property must be provided.
- The deed must be signed by the grantor and witnessed by two persons. The grantee is not required to sign the deed.
- The deed is voluntarily delivered and accepted. Title does not transfer until the deed is voluntarily delivered to, and voluntarily accepted by, the grantee.

Deeds do not have to be acknowledged (notarized) or recorded in order to be valid. However, no document may be recorded unless it is acknowledged. A notary public is an officer of the state, and therefore, may acknowledge the document.

Clauses in Deeds

Deeds may have several clauses, each of which performs a separate function or provides specified information. Clauses include the following:

- **Premises (granting) clause.** The *premises clause*, which is also known as the *granting clause*, is the only legally necessary clause required in a deed. This clause names the parties, contains words of conveyance, states a consideration, includes the date of transfer, and provides the legal description of the property being conveyed.

- **Habendum clause.** The *habendum clause*, which is also called the *to-have-and-to-hold clause*, specifies the legal rights being conveyed. The portion of the bundle of legal rights being conveyed is described in this clause, such as “fee simple forever” or “in a life estate.”

- **Reddendum clause.** The *reddendum clause* is used to reserve a right in the title, not the land, such as a remainder estate.
Warrants or Covenants in Deeds

Warrants or covenants are clauses containing promises (warranties or guarantees) made by the grantor to the grantee; however, if the grantor is insolvent, they may be unable or unwilling to fulfill the promises made. The presence or absence of warranties does not affect the conveyance of ownership.

Warrants include the following:

- **Warrant (covenant) of seisin.** A warrant of seisin is essentially a claim of ownership by the grantor. It assures the grantee that the grantor owns and has the legal right to convey the property.

- **Warrant (covenant) against encumbrances.** A warrant against encumbrances assures the grantee that there are no encumbrances against the property other than those disclosed in the deed. The grantor would remain responsible for liens or claims not specified in the deed.

- **Warrant (covenant) of quiet enjoyment.** A warrant of quiet enjoyment is a promise by the grantor that assures the grantee that they will not suffer hostile claims against the ownership of the property.

- **Covenant of warranty forever.** A covenant of warranty forever is an assurance by the grantor that the grantee will enjoy possession and uninterrupted use of the property.

- **Warrant (covenant) of further assurance.** A warrant of further assurance is a promise by the grantor to take whatever action is necessary to protect and defend the title now and in the future.

A general warranty deed includes all of the above clauses. They will be implied if not expressed in the deed. A general warranty deed is discussed later in this chapter.

Types of Deeds

The differences among the various types of deeds are only in the promises that the grantor is willing to make to the grantee. Most deeds contain covenants or warranties, which are promises the grantor makes to the grantee. The difference in the type and number of warrants a deed contains is what differentiates one deed from another. All deeds convey title equally well.

The basic types of deeds are as follows:

- **Quitclaim deed.** A quitclaim deed contains no warrants of any kind from the grantor and is considered the best type of deed from the grantor’s standpoint. The grantor states that any interest they may have in the property is relinquished to the grantee. The grantor does not promise to have any rights in the property, but rather, any rights they may have are being conveyed. Although there is no prohibition against it, quitclaim deeds are rarely used in day-to-day sales and transfers of ownership. Quitclaim deeds are most frequently used to cure defects in title. Quitclaim deeds are frequently used in divorce actions when one spouse quitclaims their interest to the other spouse. They may also be used to remove easements.
- **Bargain and sale deed.** In a *bargain and sale deed*, the grantor grants, bargains, and sells the property to the grantee. However, the grantor makes no promise to defend the title if problems should later arise. This type of deed contains only one warrant, a warrant of seisin. This warrant is an assurance to the grantee that the grantor owns and has the legal right to convey the property.

- **Special warranty deed.** The *special warranty deed* is a type of bargain and sale deed. The grantor grants, bargains, and sells the property, but offers protection to the grantee only for claims made by the grantor, the grantor’s assignee, or others who represent them.

- **General warranty deed.** The *general warranty deed*, or simply *warranty deed*, is also a type of bargain and sale deed. The grantor grants, bargains, and sells the property to the grantee. The grantor promises to defend the title against any and all claims. The general warranty deed is the most common type of deed, and provides the best protection to the grantee of any deed. If a real estate sales contract does not specify the type of deed to be given, a general warranty deed must be used.

### Special Purpose Deeds

There are special circumstances where a grantor either cannot, or will not, sign a deed. In those situations, other special purpose deeds must be used, and a grantor must be assigned by the court to act on behalf of the party holding title.

Deeds used in these special circumstances include the following:

- **Guardian’s deed.** A *guardian’s deed* is used to convey the property of a minor. A minor can never act as a grantor since the law does not view a minor as having the capacity to contract. The guardian is the grantor who acts on behalf of the minor. A minor, on the other hand, may always be a grantee and acquire ownership by any form of deed or conveyance.

- **Committee’s deed.** A *committee’s deed* is used to convey the property of a mentally incompetent person.

- **Personal representative’s deed.** A *personal representative’s deed* is used to convey the property of an individual who died intestate.

- **Master deed.** A *master deed* is the instrument used by a developer to convey land to a condominium association in anticipation of development of the project. Once recorded, the condominium association owns the entire property, and individual units within the project may be sold according to the declaration and plat filed by the developer.

- **Unit deed.** A *unit deed* is a form of general warranty deed used to convey ownership of individual condominium units from the association to the public.

- **Certificate of title.** A *certificate of title* is used to show ownership in the event of a foreclosure.

- **Tax deed.** A *tax deed* is used to grant ownership to a government body when the property owner did not pay the property taxes. A tax deed gives the government the authority to sell the property to collect the delinquent taxes and transfer the property
to the purchaser in a tax deed sale. (Delinquent property taxes are covered in more
detail in Chapter 18.)

Curing Defects in Title

A property with a defective title is said to have a cloud on title. It could potentially be sold
in the market, but any purchaser of such a property might be unwilling to pay a fair market
price to obtain it. In order to make a property merchantable, title defects must be eliminated.
Curing is the elimination or resolution of the problem that caused the defect.

There are essentially three ways in which a defect can be cured. Each is defined below.

- Quitclaim deed. A quitclaim deed may be used to cure a defect in title by having the
  party who has a potential claim or interest in the property relinquish the claim by
  voluntarily executing a quitclaim deed. This is the quickest and least expensive
  alternative and is preferred if the party can be located and is willing to release any
  interest they may have.

- Suit to quiet title. A suit to quiet title is filed in court with all potential claimants
  required to appear in court and assert their claim. The court renders a decision and
  resolves any dispute, thus curing the defect.

- Marketable Record Title to Real Property Act (MARTA). The purpose of the
  Marketable Record Title to Real Property Act (MARTA) is to eliminate claims-in-
  antiquity, which are old, unresolved claims that are most likely not supported due to
  the passage of time. As a result of this law, title searches need to go back only 30
  years to establish a root of title in Florida. Any claim outstanding that has not been
  exercised within that time period is eliminated as a matter of law. Exceptions to
  MARTA exist if implied interests by occupancy or use are known, or if evidence of an
  interest in property is recorded in documents at the root of title or later. [F.S. 712]

Broker’s Responsibility Concerning Recording

Brokers should advise parties they deal with in a transaction to immediately record any
documents associated with the transaction that could affect title.

LIMITATIONS ON PROPERTY OWNERSHIP

Government Limitations on Private Property Ownership

The rights of citizens are not unlimited. The government is said to have sovereign
powers, which allows the government to limit or control the actions of citizens when
necessary to protect the health, safety, and welfare of the public.

The four basic governmental powers are as follows:

- Police power. Police power allows the government to restrict the use of land to
  protect the health, safety, and welfare of the citizens.

  Zoning, for example, is an exercise of police power that is designed to prevent an
  undesirable use from infringing on and negatively affecting adjoining property.

  Building codes and health codes are other examples of the exercise of police
  power.
• **Eminent domain.** *Eminent domain* allows local, state, or federal government, railroads, public utilities, and public housing authorities to obtain ownership to private property. This is called *taking.* The taking must only be for a public use, such as to build highways, schools, railroads, or public projects (not shopping centers). The owner must be paid a *just compensation* for the property.

If a unit of government requires land for the expansion of public services, the property owner will be contacted and offered a price for the property required. The owner may negotiate with the condemning authority and may even reach an acceptable price. If so, a contract is completed, the property is sold, and the transaction is finalized. If the parties cannot reach agreement through negotiation, the condemning authority will implement a legal proceeding in court to exercise its right to acquire the property. This action to enforce the sale is called a *condemnation proceeding.* Both parties will typically have the property appraised, and a decision made as to the value is determined in court, usually with a trial by jury. There is no cost to the property owner when taking the issue to court; the condemning authority must pay for appraisal fees, attorney fees, and court costs.

• **Taxation.** *Taxation* is the power that allows the government to levy taxes on private property. If an owner does not pay the property taxes when they are due, the unpaid tax lien may be foreclosed in court, thereby forcing the property to be sold. The government receives payment from proceeds of the sale.

• **Escheat.** *Escheat* allows the state to acquire ownership of property when an owner dies intestate and no lawful heirs can be located.

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### Memory Device: “PETE”

The four governmental limitations on private property rights are:

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### Private Limitations on Property Ownership

Private limitations are restrictions placed by an owner that affect the use of the property by subsequent owners. These may include easements, leases, party wall agreements (where two or more owners share a common wall), or covenants between owners that extend to future owners.

One of the most common forms of private limitation is *deed restrictions.* Deed restrictions are most often placed against several properties at the same time by a developer or builder. They may limit virtually anything that is not contrary to law, such as height, color, architectural style, fencing, and even landscaping. The developer, usually, but not necessarily, records these restrictions in the public records. Deed restrictions are often called *restrictive covenants.*

Since these restrictions are private limitations on use, enforcement against violators is up to the affected owners. A suit would have to be brought in a civil court action to bring violators into compliance.
An **easement** is a limited right given to the easement holder to use a portion of another party's property for a specific purpose. Easements are encumbrances that affect both a property owner's rights of use and potentially the value of the property. An easement is a legal interest in real property that is created by contract, deed, or operation of law.

There is a wide variety of types of easements, some of which include the following:

- **Easement appurtenant.** An **easement appurtenant** involves two or more parcels of property and runs with the land, which means the right attaches to the land, not to a person or other entity, and is binding on all present and future owners.

  An example of an easement appurtenant is the **easement by necessity**. When a landowner subdivides their property in such a manner as to create a landlocked parcel, the law assumes the purchaser of such land has a right of access.

  If the deed that creates the landlocked parcel does not specify an easement for access to and from the parcel, the purchaser can sue in court and the court will impose the easement.

  The easement by necessity creates two separate estates. The party who created the landlocked parcel must give up the right of access, while the purchaser of the landlocked parcel gains a right over the party who created it. The party who gives up the right is called the **servient estate**; the party who gains a right is called the **dominant estate**.

- **Easement in gross.** An **easement in gross** involves rights of access by one party onto a parcel of real estate owned by another party. The most common easement in gross is a utility easement. An easement in gross does not run with the land as the utility company may choose to give up the right or sell it to another entity such as a cable television provider. The utility company may decide to transfer the right back to the property owner by quitclaim deed if the access is no longer of value.

- **Easement by prescription.** An **easement by prescription** is created in Florida by 20 years or more of continuous and uninterrupted use of a portion of another person's property. A pathway across private property to a beach or similar uninterrupted use for the statutory period of 20 years or more creates this type of easement. Once established and confirmed by a court, this becomes a public right of access. In some states, the statutory period is different from Florida.

A license is not an interest in the land. It is a temporary, revocable right to use another's property. Examples of licenses include the right to use someone's swimming pool or hunt on another person's land.

An **encroachment** is an unauthorized physical intrusion onto property owned by another such as a fence built over the property line. Legal action in court can be brought to have an encroachment removed. The existence of an encroachment can only be determined by a current, up-to-date survey.

**LEASES**

A lease creates a legal interest in real property, but the lease does not convey ownership. The owner is the lessor, who grants the right of occupancy and use; the tenant is the lessee, who receives the right to use the property.

A lease can be either oral or written. Lease agreements are terminated by one or more of the following: destruction of the property, lien foreclosure, condemnation through eminent domain proceedings, expiration of the lease term, bankruptcy of the tenant, agreement of the parties, or by breach of the lease provisions.
A valid lease agreement must be entered into by legally competent parties and contain the following:

- The names and signatures of the lessor and lessee
- Consideration (money or something of value given by the lessee to the lessor)
- Term of the tenancy
- Legal description of the property

The statute of frauds requires that a lease for a period of more than one year be in writing and signed in order to be enforceable in court. It must be witnessed by two persons and conform to the same requirements as a valid deed.

Real estate licensees can fill in the blanks on model residential lease forms approved by the Florida Supreme Court covering periods of one year or less. Licensees are not allowed to modify the form in any way or to interpret the language in response to a question. No attachments or addenda may be added. If the form requires changes or interpretation, the advice and assistance of an attorney must be obtained.

Types of Leases

- **Gross lease.** A *gross lease* is defined as, “a lease in which the tenant agrees to pay a fixed rental amount, and the landlord pays all expenses related to the property such as real estate taxes, insurance, and maintenance costs.” A residential lease is usually a gross lease.

- **Ground lease.** A *ground lease* (or *land lease*) is typically a commercial, long-term lease in which the tenant is permitted to develop the property (often undeveloped) during the lease period. All expenses of the property, such as taxes, maintenance, insurance, and financing costs, are the obligation of the tenant. At the end of the lease, the land and all structures and improvements revert to the property owner.

  This type of lease is an alternative to the sale and purchase of the property. Without a long-term lease (i.e., 50-99 years), the tenant would otherwise be unwilling to build costly improvements if the benefits of the improvements could only be realized for a small number of years.

- **Net lease.** A *net lease* is defined as, “a lease in which the tenant pays a fixed rent plus all or a portion of the operating costs such as real estate taxes, insurance, and maintenance.” A commercial and an industrial lease are commonly net leases. The net rent is paid to the landlord after the tenant has paid the expenses they have agreed to pay.

- **Percentage lease.** A *percentage lease* is defined as, “a lease in which the tenant pays a monthly base rent plus a percentage of the annual or monthly gross sales of goods sold on the premises.” A percentage lease is common in retail centers and malls.

- **Lease-option.** A *lease-option* is defined as, “a lease that contains an option to purchase the property within a certain period of time and under specified conditions.” Typically, a portion of the rent may be applied to the purchase price if the tenant wishes to exercise the option. The lease and the option may be one document or two different documents that are executed simultaneously. Lenders may limit the amount of rent that may be applied toward the purchase price.
Sale-leaseback. A sale-leaseback occurs when a property owner sells the property to an investor who immediately leases the property back to the original property owner, who then becomes the tenant. A sale-leaseback frees the equity the seller had in the property, in effect providing 100% financing. This arrangement appeals to many retailers and financial institutions that can use the money that was formerly tied up in the property to conduct business. The investor gains a quality tenant under a long-term lease, often 20 to 30 years, as well as tax benefits and potential appreciation in value.

A similar agreement involves the sale of a property with a provision for it to be repurchased at a future date for a specified price. The former owner/seller makes mortgage payments to the purchaser rather than lease payments. This type of transaction is known as a sale-contractback.

Leases with Changing Payment Rates

There are several different types of variable leases in which rent payments are periodically adjusted, usually upward. The rate adjustments can be specified as predetermined increments (Graduated Payments) or can be based on other factors such as market value (Step-Up Lease) or measures such as the consumer price index (CPI).

This type of lease is not generally required in a short-term residential lease, since the lessor can usually increase the rent as needed whenever the contract is renewed. However, in a long-term residential or commercial lease, the ability to adjust the rent payments mitigates the risk of variable costs and inflation rates to the owner/lessor by not locking in a fixed rental rate. This type of lease is attractive to new business tenants or renters whose income may increase over time.

Assignment and Sublease

It is important to be able to distinguish between an assignment and a sublease. A lease that prohibits an assignment does not prohibit a sublease, and prohibition of a sublease does not prohibit an assignment. Each is further explained below.

A lease has two basic components: a period-of-time and a unit of space.

Assignment. An assignment of lease occurs when a lessee transfers all of the leased space for all of the remaining time. The lessee is the assignor; the person receiving the rights is the assignee. The assignor assigns leasehold rights to the assignee. The assignee becomes the lessee and pays rent directly to the landlord.

Sublease. A sublease occurs if a lessee transfers less than 100% of the space that has been leased or makes a transfer for a shorter period-of-time than the entire remaining lease period and becomes the sublessor or the second landlord. The original lessee remains responsible for making rent payments to the landlord and is the conduit for making payments from the sublessee to the landlord.

The sublessor subleases the property to the sublessee. This transaction is referred to as a sandwich lease as the original tenant is "sandwiched" between the landlord and the sublessee.

Sale Subject to Lease

A property owner may sell a leased property “subject to the lease.” However, with this condition of sale, the buyer must honor the rights of the tenant under the original lease.
Nonresidential Leases

Nonresidential property is defined as, “any property having more than four residential units, vacant land zoned for more than four residential units, or agricultural property containing more than ten acres.”

Part IV of F.S. 475 (475.800), the Commercial Real Estate Leasing Commission Lien Act, presumes a broker to have a lien on the property interest owned by the party that employs a broker under a nonresidential lease agreement. The broker is required to advise the employer either in the employment agreement or by a separate document that, upon performance by the broker, a lien may be filed in the Public Records to enforce collection of the stipulated commission or fee.

No later than 90 days after the tenant takes possession of the leased premises, the broker must record a lien notice in the county or counties where the property is located. The lien is unenforceable if the broker fails to record the lien notice within this time period.

LIENS

A lien is a financial claim against property by a creditor or unit of government that is used to secure the payment of a debt or other obligation owed by the property owner. Either the property owner must pay the lien holder or the lien holder is entitled to sue in court to have the property sold so payment may be made from the proceeds of the sale. A lien is an encumbrance on the title to property; it is not a transfer of title. A lien may be placed against property voluntarily by the owner or involuntarily by a creditor. A mortgage, which is given voluntarily by a property owner, creates a lien, while an unpaid tax certificate is placed against the property involuntarily. A lien may be specific to one property, or be general in nature and apply to any property the person may own.

A lien may be classified as either superior or junior. Each is explained below.

Superior Liens

A superior lien takes precedence over all other types of liens. If a foreclosure sale occurs, a superior lien is paid from the proceeds of the sale before any junior lien. A superior lien is involuntary and is imposed by law without the owner’s consent.

The following are three types of superior liens:

- **Real estate property taxes.** (Specific lien) Real estate property taxes, also known as property taxes, are assessed and become a lien on January 1st of each year, even though the owner does not know the amount until the tax bill is received after November 1st of the same year. Since the assessment is from January, but not known or payable until November, taxes are paid in arrears (payment made after the charges are incurred).

- **Special assessment lien.** (Specific lien) A special assessment lien for improvements, such as road paving, sidewalks, and sewers attach to a property until the full amount of the lien has been paid.

- **Federal estate tax lien.** (General lien) Federal estate taxes become a lien at the time of death. Some states, but not Florida, also impose a state inheritance tax.
Junior Liens

The priority of a junior lien is based on the date of recording in the public records, not the amount of the lien. If there is more than one junior lien, the junior liens will be paid based on whichever lien was recorded first.

The types of junior liens include the following:

- **Mortgage lien.** (Specific lien) A mortgage lien is a voluntary pledge of property as security for repayment of a loan.

- **Vendor’s lien.** (Specific lien) An owner who sells a property is entitled to a lien against the property that is being sold to secure any unpaid balance of the purchase price. A court will impose a vendor’s lien only if no other form of security has been received. If a mortgage is given to the vendor/seller, or if other real or personal property is used to secure the full purchase price of the property, the vendor’s lien is not available.

- **Judgment lien.** (General lien) A judgment lien is imposed when a party is entitled to collect damages awarded by a court as the result of a lawsuit. A judgment lien is filed in the public records against property owned by the debtor to enforce payment of the court award. The lawsuit from which the court award was generated may have had nothing to do with the property.

- **Construction (mechanic or materialman’s) lien.** (Specific lien) A contractor or builder who has not been paid money that is due to them is entitled to a lien against property for materials or labor used to build or improve the property. The construction lien dates back in priority to the date on which the first materials were delivered or labor was first performed on the property. The contractor (mechanic or builder) has 90 days from the date of completion of the work to file the lien in the public records if the property owner has not paid the amount owed. Since this lien can date back to when the work was first performed or when the first materials were delivered, the lien will take priority over other junior liens filed between that date and the date the lien is filed in the public records. The construction lien is void if foreclosure action is not instituted within one year from the date of the recording.

- **Federal income tax lien.** (General lien) A federal income tax lien can be placed against the property of an individual for nonpayment of federal income taxes.

- **State corporate income tax lien.** (General lien) Corporations in Florida are subject to a state income tax. Nonpayment can result in a state corporate income tax lien filed against corporately owned property.

Lis Pendens

A lis pendens is notice of a pending lawsuit against a property owner. A lis pendens gives notice to a potential purchaser of the pending lawsuit that might later affect the title to the property. Technically, a lis pendens is not a lien. If the lawsuit is successful, the lis pendens becomes a lien, but if the suit is unsuccessful, it has no effect on the title. A title search prior to closing of a sale always checks the lis pendens notices to be sure that none is outstanding against the property. Otherwise, if the lawsuit were successful, the purchaser may have a lien against the property for a debt they had no part in creating.
Broker’s Right to Record Documents Affecting Title

A broker cannot attempt to collect an unpaid commission by filing a lien on any property defined as residential property that has been the subject of their employment, with two exceptions. A property owner may approve the filing by granting authority in a listing or sales contract, or a broker may record a judgment rendered by a Florida court in the amount claimed. [F.S. 475.42(1)(j)]

Part III of F.S. 475, the Commercial Real Estate Sales Commission Lien Act, presumes that a broker has a lien for collection and payment of commissions due in a nonresidential sales transaction. The broker is required to give written notice to the property owner in the listing agreement or in a separate document that, upon execution of the listing, the broker has a lien against the owner’s interest in the property. The lien is personal property, and only attaches to the net proceeds, not to the real property. Within 30 days after a commission has been earned (but not later than one day prior to closing), the broker may record a lien notice in the county or counties where the property is located.

A copy of the lien notice must be delivered to both the owner and closing agent. The closing agent is authorized to withhold the amount due to the broker from the seller’s net proceeds. [F.S. 475.700, 475.719]

Enforcement of Liens

Foreclosure is the enforcement of a lien. Foreclosure is accomplished by legal proceedings in court instituted by the lien holder as the result of nonpayment of a debt. Foreclosure terminates the rights of the owner and results in the public sale of the property, whereby the proceeds are used to satisfy the debt. The foreclosure process is more fully explained in Chapter 12.

SUMMARY: PRIORITY OF LIENS IN FORECLOSURE

- Superior liens take precedence over all other liens:
  - Real estate property taxes
  - Special assessment lien
  - Federal estate tax lien

- Junior liens take precedence from date of recording in the public records:
  - Mortgage lien
  - Vendor’s lien
  - Judgment lien
  - Construction (mechanic’s or materialman’s) lien
    - A construction lien is a junior lien but can date back and have a priority higher than another junior lien that is filed between the first day on which the materials were delivered to or work began on the property, and the time the construction lien is filed.
  - Federal income tax lien
  - State corporate income tax lien
CHAPTER 9 REVIEW QUESTIONS

1. Title to real property is synonymous with ___________________.

2. The deed that provides the greatest protection to the grantee is the ___________ ___________ deed.

3. The deed that is used to convey the property of a minor is the ___________ deed.

4. Legal rights being conveyed are expressed in the ___________ clause.

5. The quitclaim deed contains ___________________ warrants.

6. Title to real property passes to the grantee when the deed is ___________ and ___________________.

7. Title by adverse possession may be obtained after ________ years.

8. Recording a document in the public records provides __________________ notice.

9. To be valid, a deed must be signed by the ___________ and ___________ witnesses.

10. Actual notice is provided by ___________________ ___________________.

11. The ___________ title policy is transferable; the ___________ title policy is not.

12. An abstract can be made more useful by obtaining an attorney’s written ___________________ ___________ ___________.

13. A ___________ deed, conveying any rights the owner may have without promising to have any rights in the property, is one of three ways in which a defect in title can be cured.

14. The four rights of government that limit private property rights are ___________ ___________, ___________ ___________, ___________, and ___________.

15. ___________ ___________ ___________, ___________ ___________ ___________, and ___________ ___________ ___________ are classified as superior liens.

16. The party that receives rights as the result of an assignment is called the ___________.

17. When a property is sublet, it creates a __________________ lease.

18. When all rights under a lease have been transferred for the entire lease period, the process is called ___________.

19. From the seller’s standpoint, a sale-leaseback results in ___________ financing.
CHAPTER 9 PRACTICE EXAM

1. Which instrument transfers title from one individual to another?
   a. Contract
   b. Deed
   c. Warranty
   d. Covenant

2. What does the term “title” refer to in real estate?
   a. Any instrument that guarantees legal rights
   b. A legal instrument that transfers property from one party to another
   c. Ownership
   d. A piece of bond paper

3. What is a warrant in a deed?
   a. A disclaimer
   b. A promise made by the grantee
   c. Unenforceable
   d. A promise made by the grantor

4. Which clause in a deed states the interest that is being conveyed?
   a. Habendum
   b. Reddendum
   c. Release
   d. Seisin

5. Which of the following is the warrant in a deed in which the grantor assures the grantee freedom from hostile claims against their ownership?
   a. Habendum clause
   b. Warrant of seisin
   c. Warrant of quiet enjoyment
   d. Reddendum clause

6. Which statement is correct concerning a quitclaim deed?
   a. The only warrant contained in the deed is the warrant of seisin.
   b. The grantor cannot transfer ownership under a quitclaim deed.
   c. A quitclaim deed transfers temporary title.
   d. It may be used to cure defects in title.

7. What type of deed is most commonly used?
   a. Special warranty
   b. General warranty
   c. Quitclaim
   d. Bargain and sale

8. What is the term used to describe an individual who dies without leaving a will?
   a. In default
   b. Intestate
   c. In bond
   d. Escheat

9. What is the term used to describe a person who is appointed by a court to act for a decedent?
   a. Referee
   b. Benefactor
   c. Personal representative
   d. Relative

10. Mary and Louise open a beauty shop in a regional mall. The terms of their lease require that a portion of their business income, in addition to the periodic rent amount, be paid to the landlord. What type of lease do they have?
    a. Gross
    b. Step-up
    c. Percentage
    d. Ground

11. Zoning is an example of which government limitation over private property rights?
    a. Police power
    b. Eminent domain
    c. Escheat
    d. Taxation
12. Which of the following statements is true regarding an attorney’s opinion of title?
   a. It guarantees the title.
   b. It guarantees the authenticity of the documents.
   c. It is the same as title insurance.
   d. It is rendered after an examination of an abstract.

13. Which of the following is required to obtain title by adverse possession?
   a. Possession of the property for one month
   b. Pay taxes on the property for two years
   c. Notorious, open, hostile, adverse, and exclusive possession of the property for seven or more consecutive years
   d. Open and continuous use for 20 or more years

14. What type of notice is considered to be the best proof of ownership?
   a. Actual
   b. Constructive
   c. Implied
   d. Expressed

15. A five-year lease of a 10,000-square-foot warehouse prohibits assignment. After two years, the tenant is unable to continue with the full rent payments and arranges with another tenant to take over one-half of the space and pay one-half of the rent for the remaining term. What is this arrangement called?
   a. A violation of the terms of the lease
   b. A violation of F.S. 83
   c. A lease-option
   d. A sublease
CHAPTER 10

LEGAL DESCRIPTIONS

OVERVIEW
The legal description of property is used to identify property in contracts, deeds, and other legal documents. The method used to describe the property must be precise, accurate, and unambiguous. A court may void a contract that contains an erroneous legal description; therefore, licensees must understand and be able to write these descriptions correctly. A street address is typically insufficient to legally describe a property since street names and numbers are often duplicated from one area to another.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:
- Describe the purpose for legal descriptions
- Understand the licensee’s role and responsibilities as they pertain to legal descriptions
- Explain and distinguish among the three types of legal descriptions
- Describe the process of creating a legal description using the metes-and-bounds method
- Locate a township by tier and range
- Locate a particular section within a township
- Understand how to subdivide a section
- Calculate the number of acres in a parcel based on the legal description, and convert to square feet
- Explain the use of assessor’s parcel numbers
- Apply the measurements associated with checks, townships, and sections

KEY TERMS
Baseline
Benchmark
Check
Government survey method
Legal description
Lot and block
Metes and bounds
Monument
Point of beginning
Principal meridian
Range
Section
Survey
Tier
Township
Township line

LEGAL DESCRIPTIONS

Legal descriptions are used to identify a parcel's location on the face of the Earth in a manner that rules out duplication or confusion with any other parcel. A street address may be inadequate to legally identify a parcel since street names and numbers are often similar in various locations. Legal descriptions are used in all significant documents regarding property, including sales contracts, mortgages, deeds, and title policies. Surveyors are used to identify the boundaries of a parcel and to draw the legal description from the survey.
Property Description Methods

The three methods that are used to legally describe property are as follows:

- **Surveyor’s method** (also called the metes and bounds method),
- **Government survey method** (also called the rectangular method), and
- **Lot and block method** (also called the plat method or recorded plat method).

**SURVEYOR’S METHOD (METES AND BOUNDS)**

The surveyor’s method, also known as the *metes and bounds method* is the oldest method of land description and provides the most accurate type of legal description. This method can be used to describe regularly or irregularly shaped tracts of real estate, using the following measurements and references:

- **Metes.** *Metes* are measurements of distance such as inches, feet, yards, and miles.
- **Bounds.** *Bounds* refer to compass directions to property boundaries.
- **Monuments:** *Monuments*, also known as *benchmarks*, are fixed objects used to establish boundaries. The initial reference point for a survey begins at the monument, which is a known point. Monuments can be metal or concrete markers and are found set in the ground.
- **Point of beginning.** The survey begins by giving directions from the monument to the edge of the property, which is called the *point of beginning (POB)*. The survey continues by describing the directions and distances that make up the outer perimeter of the property. When the survey returns to the POB, it is called a *closing*.

In essence, a person starts at a known point, goes to a POB on the property, and walks around the property until returning to the POB. If a string was staked out as the survey was completed and the two ends tied together, the description of the property would be everything inside the string.

**Example:** Surveyors use measurements in feet or other appropriate means to describe property as is shown in this simplified metes and bounds description:

“From the permanent marker monument at the Orange County–Lake County Line, run S6°W a distance of 3,415’ to the point of beginning; thence, run S85°W a distance of 3,580’, thence, run S8°W a distance of 2,410’; thence, run N90°E a distance of 3,205’; thence, run N15°E a distance of 2,805’ to the Point of Beginning.”
Surveyors use a circular method to identify the direction in which the survey moves around the property’s boundary. The key to understanding the surveyor’s method is to know that the POB and each of the turning points at the corners of the property are observed as if centered in a circle. The surveyor identifies the path around the property by giving directions that indicate survey direction either to the north or south, or toward either east or west.

Compass bearings are used to describe the direction of the boundary lines. Surveyors use a type of shorthand to give directions in an abbreviated fashion that tells the reader how to proceed around the property. Directions are given in degrees (°), minutes (’), and seconds (“). Descriptions always begin with north or south followed by the number of degrees east or west up to a maximum of 90 degrees. N 37° E is translated to mean that a property boundary was encountered and the new boundary line goes in a north direction at 37 degrees toward the east.

**Example:** N 45°, 25’, 20” E is north 45 degrees, twenty-five minutes, 20 seconds east of north. This means go in a north direction, at 45 degrees, 25 minutes, 20 seconds toward the east.

Keep in mind that the directions in the legal description are from the point of view of the surveyor as if they are standing in the middle of the compass. If the surveyor is standing in the middle of the compass in Figure 1, the solid arrow indicates N 37° E, which means "from north go 37 degrees to the east." Notice that the opposite of N 37° E is S 37° W.

If the surveyor is standing in the middle of the compass in Figure 2, the dashed arrow indicates S 22° W, which means "from south, go 22 degrees west." Notice that the opposite of S 22° W is N 22° E.
**GOVERNMENT SURVEY METHOD**

The *government survey method* was developed in 1785 to make possible the westward expansion of the United States. Vast unsettled areas that had not been surveyed lay west of the original colonies. To open this land to settlement required a simplified method of legal description; the surveyor’s method was too cumbersome and time consuming for that purpose.

The government survey method was the principal method used to create legal descriptions of property located west of the Ohio and Mississippi rivers. Florida was also surveyed by using this method. Texas, which was a part of Mexico at that time, was not surveyed by using this method, neither were the original thirteen colonies nor the states later carved from those colonies.

The government survey method, also called the *rectangular method*, divides the surface of the earth into a grid, with numbered squares. Each numbered square can be subdivided repeatedly into smaller squares. This system is based on the principle that you can identify any point on a plane by referencing the intersection of two lines (or axes).

**Government Survey Method**

**Principal Meridian and Baseline**
In Florida, the government survey method begins in Tallahassee by drawing a north/south line called the *Tallahassee Principal Meridian*, and an east/west line called the *Tallahassee Baseline*.

The picture on the left is the Tallahassee Government Survey marker. Note the lines forming an X in the center of the circle. All legal descriptions in the state of Florida originate from this point. This is the intercept of the Tallahassee Principal Meridian and the Tallahassee Baseline.

The state is further subdivided into squares, called *townships*, by drawing additional north/south lines and additional east/west lines at six-mile intervals. The north/south lines are drawn parallel to the principal meridian and are called *meridians*, or *range lines*. The east/west lines are drawn parallel to the baseline and are called *baselines*, or *township lines*.

Each vertical area between meridians is called a *range*. Each horizontal area between baselines is a row of townships, called a *tier*. A tier is a row of townships; however, in common usage, a tier is more often referred to as a township. Each of the squares created by drawing range lines and township lines represents a township. The location of a township can be found by identifying the tier and range in which the township is located.
Exercise 1

Locate a township by tier and range in the diagram below. Put your pencil on the letter within the township and draw a line north to find the number of the range in which the township is located; then, again, put your pencil on the letter and draw another line east to find the township/tier location. The point where the range and tier intersect legally identifies the township.

1. Township “W” is T____N, R ____W and is ____ townships north of Tallahassee and ____ ranges west.
2. Township “X” is T____S, R ____E and is ____ townships south of Tallahassee and ____ ranges east.
3. Township “Y” is T____N, R ____E and is ____ townships north of Tallahassee and ____ ranges east.
4. Township “Z” is T____S, R ____W and is ____ townships south of Tallahassee and ____ ranges west.
Township

A township is six miles square and contains 36 square miles. Meridian (range lines) lines do not remain six miles apart; they follow the curvature of the earth and would eventually converge at the North and South poles. To correct for this variation, **guide meridians** are drawn every 24 miles east and west of the Tallahassee Principal Meridian. **Correction lines** are located every 24 miles north and south of the Tallahassee Baseline. The intersection of guide meridians and correction lines forms a 24-mile-square area called a **check**.

In the government survey method, a township is further subdivided into 36 sections. Each of these sections is given a number to identify it, using a numbering system that runs from 1 through 36. The section numbering begins in the northeast corner with #1 and proceeds in a westerly direction to include section #1 through 6. Townships are adjacent to each other; therefore, section #6 is immediately south of section #31 of the next township, with the remaining sections numbered as shown in the diagram below.

**Example:** To identify the location of an individual section, first locate the township tier and range (i.e. T2S, R4W). Then locate the section number within the township (i.e. Section 2).
Section Subdivided into Quarter Sections

Each section is one square mile, or 640 acres.
As illustrated in Diagram 1, when a section is subdivided into quarters, each resulting subsection contains 160 acres (¼ of 640 acres).
Subsections are identified by their position within the section: NW, NE, SW, or SE.

Quarter Subdivided into Subsections

Subdivided sections can be further subdivided into one-half (½) or one-quarter (¼) subsections.
Diagram 2 illustrates the shaded 160-acre NE quarter of the Diagram 1 section further subdivided into quarter subsections of 40 acres each (¼ of 160 acres).

Subsections Further Subdivided

Diagram 3 shows only the shaded, 160-acre NE ¼ subsection subdivided into 40-acre subsections from Diagram 2.
The 40-acre NE subsection has been further subdivided into quarters, containing 10 acres each (¼ of 40).
The shaded 10-acre NE subsection has been further subdivided into quarters, containing 2 ½ acres each (¼ of 10).

Small Lots

A government lot is a fractional piece of land less than a full quarter section located along the shore of a lake or the bank of a stream.
Tracts of 10 acres, two and one-half (2 ½) acres, or smaller can be identified by using the government survey method. However, that method would be an extremely cumbersome way to describe a small lot. For example, it would not be used to describe a 98’ x 111’ city lot. The surveyor’s method would be preferable.
Exercise 2: Locating a Property from a Legal Description

Use the following legal descriptions to locate the properties in Diagram 4 below. Enter the letter from the diagram in the appropriate blank.

1. NE ¼
2. E ½ of the SW ¼
3. S ½ of the SE ¼
4. NW ¼ of the NW ¼
5. NW ¼ of the SW ¼ of the NW ¼
6. NW ¼ of the NE ¼ of the NE ¼ of the NW ¼
7. W ½ of the NE ¼ of the NE ¼ of the NW ¼

Diagram 4

Calculating Acreage in a Parcel from a Legal Description

Various methods can be used to calculate the acreage contained in a government survey legal description. Some methods are more cumbersome to use than others are. A simple method to calculate the number of acres in a parcel described by the government survey method is shown in this example.

Example: A parcel is described as being the N ½ of the NE ¼ of the NW ¼ of the SW ¼ of Section 9, T24S, R15E. You can determine the acreage of the parcel as follows:

1. Ignore the section and township location information and separator words in the legal description, since they are not needed to find the acreage of the section. That simplifies the description:

   N ½ NE ¼ NW ¼ SW ¼

2. A section contains 640 acres. Start with the right-most subsection (SW ¼, underlined below) and divide 640 acres by the denominator of the fraction (4). The denominator of a fraction is the number on the bottom.

   a. N ½ NE ¼ NW ¼ SW ¼; 640 acres ÷ 4 = 160 acres

3. Moving right-to-left, continue dividing the number of acres by each denominator of the subsection identification to the left (underlined below) until you have used all subsections as follows:

   a. N ½ NE ¼ NW ¼ SW ¼; 160 acres ÷ 4 = 40 acres
   b. N ½ NE ¼ NW ¼ SW ¼; 40 acres ÷ 4 = 10 acres
   c. N ½ NE ¼ NW ¼ SW ¼; 10 acres ÷ 2 = 5 acres

After the last denominator has been used, the amount remaining is the acreage of the parcel. This description, therefore, contains 5 acres.
Calculating Acreage in a Parcel Containing Contiguous Tracts

A parcel may not conform to ¼ or ½ portions of a section. There may be contiguous tracts that comprise a single parcel, and calculating the acreage of this parcel would require a slightly different approach. The use of two or more separate calculations may be necessary.

The key to knowing that more than one legal description and more than one calculation must be used will be the word “and” or “plus” or a semicolon (;) or some other indicator contained in the description.

Example 1: Find the acreage for the parcel with the following legal description: W ½ of the NW ¼ of the SE ¼ and the NE ¼ of the NE ¼ of the SE ¼ of Section 10, T26S, R18E. Note that the word “and” indicates that there are two contiguous tracts within this single parcel.

Solution: To calculate the acreage from this description, it is necessary to perform two series of calculations, finding the acreage of each part of the legal description using the steps shown on the previous page. Add the results for each part together to find the total acreage for the parcel.

1. W ½ NW ¼; 640 acres ÷ 4 = 160 acres
   W ½ NW ¼; 160 acres ÷ 4 = 40 acres
   W ½ NW ¼; 40 acres ÷ 2 = 20 acres
   One tract contains 20 acres.

2. NE ¼ NE ¼ SE ¼; 640 acres ÷ 4 = 160 acres
   NE ¼ NE ¼ SE ¼; 160 acres ÷ 4 = 40 acres
   NE ¼ NE ¼ SE ¼; 40 acres ÷ 4 = 10 acres
   The other tract contains 10 acres.

3. 20 acres + 10 acres = 30 acres.
   The total parcel contains 30 acres.

Example 2: How many acres are contained in the shaded area of the section illustrated in the diagram to the right? The legal description for the shaded area is as follows:

   The W ½ of the NE ¼ of the NE ¼ of the NE ¼ of the NW ¼ of the NE ¼ of the NE ¼ of the NW ¼ of Section 14, T2S, R8E.

Solution:

1. W ½ NE ¼ NE ¼ NE ¼ NW ¼
   640 ÷ 4 = 160; 160 ÷ 4 = 40; 40 ÷ 4 = 10;
   10 ÷ 4 = 2.5; 2.5 ÷ 2 = 1.25 acres

2. NW ¼ NE ¼ NE ¼ NW ¼
   640 ÷ 4 = 160; 160 ÷ 4 = 40; 40 ÷ 4 = 10;
   10 ÷ 4 = 2.5 acres

3. 1.25 acres + 2.5 acres = 3.75 acres
The method used in the previous examples for calculating acreage from a legal
description shows the series of division steps being performed from right-to-left in the legal
description. When calculating the acreage in a parcel, the order of the division, right-to-left
or left-to-right, does not matter. However, when physically locating a parcel by using its legal
description, you must proceed from right-to-left.

**PLAT METHOD**

The *plat (or recorded plat) method*, also known as the *lot and block method*, is a method
of legal description used to identify small parcels of property in subdivided areas and cities.
The subdivision or city map is based on a survey that initially describes the entire area,
usually by metes and bounds. The platted subdivision is then cut into streets, lots, and
blocks. Each street is named, each block is numbered, and each lot is numbered.
The *plat, or plat map*, is the recorded survey that shows dimensions, easements, and
other necessary information. The plat, once approved by the city or county government, is
recorded and indexed by a book and page number for future reference. All legal descriptions
of properties within the platted area are then described by reference to the lot number, block
number, subdivision name, book number, and page number.

**Example:** Plat method of land description.

Lot 2, Block A of Orangewood Subdivision, recorded on Page 92 of Plat Book 105 in
the Public Records of Lemon County, Florida.

![Plat Map Diagram]

**ASSSESSOR’S PARCEL NUMBER (APN)**

An *assessor’s parcel number* (APN) is a number that is assigned to a parcel of real
property by a county property assessor to uniquely identify that property within the
jurisdiction.

Property appraisers use tax maps, which are based upon recorded plat maps, to view
individual parcels. Each property is shown on the tax map. Today, most county tax maps
can be viewed online at the county property appraiser’s website. Additional information such
as the owner’s name, the site address, the assessed value of land and structures, and the
parcel number can also be viewed.

County appraiser offices use many different terms interchangeably to describe parcel
numbers, including ID number, folio number, assessor’s identification number (AIN), parcel
identification number (PIN), and parcel control number (PCN). These terms are used
synonymously with APN.
**COMMON AREA MEASUREMENTS**

The following conversions are commonly used in area measurement calculations.

- One acre contains 43,560 square feet.
- One acre that is a perfect square measures 208.710 feet x 208.710 feet.
- One section contains 640 acres.
- One section is one mile square and contains one square mile.
- One mile is 5,280 feet.
- One township is six miles square, contains 36 square miles, and 36 sections.

**Calculating the Area of a Rectangular Lot**

The number of square feet or acres in a lot is a measurement of its area. The formula for calculating the area of a square or rectangle is to multiply the length of one side by the length of an adjacent side.

If you know the square footage of a rectangular lot and the length of one side, you can use this formula to find the length of the other side by dividing the square feet by the known length.

These calculations must always be performed using like units. If you are given an area measured in acres, you must first convert the number of acres to square feet to find the length of a side measured in feet.

**Example 1:** A lot has a front foot measurement of 30 feet and a depth of 40 feet. How many square feet does the lot contain?

**Solution:** This example has “like units” in that all measurements are in feet and the question is asking for square feet. So, you can perform the calculation without making any conversions for units.

30 feet x 40 feet = 1,200 square feet
Example 2: A 3,500 square foot, rectangular lot has a front foot measurement of 50 feet. What is the depth of the lot?

Solution: $3,500 \text{ square feet} \div 50 \text{ front feet} = 70 \text{ feet (depth)}$

Example 3: A rectangular, 2-acre lot has a front foot measurement of 120’. Find the depth of the lot.

Solution:

1. Convert acres to square feet, since the front foot measurement is in feet:
   
   $2 \text{ acres} \times 43,560 \text{ square feet per acre} = 87,120 \text{ square feet}$

2. Divide the square footage by the known front foot measurement to find the depth of the property:
   
   $87,120 \text{ square feet} \div 120 \text{ front feet} = 726 \text{ feet (depth)}$
CHAPTER 10 MATH PROBLEMS

1. A tract of land measures 660 feet along the highway and contains 20 acres. How deep is
the tract?

Answer: ________________________________

2. How many acres are contained in a parcel of land described by the following legal
description?

N ½ of the NE ¼ of the SE ¼ of the SW ¼ of Section 12, T24S, R13E

Answer: ________________________________

3. Calculate the acreage of a parcel having the following legal description.

The W ½ of the SW ¼ of the NW ¼ of the NE ¼ and the SE ¼ of the SW ¼ of the
NW ¼ of the NE ¼ of Section 28, T19S, R10E.

Answer: ________________________________

4. A parcel of land sold for $30,000 based on a rate of $2.50 per square foot. How many
square feet did it contain?

Answer: ________________________________
CHAPTER 10 REVIEW QUESTIONS

1. The most accurate method of legally describing property is the __________________________ method.

2. ________________________________ are used to identify a parcel’s location on the face of the earth without duplication and without confusion with any other parcel.

3. The initial reference point in a metes and bounds legal description is the ____________________, then the ___________________________ _____________________________.

4. If a metes and bounds description returns exactly to the original starting point, it is called a(n) ____________________________.

5. The area of land lying between a line running east and west and a line lying either north or south and running parallel to it is called a ______________________________.

6. A township is _________ miles square and contains __________ square miles.

7. A section is _________ mile square and contains __________ square mile.

8. There are _____________ square feet in an acre.

9. There are _____________ feet in a mile.

10. There are ___________ acres in a section.

11. The area of land running north and south formed by two meridians is called a(n) ________________.

12. In Florida, the rectangular survey system of property identification begins at a point in ____________________________.

13. Properties located in subdivided areas are usually described using the __________________________ method.

14. A township identified as T25S, R18E would lie _______________ of T24S, R18E.

15. Section 13 is _______________ of Section 12 in the same township.
CHAPTER 10 PRACTICE EXAM

1. Which of the following best describes a contract for sale that contains a street address instead of a legal description?
   a. It is not valid under the statute of frauds.
   b. It is valid only if witnessed.
   c. It is valid but may lead to a future dispute.
   d. It is a violation of the code of ethics.

2. Which method of legal description uses compass bearings to indicate the direction of boundary lines?
   a. Lot and block system
   b. Government survey method
   c. Plat method
   d. Surveyor’s method

3. What is the primary reference point in a metes and bounds description?
   a. The starting point
   b. The monument or permanent marker, then the point of beginning
   c. The initial reference point
   d. The point of first reference

4. Who should prepare a legal description?
   a. Land surveyor
   b. Attorney
   c. Broker
   d. Title company

5. A property description which reads in part “...run N 73° a distance of 26.8'; thence run E a distance of 100.43'...” is being described using which method of legal description?
   a. Government survey
   b. Plat
   c. Metes and bounds
   d. Township

6. What is the main north/south line used in the government survey method?
   a. Prime meridian
   b. Principal longitude
   c. Principal baseline
   d. Principal meridian

7. Which term refers to the area between meridians?
   a. Range
   b. Tier
   c. Section
   d. Acre

8. What is the distance between meridians?
   a. 5 miles
   b. 6 miles
   c. 10 miles
   d. 18 miles

9. How many sections does a township contain?
   a. 24
   b. 30
   c. 36
   d. 140

10. How many square feet are in one acre?
    a. 43,560
    b. 43,650
    c. 45,360
    d. 45,630

11. The S ½ of the SW ¼ of the SE ¼ of Section 14 contains how many acres?
    a. 10
    b. 20
    c. 40
    d. 80

12. Which of the following contains a property described by lot and block number?
    a. Recorded plat
    b. Recorded deed
    c. Development
    d. Government survey

13. Which term refers to the area between a baseline and a line running parallel to it?
    a. Tier
    b. Range
    c. Section
    d. Acre
14. Where is the starting point of the government survey in Florida?
   a. Orlando
   b. Jacksonville
   c. Tallahassee
   d. Miami

15. How many acres are in a section?
   a. 5,280
   b. 640
   c. 100
   d. 36
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CHAPTER 11

REAL ESTATE CONTRACTS

OVERVIEW
Real estate licensees must understand the essential elements of a valid contract. A real estate transaction depends on a clear and concise agreement between the parties to the contract. The two most commonly used contracts in real estate brokerage are the listing contract, and the purchase and sale contract. The listing contract is an employment contract for professional services negotiated between a member of the public and a real estate broker. The purchase and sale contract is negotiated between an owner of property and a potential buyer, which specifies the terms and conditions for the transfer of ownership.

Licensees are required to give potential purchasers certain disclosures when listing or selling property. These disclosures are discussed in this chapter.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- List and describe the essential elements of a valid contract
- Distinguish between formal vs. informal (parol), bilateral vs. unilateral, implied vs. express, and executory vs. executed contracts
- Describe the various ways in which an offer is terminated
- Describe the various methods of terminating a contract
- Explain the remedies for breach of a contract
- Describe the effect of the statute of frauds and the statute of limitations
- Describe the elements of an option
- Differentiate among the various types of listings
- Explain and describe the various disclosures required in a real estate contract
- Recognize what constitutes fraud

KEY TERMS
Assignment
Bilateral contract
Competent parties
Contract
Exclusive agency listing
Exclusive right of sale listing
Formal contract
Liquidated damages
Meeting of the minds
Net listing
Open listing
Option contract
Parol contract
Statute of frauds
Statute of limitations
Unenforceable
Unilateral contract
Unliquidated damages
Valid contract
Void contract
Voidable contract
By definition, a *contract* is an agreement between two or more competent parties that creates an obligation to do or not to do a particular thing. A contract is not required to be in a certain format, to be on a single piece of paper, or even to be in written form. The agreement can be either written or oral.

### Essentials of a Valid Contract

The four essential elements necessary to create a valid contract are as follows:

- **Lawful subject.** A contract must be for a lawful (legal) purpose and not contrary to public welfare. For example, an agreement between two parties to rob a bank would not be a valid contract since the subject of the agreement is unlawful.

- **Offer and acceptance.** There must be an offer and acceptance, agreement, or meeting of the minds. A mutual understanding of the terms of the contract is reached when an offer made by one party is accepted by another party, and communicated to all parties.

- **Consideration.** A contract must specify a *sufficient consideration*. Either valuable or good consideration may be sufficient. *Valuable consideration* is money or anything of value that can be converted to money. This includes cash, personal property, real property, or enforceable promises. Love and affection, which are incapable of being expressed in terms of money, are called *good consideration*. An executory contract must be accompanied by a sufficient consideration. However, once a contract is executed, the sufficiency of the consideration will not come into question.

- **Competent parties.** A valid contract is an agreement between two or more competent parties. Minors, persons who are declared as incompetent by the courts, and persons known to be mentally incompetent do not have the capacity to contract. The law affords special protection to individuals who lack the capacity to contract. A contract made with an incompetent party is voidable. The incompetent party may void the contract and cannot be held accountable for performance. Conversely, an incompetent party can enforce a contract that cannot be enforced against them.

### Creation of a Contract

A contract is created when the offer of one party is accepted, and acceptance of the offer is communicated to the person who made the offer. Communication of acceptance indicates that a complete meeting of the minds exists. A contract does not exist until communication has taken place. Delivery of a contract to all parties is proof that communication has taken place.

Frequently, contracts have an acknowledgment by the parties as to the voluntary nature of the transaction. The acknowledgment is accomplished when the parties appear before an officer of the court such as a notary public or judge. Proof of identity is required, and signature of the parties is made in the presence of the public official. Acknowledgment is necessary if a document is to be recorded in the public records.

A notary public applies a stamp or impresses a seal to the document to attest to the authenticity of the signatures of the parties. The seal of a notary public, called an *acknowledgement*, should not be confused with the word “seal” as used in connection with contract law. In contract law, the word “seal” does not refer to the acknowledgment. The
seal is the placement of the word “seal” or the letters “L.S.,” *locus sigilli*, following the signatures of the parties.

**Statute of Frauds [F.S. 725.01]**

The original *statute of frauds* was enacted in England in 1677 to provide protection against fraud in the sale of real property. It requires a contract for the transfer of a right or interest in land to be in writing in order to be enforceable. It does not make an oral real estate sales contract illegal or invalid. Real estate sales contracts, leases for more than one year, deeds, mortgages, and option contracts are covered by the statute of frauds. Any document that purports to convey a right or interest in land must be in writing to be enforceable.

An executed oral real estate sales agreement that reaches a successful conclusion is perfectly legal. The courts will not overturn an executed oral real estate sales contract. An exception to the statute of frauds exists when a buyer makes a partial payment and either takes possession of or makes improvements to the property.

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### Memory Device: “COLIC”

The elements of a valid and enforceable real estate sales contract are:

- **C** = Competent parties
- **O** = Offer and acceptance
- **L** = Lawful subject
- **I** = In writing
- **C** = Consideration

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**Statute of Limitations**

The statute of limitations provides time limits during which parties are allowed to bring legal action to enforce their rights under a contract.

The periods allowed for various types of contracts are as follows:

- **Oral contracts.** If a contract is entirely oral, action must be brought within four years.
- **Written contracts.** A contract wholly in writing may be enforced if action is brought within five years.

A contract, which is partially oral and partially written, can be enforced based on whether the portion in dispute is oral or written and in accordance with the time limits indicated above.

**Assignment of Contracts**

The sale, transfer, or subrogation of rights in a contract is called an assignment. The party who grants the rights is the assignor; the party who receives the rights is the assignee. An assignment is a contract between the assignor and the assignee. Most contracts are assignable unless prohibited in the agreement.

The assignor of a contract is not relieved of performance as a result of assignment. If the assignee fails to perform, the assignor is responsible for performance of the contract as originally agreed.
CLASSIFICATION OF CONTRACTS

Express vs. Implied Contracts

- **Express contract.** A contract is considered to be an *express contract* if all terms and conditions are specified and agreed to by the parties. In this case, a complete understanding exists. An *express contract* can be either oral or written.

- **Implied contract.** An *implied contract* exists when some or all of the terms and conditions can be assumed by the nature of the agreement or the words and actions of the parties. An implied contract can be either oral or written, or could be an implied provision of another contract.

  **Example of an implied contract:** Paul Painter agrees to paint the outside of John Homeowner’s house for $800. The basic agreement of the contract is clearly understood. Paul is not expected to use interior-grade paint since the nature of the transaction implies that Paul will use exterior-grade paint.

Bilateral vs. Unilateral Contracts

- **Bilateral contract.** In a *bilateral contract*, both of the parties to the contract mutually agree to be bound to performance of the terms and conditions specified. One party exchanges a promise to perform an act based on a promise of the other party. A promise is given in exchange for a promise.

  **Example of a bilateral contract:** If John Homeowner promises to pay a commission upon the sale of his house, and Bob Broker promises to advertise and use his best efforts to sell the house, a bilateral contract exists.

- **Unilateral contract.** In a *unilateral contract*, only one party expressly agrees to perform an act. Only the one who agrees to perform the act is bound by the terms of the contract. One party gives a promise of performance based on performance by the other party. A promise is given in exchange for an act.

  **Example of a unilateral contract:** John Homeowner promises to pay a commission to Bob Broker only if Bob finds a purchaser for John’s home.

Executory vs. Executed Contracts

- **Executory contract.** A contract is considered to be *executory* if any term or condition remains to be performed.

  **Example of an executory contract:** An owner has agreed to sell and a purchaser has agreed to buy the owner’s property. Both have signed an agreement, which requires the owner to make certain repairs prior to closing, and the purchaser to apply for and obtain certain financing in order to conclude the transaction. At this time, the agreement is executory; something remains to be done.
- **Executed contract.** When all parties have fully performed, the contract has been *executed*.

  **Example of an executed contract:** On the date specified in the contract, the parties meet at the attorney’s office. All contingencies have been satisfied. Both parties acknowledge performance by the other. The buyer pays the money due, and the seller delivers a valid deed. Both parties have fully performed; the contract has been executed.

**Formal vs. Informal (Parol) Contracts**

- **Formal contract.** A *formal contract* is written, contains all the elements of a valid contract, and may be recorded in the public record. A formal contract is enforceable under the statute of frauds.

  One definition of a formal contract is “a contract that is wholly written and under seal.” In past years, the existence of a seal was a significant matter, but today a seal is a formality that does not affect the validity or enforceability of the contract.

- **Informal (parol) contract.** An *informal contract*, or *parol contract*, is an oral agreement (made solely by word of mouth) or a partially written contract between the parties that may or may not contain all the elements of a valid contract and is not recorded in the public record. An informal contract can be a valid, legal contract, but is not enforceable under the statute of frauds.

  Oral contracts are referred to as parol contracts.

**Void vs. Voidable Contracts**

- **Void contract.** A contract that is void is inherently unenforceable. A *void contract* cannot be performed under the law. A contract can be void as a result of meeting one of the following criteria:

  - It requires a party to perform an act that is impossible or illegal.
  - It became illegal due to changes in the law or government policy.
  - It was legal, but was declared null by the courts because it violated a fundamental principle such as fairness, or is against public policy.

- **Voidable contract.** A *voidable contract* is a valid agreement that can be enforceable. However, one or both of the parties to the contract can cancel or revoke the contract at any time. A voidable contract can be legally rejected by one party and is said to have a defect. Reasons that can make a contract voidable include:

  - Failure by a party to disclose a material fact
  - A mistake, misrepresentation, or fraud
  - Coercion, undue influence, or duress
  - Lack of capacity: a party was unable, due to intoxication or other impairment, to understand and form a contract
  - A breach of contract
  - A minor enters into a contract with an adult
CONTRACT NEGOTIATION

Offer and Counteroffer

The party who makes an offer is called the offeror; the party who receives the offer is the offeree. If the offeree changes any of the terms or conditions of the original offer, it becomes what is known as a counteroffer.

A counteroffer has the effect of rejecting the original offer and replacing it with an entirely new offer. The original offeror becomes the offeree and the original offeree becomes the offeror. The original offer no longer exists.

Termination of Offers

An offer is terminated by the following:

- **Acceptance.** An offer accepted by the parties becomes a contract.
- **Withdrawal.** The offeror can withdraw an offer at any time up to the time that acceptance of the offer has been communicated. If the offeror has received valuable consideration in return for keeping the offer open for a period-of-time, the offer may not be withdrawn during that time.
- **Rejection or counteroffer.** An offer is terminated if the offeree rejects the offer. A counteroffer is considered to be a rejection of an offer.
- **Lapse of time.** The offer is terminated at the end of the time specified for acceptance in the offer.
- **Death or insanity.** The death or insanity of either party terminates an offer.
- **Destruction of the property.** When improvements are destroyed by fire or natural disaster, the offer is terminated.

Memory Device: “WILD CARD”

The ways in which an offer can be terminated are:

- **W** = Withdrawal
- **I** = Insanity
- **L** = Lapse of time
- **D** = Death of either party
- **C** = Counteroffer
- **A** = Acceptance
- **R** = Rejection
- **D** = Destruction of the property
CONTRACT TERMINATION

The ways in which a contract can be terminated are as follows:

- **Breach.** A *breach* occurs if a party to a contract fails to meet the obligations or perform as agreed. The injured party can seek relief in court.

- **Renunciation.** *Renunciation* is the mutual consent of the parties to terminate the agreement.

- **Revocation.** A party who is legally entitled can *revoke* and terminate the contract. In some situations, a party can have the power to revoke, but not have the legal right to do so.

- **Lapse of time.** A contract typically specifies a time for performance by the parties.
  - If no time for performance has been specified in a contract, a reasonable time will be allowed. Usually, only a court can determine how much time is reasonable.
  - If time for performance is important to the parties, the contract should include the wording “time is of the essence.” The parties have agreed that time for performance is a significant feature of the agreement and should be strictly enforced. When “time is of the essence” appears in the contract, one minute late is too late.

- **Abandonment.** If a party to the contract walks away from the contract and does nothing toward performance or completion, the other party can terminate the contract.

- **Performance.** If both parties perform as agreed and fulfill the required obligations stated in the contract, the contract is terminated.

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The six ways in which a contract can be terminated are:

- B = Breach
- R = Renunciation
- R = Revocation
- L = Lapse of time
- A = Abandonment
- P = Performance

Legal Remedies for Breach of Contract

*Breach of contract* occurs when one contracting party fails or refuses to carry out the terms and conditions agreed upon in the contract. Legal remedies exist to allow the plaintiff (the injured party) to seek court action to enforce rights created by the agreement. The remedies discussed here are civil matters that do not concern the Florida Real Estate Commission.
The three basic remedies for a breach of contract are as follows:

- **Suit for cancellation (rescission).** The party who is not in breach can bring a suit in court to cancel the contract and ask the court to put the parties back in their original positions.

- **Suit for specific performance.** The party who is not in default asks the court to require the other party to perform as agreed in the contract. This remedy is usually available in connection with the sale of real estate, and is usually a remedy taken by the buyer.

- **Suit for damages.** The injured party can sue for damages. A suit for damages typically involves a request to the court to be financially compensated for harm suffered.

### Types of Damages

The two types of damages, liquidated and unliquidated, are defined below:

- **Liquidated damages** are those that are specified and agreed upon in the contract. The parties have agreed to the penalty to be imposed in the event of a breach by either party. This usually involves the seller retaining the deposit in the event of a buyer default.

- **Unliquidated damages** are those that are not specified in the contract, but are determined by a court. A suit for damages involves unliquidated damages.

### Action for a Declaratory Judgment

An action for a declaratory judgment is a request to a court to interpret a contract in advance of a breach. This would be used if the parties to a contract were in dispute and request clarification or interpretation of provisions in the contract. A court’s interpretation of a contract is called *construction.*

### Real Estate Sales Contracts

#### Parties to a Sales Contract

The parties to a purchase and sale contract are the **vendor** (seller) and the **vendee** (buyer). A real estate purchase and sale contract is an agreement between a property owner and a potential purchaser concerning a specific real estate parcel or parcels. Sales contracts are bilateral; the vendor promises to sell and the vendee promises to buy.

#### Essential Elements of a Sales Contract

The purchase and sale contract must meet all of the essential elements for other contracts that include competent parties, lawful subject matter, meeting of the minds, and consideration. Witnesses are not required on a purchase and sale contract, although most standard forms have spaces for them.
**Earnest Money Deposits**

The vendee customarily gives a *binder deposit*, also called *earnest money*, to show serious intent to buy the property. However, money does not have to change hands for the purchase and sale contract to be valid. Enforceable promises have been made by both parties, which constitute valuable consideration.

Most purchase and sale contracts stipulate that the earnest money is to be returned to the vendee in the event of default by the seller. The vendee usually forfeits the deposit if they default. The earnest money is generally divided equally between broker and vendor. The vendor is protected somewhat by the deposit and is reimbursed for the inconvenience of having removed the property from the market. Likewise, the broker receives some return on the time and effort expended in obtaining the agreement. The broker is not entitled to more than the amount of their normal commission had the transaction gone to closing.

**Equitable Title**

The vendee acquires *equitable title* as a result of having entered into a binding contract to purchase the property. Equitable title is the interest held by one who has agreed to purchase property but has not yet closed. Although the vendor retains the legal title until closing, the vendee has the right to receive at closing that which was bargained for at the time the contract was entered into. This imposes on the vendor the obligation to maintain the property in the same condition it was when the agreement was entered into.

**Right to Prepare Contracts**

Real estate licensees can legally prepare listing contracts, sales contracts, option contracts, and buyer representation agreements, including deposit receipts when applicable. However, complex sales and option contracts should be referred to an attorney. Licensees are not allowed to prepare contracts for mortgages, deeds, leases, assignments, or other legal documents.

An attorney must prepare leases, although licensees are allowed to fill in the blanks on certain residential lease forms for lease periods not to exceed one year. The Florida Supreme Court has specifically approved these residential lease forms. A licensee:

- May not modify these lease forms in any way
- Must refer any and all questions regarding the interpretation of these lease forms to an attorney
- May prepare the purchase or option portion of a lease-purchase or lease-option agreement
- Must use an approved lease form for the lease portion of a lease-purchase or lease-option agreement or allow an attorney to prepare it

**Information Included in a Sales Contract**

A typical sales contract includes, but is not limited to, the following information:

- Parties to the contract
- Property description
- Real and personal property included/excluded
- Purchase price
- Effective date
As Is Contracts

Sellers of residential property in Florida are required to disclose any material defects. A material defect is any fact that could have a significant and reasonable impact affecting the property’s value. The use of an as is provision in a contract does not relieve the seller of this responsibility. In Johnson v. Davis, the Supreme Court of Florida stated, “We hold that where the seller of a home knows of facts materially affecting the value of the property which are not readily observable and are not known to the buyer, the seller is under a duty to disclose them to the buyer.”

With an "as is" contract, the seller is under no obligation to make any repairs to the property that are discovered during the inspection process. In contrast, with a standard sales contract, the seller may be liable to make repairs up to a pre-determined percentage of the sales price or reimburse the buyer for repairs at settlement.

DISCLOSURES REQUIRED IN SALES CONTRACTS

Seller Disclosure of Known Material Facts Affecting Value

All real estate licensees have a duty to disclose all known facts that materially affect the value of residential real property and are not readily observable to the buyer. This disclosure, included in the Purchase and Sale contract, notifies the seller of their responsibility in providing this required information.

Licensees and property owners have an affirmative duty to disclose material defects in a property. When in doubt, disclose. The use of an “as is” provision in a contract for sale is not enforceable unless all known defects have been disclosed to a potential purchaser.

The seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to the buyer. Except as stated in the preceding sentence or otherwise disclosed in writing: (1) Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation; and (2) Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the property.

Lead-Based Paint Disclosure

Federal law prohibits the use of lead-based paint subsequent to January 1, 1978. Any property constructed prior to that date may contain such a substance, which may produce permanent neurological damage especially in young children.
The federal Residential Lead-Based Paint Hazard Reduction Act of 1992, also known as Title X, requires that a pamphlet prepared by the EPA be given to any party interested in either buying or leasing such properties. The seller or landlord must also disclose information such as the location of the lead-based paint and/or lead-based paint hazards, and the condition of the painted surfaces. Buyers must be given a 10-day period after a contract is signed to test for lead-based paint hazards. Tenants, however, do not have the right to conduct tests. Licensees should become familiar with this law and the exemptions that apply.

**Radon Disclosure**

Any party interested in either buying or leasing for periods of more than 45 days must be provided with a written disclosure containing the following wording: [F.S. 404.056]

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

**Energy-Efficiency Rating Disclosure**

The Florida Building Energy-Efficiency Rating Act requires that a prospective buyer of real property containing a building for occupancy must be provided with an energy-efficiency information brochure at the time of or prior to the execution of the contract for sale or purchase. [F.S. 553.996]

**Property Tax Disclosure [F.S. 689.261]**

A prospective purchaser of residential property must be presented a disclosure summary at or before execution of the contract for sale. Unless a substantially similar disclosure summary is included in the contract for sale, a separate disclosure summary must be attached to the contract for sale. The disclosure summary must be in a form substantially similar to the following:

BUYER SHOULD NOT RELY ON THE SELLER’S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER’S OFFICE FOR INFORMATION.

**Foreign Investment in Real Property Tax Act (FIRPTA) Disclosure**

The sale of a U.S. real property interest by a foreign person is subject to the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) income tax withholding. FIRPTA authorized the United States to tax foreign persons on dispositions of U.S. real property interests. It does this by mandating that in covered transactions, buyers must withhold 10% for the sale of a personal residence, where the amount realized is above $300,000 and up to
$1,000,000, directly to the IRS. Effective February 2016, a 15% IRS withholding requirement applies to the sale of a personal residence where the amount realized is above $1,000,000.

The following disclosure in the Purchase and Sale contract notifies the parties of this possible requirement.

If Seller is a “foreign person” as defined by the Foreign Investment in Real Property Tax Act (FIRPTA), the buyer and seller will comply with FIRPTA, which may require the seller to provide additional cash at closing.

Homeowners’ Association Disclosure

Whenever mandatory membership in a homeowners’ association is required as a condition of a purchase, the following written disclosure must be provided: [F.S. 720.401]

Disclosure Summary for (name of community)

1. As a purchaser of property in this community, you will be obligated to be a member of a homeowner’s association.
2. There have been or will be recorded restrictive covenants governing the use and occupancy of properties in this community.
3. You will be obligated to pay assessments to the association. Assessments may be subject to periodic change. If applicable, the current amount is $________ per _________. You will also be obligated to pay any special assessments imposed by the association. Such special assessments may be subject to change. If applicable, the current amount is $________ per ______________.
4. You may be obligated to pay special assessments to the respective municipality, county, or special district. All assessments are subject to periodic change.
5. Your failure to pay special assessments or assessments levied by a mandatory homeowner’s association could result in a lien on your property.
6. There may be an obligation to pay rent or land use fees for recreational or other commonly used facilities as an obligation of membership in the homeowner’s association. If applicable, the current amount is $________ per _________.
7. The developer may have the right to amend the restrictive covenants without the approval of the association membership or the approval of the parcel owners.
8. The statements contained in this disclosure form are only summary in nature, and as a prospective purchaser, you should refer to the covenants and the association governing documents before purchasing property.
9. These documents are either matters of public record and can be obtained from the record office in the county where the property is located or are not recorded and can be obtained from the developer.

Date_________________ Purchaser _________________________

Purchaser _________________________

Timeshare Resale Purchase Agreements [F.S. 721.065]

Whenever a broker negotiates a contract for the resale of a timeshare unit, the contract must contain specific language related to common area expenses, ad valorem taxes, and other ownership charges. The disclosure that follows must appear just above the space reserved for the signature(s) of the purchaser in capitalized ten-point, bold type or larger:
The current year’s assessment for common expenses allocable to the timeshare period you are purchasing is $_________. This assessment, which may be increased from time-to-time by the managing entity of the timeshare plan, is payable in full each year on or before __________. This assessment (includes) (does not include) yearly ad valorem real estate taxes, which (are) (are not) billed and collected separately.

If ad valorem real property taxes are not included in the current year’s assessment for common expenses, the following statement must be included:

The most recent annual assessment for ad valorem real estate taxes for the timeshare period you are purchasing is $_________. Each owner is personally liable for the payment of his assessment for common expenses, and failure to timely pay these assessments may result in restriction or loss of your use and/or ownership rights.

The disclosure requirements pertaining to timeshare resale periods are specified in F.A.C. 61J2-23.002.

Cooperative Resale Disclosure [F.S. 719.503(2)(c)]

Each prospective purchaser who has entered into a contract for the purchase of an interest in a cooperative is entitled, at the seller’s expense, to a current copy of the articles of incorporation of the association, the bylaws, and rules of the association, as well as a copy of the question and answer sheet. Each contract for the resale of an interest in a cooperative shall contain in conspicuous type, one of the two disclosures below.

The buyer hereby acknowledges that buyer has been provided a current copy of the articles of incorporation of the association, bylaws, rules of the association, and the question and answer sheet more than 3 days, excluding Saturdays, Sundays, and legal holidays, prior to execution of this contract.

or

This agreement is voidable by buyer by delivering written notice of the buyer’s intention to cancel within 3 days, excluding Saturdays, Sundays, and legal holidays, after the date of execution of this agreement by the buyer and receipt by buyer of a current copy of the articles of incorporation, bylaws, and rules of the association, and question and answer sheet, if so requested in writing. Any purported waiver of these voidability rights shall be of no effect. Buyer may extend the time for closing for a period of not more than 3 days, excluding Saturdays, Sundays, and legal holidays, after the buyer receives the articles of incorporation, bylaws, rules, and question and answer sheet, if requested in writing. Buyer’s right to void this agreement shall terminate at closing.
LISTING CONTRACTS

A listing contract is an employment contract between a broker and the owner of real estate. A buyer as well as a seller can employ a broker, but the term listing generally applies to a contract between an owner and a broker to either sell or lease the owner’s property.

A listing contract gives a broker authority to perform specified real estate service(s) on behalf of an owner. If the broker is successful in accomplishing the purpose of the employment, they are entitled to a fee or commission for the service performed.

If a listing is obtained through the efforts of one of the broker's sales associates or broker associates, the listing contract belongs to the broker. A licensee, whether a sales associate or broker associate, works under the supervision of, and is an agent of the broker. The listing was obtained by the licensee as an agent of, and on behalf of, the broker.

Written Listing Contracts

Written listing contracts must contain the following elements:

- Definite termination date
- Legal description of the property
- Price and terms offered
- Fee or commission to be earned by the broker
- Signature of the property owner(s)

Written listing agreements cannot include an automatic renewal provision. The broker must deliver a copy of any written listing agreement to the property owner within 24 hours of execution.

Procuring Cause

The broker who successfully performs by locating a willing, ready, and able buyer is said to be the procuring cause of the sale and is the only broker entitled to a commission.

Types of Listing Contracts

Residential Listings

- Open listing. An open listing contract is a unilateral contract. The property owner promises to pay a commission if the broker finds a buyer willing to purchase the property at a price and at terms that are acceptable to the property owner. Open listings may be either oral or written.

  An owner can give an open listing to any number of brokers for the sale of the same property. In effect, the brokers are in competition with each other to find a buyer for the property. In addition, the seller reserves the right to sell it themselves without paying a commission to anyone.

- Exclusive agency listing. The exclusive agency listing or exclusive listing is a bilateral contract in which the property owner promises to list the property with only one broker. The property owner promises to pay a commission if the broker successfully performs. The owner reserves the right to sell the property themselves. The broker is not entitled to a commission if the owner sells the property.

  If a broker is employed as a single agent, this type of listing may be referred to as an exclusive agency listing. Exclusive listings may be either oral or written.
- **Exclusive right of sale listing.** The exclusive right of sale listing is a bilateral contract in which the property owner promises to pay a commission regardless of who sells the listed property. If the owner sells the property themselves, or sells it by using another broker, the broker who was employed under the exclusive right of sale contract is still entitled to a commission. Exclusive right of sale listing contracts must be in writing.

  In an exclusive right of sale listing contract, the broker promises to use their best professional efforts to locate a buyer who is ready, willing, and able to buy the listed property at the price and terms specified. The exclusive right of sale contract gives the broker the best protection of the three types of residential listing contracts.

**Commercial Listings**

F.S. 475, Part III is the Commercial Real Estate Sales Commission Lien Act. The Act presumes a broker to have a lien against the seller’s net sales proceeds upon performance by the broker under a written listing contract in a commercial real estate transaction. Commercial real estate is all real estate with the exception of residential property of one to four units, including vacant land permitted for such use and agricultural property which contains ten or less acres. The lien is personal property of the broker and cannot be sold or assigned and attaches only to the seller’s net proceeds, not to the real property.

The listing agreement or a separate written agreement must contain a disclosure in substantially the following form:

> “The Florida Commercial Real Estate Sales Commission Lien Act provides that when a broker has earned a commission by performing licensed services under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the broker’s commission. The broker’s lien rights under the act cannot be waived before the commission is earned.”

For the lien to be enforceable, the broker must prepare a commission notice that contains language in substantially the same format as specified in the Act. The commission notice must be signed by the broker and witnessed by a notary public. A copy of the commission notice is to be delivered to the owner and closing agent within 30 days of performance by the broker, but not less than one day prior to closing.

The lien is not enforceable should the broker fail to deliver copies to the owner and closing agent as required. Once both parties have received copies of the commission notice, the notice may be recorded in the public records in the county where the real property is located.

The broker must record a release of lien within seven days after receipt of payment of the commission.

**Net Listings**

Any of the listings previously discussed can be structured as a net listing. In a net listing, the property owner agrees to accept a stipulated amount, and no less, upon sale of the property. This amount is called the seller’s net. The broker retains all money over the seller’s net as a commission. The seller’s net plus the broker’s commission and closing costs is equal to the total sale price of the property. If the broker should sell the property for more than the listed price, any excess above the broker’s agreed upon commission must be paid to the seller. The broker cannot manipulate the transaction so as to make more than the commission agreed to.
Net listings are legal in Florida; however, a broker is not allowed to speculate with a property. The broker must inform the owner regarding the value of any property being listed. Net listings offer the potential for conflicts of interest and disagreements between owners and brokers and are generally discouraged from use.

Assume during a listing presentation that a property owner stated that they would list the home only if a net of $110,000 could be received from the sale. To convert this into a listing price, the sales associate would first add an approximate amount to the net required by the owner to cover closing costs. The sum of these two numbers would be divided by 100% minus the commission rate required by the broker.

If the broker’s commission in this type of transaction was 10%, the listing price can be calculated as follows:

\[
\begin{align*}
\text{Owner’s required net sales price} & \quad \text{Estimated closing costs (not including broker’s commission)} \\
$110,000 & \quad 2,140 \\
\text{Total} & \quad 112,140 \\
100\% & \quad 10\% \\
90\% & \\
\frac{112,140}{0.90} & = 124,600 \\
\end{align*}
\]

\[\text{Listing price}\]

Calculating a Brokerage Commission

The fee charged by a broker for their services may be based on an hourly rate, a fixed or flat fee, or more commonly, on a percentage of the sales price. The broker’s commission is based on the entire sales price, which may include expenses or other encumbrances that must be paid by the seller. In other words, any encumbrances are the responsibility of the seller and do not reduce the broker’s commission. The brokerage fee is a major cost that must be calculated when preparing the seller’s net sheet.

The brokerage fee is usually divided between the listing and selling brokerage offices on an agreed upon percentage basis. Each brokerage office splits the gross commission received with their licensees, according to their independent employment contract.

There are two basic ways in which a brokerage commission may be established: a single percentage of the sales price, or on a sliding scale.

The following are examples of how these methods are applied:

**Single percentage example:** A broker charges a commission of 7% of the gross sales price. A sales associate sells a property for $108,500, and receives 60% of the broker’s commission. What is the total commission due, and what is the sales associate’s share of the commission?

**Solution:**

\[
\begin{align*}
\text{Sale price} & \quad \text{Broker’s commission rate} \\
$108,500 & \quad 0.07 \\
\text{Total commission due} & \\
$7,595 & \quad \text{Sales associate’s rate of total commission} \\
\text{Sales associate’s share of commission} & \quad 0.60 \\
$4,557 & \\
\end{align*}
\]

**Sliding scale example:** A sales associate negotiated a contract to sell a property for $239,000. The broker, on this type of transaction, charges a commission of 5% on the first $100,000 of the sales price, 6% on the next $75,000, 7.5% on the next $25,000, and
10% on the balance. What are the total commission due and the sales associate’s share if the broker retains 45% of the total commission?

Solution:

\[
\begin{align*}
$239,000 & \quad \text{Sale price} \\
- 100,000 & \quad \times 0.05 = $5,000.00 \\
139,000 & \\
- 75,000 & \quad \times 0.06 = $4,500.00 \\
64,000 & \\
- 25,000 & \quad \times 0.075 = $1,875.00 \\
39,000 & \quad \times 0.10 = $3,900.00 \\
\hline
\$15,275.00 & \quad \text{Total commission} \\
\times 0.55 & \quad \text{Sales associate’s rate} \\
\$8,401.25 & \quad \text{Sales associate’s share}
\end{align*}
\]

Broker’s Right to Receive Compensation

A broker’s right to compensation is based on performance. The broker must perform as agreed in the employment contract.

A listing contract with a seller may require the broker to effect a sale by locating a ready, willing, and able purchaser, and obtaining a binding contract at the listed price and terms. The broker is entitled to compensation when the potential purchaser has been located and title successfully passes from seller to buyer at closing. A broker may be employed simply to find a purchaser who is ready, willing, and able to purchase. If so, the broker is entitled to compensation whether or not a sale is finalized.

If the buyer and seller agree to a price lower than the price in the listing, the broker receives a commission based on the actual sales price. A broker’s compensation is determined by negotiated agreement between the employer and the broker.

- **Protection period.** Brokers typically insert a protection period into their employment contracts. This specified period-of-time follows the expiration of the employment contract. If the owner sells the property during this period to anyone with whom the broker had dealings during the employment period, the broker is entitled to compensation. The protection period does not apply to property that is relisted with another broker after the expiration date of the employment contract.

- **Implied listing.** If an owner knowingly allows a broker to show property to prospective purchasers in the absence of a written listing, and the property is sold to one of them, the broker is entitled to a commission based upon an implied listing. If a broker has performed according to an implied listing contract, but the seller refuses to pay the broker, the broker may bring legal action to enforce collection of a commission or fee.

Termination of a Listing

Listings are terminated as the result of any of the following:

- **Breach.** A breach of contract by one party allows the other party to terminate the listing.

- **Renunciation.** The listing may be terminated by mutual consent of the parties.
• **Revocation.** The broker or owner can terminate the listing by giving notice of revocation to the other party. The broker may have legal recourse if the owner revoked and did not have the legal authority to do so. The owner would owe the broker a commission if the broker had performed prior to the revocation.

  If an owner revokes an exclusive listing and sells the property themselves during the remaining term of the listing, the broker would not be entitled to a commission. However, if the owner revoked the exclusive listing and listed with another broker who then sells the property, the original broker may be entitled to damages or a commission from the seller.

  If an owner revokes an exclusive right of sale listing and sells the property during the time the listing would still have been in effect, the owner would be liable to the broker for a full commission. If the owner does not sell the property during this period-of-time, they may still be liable to the broker for time and expenses.

• **Lapse of time.** The listing contract is terminated at the time specified in the listing contract.

• **Abandonment.** The owner can terminate the listing contract if the broker fails to perform in accordance with the listing contract.

• **Performance.** The listing contract is terminated by full performance as stated in the listing contract.

• **Destruction of the property.** The listing contract is terminated if the property is destroyed.

• **Death or insanity.** The listing contract is terminated by the death or mental incapacitation of either the broker or the property owner.

• **Bankruptcy.** The listing contract is terminated by the bankruptcy of either the broker or property owner.

**Multiple Listing Service (MLS)**

The **Multiple Listing Service (MLS)** operated by the local Board of REALTORS is a means of collectively marketing properties listed with the service. The member-brokers agree to share information about properties for sale by listing them with the service. Properties can be more effectively marketed when brokers and sales associates throughout the area are aware that a property is for sale. By having information at their fingertips, licensees have instant access to hundreds or even thousands of properties for sale. A small fee may be charged to pay for this service. These listings are usually restricted to exclusive or exclusive right of sale listings.

**Timeshare Listing Agreement Disclosure [F.A.C. 61J2-23.001(1)(a)]**

Whenever a broker lists a timeshare resale unit, the contract must contain specific language related to common area expenses, ad valorem taxes, and other ownership charges. The disclosure that follows must appear in conspicuous type just above the space reserved for the signature(s) of the owner:

```
There is no guarantee that your timeshare period can be sold at any particular price or within any particular period-of-time.
```
BUYER BROKER AGREEMENTS

Showing Agreement

A licensee can use a Showing Agreement to obtain loyalty from a buyer. In the Showing Agreement, the buyer agrees that if they purchase a home shown to them by the licensee, they will make that purchase through the licensee. Section 2 of the Showing Agreement provides a place to keep a record of the properties that have been shown to the buyer. If the buyer purchases a property that is not on the list, they owe the licensee nothing.

A sample Showing Agreement form is provided in the Real Estate Forms section of this book.

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Showing Agreement

1. PARTIES: ____________________________ ("Buyer") agrees that if, between ___________ and 11:59 p.m. on ___________, ______, Buyer becomes interested in negotiating the purchase, option, exchange, lease or other acquisition of any of the properties listed below, Buyer will utilize the professional services of ____________________________ ("Broker").

2. PROPERTY: Broker introduced Buyer to the following properties:

---

Exclusive Buyer Brokerage Agreement

To act as the buyer’s broker and receive compensation from them, licensees may choose to use an Exclusive Buyer Brokerage Agreement. This agreement establishes an exclusive representation with the buyer, provides for a retainer fee, and contains a limitation of the licensee’s liability with respect to tax, legal, environmental, engineering, or other specialized advice. This agreement also includes a protection period whereby the buyer still owes compensation within a certain number of days after the agreement terminates if they purchase a property that the licensee introduced to them during the agreement term.

A sample Exclusive Buyer Brokerage Agreement is provided in the Real Estate Forms section of this book.

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Exclusive Buyer Brokerage Agreement

1. PARTIES: ____________________________ ("Buyer") grants the exclusive right to work with and assist Buyer in locating and negotiating the acquisition of suitable real property as described below. The term “acquire” or “acquisition” includes any purchase, option, exchange, lease or other acquisition of an ownership or equity interest in real property.

2. TERM: This Agreement will begin on the ______ day of ______, ______, and will terminate at 11:59 p.m. on the ______ day of ______, ______ ("Termination Date"). However, if Buyer enters into an agreement to acquire property that is pending on the Termination Date, this Agreement will continue in effect until that transaction has closed or otherwise terminated.
OPTION CONTRACTS

An option contract is a right to buy a property during a specified period-of-time, at a specified price. It is not an obligation to buy the property, as is the case with a sales contract. It is a right that may or may not be exercised. Option contracts are, therefore, unilateral since the party who acquires the right has not promised to buy the property. To acquire this right, a party must pay a definite valuable consideration. This is true because any contract requires that both parties receive some benefit. The term valuable consideration in contracts is used to signify consideration sufficient to sustain an enforceable agreement.

The definite valuable consideration is given to the owner in lieu of a promise. The right cannot be obtained without some consideration being given. The consideration paid is called option money.

Parties to an Option

The property owner who gives the right is called the optionor; the party who receives the right is called the optionee. The optionor is the only party who is obligated either to do or not to do something.

Exercising an Option

The optionee has the legal right and can elect to purchase the property by exercising the option at any time within the specified option period. Once the optionee notifies the optionor of the intention to proceed with the purchase, the option becomes a purchase and sale contract, and is binding on both parties. [F.S. 475.43]

Requirements for Option Contracts

Option contracts must meet the following requirements:

- In writing. Options are covered by the Statute of Frauds and must be in writing to be enforceable.

- Price and terms. The option must state the price and terms for the transaction.

- Length of time. The time period must be specified.

- Legal description. The contract must contain a full legal description of the property that is the subject of the option.

- Consideration. The optionee must pay a definite, valuable consideration, which is usually money.

All of the option money cannot be refunded if the option is not exercised because that would remove the consideration. An option can provide that all or a portion of the consideration paid by the optionee can be applied toward the purchase price if the option is exercised. An option not based on a definite valuable consideration is void. [F.S. 475.43]
Option Contracts as Listings

An option contract requires definite valuable consideration. An option that is accompanied by only a token consideration is considered to be a listing, not a contract. Since an unlicensed person cannot have a listing, they must pay a definite valuable consideration to obtain a valid option; otherwise, the agreement is void. Any attempt to conclude such transactions is a violation of law. [F.S. 475.43]

Real estate licensees are allowed to obtain options but must also pay a definite valuable consideration and, in addition, divest themselves of their identity as licensees. Licensees are not allowed to deal for themselves without advising members of the public of their licensed status.

A broker who acquires an option without paying option money or only a token consideration has obtained a listing, not an option, in the eyes of the Commission. A broker can enter into option contracts without paying a definite valuable consideration because a broker is entitled to have listings. The broker would only be entitled to a commission in the transaction.

CONTRACT FOR DEED (INSTALLMENT SALE CONTRACT)

The contract for deed is also known as an agreement for deed, land contract, conditional sales contract, or installment sale contract.

A contract for deed is an agreement between a property owner and potential buyer in which the owner agrees to deliver a deed to the purchaser after certain conditions have been met. The buyer is given possession and use of the property. Generally, the buyer makes a down payment to the seller and continues to make payments over a period-of-time, similar to mortgage payments. The agreement calls for the title to be conveyed after the full purchase price, or a stipulated portion of the price, has been paid.

Florida law considers this type of transaction to be a financing device. The buyer has equitable title rights even though the seller retains the legal title. If the contract is recorded, the buyer is entitled to homestead protection under the Florida Constitution, and may claim the homestead tax exemption.

This type of transaction can pose potential problems. The seller may encumber the property with loans, or the title could be clouded by judgment liens against it. If the seller should die prior to the end of the installment period, the buyer may have difficulty gaining legal title. If the seller is unable or unwilling to deliver the legal title to the buyer at the end of the contract, the buyer can bring a suit for specific performance in court. Some states allow the seller to claim and retain all money paid upon default by the buyer. In Florida, if the buyer defaults, the seller must start foreclosure proceedings in court.

In order to protect the parties involved in a contract for deed, all documents associated with the transaction should be placed in escrow, and the contract should be recorded in the public records.
CHAPTER 11 REVIEW QUESTIONS

1. The type of listing given to only one broker but which allows the owner to sell the property without paying the broker is a(n) ________________ listing.

2. An owner must be given a copy of a written listing within ________ hours.

3. The type of listing that gives the broker the greatest degree of protection is the ________________ ________________ ________________ listing.

4. When a court is called upon to interpret the meaning of a contract, the process is called ________________.

5. Damages specified in a contract are ________________ damages.

6. When a contract has not yet been fully performed, it is a(n) ________________ contract.

7. A contract wholly in writing may be enforced for ________ years, as specified by the ________________ ________________ ________________.

8. Oral real estate sales contracts are considered to be ________________, but are not ________________.

9. Valuable consideration in a contract may consist of ________________ property, ________________ property or ________________ ________________.

10. The parties to a real estate sales contract are the __________________, who is the seller, and the __________________, who is the buyer.

11. Witnesses on a real estate contract are ________________ ________________.

12. To be valid, an option must be accompanied by a(n) ________________ ________________ ________________.

13. The parties to an option are the ____________________, who is the owner of the property, and the ____________________, who is the potential purchaser.

14. An option not accompanied by a definite valuable consideration is ________________.

15. With a contract for deed, a vendee has acquired ________________ ________________ ________________ in the property prior to closing.
CHAPTER 11 PRACTICE EXAM

1. Which of the following is an example of a unilateral contract?
   a. Purchase and sale contract
   b. Contract for deed
   c. Open listing contract
   d. Oral contract

2. In which circumstance is a broker’s commission subject to forfeiture?
   a. The broker has an oral listing contract.
   b. The broker fails to obtain witnesses to a real estate sales contract.
   c. The broker performs according to the employment contract.
   d. The broker violates a fiduciary duty.

3. If an owner revokes an exclusive right of sale listing and sells the property during the remaining time the listing would have been in effect, what is the broker entitled to?
   a. A full commission
   b. Bring a suit for damages
   c. Write off the loss on their income taxes
   d. Revoke the listing contract

4. Which term refers to a type of contract where all terms and conditions are NOT fully expressed?
   a. Implied
   b. Bilateral
   c. Parol
   d. Executory

5. What are the required elements of all valid contracts?
   a. Lawful subject, competent parties, legal age, and offer
   b. Offer, acceptance, legal age, and lawful subject
   c. Lawful subject, agreement, consideration, and two or more competent parties
   d. Meeting of the minds, legal age, offer, and competent parties

6. To which of the following does the phrase “meeting of the minds” refer?
   a. Offer and acceptance
   b. Consideration
   c. Lawful subject
   d. Two or more parties

7. Which of the following best describes a contract?
   a. A written instrument
   b. Legally binding
   c. Void unless accompanied by earnest money
   d. Always bilateral

8. What is the term used to describe the party who receives an offer?
   a. Offeree
   b. Offeror
   c. Optionor
   d. Optionee

9. Which of the following terms best describes a contract in which all of the terms and conditions have been fully performed?
   a. Executory
   b. Bilateral
   c. Unilateral
   d. Executed

10. Which statute requires a purchase and sale contract to be in writing in order to be enforceable?
    a. F.S. 475
    b. F.S. 120
    c. Statute of limitations
    d. Statute of frauds

11. What is the term used to describe the consideration given by a buyer to indicate serious intent to buy a property?
    a. An earnest money deposit
    b. A check deposit
    c. Legal tender
    d. A boot deposit
12. All of the following may terminate an offer, EXCEPT:
   a. Expiration of a reasonable or specified time period
   b. The death of the offeror
   c. A counteroffer
   d. A failure to obtain a binder deposit

13. Which of the following establishes the time period for enforcement of a contract?
   a. Statute of Frauds
   b. Statute of Limitations
   c. Real estate license law
   d. State courts

14. A buyer who negotiates a contract to purchase property, takes possession and pays the property purchase price in installments, but does not receive the legal title until the full purchase price has been paid. What is this agreement called?
   a. An obvious attempt to defraud the buyer
   b. A lease-option
   c. A violation of the Statute of Frauds
   d. An installment contract, contract for deed, or land contract

15. A real estate licensee is legally allowed to prepare all of the following types of documents, EXCEPT:
   a. Purchase and sale contracts
   b. Listings
   c. Leases
   d. Option contracts
CHAPTER 12

RESIDENTIAL MORTGAGES

OVERVIEW

Traditionally, individuals have purchased real estate with borrowed money. The financing necessary to complete real estate transactions may involve institutional lenders, private parties, or the government. A sales associate must understand the lending process and the various types of mortgages available. Understanding the fundamentals of real estate finance is necessary in order to provide accurate information to principals and customers.

OBJECTIVES

After completing this chapter, you should be able to do all of the following:

- Distinguish between title theory and lien theory
- Describe the essential elements of the mortgage instrument and the note
- Describe the various features of a mortgage including down payment, loan-to-value ratio, equity, interest, loan servicing, escrow account, PITI, discount points, and loan origination fee
- Explain the assignment of a mortgage and the purpose of an estoppel certificate
- Explain the foreclosure process and distinguish between judicial and nonjudicial foreclosure
- Describe the mortgagor and mortgagee’s rights in a foreclosure
- Calculate loan-to-value ratio
- Explain the use of discount points and calculate approximate yield on a loan
- Distinguish among the various methods of purchasing mortgaged property
- Explain the process of qualifying for a loan and how to calculate qualifying ratios

KEY TERMS

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Title Theory of Mortgages

Title theory is the oldest form of mortgaging, which originated under English common law. Under this system, the borrower was required to temporarily convey ownership of the property to the lender for the duration of the loan period. If the borrower defaulted on the loan during the loan period, the lender took possession of the property.

A deed of trust is used in title theory states in place of a mortgage. The deed of trust temporarily conveys title to a property to a third party called a trustee until the mortgage loan debt is repaid or until default occurs. The borrower is called a trustor; the lender is called the beneficiary. Upon satisfaction of the debt, the title is returned to the borrower by using a reconveyance deed.

Several states still use a modified form of the title theory of mortgaging. However, today, all states require some form of foreclosure in the event of a default. When the loan is satisfied, a reconveyance deed is executed to the borrower.

Lien Theory of Mortgages

Florida is a lien theory state. Lien theory allows the borrower to retain the ownership of the property during the loan period. The lender records the mortgage, which creates a lien against the property. Under the lien theory, the foreclosure process is more involved than under title theory; the borrower is given the right to cure the default instead of simply forfeiting the property.

Promissory Note

When money is borrowed to purchase real estate, the lender requires the borrower to sign a promissory note, also called a note or bond. The promissory note is a legal instrument that includes the borrower’s promise to repay the loan with interest according to the terms of the note. The note is evidence of a personal debt, and contains the names of the parties, the rate of interest, the amount of money borrowed, and the loan repayment terms. The note is a contract between the lender and the borrower.

The promissory note is often identified as a note of even date, meaning that the promissory note was created on the same day as the mortgage. A promissory note provides no collateral to the lender other than the borrower’s promise to repay the loan. When the promissory note is unsecured, the lender is in a risky position if the borrower defaults and fails to repay the loan as agreed. Consequently, lenders prefer to have some security that helps assure repayment of the note.

A promissory note that is secured by a mortgage is referred to as a secured note.

Mortgage

A mortgage accompanies a note and is security for its repayment. A mortgage is the borrower’s pledge of the mortgaged property to secure the repayment of the note. Obtaining the mortgage from the borrower reduces a lender’s risk of loss resulting from a borrower’s default on the loan. The lender records the mortgage on the public record, which creates a lien against the property. This gives the lender the ability to foreclose on the borrower’s property in the event of default. The proceeds of a foreclosure sale can be applied to the outstanding balance of the note. The pledge of property as security for a loan is called hypothecation.
**Parties to a Mortgage**

The property owner, the **mortgagor**, is the party who gives the mortgage to the lender to secure the loan. The lender, the **mortgagee**, is the party who receives the mortgage from the property owner. The mortgagor pledges the property as security to the mortgagee. The mortgagor owns the real property, while the mortgagee owns the mortgage, which is personal property.

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**Mortgage Requirements**

A valid mortgage must:

- Be in writing
- Be signed by the mortgagor
- Conform to the same requirements as any valid contract
- Contain the legal description of the property
- Be witnessed by two persons

**Recording the Mortgage**

Normally, the mortgagee records the mortgage to provide constructive notice of the lien. The promissory note is rarely recorded, but the note is referred to in the recorded mortgage. Recording the note would allow other lenders to know the exact details of the loan, which would give them the ability to offer better terms and “raid” the originating lender’s customers.

**Satisfaction of Mortgage**

When a loan has been paid in full in a lien theory state, the mortgagor should receive a **letter of satisfaction** from the mortgagee within 60 days of the loan payoff. This letter states that the loan terms have been fully satisfied. It should be recorded in the public records to offset the lien that was created when the original mortgage was recorded.
First Mortgages vs. Junior Mortgages

The first mortgage, also referred to as the first lien, is the primary claim on a property that takes precedence over all other subsequent (junior) mortgage claims and most other liens. A first mortgage is often used to purchase the property. Mortgage liens are given priority by the date they were recorded. When a loan is used to finance a property, it is usually the first lien placed against the property and, therefore, has the highest priority over all liens with the exception of real estate taxes and special assessments.

A junior mortgage is one that is subordinate to a first or prior (senior) mortgage. A junior mortgage often refers to a second mortgage, but it could also be a third or fourth mortgage. A home equity loan and home equity line of credit (HELOC) are two common types of junior mortgages.

In the case of foreclosure, the first mortgage will be paid first.

Subordination Agreement

A subordination agreement is a written contract in which a lender who has secured a loan by a mortgage or deed of trust agrees with the property owner to subordinate the first loan to a new loan (giving the new loan priority in any foreclosure or payoff). The agreement must be acknowledged by a notary so it can be recorded in the official county records.

A subordination agreement is used to grant first lien status to a lienholder who would otherwise be secondary to a first lien. A mortgage subordination agreement is frequently used when there are two mortgages on a property, a first mortgage and a second mortgage, and the mortgagor wants to refinance the first mortgage. If the holder of the second mortgage does not subordinate the lien of its mortgage to the new mortgage, the new lender will not refinance the first mortgage. This is due to the fact that when the first mortgage is refinanced, it is essentially paid off and replaced with a new loan. What was the second mortgage then becomes the first mortgage, and the newly refinanced mortgage would become a lower priority lien. The second mortgage holder does not want to incur the additional costs of releasing its mortgage and re-filing, so the second mortgage holder will subordinate its lien to the lien of the replacement (refinanced) mortgage to allow the refinanced first mortgage to remain in first lien status.

Mortgage Clauses

Mortgages contain a number of provisions designed to protect both the lender and the borrower. Listed below are some of the clauses (also referred to as covenants) and provisions that may be found in them:

- Acceleration clause. The acceleration clause allows the lender to declare the entire outstanding balance due and payable immediately whenever default occurs. Without having this ability, the lender would have to sue each time the borrower defaulted, month after month. By calling the entire balance due at one time, this clause avoids the time and expense of that process.

- Cognovit clause. The cognovit clause gives a lender the right to foreclose at its option by requiring a borrower to admit any future default at the time a loan is obtained. The borrower is prevented from defending against a foreclosure, which results in an automatic judgment in favor of the lender when the loan documents are presented in court. This is obviously a very harsh provision and is not allowed in Florida.
- **Defeasance clause.** The *defeasance clause* provides protection for the borrower as it requires the lender to acknowledge performance by the borrower. The defeasance clause holds the lender's rights in check as long as the borrower performs as agreed in the note and mortgage. It is the only legally necessary clause in a mortgage.

- **Due-on-sale clause.** A *due-on-sale clause*, or *alienation clause*, in a loan or promissory note stipulates that the full balance may be called *due-on-sale* upon transfer of ownership of the property used to secure the note. This clause prevents a borrower from transferring any interest in the mortgaged property without permission of the lender. If the property is sold, or any substantial interest in it is conveyed, the lender has the right to declare the entire loan balance due and payable immediately. The due-on-sale clause prevents an assumption of the mortgage by an unqualified borrower. Any borrower interested in assuming the existing loan would have to apply and be approved by the lender.

- **Escalation clause.** The *escalation* or *escalator clause* allows a lender to increase the interest rate based on the occurrence of an event, such as a change in the use of the property or consistently late payments.

- **Exculpatory clause.** The *exculpatory clause* limits the lender's rights in a foreclosure to the amount received from the sale of the foreclosed property. If the balance of the promissory note has not been paid in full from the proceeds of the sale, the lender cannot obtain a deficiency judgment for the unsatisfied amount. This is referred to as *nonrecourse financing* since the lender has no recourse against the borrower for the unsatisfied portion of the loan.

- **Insurance clause.** An *insurance clause*, or *covenant of insurance*, is the borrower's promise to maintain adequate insurance coverage. Mortgages typically require the borrower to carry fire and hazard insurance in an amount at least equal to the unpaid balance of the loan. Should a property burn to the ground or be severely damaged in a storm, the borrower may not be financially able to replace or repair the structure, thereby exposing the lender to the possibility of loss.

- **Maintenance clause.** The *maintenance clause*, or *covenant of good repair*, is a provision that requires the borrower to maintain the property properly during the term of the loan, to protect the property's value. If a property is not maintained properly and the value diminishes, a lender could lose money in a foreclosure action.

- **Open-end clause.** An *open-end clause* allows a borrower to borrow additional funds based on the same mortgage after the loan balance has been paid down. This ability is usually limited to the original loan amount. This can reduce the cost involved in obtaining an entirely new loan. The lender generally reserves the right to increase the interest rate. A mortgage containing this provision is similar to an *equity loan* or *revolving line of credit*.

- **Prepayment clause.** A *prepayment clause* allows a borrower to pay off a loan early, thereby avoiding the interest that would otherwise have to be paid. In Florida, a borrower has the right to prepay a loan whether this right is expressed in the mortgage or not. When interest rates are high, lenders would prefer that a loan not be paid ahead of schedule. During these times, some loans may include a *prepayment penalty clause* within the prepayment clause. A penalty clause requires the borrower to pay a certain amount to the lender for the privilege of prepaying the debt.
• Receivership clause. A receivership clause is used in mortgages on income-
producing real estate. If the investor should default, the lender may ask the court to
appoint a trustee, referred to as a receiver, to manage the property during the
foreclosure process, collect the rents, and maintain the property. This serves to
protect the asset that serves as security for the loan. Without this provision, the
borrower could pocket the rents and allow the property to deteriorate, thereby
reducing its value.

• Release clause. A release clause is found in mortgages that cover more than one
parcel of land, usually those given by builders and developers. A builder developing
several lots in a subdivision under a construction loan that covers the entire project
would not be able to sell a single lot if the buyer could not obtain a first mortgage
loan. To resolve this problem, a release clause is used which releases the individual
lot from the original loan upon payment to the construction lender of a specified
amount of money.

• Right to reinstatement clause. Right to reinstatement is a loan clause that gives a borrower
the right to cure a loan that is in default by paying loan payments that are in arrears,
along with accrued interest, late payment charges, and legal costs incurred by the
lender before the foreclosure is finalized. Once the borrower has done this, they can
resume making scheduled loan payments.

• Subordination clause. A subordination clause allows a lien recorded earlier to be
placed in a secondary position to a new lien. A subordination clause is commonly
used to finance vacant land when development is planned. The seller voluntarily
agrees to allow a mortgage that they hold on the land to be placed in lower priority
than another loan so that the developer can obtain a construction loan to complete
the project.

• Tax clause. A tax clause, or covenant to pay taxes, consists of the borrower’s
promise to pay the property taxes during the period of the loan. Should the borrower
fail to pay the taxes as required, the property could be sold in a tax foreclosure sale,
which would remove the lien created by recording the mortgage. The lender would
have to seek enforcement of the promissory note and hope to collect any deficiency
on the basis of a personal judgment.

COMMON MORTGAGE FEATURES

Down Payment

A down payment is an upfront cash contribution that is made by the purchaser in order
to qualify for a mortgage, lower payments, receive more favorable loan terms, or eliminate
the need for mortgage insurance. The down payment plus the mortgage loan amount is the
purchase price.

Equity

Equity is the difference between the current market value of a property and the amount
the owner still owes on the mortgage.

The initial down payment creates equity. The owner builds, or increases, equity with
each mortgage payment that reduces the principal (loan balance).

The loan-to-value ratio, discussed later in this chapter, reflects the degree to which a
property is financed. As equity increases, the loan-to-value percentage decreases.
Interest

Mortgage interest is the compensation a borrower pays a lender for the use of the lender’s money to purchase a property. The interest rate is a percentage of the loan that must be paid in addition to the loan amount, or principal.

The interest rate on a mortgage loan is determined by prevailing interest rate levels and by agreement between the lender and the borrower. The interest rate may be fixed or adjustable.

Loan Servicing

Loan servicing is the administration of a loan from the time the money is borrowed until the loan is paid off (satisfied). Loan servicing includes such things as sending monthly payment statements, collecting payments, maintaining records and balances, managing any escrow funds, collecting and paying taxes, forwarding net proceeds to the mortgage note holder, and following up on delinquencies.

A loan servicer can be a financial institution or a lender. Loan servicers are typically compensated by retaining a percentage of each mortgage payment. In addition to collecting servicing fees, loan servicers also benefit from being able to invest and earn interest on a borrower’s escrow payments, as they are collected until they are paid out for taxes and insurance.

Escrow (Impound) Account

An escrow, or impound account is established to hold money collected by the lender from the borrower to pay hazard insurance and property taxes when they become due. By ensuring that the taxes and insurance will be paid on time, the escrow account protects the lender from tax liens and uninsured losses that the borrower can’t repay.

Many lenders require the borrower to pay a portion of the annual insurance premium and real estate taxes each month along with the principal and interest due for the period. This type of monthly payment is referred to as a PITI payment, which stands for principal, interest, taxes, and insurance. This money is held in the escrow account. The lender assumes responsibility for the payment of these charges from the impound account, thereby avoiding the possibility that the borrower would fail to make the payments when required.

Take-Out Commitment

A take-out commitment is a type of mortgage purchase agreement. Under a take-out commitment, a long-term investor agrees to buy a mortgage from a mortgage banker at a specific date in the future. The investor is referred to as a take-out lender, and is usually an insurance company or other financial institution. A take-out commitment is an agreement to provide long-term financing to replace an interim short-term loan.

A take-out commitment may be made in construction or other projects when short-term financing, such as construction financing, is initially beneficial, but the borrower anticipates long-term financing to become more advantageous at a later date.

Mortgage Loan Fees

Mortgage loan fees are fees that are charged by the lender and paid by the borrower to cover overhead and administrative costs and to provide some amount of profit for the lender.
These fees have a serious effect on the cost of financing, which must be made clear to the borrower. Two such fees are generally charged as a percentage of the loan amount: loan origination fees and discount points. Real estate licensees should be able to discuss these fees and explain both their purpose and financial effect on the borrower.

- **Loan origination fee.** Mortgage lenders typically charge a loan origination fee to pay for the administrative costs of processing the loan. The loan origination fee pays the lender’s overhead for facilities, salaries, and commissions.

  Loan origination fees are expressed as points. One point is 1% of the amount borrowed expressed in dollars. The loan origination fee is a one-time charge that must be paid by the borrower and is an additional cost necessary to obtain the loan. Anywhere from one to four points is not uncommon.

  **Example:** A buyer has applied for a $75,000 mortgage loan to finance the purchase of a home. The lender charges a loan origination fee of one point (1% of the loan amount). At closing, how much would the borrower have to pay the lender?

  \[
  \begin{align*}
  \text{\$75,000} & \quad \text{Mortgage loan amount} \\
  \times & \quad 0.01 \quad \text{One loan origination point} \\
  \$ & \quad 750 \quad \text{Amount of loan origination fee to be paid by borrower}
  \end{align*}
  \]

  If two points were to be charged, the loan amount would be multiplied by .02, three points by .03, and so on. Unfortunately, many borrowers do not have the extra money on hand to pay these charges. It is not uncommon for a borrower to have to increase the amount of the loan to include the loan origination fee along with the amount needed to purchase the property. The borrower will then pay interest on the origination fee as well as the amount needed to buy the property.

- **Discount points.** Discount points are an upfront payment to the lender in exchange for a lower mortgage rate, which decreases the monthly mortgage payment for the life of the loan. One discount point is an upfront payment of 1% of the loan amount (not the purchase price) which is paid at closing. The payment of discount points reduces the borrower’s interest rate, resulting in a lower monthly mortgage payment. Paying discount points does not reduce the amount borrowed.

  The break-even point for the borrower is dependent on the discount amount paid and the length of time of the loan. If the borrower keeps the mortgage for five to ten years, they will most likely save money in the long run by paying discount points. If the borrower keeps the loan for a short period-of-time, before the break-even point, the lender would benefit from the upfront discount payment.

  Calculation of the amount of the loan discount is performed exactly as shown in the previous example used to calculate the origination fee.

  **Example:** A buyer purchases a property for $300,000 and obtains a mortgage loan of $200,000 for 30 years at an interest rate of 6%. The lender charges two points to discount the interest rate to 5 3/4%. 
The amount of discount paid if the lender charges two points is as follows:

\[
\begin{align*}
\text{\$200,000} & \quad \text{Amount of mortgage loan (disclosed as 6% APR)} \\
\times 0.02 & \quad \text{Two points charged} \\
\text{\$4,000} & \quad \text{Discount amount paid by the borrower at closing} \\
\hline
\text{\$200,000} & \quad \text{Amount borrower will pay back} \\
- \text{\$4,000} & \quad \text{Discount points paid to lender} \\
\text{\$196,000} & \quad \text{Amount actually paid out by lender at 5 ¾%} \\
\end{align*}
\]

The lender pays a net amount of \$196,000 at closing. The loan amount remains \$200,000. The borrower pays \$4,000 to obtain a reduced interest rate of 5 ¾%, resulting in lower payments over the life of the loan. In this example, the monthly payments would be reduced by approximately \$32.

The discounted interest rate of 5 ¾% is paid on the \$200,000, not on the actual \$196,000 borrowed. The lender, in effect, receives a "true" or effective interest rate of 6%, which must be disclosed as a 6% APR. The \$4,000 that is paid in discount points is considered an up-front payment of interest.

The breakeven point for the borrower to recoup the cost of the discount points would be at 125 months (\$4000 ÷ \$32), or a little over ten years. If the borrower keeps the loan for more than ten years, the benefit of the reduced interest payments would begin to outweigh the initial discount point payment. Generally speaking, borrowers who only plan to keep the loan for a few years would not benefit by paying upfront discount points.

Whether points are paid for origination fees or an upfront interest prepayment to discount the interest rate, there is a cumulative effect on the total amount paid by the borrower. In some cases, the upfront payment of points can effectively raise the rate of interest the lender receives above the borrower’s loan rate.

- **Effective yield.** The rate actually received by the lender is referred to as the effective yield. The effective yield will vary depending upon the number or points paid, the amount of any discount, and the length of time the borrower keeps the loan.

  A simple rule of thumb calculation is sometimes used to approximate the change in interest payment over the life of the loan as a result of this upfront point payment. This approximation is based on the assumption that the borrower keeps the loan for eight years. The actual effective yield will be less for longer loan periods and more for shorter loan periods. The rule of thumb is that for each point charged upfront by the lender, the rate of interest increases approximately ½ percent. The exact amounts will be calculated and provided by the lender.

  In the prior example, the lender charged two discount points. If the lender also charged two points for the origination fee, the borrower would have paid a total of four points. Using the ½ percent for each point paid, the effective yield (real rate of return to the lender) can be estimated as follows:

  **Step 1**  
  4 Points \times ½% = 4/8% (½% or 0.50) Increased interest rate

  **Step 2**  
  5.75% Discounted rate of the loan (5 ¾%)  
  + 0.50% Estimated increase in rate due to points paid (½%)  
  = 6.25% Effective yield (6 ¼%)  

  In this case, the effective rate paid by the borrower would be approximately

  6 ¼%.
When making the decision to pay points, a borrower must consider their overall goal and circumstances. If they are purchasing a home for only a few years, they might be better off increasing their down payment instead of paying discount points. When comparing loan options, the borrower must also consider the effective yield due to points paid when comparing loan terms and conditions.

THE LOAN APPLICATION PROCESS

Mortgage lenders are investors. They expect borrowers to pay back the amount borrowed plus interest in order to make a profit on the loan. Lenders do not want to go through a foreclosure any more than borrowers do. To minimize the risk of foreclosure, both the borrower and the collateral must be qualified before a loan will be approved.

The application process begins when the potential borrower contacts a lender to inquire about available loans and loan terms. An application is generally taken by a loan processor and passed on to a mortgage underwriter. The mortgage underwriter reviews and verifies the information contained in the application to determine if the applicant is qualified for the loan requested. The process of risk evaluation is called mortgage underwriting, and is discussed further on the next page.

Whether or not the applicant will obtain a mortgage loan depends upon how complete, accurate, and truthful the application is. During the mortgage underwriting process, the information contained in the application is verified by contacting current and past employers and creditors.

When a loan is approved, the lender assumes a number of risks. The primary risk is that the borrower may default on the loan. If the borrower defaults, the lender can sue to have the mortgaged property sold at foreclosure, but there is no guarantee that the proceeds of the sale will be sufficient to cover the loan balance.

The signature of only one spouse is required on a mortgage loan application, unless state or local law dictates otherwise. If the income of a spouse is required to meet the lending institutions’ credit standards for loan approval, the spouse must also sign the application. When both parties sign the loan documents, they become jointly (mutually) and severally (individually) liable for the debt.

The Equal Credit Opportunity Act (ECOA)

The Equal Credit Opportunity Act (ECOA) requires lenders to judge every loan applicant on the basis of the applicant’s own credit rating and income. Lenders are required to consider a spouse’s income, part-time income, alimony, child support, or separate maintenance in the approval process. An applicant may request inclusion of another individual’s income or credit history in order to qualify for a loan, in which case the lender will consider both the cosigner’s and applicant’s income and credit history.

The ECOA allows the lender to question applicants on the stability and source of income, but the lender cannot refuse to consider income because of the source. Lenders cannot discriminate against borrowers on the basis of race, color, religion, national origin, sex, marital status, age, or receipt of income from public assistance programs.

The loan officer cannot ask questions regarding birth control practices, intentions concerning the bearing or rearing of children, or the capability of bearing children. They are prohibited from asking questions based on race, color, religion, national origin, or sex. However, in order to avoid discrimination based on a borrower’s ethnic background, HUD requires lenders to ask about a borrower’s race. The lender is still prohibited from discrimination on the basis of race. HUD uses the information to review lender records to make sure that the lender is not routinely turning down minorities or charging them higher fees.
If an applicant requests a lender to consider income derived from alimony, child support, or separate maintenance payments in order to qualify for a loan, the lender can ask questions concerning the income source, duration of the income, and frequency of the payments.

MORTGAGE UNDERWRITING

To assess the risk of default or collection problems, lenders evaluate both the applicant and the property before approving a mortgage loan. The process of qualifying the applicant and the property is called mortgage underwriting.

Qualifying the Property

The property that will serve as collateral for the loan is evaluated or appraised to determine if it is of sufficient value. The appraiser analyzes the property and issues a report giving an objective estimate of the property’s market value. The appraiser’s estimate will not necessarily be the price agreed upon between the seller and potential buyer. The underwriter is concerned with the market value of the property.

When a lender refuses to loan based on the racial or economic factors of the neighborhood in which a property is located, the practice is called redlining, which is prohibited by federal law. Loans cannot be refused based on the fact that a property is located in a certain geographical area, age of the property, income of residents in the area, or racial composition of the area.

Qualifying the Applicant

An applicant is evaluated to determine if they can repay the proposed loan. The lender evaluates the applicant’s credit history and employment record as indicators of the applicant’s desire and ability to repay the loan.

An applicant is evaluated by using the following three criteria:

- Credit history. The underwriter obtains a report from a credit-reporting agency and reviews the applicant’s credit history. The credit report includes information about debts and repayment for the preceding seven years. Negative information such as slow repayment, collections, repossessions, foreclosures, judgments, and bankruptcies may cause the underwriter to refuse the application.

  A potential buyer’s credit score is used to evaluate the risk associated with a loan, whether or not the lender will make the loan, and if so, determines the rate of interest the lender will charge. Credit scoring was introduced by the Fair Isaac & Company (FICO) over 30 years ago. As a real estate licensee, it is important to have a fundamental understanding of this very important loan-qualifying tool.

  Although FICO will not disclose the exact method used to establish a credit score, several key points are known and can be useful for real estate licensees.

  The following is a breakdown of the major components that are used in developing the score and the relative weight given to each.
The FICO score measures the borrower’s willingness to meet debt obligations and weighs heavily on the lender’s decision to underwrite a loan. FICO scores can range from 300 up to 850; the higher the score, the lower the risk of default by the borrower. Different types of property, such as single-family versus two- or three-family homes, will typically be underwritten using different score requirements.

Scores must be thought of as an indicator of risk. Applicants who have very low scores may not automatically be denied credit; however, the interest rate will probably be higher and the type of financing available may be limited.

- **Income.** The applicant’s income must be enough to cover the proposed mortgage payment and other monthly expenses. The applicant’s source(s) of income must be reasonably dependable and stable. Continuous employment for at least two years in the same occupational field is generally used as criteria for loan approval. A person’s income indicates his or her ability to make the payments required to repay the loan.

  The applicant’s stable monthly income can be derived from regular wages from a full-time job, bonuses, commissions, overtime pay, part-time earnings, self-employment income, retirement income, alimony or child support, or investment income. Mortgage lenders will not accept income from temporary employment, unemployment compensation, or contributions from family members to meet the lender’s standards for making a loan.

- **Other assets.** The underwriter reviews the other assets of the applicant, such as other real estate, automobiles, stocks, bonds, artwork, and so on. The accumulation of assets is a strong indicator of future creditworthiness. These assets may also be attached in the event of a foreclosure and resulting deficiency.

**LENDER RISK**

The risks facing lenders in making residential loans include default by the borrower, a decline in the value of the property that serves as security for the loan, and a lack of other assets that could be attached in the event of a foreclosure and subsequent deficiency. These risks are evaluated using the criteria listed above.

Lending institutions have relatively consistent requirements that an applicant must meet before a mortgage loan will be originated. Mortgage lenders use income ratios and loan-to-value ratios to qualify a potential borrower for a loan.

<table>
<thead>
<tr>
<th>Major FICO Score Component</th>
<th>Examples</th>
<th>Relative Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment history</td>
<td>Late payments, judgments, bankruptcy, and collection actions</td>
<td>35%</td>
</tr>
<tr>
<td>Outstanding debt</td>
<td>Number of open accounts, average open balance, and open balance compared to credit limits</td>
<td>30%</td>
</tr>
<tr>
<td>Credit history</td>
<td>Age of open accounts</td>
<td>15%</td>
</tr>
<tr>
<td>Credit report inquiries</td>
<td>Number of inquiries related to new accounts and time since last inquiry</td>
<td>10%</td>
</tr>
<tr>
<td>Type of credit</td>
<td>Finance company as opposed to revolving credit</td>
<td>10%</td>
</tr>
</tbody>
</table>
Income Ratios

The income of an applicant is the primary consideration when underwriting a loan. It must be adequate to allow for the continued repayment of the loan. If a borrower’s expenses exceed certain percentages of his or her monthly income, the borrower may have difficulty making the required payments.

Ratios are a simple method used by lenders to evaluate a borrower’s financial ability to meet the financial obligation once a loan has been approved. There are two income ratios generally used to determine whether or not a loan will be approved: a housing expense ratio and a total obligations ratio.

- **Housing expense ratio.** The *housing expense ratio* is the percentage of the borrower’s monthly gross income that is required to make the monthly loan payment, which is one-twelfth of the annual principal payment, interest, taxes, and insurance (PITI). The PITI payment must also include homeowner’s or condominium association dues, if applicable. Utilities are not included in the ratio. Mortgage insurance can be included, if required.

\[
\frac{\text{Monthly PITI payment}}{\text{Monthly gross income}} = \text{Housing expense ratio}
\]

- **Total obligations ratio.** The *total obligations ratio* is the percentage of the borrower’s monthly gross income that is required to make the monthly loan (PITI) payment plus payments on any other recurring debt obligations. Recurring obligations include installment debts which have more than ten remaining payments (i.e. auto payments), revolving debts (i.e. credit cards), and other debts (i.e. child support or alimony). The total obligations ratio is a more realistic measure of the applicant’s ability to make the monthly loan payments.

\[
\frac{\text{Monthly PITI payment + Other monthly obligations}}{\text{Monthly gross income}} = \text{Total obligations ratio}
\]

Lenders impose different maximum ratios, depending on the type of loan:

- **Conventional.** *Conventional* lenders typically require that a borrower not exceed a housing expense ratio of 28% and a total obligations ratio of 36%.

- **FHA.** To qualify for an *FHA* loan, a borrower must not exceed a housing expense ratio of 31% and a total obligations ratio of 43%.

- **VA.** To qualify for a *VA* loan, a borrower must not exceed a total obligations ratio of 41%. The Veterans Administration does not use the housing expense ratio. Instead, a *residual income* calculation is used based on the loan amount, income of the veteran, and size of the family.

**Example:** Mary Summers has applied for a conventional mortgage loan. She has a stable monthly income of $3,200, four long-term obligations consisting of a $310 auto payment, a $65 personal loan payment, a $40 department store payment, and a $45 credit card payment. Will Mary be approved for the loan if the PITI payment is expected to be $675 per month?
Monthly PITI payment = $675
Monthly gross income = $3,200

Monthly loan payment = $675
Monthly auto payment = $310
Monthly personal loan payment = $65
Monthly department store payment = $40
Monthly credit card payment = $45
Total monthly expenses = $1,135

Total monthly expenses = $1,135
Total monthly income = $3,200

Total obligations ratio = .355 or 36%

Loan-to-Value Ratio

The loan-to-value ratio (LTV) is the percentage of the property's value that is represented by the loan. The higher the loan-to-value ratio is, the higher the risk of loss is to the lender in the event of a foreclosure. The borrower also has a higher risk since increased payments make the risk of default higher.

To calculate the LTV ratio, the loan amount is divided by the lesser of the purchase price or appraised value as shown in the following formula:

\[
\frac{\text{Loan amount}}{\text{Purchase price or appraised value}} = \text{LTV ratio}
\]

Example: A buyer contracts to purchase a home for $100,000. The purchase price is equal to the appraised value. If the borrower were able make a $20,000 down payment, called the borrower’s equity, what would the LTV ratio be?

Step 1 Subtract the down payment from the purchase price to obtain the loan amount.

$100,000 - 20,000 = 80,000

Step 2 Use the formula given above to calculate the LTV ratio:

\[
\frac{\text{Loan amount}}{\text{Purchase price}} = \frac{80,000}{100,000} = .80 \text{ or } 80\% \text{ LTV ratio}
\]
The down payment may also be expressed as a percentage of the purchase price. It is the difference between the property value and the LTV ratio. In the example above, an 80% LTV ratio subtracted from the property value of 100% indicates a 20% down payment.

**SALE OF MORTGAGED PROPERTY**

A property that is currently mortgaged may be sold in any one of the following different ways:

- **Cash sale.** A property can be sold for all cash to the seller, who could use the cash received at closing to pay off an existing mortgage lien. The property can then be conveyed free of the mortgage.

- **Assumption of the mortgage.** Mortgages that do not contain a due-on-sale clause can be assumed by a buyer without permission of the lender. Only a small assumption fee is required to convert the paperwork. In the real estate market, these are called nonqualifying mortgages. The buyer assumes personal responsibility for repayment of the balance due on the promissory note and acknowledges the existence of the mortgage.

  The original borrower (the seller) becomes a guarantor with secondary responsibility for repayment of the promissory note.

  In the event of default, the foreclosure will proceed based on the mortgage; the lien is foreclosed and the property is sold. If a deficiency exists after the foreclosure sale, the lender looks to the buyer for satisfaction. If the buyer is unable to pay the deficiency, the lender looks to the former seller for satisfaction.

- **Assumption with novation.** Mortgages that contain a due-on-sale clause cannot be sold with an assumption without the knowledge and approval of the lender. In the real estate market, these are called assumptions with qualifying. The cost to the buyer/borrower is less than the cost of obtaining a new loan, but the lender may insist on a change in the interest rate as a condition of the assumption. If the assumption is approved, the buyer assumes personal liability for the balance of the promissory note and acknowledges existence of the mortgage. The lender removes the seller’s name from the loan and substitutes the name of the new buyer/borrower. Substituting the seller’s name with the borrower’s name is referred to as novation. Novation releases the seller from any further liability for the debt.

  In the event of default, the foreclosure will proceed based on the mortgage. If a deficiency exists following foreclosure, the lender looks only to the buyer for satisfaction.

- **Subject to the mortgage.** If a mortgaged property is sold subject to the mortgage, the new owner acquires ownership without assuming personal responsibility for the balance of the promissory note. The existing mortgage continues to use the property as security for the debt.

  When a property is sold subject to the mortgage, only the original borrower remains liable for the balance of the promissory note. The buyer acknowledges the existence of the mortgage. If the buyer defaults on the mortgage, the lender will foreclose and the property will be sold to satisfy the balance due on the note.

  If a deficiency exists following a foreclosure sale, the buyer is not responsible; only the former seller is liable for the deficiency.

  If the existing mortgage contains a due-on-sale clause, the property cannot be sold subject to the mortgage.
Contract for Deed (Land Contract)

As discussed in the previous chapter, a contract for deed, or land contract is an agreement in which the property owner agrees to give the buyer a deed after the buyer pays the owner a specified amount of money. As such, a contract for deed is a form of owner financing.

Usually, the contract requires the buyer to make payments over time with interest payable on the unpaid balance. After the buyer pays all of the payments called for under the contract, the owner gives the buyer a deed to the property.

During the term of the contract for deed, the buyer is entitled to possession of the property and is required to keep the property insured and pay the real estate taxes.

Verification of a Loan Balance

When a mortgaged property is sold and the mortgage on the property is to remain, the buyer would want to have the seller verify the current loan balance. The seller can obtain an estoppel certificate (also called an estoppel letter) from the lender, which is a letter that verifies the principal balance owed on the loan. The seller must request this information since a lender will not provide it to unauthorized parties without permission from the original borrower.

Selling the Mortgage Contract

A mortgage is the personal property of the lender. Once a loan has been made, the lender may wish to sell the right to receive the income from the loan to another investor. An assignment can be used to transfer the rights. The original lender that transfers the right is the assignor. The investor who receives the right to receive the income is the assignee.

After assignment, the original lender (assignor) typically continues to service the loan, collecting loan payments from the borrower and sending the payments to the investor (assignee).

The assignee can verify the outstanding balance of the mortgage by requesting an estoppel letter from the original borrower.

DEFAULT

Failure to perform as agreed in the promissory note is called default. When default occurs, the lender has the right under the mortgage contract to pursue legal action against the borrower for payment of the debt.

Under title theory of lending, a borrower’s default results in the lender taking possession of the mortgaged property. The borrower loses all rights. Under the lien theory of lending, the lender must file a foreclosure suit in court and prove to the court that default has occurred.

- Equity of redemption. Equity of redemption is the right of a borrower to cure the default before foreclosure rather than lose the property. The borrower must pay the entire balance of the debt plus any interest and costs that has accrued since the default. Equity of redemption exists in Florida up to the moment of foreclosure.

- Statutory right of redemption. Statutory right of redemption is the right that allows a borrower to redeem from a foreclosure for a period-of-time after a foreclosure sale. In some states, this right may be exercised for up to one year after the sale. This right is not recognized in Florida.
Foreclosure Process

*Foreclosure* is enforcement of a mortgage lien by a lender. In Florida, foreclosure is a judicial process in which the lender brings suit in court against the borrower in default, based on the mortgage. The lender petitions the court and requests a judgment against the party in default.

When a lawsuit is filed, the lien holder will usually file a *lis pendens* (Latin for “pending litigation”), thereby, giving public notice that the property specified in the filing is the subject of litigation and a judgment lien may later be placed against it.

The court, once the judgment has been rendered, orders a public sale of the property with the proceeds of the sale used to repay the lien. The final order of the court, called a *writ of execution*, will direct the clerk of the circuit court as to the amount required at the sale to satisfy the claim or claims of creditors. At the foreclosure sale, the proceeds are used to pay any superior liens first. The remaining proceeds are used to pay junior lien holders based on the priority of their liens. Junior lien holders may wish to join in the suit to protect their rights in the property.

If all lien holders have been paid from the proceeds of the foreclosure sale, any surplus funds remaining are paid to the mortgagor. Any lien holder who is not paid from the proceeds of the foreclosure sale may obtain a deficiency judgment. A *deficiency judgment* is a personal judgment against the borrower based on the promissory note. A deficiency judgment may be recorded anywhere the debtor may be located and foreclosed against on any real or personal property the debtor may own.

The laws of the state in which a property is located dictate the foreclosure process. There are variations in the foreclosure process from state to state.

The following are types of foreclosure:

- **Strict foreclosure.** *Strict foreclosure*, a form of non-judicial foreclosure, allows a lien holder to take possession of the property after a borrower defaults on a debt and retain all money received. Strict foreclosure is a harsh method not permitted in Florida.

- **Judicial foreclosure.** *Judicial foreclosure*, in Florida, requires the lender to bring suit in court to prove default has occurred. The borrower has a right to defend against the suit. If the lender prevails, a judgment in favor of the lender is handed down and the property is advertised for sale at public auction. The proceeds of the sale will be applied to the balance of the lien.

- **A deed in lieu of foreclosure.** A *deed in lieu of foreclosure* is an alternative to a foreclosure sale. A mortgagor who is in default can voluntarily deed a property to a lien holder in lieu of payment of a debt. The lien holder may not be willing to accept the title, however, as they would have to assume liability for any other liens against the property.

**Short Sales**

A *short sale* transaction is a sale transaction in which a seller, confronted with the threat of a foreclosure, enters into a settlement agreement with the lender where the lender consents to a sales price for the property that is below the outstanding loan balance. In other words, the sale proceeds fall short of the amount owed to the lender.
The lender in a short sale transaction generally requires that the real property has been
offered for sale on the market for a certain number of days at a reasonable price in order for
the lender to feel confident that the short sale offers being presented are legitimate offers
from legitimate buyers in that real estate market. The lender typically requests either a
broker price opinion (BPO), an actual appraisal, or both.

The fact that real property might have more than one lien against it may prevent the
possibility of a short sale transaction, since junior lien holders do not have any incentive to
agree to a short sale transaction settlement if there is nothing in it for them. It is possible for
any one creditor to refuse to reduce and release its respective lien and, therefore, stop a
short sale transaction from taking place. In addition, if a lender has mortgage insurance on
the loan, then that insurer will likely become a party to the negotiations because the insurer
will be requested to pay out a claim on the lender’s loss.

The benefits of a short sale to the seller include:

- Being released from most, or all, of the personal indebtedness
- Incurring a lesser impact on their credit rating than an actual foreclosure
- Avoiding any public notoriety associated with a judicial foreclosure
- Receiving perhaps more generous settlement terms than those at the end of a formal
  foreclosure process

The benefits of a short sale to a lender include:

- The cost savings when compared to the dollar outlay of an inevitable judicial
  foreclosure proceeding
- Avoidance of the responsibility of actually selling the property
- Lower risk of loss due to any defaulting borrower’s revenge on the subject property,
  such as vandalism and theft
CHAPTER 12 MATH PROBLEMS

1. George has applied for a loan with Acme Savings and Loan. His gross monthly income averages $4,100. He has a monthly car payment of $425 and owes a balance on two credit card accounts with payments totaling $75 per month. If approved, his monthly mortgage payment will be $825.

   a. What is George’s monthly housing expense ratio?

   Answer: __________________________

   b. What is George’s total obligations ratio?

   Answer: __________________________

2. A borrower has applied for a loan. The purchase price of the property is $280,000. The lender requires an origination fee of two points. The borrower has a down payment of $70,000. Answer the following questions.

   a. What will the loan-to-value (LTV) ratio be?

   Answer: __________________________

   b. What is the amount paid (credited) to the lender at closing for the origination fee?

   Answer: __________________________

   c. What is the amount of the loan after payment of the origination fee?

   Answer: __________________________

   d. If the interest rate on the loan is 6%, what is the effective yield?

   Answer: __________________________
CHAPTER 12 REVIEW QUESTIONS

1. The instrument that contains the amount of the loan, interest rate, payment provisions, and other terms of the loan is the ________________ _______________.

2. A mortgage is a ________________ ________________ _______________.

3. The clause in a mortgage that protects the borrower’s interest and requires the lender to acknowledge performance by the borrower is the ________________ clause.

4. The clause that allows a parcel of property to be sold free and clear of a blanket mortgage is the ________________ clause.

5. A ________________ ________________ is a written agreement in which a lender agrees with the property owner to change the priority of liens.

6. If a borrower was in default, and the lender wished to call the entire balance of the loan due and payable, the mortgage would have to contain a(n) ________________ clause.

7. If a buyer were to take over the balance of an existing mortgage in such a way that the seller remained solely responsible for a deficiency judgment, the property was sold ________________ ________________ ________________ ________________.

8. When a lender allows a new borrower to take responsibility for a mortgage and note, and releases the original borrower from liability for the mortgage and note, the process is called ________________ ________________ ________________ ________________.

9. When a lender is requested by a borrower to verify the outstanding balance of a loan, the lender would give the borrower a(n) ________________ ________________ ________________ ________________.

10. The percentage figure borrowers must be provided with that includes all costs associated with a loan is referred to as the ________________.

11. A ________________ ________________ is a personal debt based on the promissory note.

12. The right of a borrower to cure a default prior to foreclosure is called the ________________ ________________ ________________ ________________.

13. Foreclosure is ________________ of the mortgage.

14. A ________________ ________________ ________________ is the primary claim on a property which takes precedence over all other subsequent (junior) mortgage claims.

15. ________________ is the difference between the current market value of a property and the amount the owner still owes on the mortgage.
CHAPTER 12 PRACTICE EXAM

1. Which legal instrument evidences the debt and states the interest rate, term, payment requirement, and other information related to the loan?
   a. Promissory note
   b. Contract
   c. Lien
   d. Mortgage

2. What is the function of a mortgage?
   a. It conveys title to real property.
   b. It secures the repayment of the debt.
   c. It creates a personal pledge to repay a loan.
   d. It creates a lien on the mortgagee’s property.

3. When financing the purchase of real estate, what is the role of the mortgagor?
   a. A mortgagor gives a mortgage to a mortgagee.
   b. A mortgagor takes a mortgage from a mortgagee.
   c. A mortgagor gives a mortgage to a borrower.
   d. A mortgagor takes a mortgage from a lender.

4. Which clause in a mortgage requires the lender to acknowledge performance by the borrower?
   a. Estoppel
   b. Acceleration
   c. Defeasance
   d. Release

5. In order to qualify for an FHA 203b insured mortgage loan, an applicant’s housing expense ratio cannot exceed what percentage?
   a. 25%
   b. 28%
   c. 31%
   d. 43%

6. Which statement best describes a short sale?
   a. A real estate transaction that closes in under 30 days
   b. A settlement agreement where the lender agrees to a sales price that is below the outstanding loan balance
   c. A real estate transaction where the seller agrees to assist the buyer by taking a second mortgage
   d. A transaction that does not close due to a buyer’s shortage of funds at closing

7. What is the purpose of a receivership clause in a mortgage?
   a. It is used to protect the value of the investment property during the foreclosure process.
   b. It conveys the ownership of mortgaged property to the rightful heirs of a decedent.
   c. It allows an owner to charge rent when a property is mortgaged.
   d. It specifies the party who is entitled to ownership of mortgaged property when a loan has been fully paid.

8. Which term refers to the right of a mortgagor in default to pay all money owed and prevent the sale of the property at foreclosure?
   a. Equity of redemption
   b. Estoppel
   c. Defeasance
   d. Right of release

9. What is the primary purpose of discount points?
   a. To subsidize the purchase of homes by low-income borrowers
   b. To decrease the monthly payment required
   c. To stop disintermediation
   d. To decrease the lender’s yield
10. What are the two ratios under which a borrower must qualify in order to receive a FHA insured mortgage loan?
   a. Housing expense and monthly gross income ratios
   b. Housing expense and total monthly obligations ratios
   c. Gross income and total obligations ratios
   d. Housing expense net ratio and total monthly obligations net ratio

11. What process is used by loan underwriters to determine if applicants are satisfactory credit risks?
   a. Servicing
   b. Brokering
   c. Qualifying
   d. Leveraging

12. A borrower is consistently late on their mortgage payments, so the bank exercises its right to raise the interest rate. Which clause in the mortgage document allows the lender to do this?
   a. Default Rate Mortgage Clause
   b. Escalation Clause
   c. Late Payment Clause
   d. Due-on-Sale Clause

13. How was title taken if a seller remained solely liable for the balance of a mortgage loan subsequent to transfer of ownership?
   a. Novation
   b. Assumption
   c. Subject to
   d. Agreement for deed

14. After all liens have been paid following a foreclosure sale, to whom do any remaining funds belong?
   a. The sheriff of the county in which the property is located
   b. The clerk of the circuit court
   c. The mortgagor
   d. The mortgagee

15. Which mortgage clause is the borrower’s promise to pay the property taxes during the period of the loan?
   a. Maintenance
   b. Defeasance
   c. Receivership
   d. Tax
CHAPTER

13

TYPES OF MORTGAGES
AND SOURCES OF FINANCING

OVERVIEW

Buyers depend on real estate licensees to assist them in the choice of financing alternatives. The success of anyone involved in the real estate profession is linked to the lending process.

This chapter describes the key features and uses of popular loan types and repayment methods. An overview of the Federal Reserve System, the participants in the lending process, and the flow of money in the marketplace are also provided. This chapter will help you recognize mortgage fraud and know the laws that promote ethical mortgage practices.

OBJECTIVES

After completing this chapter, you should be able to do all of the following:

- Describe the mechanics and components of an adjustable rate mortgage (ARM)
- Describe the features of an amortized mortgage
- Know how to amortize a level-payment plan mortgage when given the principal amount, interest rate, and monthly payment amount
- Distinguish among the various types of mortgages
- Describe the characteristics of FHA mortgages and common FHA loan programs
- Identify the guarantee feature of VA mortgage loans and the characteristics of VA loan programs
- Distinguish among the primary sources of home financing
- Describe the role of the secondary mortgage market and know the features of the major agencies that are active in the secondary market
- Describe the major provisions of the federal laws regarding fair credit and lending procedures
- Know how to recognize and avoid mortgage fraud

KEY TERMS

| Adjustable rate mortgage (ARM) | Mortgage insurance premium (MIP) |
| Amortized loan | Mortgage loan originator (MLO) |
| Balloon payment | Negative amortization |
| Biweekly mortgage | Nonconforming loan |
| Conforming loan | Package mortgage |
| Disintermediation | Partially amortized/balloon payment mortgage |
| Home equity loan | Payment cap |
| Index | Periodic cap |
| Intermediation | Principal |
| Level payment plan/mortgage | Purchase money mortgage |
| Lifetime cap | Reverse annuity mortgage |
| Margin | Teaser rate |
| Mortgage broker | Up-front mortgage insurance premium (UFMIP) |
| Mortgage fraud | |
TYPES OF MORTGAGES

Although there are a number of different methods for repaying a loan, there are only three types of mortgages: FHA insured, VA guaranteed, and conventional.

FHA Insured Mortgage Loans

The Federal Housing Administration (FHA) was created in 1934 to provide sound lending practices, promote home ownership, and upgrade housing standards. The FHA is a part of the U.S. Department of Housing and Urban Development (HUD).

The FHA does not make loans. Instead, it insures loans made by approved local lenders. The loan is funded by a lending institution, such as a mortgage company, bank, or savings and loan association. FHA provides a variety of loan programs for the purchase of manufactured homes, single-family homes, and multifamily properties.

The purpose of the insurance is to protect the lender from loss in the event of foreclosure. FHA insured mortgage loans insure the lender 100%. In the event of default of the mortgage loan, the lender is reimbursed for losses including foreclosure costs by HUD/FHA.

Although there are no income limits to determine who is eligible for FHA insured mortgage loans, FHA’s mortgage insurance programs help low- and moderate-income families become homeowners by lowering some of the costs of their mortgage loans. FHA mortgage insurance also encourages lenders to make loans to otherwise creditworthy borrowers and projects that might not be able to meet conventional underwriting requirements thereby protecting the lender against loan default on mortgages for properties that meet certain minimum requirements.

FHA Insured Mortgage Loan Programs

There are a variety of different FHA insured mortgage loan programs under the authority of HUD. The four most popular loan programs are summarized below.

1. FHA Section 203(b) Mortgage Insurance. This program provides basic mortgage insurance for the purchase or refinance of owner-occupied one- to four-family properties.

   - **HUD maximum loan amount.** HUD limits the maximum FHA insured mortgage loan amounts, which vary by geographic location. Lower cost areas, such as Ocala and Okeechobee have lower maximum loan amounts than higher cost areas, such as Key West. Refer to the HUD Web site for current limits: https://entp.hud.gov/idapp/html/hicostlook.cfm

   - **Down payment requirements.** FHA requires eligible borrowers to have a FICO credit score of at least 580 and to provide a down payment of at least 3.5% of the home’s purchase price or appraised value, whichever is less. Borrowers who have a credit score between 500 and 579 are required to provide a 10% down payment. Borrowers who have a FICO score below 500 are not eligible for FHA insured financing.

      The down payment can be from the borrower’s own funds, from a non-repayable gift, or a combination of the two. The lender is required to document any gift funds in a gift letter.
- **Standard loan-to-value percentages.** The standard maximum loan-to-value (LTV) ratio for an FHA insured mortgage loan is 96.5%.
  Closing costs associated with FHA insured mortgage loans may be rolled into the loan balance, as long as the loan-to-value maximum guidelines are still met. The loan plus closing costs must not exceed 96.5% of the home’s appraised value or the selling price, whichever is less.

- **Qualifying income ratios.** To qualify for an FHA loan, a borrower must not exceed a housing expense ratio of 31% and a total obligations ratio of 43%.

- **Calculating the borrower’s maximum loan amount.** If closing costs are not financed, the borrower’s maximum loan amount can be determined by multiplying the lesser of the purchase price or appraised value by the maximum LTV ratio (96.5%).
  FHA insured mortgage loans are underwritten in $50 increments. If a mortgage calculation results in an odd amount, the loan amount will be rounded down to the next lower increment.

  **Example:** What is the borrower’s maximum loan amount and required down payment for a property that sells for its appraised value of $180,000?

  \[
  \begin{align*}
  \text{Purchase price (appraised value)} & = 180,000 \\
  \times \text{Maximum LTV ratio} & = .965 \\
  \text{Maximum loan amount} & = 173,700 \\
  \end{align*}
  \]

  \[
  \begin{align*}
  \text{Purchase price (Appraised value)} & = 180,000 \\
  - \text{Maximum loan amount} & = 173,700 \\
  \text{Down payment required} & = 6,300
  \end{align*}
  \]

- **FHA mortgage insurance premiums (MIP).** An FHA mortgage insurance premium (MIP) is required for all FHA insured mortgage loans, regardless of the down payment. This is not the same as private mortgage insurance (PMI) charged for conventional loans.
  The amount of mortgage insurance premiums required on an FHA insured mortgage loan includes the payment of both an up-front mortgage insurance premium (UFMIP) and an annual mortgage insurance premium (AMIP).

  - **UFMIP.** The UFMIP is paid at the time of closing of the loan, although all or a portion of the mortgage insurance premium may be financed. The UFMIP is 1.75% of the mortgage amount in most cases. If paid in cash at closing, the UFMIP can be paid by the borrower, seller, or a third party.

  - **AMIP.** Annual mortgage insurance premiums must also be paid as a percentage of the annual outstanding loan balance divided into 12 monthly payments. The AMIP rates vary based on the loan-to-value, mortgage term, and loan amount. If at the point of origination, the LTV is 90% or less the AMIP will not be required after 11 years. If the LTV is greater than 90%, which is typical with 96.5% loans, the AMIP must be paid for the life of the loan.

- **Interest rate.** The interest rate of an FHA insured mortgage loan is determined by negotiation between the lender and the borrower. Interest rates are established by supply and demand in the marketplace.
• **Lender fees (points).** As with other types of loans, points are additional loan fees paid to the lender of an FHA insured mortgage loan. Points raise the effective rate of interest paid by the borrower over the life of a loan. Each point is equal to 1% of the loan amount and may be paid by either buyer or seller. The maximum loan origination fee is 1%.

• **Prepayment.** FHA insured mortgage loans must provide the borrower with the right of *prepayment* without penalty.

• **Mortgage loan terms.** FHA insured mortgage loans have a maximum term of 30 years. Loans are fixed-rate.

• **Assumption.** An FHA insured mortgage loan may be assumed (subject to rate change) if the borrower who is assuming the loan is qualified by the lender. When an FHA insured mortgage loan is assumed, only the lender, not FHA, can release the original borrower from financial liability.

• **Appraisal.** An appraisal is required to make sure that the property meets certain safety, security, and soundness standards. The appraisal must be performed by a FHA-approved appraiser and is reported per the HUD Handbook. The buyer typically pays for the appraisal.

2. **FHA Section 203(k) rehabilitation mortgage insurance.** This FHA insured mortgage loan program enables homebuyers to finance both the purchase of a one-to four-family dwelling and the cost of its rehabilitation through a single long-term fixed or adjustable rate mortgage. This program can also be used by homeowners to refinance an existing one- to four-family dwelling along with the cost of rehabilitation. However, cooperative units are not eligible for this program.

   This rehabilitation loan program protects the lender by allowing them to have the loan insured even before the condition and value of the property may offer adequate security.

   A portion of the loan proceeds is used to pay the seller, or if a refinance, to pay off the existing mortgage and the remaining funds are placed in an escrow account and released as rehabilitation is completed.

   All borrowers qualified by the lender are eligible to apply. The cost of the rehabilitation must be at least $5,000, but the total value of the property must still fall within the FHA maximum loan amount for the geographical area. For less extensive repairs or improvements, there is a Streamlined 203(k) program.

   The value of the property is determined by either (1) the value of the property before rehabilitation plus the cost of rehabilitation or (2) 110% (LTV) of the appraised value of the property after rehabilitation, whichever is less.

   The types of eligible improvements include:

   • Structural alterations and reconstruction
   • Modernization and improvements to the home’s function
   • Elimination of health and safety hazards
   • Changes that improve appearance and eliminate obsolescence
   • Reconditioning or replacing plumbing; installing a well and/or septic system
   • Adding or replacing roofing, gutters, and downspouts
   • Adding or replacing floors and/or floor treatments
   • Major landscape work and site improvements
   • Enhancing accessibility for a disabled person
   • Making energy conservation improvements
HUD also requires that properties financed under this program meet certain basic energy efficiency and structural standards.

3. FHA Section 234(c) Condominiums. This program insures a loan for 30 years specifically for the purchase of a single-unit condominium, and is similar to that for single-family detached homes.

4. FHA Section 251 Adjustable rate mortgages. This program provides mortgage insurance on adjustable interest rate financing that is based on FHA/HUD approved market indexes. One-, three-, and five-year adjustable-rate mortgage (ARM) loans are available with interest rates that cannot change by more than 1% per year after the fixed-rate period, with a maximum rate increase over the life of the loan of no more than 5%. Seven- and ten-year loans are available as well. The rates for these loans cannot change more than 2% per year or more than 6% over the life of the loan.

VA Guaranteed Loans

The VA mortgage loan program was created in 1944 to assist military veterans with financing the purchase of reasonably priced homes. The VA mortgage loan program requires little or no down payment, and provides veterans with relatively easy qualification requirements and comparatively low rates of interest.

The VA mortgage loan program guarantees permanent long-term mortgage loans that are originated by VA approved lenders for owner-occupied residences, including condominiums and mobile homes that meet VA standards. If mortgage money is not available, the VA will loan money directly to a veteran. If default occurs and a loss results from foreclosure, the borrower is responsible for the loss.

- **Funding fee.** The veteran may be required by the lender to pay a funding fee. This fee is similar to an origination fee that is charged in connection with a conventional mortgage loan.

- **Eligibility.** A veteran’s eligibility for the mortgage loan program is shown on a certificate of eligibility that is obtained from the VA. This certificate indicates the amount of guarantee for which the veteran is eligible.

  A veteran must serve a specified minimum amount of time to be eligible and be honorably discharged. During peacetime, the eligibility period is 181 days, and during periods of military conflict, 90 days. Discharge in less time than required due to service-related disability automatically qualifies the veteran for benefits. Interestingly, the eligibility period was set at 90 days during the Gulf War, but congress has not re-instated the 181-day requirement. Therefore, the current eligibility period is only 90 days.

  A veteran’s surviving spouse may be eligible if the veteran was killed in action or died due to service-related injuries. The spouse may also be eligible if a veteran is listed as missing-in-action or as a prisoner of war.

- **Entitlement.** Entitlement is the amount available for use on a loan. The amount of the veteran’s entitlement has been changed periodically since the program’s inception in 1944. Lenders will generally loan up to 4 times a veteran’s available entitlement without a down payment, provided the veteran is income and credit qualified and the property appraises for the asking price.
The VA entitlement can be used over and over again if a prior loan guaranteed by the VA is repaid, or another qualified veteran, who is willing to apply his or her entitlement to the loan balance, assumes the existing loan.

- **Down payment.** VA loans do not normally require a *down payment*. A VA loan amount is 100% of the purchase price if the purchase price does not exceed the maximum loan amount.

  Most conventional lenders require a down payment from 20 to 25% if the loan is not insured. The down payment serves to reduce the lender’s exposure in the event that foreclosure becomes necessary.

  The VA does not insure loans, but it guarantees the first 25% of losses in the event of foreclosure or default, which reduces the lender’s risk and eliminates the need for a down payment from the borrower. There is a maximum loan amount guaranteed by this program. Actual guarantee amounts vary as they are contingent on position and tenure of service. Refer to the VA website for specific information: www.benefits.va.gov/homeloans.

  The borrower is still required to qualify for the loan based on income and credit standards. Lenders may require a down payment to meet the lender’s standards, depending on the amount of the guarantee available and the income of the veteran. A minimum down payment of 5% is required for manufactured home loans.

- **Qualifying ratios.** To qualify for a VA loan, a borrower must not exceed a total obligations ratio of 41%.

- **Interest rate.** The *interest rate* is determined by negotiation between the lender and the borrower.

- **Lender fees (points).** As with other types of loans, points are added loan fees that are paid to the lender for a VA loan. Points raise the effective rate of interest paid by the borrower over the life of a loan. Each point is equal to 1% of the loan amount and may be paid by either buyer or seller, as specified in the contract.

- **Appraisal.** An appraisal must be performed by a VA-approved appraiser and is required to make sure that the property meets the VA’s minimum property requirements and to establish the property’s value. The appraisal cost may be paid by the buyer, seller, or shared.

- **Maximum loan amount.** The VA does not set a *maximum loan amount*. However, the amount of the mortgage loan may not exceed the lesser of the sales price or appraised value of the property.

- **Prepayment.** There is no prepayment penalty for VA loans.

**Conventional Mortgage Loans**

A *conventional mortgage loan* is any loan that is not insured or guaranteed by an agency of the government. Conventional mortgage loans made by lending institutions and private lenders are the predominant method in which single-family residences are financed.

Usually, conventional mortgage loans are more difficult for a borrower to obtain than a mortgage under the FHA or VA programs. Conventional mortgage loans typically require a higher down payment than those required by FHA or VA, and traditionally carry a higher interest rate. Since these loans are neither insured nor guaranteed, they carry a higher risk in foreclosure than the FHA and VA loans.
To offset the higher risk, and to allow conventional lenders to compete with FHA and VA loans, private mortgage insurance was developed. Private mortgage insurance (PMI) was introduced by the Mortgage Guarantee Insurance Corporation (MGIC) in 1957 and is currently available from several competing firms. Federal lending regulators usually require this insurance when the loan amount exceeds 80% of the value of the property. Some lenders qualify for self-insurance, and in that event, do not require PMI. However, they may charge the borrower a fee for this protection. With PMI, a conventional borrower may obtain a loan up to 95% of the value of the property.

PMI increases the cost of financing, as the borrower is required to pay a premium for the coverage. Although the monthly payment is higher, interest is charged only on the unpaid balance of the loan.

The federal Homeowners Protection Act of 1998 (HPA) requires automatic cancellation of PMI by the lender when the LTV ratio is 78% or less of the property's original value. Previously, this was optional on the part of the lender.

The HPA also provides the borrower with the right to request cancellation of PMI when a mortgage has been paid down to 80% of its original appraised value or purchase price, whichever is less. The borrower also has the right to accelerate the cancellation date by making additional payments that bring the LTV ratio to 80%.

F.S. 687 limits the interest rate that may be charged for a loan. Lenders may not charge an interest rate of more than 18% on loan amounts up to $500,000 or an interest rate of more than 25% on loan amounts above $500,000. Charging rates in excess of those established by statute is unlawful and is referred to as usury.

LOAN REPAYMENT METHODS

Term Mortgage

A term mortgage, also called a straight-term mortgage, provides for payments of interest only during the term of the mortgage. The principal amount borrowed is repaid in a lump sum payment called a balloon payment at the end of the term. The amount of a balloon payment must be stated in the mortgage.

Amortized Mortgage

An amortized mortgage is a loan with scheduled periodic payments where the loan payments typically include a portion that applies to the interest owed and a portion that goes toward repaying the loan, called principal. The word amortize comes from the Latin word amorte, which means to kill. The amortization, then, is the principal portion of the payment used to repay the loan. Most conventional, FHA and VA loans are amortized loans.

Most amortized loans are fully amortizing, which means the payment is sufficient to repay the interest owed and the loan amount in full over the life of the loan. Loan terms are commonly 15 or 30 years.

The availability of shorter-term mortgage loans allows a borrower to save a substantial amount of interest compared to a longer-term loan. However, the monthly payments are obviously higher for a 15-year mortgage loan than those for a 30-year loan are. Lenders will usually make a 15-year loan at an interest rate slightly lower than a long-term loan due to the reduced risk.

Some amortizing loans are partially amortized, which means the payment is not sufficient to pay all of the interest due and repay the loan in full. Referred to as a balloon payment mortgage, the balance of the original loan remaining unpaid at the end of a partially amortizing loan term is called a balloon payment. Other amortizing loans may be structured so that a balloon payment is due after a certain number of years, such as five or seven years. This would allow the payment to remain the same as a fully amortizing loan, but the borrower would have to be in a position to pay the balloon amount when it becomes due.
Negative amortization occurs when loan payments fail to cover the interest due and the remaining amount of interest is added to the loan’s principal. Negative amortization increases the loan balance, which causes the borrower to owe more money.

If the monthly mortgage payment remains the same over the term of the loan, the loan is a fixed rate or level payment loan. In each succeeding monthly payment, the amount applied to pay interest on the loan is reduced and the amount applied to repay the loan principal is increased. The principal amount originally borrowed will be completely repaid at the end of the loan term.

The monthly payment for an amortized loan consists of the following:

\[ \text{Interest portion + Principal portion = Monthly mortgage payment} \]

**Amortizing Loan Payments**

If the monthly payment for a level payment mortgage is known, it is possible to calculate the amount of the payment that is applied to pay interest and the amount that is applied to principal. The balance of the loan that remains unpaid after the principal reduction can then be determined.

The formula for calculating the interest portion of the loan payment is:

\[ I = P \times R \times T \]

The letters in the formula represent values as follows:

\[ I = \text{Interest portion amount of the monthly payment ($)} \]
\[ P = \text{Principal amount of the loan (loan balance)} \]
\[ R = \text{Rate of annual interest charged on the loan (\%)} \]
\[ T = \text{Time expressed in fractions of a year (i.e. one month is } 1/12) \]

**Example:** A mortgage of $10,000 for 10 years at 8% has a monthly payment of $121.33. What is the balance of the loan after two monthly payments?

**Solution:**

**Step 1** Calculate the interest amount paid. Use the formula to find the interest portion of the first monthly payment by replacing the appropriate letters in the formula with the known values and performing the arithmetic. Multiplying by 1/12 is the same as dividing by 12.

\[ I = P \times R \times T \]
\[ I = $10,000 \times .08 \times 1/12 \]
\[ I = $10,000 \times .08 \div 12 = $66.67 \text{ Interest for the first month} \]

**Step 2** Determine the principal amount paid. Subtract the first month’s interest from the monthly payment to determine the amount of principal applied towards “paying down” the outstanding loan amount in the first month.

\[ $121.33 \text{ Monthly mortgage payment} \]
\[ - \quad 66.67 \text{ Interest portion of first monthly payment} \]
\[ $54.66 \text{ Principal portion of first monthly payment} \]
Step 3 **Determine the reduced loan balance.** Subtract the first month’s principal payment from the principal amount originally borrowed to find the reduced balance of the loan after the first month’s payment.

- $10,000.00  Original loan amount (principal)
- 54.66  Principal portion of first monthly payment
- **$ 9,945.34**  Remaining loan balance (principal) after first payment

Step 4 **Repeat steps 1 through 3 for additional months.** Repeat steps 1 through 4 listed above for the second and third months. Use the same values for rate of interest (“R”) and time (“T”) as for the first month. However, since the remaining loan balance (principal) is reduced by each monthly payment, you must use the remaining principal balance of the loan calculated in step 3 as the new principal amount (“P”). The table below shows the results.

<table>
<thead>
<tr>
<th></th>
<th>First Month</th>
<th>Second Month</th>
<th>Third Month</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Balance</strong></td>
<td>$10,000.00</td>
<td>$9,945.34</td>
<td>$9,890.31</td>
</tr>
<tr>
<td><strong>Payment</strong></td>
<td><strong>$121.33</strong></td>
<td>$121.33</td>
<td>$121.33</td>
</tr>
<tr>
<td><strong>Interest</strong></td>
<td>$66.67</td>
<td>$66.30</td>
<td>$65.94</td>
</tr>
<tr>
<td><strong>Principal</strong></td>
<td>$54.66</td>
<td>$55.03</td>
<td>$55.39</td>
</tr>
<tr>
<td><strong>New Balance</strong></td>
<td><strong>$9,945.34</strong></td>
<td>$9,890.31</td>
<td>$9,834.92</td>
</tr>
</tbody>
</table>

The previous example illustrates the following characteristics of an amortized loan with a level monthly payment:

- The interest portion paid each month is less than the amount paid in the previous month.
- The principal portion paid each month is more than the amount paid in the previous month.
- The principal balance of the loan decreases each month, thereby resulting in a zero balance at the end of the loan term.

If any three of the four components in the “I = P x R x T” formula are known, the value of the fourth unknown component can be determined. The steps below illustrate a simple way to use the formula to find either the value for the principal portion (“P”), rate of interest (“R”), or time (“T”) if the other values are known.

The following examples illustrate these steps.

**Example 1 (missing “P”):** The interest for three months is $300 on an interest only, level payment, term loan with an interest rate of 5%. What is the principal loan balance?

**Solution:**

**Step 1** **Write down the formula and substitute the known values for the corresponding letters.** The objective is to solve the resulting equation to find the unknown value.

\[ I = P \times R \times T \]

\[ 300 = P \times .05 \times 3/12 \] (Note: $3/12 = .25$)
Step 2 Simplify the equation by multiplying the known values on the right side of the equal sign. In this example, you will multiply .05 by 3/12. Note that the fraction 3/12 is the same as .25 or 1/4. Rewrite the equation, substituting the resulting value.

\[
$300 = P \times (.05 \times .25)
\]
\[
$300 = P \times .0125
\]

Step 3 Solve for the unknown value in the equation. In this example, the unknown value is “P.” The goal is to end up with the unknown value by itself on one side of the equal sign. In order to do this, divide both sides of the equation by the number that is on the same side of the equal sign as the unknown value. In this example, divide both sides of the equation by .0125 to get P by itself on one side of the equal sign. This works because any number divided by itself equals 1.

\[
$300 = P \times .0125
\]
\[
$300 ÷ .0125 = P \times (.0125 ÷ .0125)
\]
\[
$24,000 = P \times 1
\]
\[
$24,000 = P \text{ (principal amount of the loan)}
\]

Example 2 (missing “R”): A $24,000 interest only, level payment, term loan has interest due of $200 after two months. What is the rate of interest on the loan?

Solution:

Step 1 Write the formula and substitute the known values.

\[
I = P \times R \times T
\]
\[
$200 = $24,000 \times R \times 2/12 \quad \text{(Note: 2/12 is approximately .1667)}
\]

Step 2 Simplify the equation by multiplying the values on the right side of the equal sign and rewriting the equation.

\[
$200 = R \times $4,000 \quad \text{(Note: $24,000 \times 2/12 = $4,000)}
\]

Step 3 Solve for “R” by dividing both sides of the equation by $4,000.

\[
$200 ÷ $4,000 = R \times ($4,000 ÷ $4,000)
\]
\[
.05 = R \times 1
\]
\[
.05 \text{ (or 5%) = R \text{ (rate of interest on the loan)}
\]

Example 3 (missing “T”): A $24,000 interest only, level payment, term loan has a rate of 5% and interest due in the amount of $600. How long has the loan been outstanding?

Solution:

Step 1 Write the formula and substitute the known values.

\[
I = P \times R \times T
\]
\[
$600 = $24,000 \times .05 \times T
\]
Step 2  Simplify the equation by multiplying the values on the right side of the equal sign and rewriting the equation.

$600 = $1,200 \times T \quad \text{(Note: $24,000 \times .05 = $1,200)}$

Step 3  Solve for “T” by dividing both sides of the equation by $1,200.$

$600 \div $1,200 = ($1,200 \div$1,200) x T

0.5                   =              1              x T

0.5                   = T (amount of time in years)

To find the number of months that the loan has been outstanding, multiply the value for “T” by 12.

0.5 x 12 = 6 months (number of months the loan has been outstanding)

Adjustable Rate Mortgage (ARM)

An adjustable rate mortgage (ARM) is an amortized loan in which the interest rate fluctuates over the term of the loan. Payment adjustments are made at set intervals. The lender’s risk associated with making fixed-rate loans is reduced by using an adjustable rate mortgage. Since interest rates can rise, the lender may receive additional income on the loan as the market changes.

Important elements of an ARM loan include an index and a margin.

- **Index.** The index is a foundation rate for the loan that must be published and is beyond the control of the lender. Two index rates often used by lenders are the weekly average yield on U.S. Treasury Securities called the one-year T-bill rate, and the eleventh district cost of funds. Of the two, the eleventh district cost of funds tends to be less volatile, thereby resulting in less dramatic changes in the borrower’s payment.

  In the ten-year period from June 1982 until June 1992, the one-year T-bill index ranged from a 4% low to a 14% high. The lender does not control the fluctuation of interest rates charged in an ARM. The marketplace composed of investors who buy one-year T-bills set the index rate in an ARM.

- **Margin.** A margin is a percentage that is added to the index rate by the lender to cover the lender’s overhead and provide a profit on the loan. The margin does not change for the life of the loan.

  The margin added to the index determines the note rate that is the rate the borrower will pay on the loan. This rate can change for future loans based on changes in the index.

  Federal law requires the lender to lower the rate when the index goes down. Increases are at the option of the lender. The rate is sometimes expressed in basis points with 100 basis points equal to 1% of interest.

Example:  

\[
\begin{array}{c}
5 1/4\% \\
+ 2\% \\
7 1/4\%
\end{array}
\]

Index rate
Margin
Fully indexed rate (note rate)
- **Teaser rate.** A teaser rate is an initial interest rate that is stated in the promissory note that is lower than the fully indexed rate. A teaser rate is intended to encourage mortgage loan borrowers to obtain an ARM instead of a fixed-rate loan. Teaser rates usually apply only to the first year of the loan.

The date when interest rates can change in an ARM is called the rate adjustment date. The amount of time between rate adjustment dates is called the rate adjustment period, or interval. An ARM with a rate adjustment period every 12 months is called a one-year ARM, every 36 months is a three-year ARM, and every 60 months is a five-year ARM.

A periodic cap, or periodic rate cap, limits how much the rate can change at any one time. Periodic caps are usually annual caps, or caps that prevent the rate from rising more than a certain number of percentage points in any given year.

The change date for the borrower’s monthly mortgage payment must be disclosed to the borrower in advance. Typically, the payment adjustment is made on the same date as the interest rate.

If the ARM payment does not change on the same date as the interest rate, negative amortization may occur. This is due to the fact that the monthly payment may be lower than the payment required for principal plus the amount of interest due. If the interest rate is adjusted monthly, but the payment is only changed once each year, negative amortization can occur. When negative amortization occurs, the unpaid interest is added to the loan balance and no reduction in the principal occurs.

Some ARM loans have both a payment cap and a lifetime cap. Caps create an upper and a lower limit on the adjustments that can be made to the loan.

**Payment caps** set the limit for any single adjustment to the payment amount. For example, with a 7% payment cap, a payment of $100 could increase to no more than $107.00 in the first adjustment period and to no more than $114.49 in the second adjustment period.

Payment caps can cause negative amortization if the interest rate increases and the payment cap holds the payment at an amount that does not cover the full interest portion of the monthly payment. If this happens, the unpaid monthly interest is deferred and added to the principal balance, creating negative amortization.

**Example: Negative amortization due to payment cap:** A one-year ARM has a payment cap of 7%. After the first year, the interest rate on the note increases 2 percentage points, but due to the payment cap, the payments can increase by no more than 7% in any one year. If the starting interest rate is 8% on a $100,000, 30-year loan, the monthly payments would be as follows (with and without the payment cap):

<table>
<thead>
<tr>
<th>ARM Interest Rate</th>
<th>Monthly Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st year (8%)</td>
<td>$733.76</td>
</tr>
<tr>
<td>2nd year (10%)</td>
<td>$877.57 (without payment cap)</td>
</tr>
<tr>
<td>2nd year (10%)</td>
<td>$785.12 (with 7% payment cap)</td>
</tr>
</tbody>
</table>

**Difference in monthly payment:**

\[
\text{Difference} = $877.57 (2^{nd} \text{ year without payment cap}) - 785.12 (2^{nd} \text{ year with payment cap}) = $92.45
\]

Since the monthly payment (with the payment cap) is not enough to cover the interest, the loan balance will increase, resulting in negative amortization.
Lifetime caps set the upper and lower interest rate that can be charged over the life of the loan. Interest rate caps are another way of protecting the borrower from sharp increases in interest rates.

**Example: Interest rate caps:** A one-year ARM has an interest rate cap of 2% for any one adjustment period and a lifetime cap of 6%, with a note rate of 5 ¼%.

<table>
<thead>
<tr>
<th>Annual Cap</th>
<th>Lifetime Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 ¼% Note rate</td>
<td>5 ¼% Note rate</td>
</tr>
<tr>
<td>+ 2% First annual adjustment</td>
<td>+ 6% Lifetime cap</td>
</tr>
<tr>
<td>7 ½% Note rate after one adjustment</td>
<td>11 ¼% Maximum note rate over the life of the loan</td>
</tr>
</tbody>
</table>

Typical interest rate caps for conforming loans (FNMA/FHLMC) are 2% for any one adjustment, and 6% over the life of the loan. FHA interest rate caps are typically 1% for any one adjustment, and 5% over the life of the loan.

**Biweekly Mortgage**

A biweekly mortgage requires that one-half of the mortgage payment be paid every two weeks instead of one payment per month. This is essentially the same as making 13 monthly payments each year and reduces the time necessary to amortize the loan. By making payments every two weeks, a loan that would take 30 years to amortize will be paid off in approximately 21 years, thereby saving a substantial amount of interest.

The disadvantage of this type of loan is that the payments are usually required to be automatically withdrawn from the borrower’s checking account. Closer attention to the account balance is necessary to avoid charges for insufficient funds. Virtually the same interest savings can be achieved by making one additional monthly mortgage payment each year.

**Blanket Mortgage**

A blanket mortgage is a single mortgage given by a borrower that pledges two or more parcels as security for a loan. Builders and developers when constructing several properties in the same area commonly use blanket mortgages.

A blanket mortgage typically contains a release clause, thereby allowing the borrower to pay a specified amount to release a single lot from the blanket so it can be sold to a buyer upon completion of construction.

**Home Equity Loan**

A home equity loan is a loan secured by the equity in the home. Home equity loans are commonly used by homeowners to finance major expenses, such as home remodeling. Interest on a home equity loan may be tax deductible.

Generally, home equity loans must be repaid over a fixed period and may have fixed or variable interest rates. Like other mortgages, lenders also charge points or other fees.

A home equity loan is secured by the equity in the home and creates a lien on the borrower’s home, which reduces the overall equity. If the borrower defaults, the lender may foreclose on the home.

A home equity loan is not the same as a home equity line of credit (HELOC). A home equity loan is a single, lump-sum loan. A HELOC is a revolving line of credit with an adjustable interest rate that allows the borrower to choose when and how to borrow against the equity of their house.
Reverse Mortgage

The Florida Home Equity Conversion Act of 1988 was passed by the Florida legislature to assist homeowners who are 62 years of age or older. A reverse mortgage, also called a reverse equity mortgage or a reverse annuity mortgage, allows a homeowner to receive a lump sum or a monthly advance on a line of credit based on the equity in their home. The lender is repaid when the property is sold, when the owner dies, or when the owner ceases to be a permanent resident. If funds are insufficient to repay the lender, the Home Equity Conversion Guarantee Fund makes a reimbursement to the lender. The most popular reverse mortgage program is the FHA Home Equity Conversion Mortgage (HECM) for seniors who are age 62 or older and own their property outright or have paid-down a considerable amount.

Purchase Money Mortgage

A purchase money mortgage (PMM) is any mortgage loan obtained from the seller when the proceeds of the loan are used to purchase real property. Also referred to as seller financing, a PMM is typically used in situations where the buyer cannot qualify for a mortgage through other lending channels.

Package Mortgage

A package mortgage includes both real and personal property as security for a loan. The purchase of a home often includes personal property items such as a refrigerator, range, dishwasher, and so on. If these items are a part of the security offered in the mortgage, it creates a package mortgage. A chattel mortgage uses only personal property as security for a loan.

MONEY IN THE MARKETPLACE

Money is bought and sold in the marketplace like any other commodity. The interest paid on borrowed money is the price of money and can be thought of as rent paid for its use. Any commodity in short supply is expected to have a higher price and a lower price when the commodity is plentiful. The same is true for the price of money. Interest rates move up or down based on the supply available and the demand for its use.

The supply of money available for mortgage lending has historically been linked to the activities of local lenders and local borrowers. This process has been modified in recent years with the advent of interstate banking. However, the mortgage money supply and the price of money are still very much influenced by the same forces that have traditionally been at work in the marketplace.

- **Intermediation.** Intermediation is the term used to describe the flow of deposits into lending institutions, thereby creating a mortgage money supply. When individuals deposit funds into banks, savings and loan associations, and credit unions, the money becomes available for lending purposes. It follows that high levels of intermediation increase the mortgage money supply and interest rates are typically reduced.

- **Disintermediation.** Disintermediation occurs when depositors bypass traditional depository institutions and withdraw from accounts with low fixed interest rates, transferring those funds to alternative investments with higher interest rates (yields) such as the stock market, mutual funds, artwork, and so on. Large-scale
disintermediation can reduce the mortgage money supply and cause interest rates to rise.

**FEDERAL RESERVE SYSTEM**

The Federal Reserve System is a central bank established by Congress in 1913 to give the country an elastic currency, provide a system for discounting commercial paper, and to improve the supervision of the banking industry. It is made up of 12 regional banks that are managed by a Board of Governors. The Federal Reserve operates independently of the government; therefore, the actions of the central bank are not under the supervision or control of the President or Congress.

The Federal Reserve System has five parts:

- The Board of Governors
- 12 Federal Reserve banks and their branches
- The Federal Open Market Committee
- The Federal Advisory Council
- Member banks. Member banks include federally regulated commercial banks and state-chartered banks that have voluntarily joined the system.

The Board of Governors consists of seven members who are appointed by the President and confirmed by Congress. Members are appointed to terms of 14 years. The chairperson of the Federal Reserve is appointed by the President and confirmed by the Senate for a term of four years. This term intentionally overlaps presidential terms of office to reduce governmental intrusion into the operations and decisions of the Federal Reserve. The Board of Governors sets the reserve requirements for member banks, reviews and approves discount rate actions, sets ceilings on the interest rates that banks pay on time and savings deposits, and issues regulations. Members also sit on the Federal Open Market Committee, the principal instrument for implementing national monetary policy.

The actions of the Board of Governors, called monetary policy, regulate the cost and availability of credit in the United States. Its actions effectively control the supply of money in the U.S. economy. Its policies affect the amount and cost of money which is available to lenders, and thus to borrowers. By limiting the supply of money and credit, it can create what is called a tight money market.

It is incorrect to say that the Federal Reserve sets interest rates. Rather, its policies affect the availability of funds, which in turn influences the cost of credit in the marketplace. The Federal Reserve Board of Governors has the following three tools at its disposal to assist in the regulation of the money supply or to influence interest rates:

- **Reserve requirement.** The reserve requirement is a percentage of the money on deposit in a bank that cannot be used for lending purposes and must be transferred to a district Federal Reserve Bank. The original purpose of the reserve requirement was to assure bank depositors that their funds were safe and accessible in the event of a run on the bank.

  By increasing or decreasing the reserve requirements of member banks, the Federal Reserve can increase or decrease the amount of money a bank has available to lend. If the reserve requirement is increased, the amount of money available for lending is decreased, which may cause interest rates to increase. A decrease in the reserve requirement would result in more money available for lending, which could cause interest rates to decrease.
Banks are required to balance their deposit accounts daily at the close of business, and they must adjust their reserve requirement accordingly. Failure to do so could result in severe fines, other disciplinary action by the Federal Reserve, or possible withdrawal of the bank’s federal charter. Changes in the reserve requirement are the most abrupt of the three control devices used by the Federal Reserve since this action takes place the day the requirement is announced.

- **Discount rate.** Federal Reserve member banks can borrow money from one of the 12 Federal Reserve district banks. The rate of interest that is charged by the Federal Reserve to a member bank on funds loaned is called the *discount rate.* It is called a discount rate because the interest on the loan is deducted from the loan proceeds when the loan is originated, with the bank receiving the net difference.

  An increase in the discount rate causes a bank’s cost of doing business to increase. This increased cost will be passed to the borrowers in the form of higher interest rates. A decrease in the discount rate would have the opposite effect. Therefore, the Federal Reserve can influence the cost of credit in the United States by increasing or decreasing the discount rate. Since this affects only a small portion of the banking system, changes in the discount rate are considered to be the least effective of the Federal Reserve’s three tools. Even so, it usually generates the most publicity.

- **Open market operations.** The Federal Open Market Committee (FOMC) meets regularly throughout the year to review the state of the economy. Its actions can greatly influence the course of events in our country and throughout the world.

  If the FOMC believes the economy is in need of stimulation, the Committee may decide to purchase government securities on the open market. More money is placed into the economy by purchasing securities and interest rates will be reduced. If the economy is seen as overheated, the FOMC may decide to sell government securities with interest rates higher than banks pay on savings accounts. This action removes money from the economy (disintermediation), makes less money available for loans, referred to as *making money tighter,* which causes interest rates to rise. When interest rates rise, less money is borrowed, thereby causing the economy to slow down.

  At first glance, this does not seem to be a very effective tool; however, these purchases can be in billions of dollars. Each billion dollars transacted at the federal level leverages to about six billion dollars at the consumer level. Open market operations are considered to be the most effective tool available to the Federal Reserve for controlling the money supply.

**THE PRIMARY MORTGAGE MARKET**

The *primary mortgage market* is where loans are originated. The market consists of individuals and businesses that want or need to borrow money and the various sources for those loans. The sources may be individuals, institutional lenders, and other organizations formed to loan money as agents or middlemen for insurance companies or pension funds.

**Mortgage Lenders**

A *mortgage lender* is a licensed individual who lends money. A mortgage lender’s license is required for anyone making a mortgage loan for compensation or gain, directly or indirectly, or selling or offering to sell a mortgage loan to a non-institutional investor.
Making a mortgage loan means closing a mortgage loan in a person's name, advancing funds, offering to advance funds, or making a commitment to advance funds to an applicant for a mortgage loan.

In a process referred to as warehousing, or warehouse lending, mortgage lenders may borrow money as a line of credit from a commercial bank. These borrowed funds are used to fund additional mortgage loans that borrowers initially use to buy property. The mortgage lender secures an investor to whom the mortgage loan will be sold. Mortgage lenders depend on the eventual sale of the loan to repay the line-of-credit loan to the warehouse lender. A warehouse loan typically lasts from the time it is originated to when the loan is sold into the secondary market.

There are many types of mortgage lenders, including the following.

- **Savings associations.** A savings association (SA) is a type of mortgage lender, primarily used for residential loans. Savings associations, previously known as savings and loan associations, were originally organized to assist members with the financing of residential property. They were designed to serve only their own members. The association members would pool their money and take turns using the money to fund construction of members’ homes. After all the members built homes, the association was dissolved.

  Today, a savings association can be organized either as a stock organization owned by stockholders or as a mutual association owned by the depositors. Savings associations are chartered either by the federal government or by the states in which they operate. Savings associations provide both savings accounts that are called time deposits, and negotiable order of withdrawal (NOW) accounts that are referred to as demand accounts, which are the equivalent of a checking account.

  Savings associations dominated the residential mortgage market until deregulation of the banking industry in the 1980s. In the past, these institutions made most of their mortgage loans with depositors’ funds. The loans were held full term, with the savings association receiving the principal and interest payments from the borrower. A lender that retains and services mortgages that they originate rather than sell them to other investors is referred to as a portfolio lender.

  After deregulation in the 1980s, many savings associations faced severe problems as a result of bad loans, poor decisions about the economy, fraudulent activities, and numerous other factors. The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) was passed by Congress to reorganize financial institutions in an effort to prevent a repeat of this crisis. The Resolution Trust Corporation (RTC) was formed to manage insolvent thrift institutions and sell their assets. The RTC completed the task of selling the assets of failed savings associations and was closed in December of 1996.

- **Commercial banks.** Commercial banks are stock companies that are owned by their stockholders and are chartered either by the state or by the federal government. Commercial banks make short-term loans to assist commerce. Although commercial banks make some long-term real estate loans, the largest impact of commercial banks in the real estate market is that they make short-term construction loans. Commercial banks also provide funds to mortgage brokers. Their funds come from demand deposits in checking accounts and time deposits in savings accounts. Deposits are insured for up to $250,000 by the Bank Insurance Fund (BIF), a division of the Federal Deposit Insurance Corporation (FDIC).

  In recent years, commercial banks have assumed a larger role in the financing of residential property due to the failure of so many savings and loan associations.
- **Credit unions.** A *credit union* is a nonprofit, cooperative financial institution owned and run by its members. Credit unions are membership organizations that provide their members with loans at reasonable rates. Members pool their funds to make loans to one another. The volunteer board that runs each credit union is elected by the members.

  The Federal Reserve does not supervise or regulate credit unions. Federally chartered credit unions are regulated by the National Credit Union Administration, while state-chartered credit unions are regulated at the state level.

- **Life insurance companies.** *Life insurance companies* are organized either as stock companies owned by stockholders or mutual associations owned by the policyholders. Life insurance companies are regulated by the states in which they operate.

  Life insurance companies have policyholders who pay premiums. These premiums accumulate and become available for loans and investments. Since actuarial tables make payouts fairly predictable, life insurance companies are interested in long-term real estate loans.

  Life insurance companies are the largest source of funds for financing both apartment projects and commercial properties. They make direct loans or use the services of mortgage brokers. They also make extensive purchases of mortgage-backed securities in the secondary market.

- **Real estate investment trusts (REITs).** *Real estate investment trusts (REIT)* are formed by private investment groups to purchase real estate for investment, and to make short-term construction loans and long-term mortgage loans. A REIT is a *business trust* that operates similarly to a mutual stock fund in that individual investors make investments in the trust, thereby creating a pool of money that can be used to purchase, construct, or fund its real estate ventures. Its investments and loans are primarily in apartment complexes and commercial properties. If qualified, a REIT receives special tax treatment under federal income tax laws.

  Real estate investment trusts can be categorized according to the purpose of the formation. Those that are formed to buy, own, and manage investment properties are called *equity trusts*. Others that are formed for the purpose of lending money to fund the construction and/or purchase of commercial or apartment projects are called *mortgage trusts*. Trusts that engage in both lending and ownership activities are called *mixed trusts*.

  In the 1970s and early 1980s, REITs came on bad times, which was due largely to the economy and a lack of experienced management. They suffered a poor reputation in the market and were distrusted by investors. In recent years, however, the economy has treated REITs more favorably. Professional management has become available and changes in the tax laws have made them a viable investment vehicle. Today, REITs play a major role in the development, financing, and ownership of large apartment complexes and commercial properties.

- **Mortgage bankers.** A *mortgage banker* is a company, individual, or institution that originates loans and earns fees associated with the origination. The mortgage banker represents a certain funding source, such as a pension fund or insurance company. The funding source and the mortgage company develop their own set of guidelines unique to the industry. The mortgage banker locates consumers that meet these guidelines, funds the loan using the investor’s funds, and services the loan on their behalf.
Mortgage Loan Originators (MLOs)

A mortgage loan originator (MLO) is an individual, who takes residential mortgage loan applications or offers or negotiates terms of a residential mortgage loan for compensation. MLOs do not make loans. They arrange loans by taking mortgage applications and searching for lenders who offer the lowest interest rates and easiest borrower qualification. MLOs charge borrowers an application fee and often earn a finder’s fee or commission for arranging loans.

MLOs may negotiate the terms or conditions of a new or existing mortgage on behalf of a borrower or lender. A MLO may also negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation.

A MLO license must be obtained from the Florida Office of Financial Regulation to engage in this business in this state.

Mortgage Brokers

A mortgage broker is an individual who conducts loan originator activities through one or more licensed MLOs. The MLOs may be employed by the mortgage broker or work as independent contractors to the mortgage broker.

A mortgage broker must be licensed by the Florida Office of Financial Regulation.

Seller Financing

As discussed in the previous chapter, the seller may also be a source of financing for a buyer. The seller may agree to finance with a contract for deed or land contract. Sellers may also agree to take an amortized mortgage from a buyer.

Mortgage Bond Financing

A mortgage bond is a bond secured by a mortgage on one or more assets, such as real property. Mortgage bonds are another funding source for residential mortgages. Mortgage revenue bonds (MRBs) help low- and middle-income first-time homebuyers by offering long-term mortgages at below-market rates. A state can issue mortgage revenue bonds (a form of tax-free municipal bond) to investors, then use the capital proceeds to invest in that state's MRB home loan program.

In order to qualify, prospective homebuyers must earn below stated threshold levels for annual income, and must otherwise financially qualify for a mortgage from a conventional lender. Many mortgages that were funded by MRBs first originated through the Federal Housing Administration (FHA), Freddie Mac, and Fannie Mae.

THE SECONDARY MORTGAGE MARKET

A major problem that faces a lender in the primary market is a constant flow of funds in order to continue to provide mortgage loans. A lender can exhaust its ability to make loans if the demand for mortgage money exceeds the amount of deposits received. This can occur during periods of disintermediation.

A secondary mortgage market has developed to provide a constant source of funds with which to make real estate loans. This market consists of secondary market lenders who purchase mortgages that originated in the primary mortgage market. Mortgages originated by primary lenders are bundled or packaged and sold to another lender in what is termed a secondary market transaction.
Investors in the secondary market are making a relatively low-risk investment since the primary lender has already qualified the borrowers and the properties. Each lender is requested to provide an estoppel letter thereby confirming the balance of each loan before the loan is sold in the secondary market. Federal lending law requires that each borrower be notified whenever a loan is being sold to another lender. The terms of the original loan are unaffected by the sale.

The secondary mortgage market provides liquidity to the primary market and solves the problem of the primary lender running out of funds. When the loan is sold, the amount that was originally loaned is replaced, thereby allowing the same money to be loaned again. The primary lender makes a profit by retaining the loan origination fees and the points charged to the borrower. It usually continues to service the loan after it has been sold.

The federal government has been instrumental in the organization of the secondary mortgage market. The principal secondary lenders are governmental or quasi-governmental agencies and include the following organizations:

- **Federal National Mortgage Association (FNMA or Fannie Mae).** The Federal National Mortgage Association (FNMA), nicknamed Fannie Mae, was originally created in 1938 as a government-owned corporation for the purpose of purchasing FHA loans. FHA, which had been created in 1934, helped to revive the construction industry and improve employment. The demand for FHA loans depleted the deposits available in many smaller banks and the lending process could not continue, thus defeating the very purpose of the program. Fannie Mae was given the authority to purchase these loans so that the program could remain viable.

  In 1944, with the inception of the VA loan program, Fannie Mae was authorized to purchase these loans in addition to FHA loans. Fannie Mae continued to be a government-owned and -operated corporation.

  In 1968, the government sold Fannie Mae and it became a for-profit stockholder-owned corporation with stock traded on the New York Stock Exchange. The powers of the corporation were retained and authorized by the government. In 1970, Fannie Mae’s authority was expanded to include the purchase of conventional loans. It uses private capital raised by selling mortgages from its portfolio, and mortgage-backed securities to purchase all types of mortgages, FHA, VA, and conventional. Fannie Mae is the oldest and largest participant in the secondary mortgage market.

- **Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac).** Congress created the Federal Home Loan Mortgage Corporation (FHLMC), nicknamed Freddie Mac, in 1970. Originally, Freddie Mac’s purpose was to purchase conventional loans that were originated by savings and loan associations. Freddie Mac is a stockholder-owned, for-profit corporation that sells shares publicly and operates as a function of the HUD. Freddie Mac is authorized to purchase all types of loans. Although authorized to purchase FHA and VA loans, Freddie Mac’s activity is primarily in the field of conventional loans. Freddie Mac sells mortgage-backed securities and mortgage loans to investors.

- **Government National Mortgage Association (GNMA or Ginnie Mae).** The Government National Mortgage Association (GNMA), nicknamed Ginnie Mae, was created in 1968 as a government-owned corporation that operates within HUD. Ginnie Mae took over the special assistance housing programs authorized by Congress and acts to make low-yield, high-risk loans marketable.

  Ginnie Mae is primarily engaged in purchasing federally subsidized residential mortgages that are originated by local lenders. It assists in the financing of urban renewal and housing projects by offering below-market interest rates to low-income families. It also provides a secondary market for VA and FHA loans and guarantees payment of securities backed by residential mortgages.
Conforming and Nonconforming Loans

Fannie Mae and Freddie Mac encouraged the standardization of lending practices throughout the United States. All loans intended to be sold to either Fannie Mae or Freddie Mac must be underwritten using criteria and standards established by these organizations. Loans that are underwritten in accordance with their requirements are called **conforming loans**, and the lenders that originate them are referred to as **conforming lenders**. Loans that do not conform to their standards for underwriting cannot be sold in the secondary market and must be held by the primary lender as a **portfolio loan**.

A **nonconforming loan** is a loan offered to borrowers who do not qualify for conforming loans. These loans typically have higher interest rates and may carry additional upfront fees and insurance requirements. These loans are offered by portfolio mortgage lenders, correspondent mortgage lenders, or private investors (through a mortgage broker).

Portfolio mortgage lenders originate and fund their own loans and may service them for the entire life of the loan. Because they typically offer deposit accounts to consumers, they are able to hold onto the loans they fund. They are also able to offer more flexibility in loan products and loan programs because they don’t need to adhere to the guidelines of secondary market buyers.

Correspondent mortgage lenders originate and fund loans in their own name, then sell them off to larger mortgage lenders, who in turn service them, or sell them on the secondary market.

Desktop Underwriting

Fannie Mae and Freddie Mac developed a new system for underwriting that is designed to speed up the loan approval process, called **desktop underwriting**. A local lender that subscribes to this system can input a loan application by computer directly to the secondary market. If the application meets secondary requirements, Fannie Mae or Freddie Mac can grant approval immediately so the loan can be funded almost instantly. Even the appraisal process is being by-passed in select cases. Centralized data banks have been created for high-density metropolitan areas that allow a statistical analysis of a property to be performed without the delay inherent in waiting for an appraisal to be completed. The statistical analysis is backed up by a ratio analysis of tax roll data.

The physical appearance and conformity of the property is verified by a drive-by which is performed either by an employee of the lender or by an appraiser who performs a simplified appraisal.

Conservatorship

In September 2008, the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorship. This action was essentially a takeover by the government to ensure the financial soundness of these two companies due to the events that took place during the subprime mortgage crisis.

Mortgage Fraud

According to the government’s Financial Fraud Enforcement Task Force (www.stopfraud.gov), traditional mortgage fraud includes situations in which homebuyers and/or lenders falsify information to obtain a home loan. The personal and financial loss associated with mortgage fraud is a concern for consumers, financial institutions, and law enforcement.
Mortgage fraud occurs when a consumer or mortgage industry professional intentionally provides incorrect information to a lender to cause them to apply for, fund, purchase, or insure a mortgage loan which otherwise would not have been approved. The intentional omission of certain information, such as the borrower’s self-employment status or true source of funds used for the down payment, earnest money deposit and/or closing costs, can also be considered an act of mortgage fraud. Mortgage fraud can occur without the knowledge or active participation of the borrower. If a consumer perpetrates a fraud, he or she may be investigated by the Federal Bureau of Investigation (FBI). Those found guilty can face up to 30 years in federal prison or a $1,000,000 fine, or both.

Types of Mortgage Fraud

There are many forms of mortgage fraud, include the following:

- **Foreclosure rescue schemes.** This type of mortgage fraud preys on homeowners who have fallen behind on the mortgage payments and are in danger of losing their homes. The homeowner is contacted. The fraudster may contact the homeowner in the beginning stages of foreclosure, present themselves as intermediaries, and offer to eliminate the debt and save the house for a fee. The fraudster collects the fee and disappears without providing any real assistance to the homeowner.

  In another scheme, the homeowner is approached by the fraudster who offers to help refinance the loan. The homeowner is then asked to sign documents that they later learn transferred ownership of their home to the company supposedly helping them.

- **Borrower identity theft.** Borrower identity theft occurs when a fraudster unlawfully uses someone else’s personal information, such as name, address, and social security number, to obtain a mortgage.

- **Reverse mortgage scams.** Elderly homeowners can be taken advantage of due to the complexity of the reverse mortgage process. Fraudsters may charge extra fees or insist on additional requirements that are not necessary.

- **Straw borrowers.** A straw borrower is either an individual whose identity is concealed knowingly or unknowingly (identity theft). The straw borrower is often paid to allow someone else to use his or her credit profile to obtain a mortgage. The actual buyer would otherwise be unable to secure a loan on his or her own. The true identity of the actual borrower is kept secret to obtain loan approval.

- **House flipping.** Most fraudulent flipping is based on appraisal fraud.

- **No document loans.** A no document, or “no doc” loan refers to a loan in which the borrower provides very little information (i.e. no income, asset, or employment information) to qualify for a loan. These loans are often based only on past credit history and credit scores and require less paperwork than a typical loan application.

Mortgage Fraud Red Flags

Certain activities are considered “red flags” as possible signs of mortgage fraud. These activities may or may not indicate mortgage fraud, but might warrant further investigation by the parties involved. Some of the signs of mortgage fraud include the following:

- Unsolicited offers from individuals claiming to be mortgage representatives
• Upfront fees for services
• Requests to make mortgage payments directly to a foreclosure service company
• Requests for a quitclaim deed to transfer the interest in the property
• Names have been added or deleted from the sales contract
• Requests to sign incomplete loan documents
• Inflated appraisals
• Inflated contract prices

ETHICAL MORTGAGE PRACTICES

Individuals engaged in the practice of mortgage lending will encounter ethical issues or situations on a regular basis. What should the loan officer do if documents provided by a borrower are clearly incorrect? What if a lender refuses to lend based upon the racial makeup of the area where the property is located? These are just two examples of the many issues that may arise in mortgage lending. Several statutes have been enacted to discourage these scenarios, but no statute can prevent someone from engaging in unethical or illegal behavior.

Examples of applicable statutes and their impact are listed below:

• Dodd Frank Act. Prohibits mortgage loan originators from steering consumers toward a mortgage where the consumer lacks a reasonable ability to repay

• Equal Credit Opportunity Act. Prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age, because an applicant receives income from a public assistance program, or because an applicant has exercised in good faith any right under the Consumer Credit Protection Act

• Federal Fair Housing Act. Makes discrimination in housing illegal

• Home Mortgage Disclosure Act. Requires lenders to report loans made to ensure that borrowers reflect the actual makeup of the community

• Real Estate Settlement Procedures Act. Prohibits kickbacks and rebates on certain loan transactions

• Truth-in-Lending Act. Requires lenders to clearly disclose the cost of a residential loan to the borrower

LAWS REGARDING FAIR CREDIT AND LENDING PROCEDURES

Real Estate Settlement Procedures Act (RESPA)

The federal Real Estate Settlement Procedures Act (RESPA) of 1974 covers most residential mortgage loans used to finance the purchase of one- to four-family properties. RESPA standardizes real estate closings by:

• Requiring lenders to provide a loan estimate of settlement costs no later than three business days following the date of mortgage loan application
• Requiring each loan applicant to be provided with the *information booklet* titled “Your Home Loan Toolkit,” which explains the various closing charges

• Requiring that a Closing Disclosure be completed and provided to the borrower no later than three business days prior to closing

• Prohibiting kickbacks and rebates on any transaction regulated under the provisions of RESPA, except those defined. Kickbacks and rebates are allowed if a service has been provided, the recipient of the fee has any appropriate license, and all parties to the transaction have been advised of the payment.

• Requiring a mortgage servicing disclosure statement that discloses to the borrower whether the lender intends to service the loan or transfer it to another lender.

**Truth-in-Lending Act**

The Consumer Credit Protection Act of 1968, also known as the Truth-in-Lending Act (TIL Act), was enacted to assure that consumers receive meaningful information concerning the true cost of credit.

The Board of Governors of the Federal Reserve System is required by the TIL Act to implement rules regarding consumer loans. *Regulation Z*, published by the Board of Governors of the Federal Reserve, requires that residential borrowers be clearly shown the cost of credit in both dollars and percentages. The percentage is stated as an *annual percentage rate (APR)* which includes interest, credit life insurance, discount, and loan origination fees.

**Example:** A loan with an interest rate of 6% where 2 points were paid would have an APR of 6 ¼%.

Borrowers are allowed a rescission period of three business days on the refinance of a principal residence. This does not apply to new loans for financing a purchase, or loans to build a home. The Federal Trade Commission (FTC) enforces both the TIL Act and Regulation Z.

**Triggering Terms**

If an advertisement contains any one of the terms specified in the TIL Act, then that advertisement must also include three prescribed disclosures. In other words, the specified terms *trigger* the disclosures.

The triggering terms are:

• Amount of the down payment (expressed either as a percentage or as a dollar amount)

• Amount of any payment (expressed either as a percentage or as a dollar amount)

• Number of payments

• Period of repayment

• Amount of any finance charge
The disclosures are:

- Amount or percentage of down payment
- Terms of repayment
- Annual percentage rate

Examples of terms that are not triggering terms are:

- Assumable mortgage
- Low interest rates
- Easy financing terms
1. How much interest is due on an interest only, level payment term loan of $8,000 at a rate of 9% for 3 months?

Answer: ...........................................

2. If interest at a rate of 8% for six months on an interest only, level payment term loan is $200, what is the principal amount of the loan?

Answer: ...........................................

3. A $12,000 interest only, level payment term loan has interest due of $810 after 9 months. What is the rate of interest?

Answer: ...........................................

4. At a rate of 12%, a $20,000 interest only, level payment term loan has interest due in the amount of $600. How long has the loan been outstanding?

Answer: ...........................................

5. A mortgage loan in the amount of $50,000 at a rate of 12% has been granted for a period of 30 years. The monthly payments are $514.31. Using this information, answer the next three questions.

a. What is the principal portion of the first monthly payment?

Answer: ...........................................

b. What is the interest portion of the second monthly payment?

Answer: ...........................................

c. What is the balance of the loan after the third monthly payment?

Answer: ...........................................
CHAPTER 13 REVIEW QUESTIONS

1. The process of qualifying a borrower and a property in connection with a loan application is known as mortgage _________________.

2. Life insurance companies are the largest source of funds for _______________________ loans.

3. The Federal Reserve System’s least effective tool to affect the money supply is the ability to change the _____________________________.

4. The Federal Reserve System’s most effective tool to affect the money supply is referred to as ________________ ________________ _________________.

5. If the Federal Reserve should decide to buy government securities, the money supply would ______________________ and interest rates would ________________________.

6. The Federal National Mortgage Association (Fannie Mae) was originally created to buy _______________________ loans.

7. The government-owned organization operating in the secondary mortgage market to make low-yield, high-risk loans marketable is the ______________________________ ______________ ________________ nicknamed ___________________.

8. A lender that prefers to keep a loan rather than sell it in the secondary market is called a(n) ______________________ lender.

9. The secondary mortgage market provides _________________ to the primary mortgage market.

10. A(n) ________________ ________________ is a loan secured by the equity in a home and generally must be repaid over a fixed loan period. A(n) ________________ is a revolving line of credit obtained against the equity of a home, in which the borrower can draw funds as needed.

11. The flow of funds into deposits held by primary lenders that increase the mortgage money supply is referred to as _________________________.

12. Mortgage loan originators __________________ loans and mortgage lenders _______________ loans.

13. The primary mortgage market is where loans are _______________________.

14. A loan applicant’s past credit history indicates their ________________ to honor debt obligations, and their income is a measure of the ________________ to repay the loan.

15. A Real Estate Investment Trust (REIT) is formed as a(n) ______________________ and operates similarly to a(n) ________________ _________________.

CHAPTER 13 PRACTICE EXAM

1. Prior to deregulation of the banking industry in the 1980s, which institutions were dominant in providing funds for the purchase of single-family residences?
   a. Commercial banks
   b. Savings associations
   c. The FHA
   d. Mortgage loan originators

2. What is the major source of funds for large commercial real estate developments?
   a. Savings associations
   b. Commercial banks
   c. Life insurance companies
   d. Mutual savings banks

3. What will be the effect if the Federal Reserve Board decides to purchase government securities in the open market?
   a. The money supply will decrease and interest rates will increase.
   b. The money supply will increase and interest rates will decrease.
   c. The amount of money that member banks may use for loan purposes will be limited, thereby causing interest rates to increase.
   d. A tight money market will be created.

4. Which group of financial institutions traditionally preferred to make short-term loans for construction?
   a. Mutual savings banks
   b. Savings associations
   c. Life insurance companies using a mortgage broker
   d. Commercial banks

5. Which of the following statements best describes the secondary mortgage market?
   a. It is the market where second mortgages are sold.
   b. It is where loans originated in the primary market are sold.
   c. It is where loans made only by private parties are sold.
   d. It is the market where second mortgages are originated.

6. How are mortgage loan originators usually compensated for their services?
   a. Monthly loan service fee
   b. Salary
   c. Finder’s fee or commission
   d. Share of the borrower’s assets

7. With an adjustable rate mortgage, if a payment is not sufficient to cover the interest amount due, the unpaid interest amount may be added to the loan balance. What is the term used to describe this situation?
   a. Negative amortization
   b. Warehousing
   c. Indexing
   d. Predatory lending

8. When does disintermediation occur?
   a. When deposits exceed the demand for loans
   b. When depositors withdraw their savings from depository institutions to invest in higher yield alternative investments
   c. When the Internal Revenue Service taxes earnings of investments
   d. When the Federal Reserve Board reduces the discount rate

9. Which clause in a blanket mortgage allows for the release of a single parcel upon payment of a specified sum?
   a. Defeasance
   b. Acceleration
   c. Satisfaction
   d. Release
10. Which of the following statements regarding types of mortgage loans is correct?
   a. Both the FHA and the VA make loans.
   b. FHA loans are guaranteed.
   c. The FHA insures loans. VA loans are guaranteed.
   d. Conventional loans are insured by the government.

11. Interest rates for Federal Housing Administration mortgages are determined by which of the following?
   a. The market
   b. FHA
   c. The government
   d. The Congress

12. The Federal National Mortgage Association was originally formed to purchase what type of loans?
   a. Conventional
   b. FHA
   c. VA
   d. Deeds of trust

13. Gerri has a 15-year loan with monthly payments that remain the same amount for the entire loan period. Which type of mortgage repayment plan does Gerri have?
   a. Adjustable rate
   b. Indexed
   c. Partially amortized
   d. Level payment

14. If a mortgage loan payment consists of interest only, what is the final payment (which includes the full amount borrowed) called?
   a. Monthly payment
   b. Balloon payment
   c. Amortized payment
   d. Term payment

15. Lenders who make conventional loans where the buyer provides less than a 20% down payment will normally require that the borrower pay which of the following?
   a. Up-Front Mortgage Insurance Premium (UFMIP) payments
   b. Uninsured Primary Mortgagor Insurance (UPMI)
   c. Mortgage Insurance Premium (MIP) payments
   d. Private Mortgage Insurance (PMI)
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CHAPTER 14
REAL ESTATE-RELATED COMPUTATIONS AND CLOSING OF TRANSACTIONS

OVERVIEW
The closing of a real estate transaction is the final act that concludes the contract between the buyer and seller. All money due is paid, all costs are allocated and paid, and title is conveyed to the buyer. The settlement of a real estate transaction occurs when the seller delivers the deed to the buyer, and the buyer pays the seller the amount agreed upon for the purchase of the property. Typically, a real estate settlement is called a closing. On the day of closing, all accounting in the transaction is finalized.

Title companies, attorneys, and real estate brokers conduct closings. Real estate licensees must be capable of explaining the closing process to the parties with whom they deal. Since most buyers and sellers may be involved in the purchase or sale of property only a few times in their lives, they will be uncertain about the process. Various steps must be taken to close a real estate transaction, including obtaining evidence of the seller’s ownership, securing mortgage loan information, completing property inspections, obtaining property insurance, itemizing costs and expenses for the buyer and seller, and preparing legal documents.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Compute the sales commission
- Define settlement and title closing
- List the preliminary steps to a closing
- Prorate the buyer’s and seller’s expenses
- Calculate the dollar amount of transfer taxes on deeds, mortgages, and notes
- Allocate taxes and fees to the proper parties and compute individual costs
- Explain the rules of thumb for closing statement entries
- Explain the major sections of the closing statement
- Demonstrate the ability to read and check the closing statement for errors

KEY TERMS
- Arrears
- Credit
- Debit
- Pre-closing inspection
- Prepayment
- Proration
PRE-CLOSING ACTIVITIES

After a purchase and sale contract has been negotiated between the buyer and seller, many details must be handled prior to the day of closing. The seller must clear any title problems and arrange for preparation of the deed that will transfer ownership. Usually, the seller provides either an abstract of title or a title insurance policy as evidence of a merchantable title.

The buyer must conclude financial arrangements, and perform necessary property inspections and title examination. This process can be time-consuming as unforeseen problems can occur.

Licensees often create checklists to ensure that all tasks and responsibilities are handled in a timely manner and that nothing is overlooked. In addition to the list of items to do, there should also be a place for the scheduled date, the actual date when the responsibility was met or completed, and the initials of the person who completed the task. A good checklist will help to ensure that nothing is missed along the way and all requirements are met in a timely manner. The contract, company policy, legal requirements, and local customs in your area dictate what goes into the checklist.

The following is a brief summary of the possible tasks that need to be completed prior to closing.

- Copies of the contract. The buyer, seller, cooperating broker, title closing agent, and lender must receive legible, clean copies of the fully executed contract.

- MLS status. The MLS status should be kept current to reflect the changing states of the listing.

- Loan application. The buyers need to submit a loan application within the time frame specified, unless they are paying cash.

- Inspection and insurance. Any Inspections and homeowner hazard insurance need to be ordered and completed.

- Contingencies. Contingencies may need to be cleared, such as inspection, appraisal, and loan approval.

- Repairs. Later on in the process, the sellers may need to schedule repair work identified in the inspection and arrange access for such work.

- Closing agent. The clients may need to select a closing agent, if the sellers had not already done this at the time they signed the listing agreement. The closing agent will require certain information and copies of some documents, such as a copy of the seller’s deed, previous title insurance policy, and existing mortgage information. It is helpful if the sellers have the survey from when they purchased.

- Utilities. Coordination between the sellers and the buyers is helpful when arranging for the switching over of the utilities effective the day of closing.

- Closing date and location. Near the end of the process, the appropriate associate should inform the parties of the time and place of the closing.

- Walk-through. A walk-through inspection of the property should be scheduled.
• **Escrow funds.** Any escrowed (earnest money) funds must be delivered to the closing agent.

**Closing Statements**

The purpose of a closing statement is to summarize the transaction as of the day of closing. It is where the seller learns how much money they will “take away” from the closing and the buyer learns how much money they must bring to the closing. Each charge or receipt is listed individually so the parties can verify the amounts. The sales contract addresses who will pay for each item, and if nothing is negotiated to the contrary, the charges will be assessed as stated in the contract. This is known as allocating the charges according to custom.

There are three major parts to a closing statement worksheet: Seller’s Statement, Buyer’s Statement, and Broker’s Statement. The Buyer’s Statement and Seller’s Statement each contain two columns; Debit and Credit. A debit is an expense, and a credit is money received. An easy way to remember debits and credits is that the second letter of debit is “e” for expense. The second letter of credit is “r” for receipt.

The Broker’s Statement contains a receipts and disbursements column in place of debits and credits. The Broker’s Statement derives its name from years past when brokers closed their own transactions and accounted for the funds. Today, closing or title companies offer closing services to brokerage companies and make the necessary disbursements at closing. On the following page, we have included a closing statement worksheet that provides an easy way to keep track of all debits and credits while preparing for closing. If done correctly, the Grand Totals in the Broker’s Statement (receipts and disbursements) will be the same amount in each column.

Whenever a debit (left-hand column) is made to the seller, a corresponding credit (right-hand column) for the same amount must but be made to the buyer. If the buyer is not to receive those monies, it is entered in the disbursement column (right-hand column) on the Broker’s Statement. So, for every amount entered as a left-hand entry, the same amount has a corresponding right-hand entry. This allows the Grand Totals on the bottom of the Broker’s Statement to balance when the worksheet is complete and assures the closing company that all numbers were entered appropriately.

Let’s examine how that works. A seller’s commission or brokerage fee is paid out of the seller’s proceeds at closing to the real estate brokerage company, and would be entered on line 30 of the worksheet as a debit (left-hand column) to the seller, and the same amount again on line 45 of the Broker’s Statement under disbursements (right-hand column). This is a single-line entry since it is entered once on each line.

In contrast, let’s examine how the purchase price is entered. On line 3, the purchase price would be entered as a credit (receipt) to the seller and a debit (expense) to the buyer. Since the same amount, let’s say $200,000, is entered on the same horizontal line on the closing statement worksheet, it is called a double-line entry.

**Prorations** are expenses and receipts (debts and credits) that are divided proportionately between the buyer and seller. All entries in the Prorations and Prepayments section are always double-line entries. An example would be the real estate taxes (city, county, on lines 16 and 17). Taxes are paid for each calendar year, from January 1st of the current year to December 31st. In Florida, when property tax bills are mailed on November 1st, they go to the property owner of record who is responsible to pay for the entire year. This is called paying taxes in arrears. If a closing takes place in July, the seller has not received the current year’s tax bill yet. At closing, the real estate taxes are collected from the seller for the portion through the closing day and given to the buyer so that they can pay the taxes for the entire year when due. This amount would be recorded in the Prorations and Prepayments section as a debit to the seller and a credit to the buyer.

The closing statement worksheet example is used throughout this chapter to illustrate the debits, credits, and computations. The closing agent determines the actual form used...
and is required to use the Closing Disclosure form required by RESPA for residential transactions financed by a federally regulated lender.

<table>
<thead>
<tr>
<th>Seller's Statement</th>
<th>CLOSING STATEMENT WORKSHEET</th>
<th>Buyer's Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
<td>Debit</td>
</tr>
<tr>
<td><strong>Total Purchase Price</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Binder deposit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>First mortgage balance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second mortgage balance</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Prorations and Prepayments</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest: First mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest: Second mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayment: First mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayment: Second mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes: City</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes: County</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Abstract: Continuation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney's fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Documentary stamps</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State tax: Deed</td>
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<td></td>
</tr>
<tr>
<td>State tax: Mortgage note</td>
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<td></td>
</tr>
<tr>
<td>Intangible tax: Mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recording: Mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recording: Deed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brokerage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL: DEBITS AND CREDITS</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Balance Due</th>
<th>To Seller</th>
<th>From Buyer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>GRAND TOTALS</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**BROKER’S STATEMENT**

<table>
<thead>
<tr>
<th></th>
<th>Receipts</th>
<th>Disbursements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binder deposit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance due from buyer at closing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brokerage fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Balance due seller at closing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seller’s expenses, less brokerage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Buyer’s expenses</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>GRAND TOTALS</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SECTION 1 - TOTAL PURCHASE PRICE

Section 1 of the closing statement worksheet accounts for the total purchase price; it shows how it will be paid. On the buyer’s closing statement, the total purchase price is entered as a debit (or charge) because the buyer must pay that amount for the property. The total purchase price is paid to the seller and entered as a credit. (An example of a completed Total Purchase Price section is shown on the next page.)

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
</tr>
<tr>
<td>Total Purchase Price</td>
<td></td>
</tr>
<tr>
<td>Binder deposit</td>
<td></td>
</tr>
<tr>
<td>First mortgage balance</td>
<td></td>
</tr>
<tr>
<td>Second mortgage balance</td>
<td></td>
</tr>
</tbody>
</table>

**Seller’s Debit Column**

The seller’s debit column can be explained as a portion of the sales price the seller does not receive on the day of closing. These items reduce the amount the seller will receive at closing.

**Buyer’s Credit Column**

The buyer’s credit column represents money the buyer does not need to bring to the closing table. These items reduce the amount of the purchase price that remains to be paid on the day of closing.

**Binder Deposit**

When the contract was first entered into, the buyer paid the binder, or earnest money deposit. The broker usually holds this earnest money deposit in an escrow account until the day of closing. On the closing statement, it is entered as a credit to the buyer since this portion of the purchase price has already been paid and will not have to be paid again. In this case, since the seller has not yet received this money, it is not shown on the seller’s portion of the closing statement. The seller is still owed the entire amount of the purchase price. A check is drawn in the amount of the deposit, which the broker brings to the closing and delivers to the closing agent.

The earnest money deposit would appear as a debit to the seller only if the earnest money deposit had been paid to the seller prior to the closing. In that event, since the earnest money deposit is a part of the purchase price, the seller would not receive this amount again at closing.

**First or Second Mortgage Balance**

If the buyer is assuming a mortgage, the buyer receives a credit. This amount does not have to be paid on the day of closing and reduces the amount of the purchase price remaining to be paid. Likewise, the seller will not receive this portion of the sales price, so the amount being assumed is a debit on the seller’s statement.

If the seller agreed to finance a portion of the purchase price, the closing statement will reflect a credit to the buyer and a debit to the seller. This is a portion of the purchase price the buyer will not have to pay on the day of closing, and a portion the seller will not receive.
If the buyer arranges new financing from an outside lender, which does not involve the seller, the closing statement would reflect a credit to the buyer. This amount reduces the money needed to conclude the closing. The amount of the loan does not appear on the seller’s statement, as the seller did not participate in the loan. The lender will forward the proceeds of the loan to the closing agent.

If the seller were paying off an existing mortgage loan, the seller’s closing statement would reflect a debit to the seller. The proceeds the seller receives are reduced by this amount.

Section 1 of the closing statement worksheet has been completed using the information in the following example:

**Example:** A buyer agrees to purchase a rental property in Broward County from a seller for $80,000. The buyer gave an earnest money binder deposit of $1,000 when the contract was written. The buyer receives a new loan (first mortgage) from a lender for $25,000, and the seller agrees to “take back” a second mortgage at closing for $10,000.

**Completed Section 1 Example**

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Debit</strong></td>
<td><strong>Credit</strong></td>
</tr>
<tr>
<td>80,000.00</td>
<td></td>
</tr>
<tr>
<td>Binder deposit</td>
<td></td>
</tr>
<tr>
<td>First mortgage balance</td>
<td></td>
</tr>
<tr>
<td>Second mortgage balance</td>
<td></td>
</tr>
</tbody>
</table>

Notice that some amounts entered on the worksheet are entered twice, once as a debit and once as a credit. An amount that is entered twice on the same horizontal line, such as the total purchase price, is referred to as a double entry. An amount that is entered only once on a line, such as the binder deposit, is referred to as a single entry. The single-entry items, binder deposit and first mortgage balance, will appear again as receipts in the Broker’s Statement section later in this chapter.

**SECTION 2 - PRORATIONS AND PREPAYMENTS**

Prorating is the division of items that cover time periods during which both the seller and the buyer own the property. These must be proportionately divided between the buyer and seller based on the amount of time each owns the property.

All prorations are entered as a double entry in the closing statement, since one party will have to pay the other some money at closing. If the proration requires the seller to be debited, the same amount must appear as a credit to the buyer and vice versa.

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>Prorations and Prepayments</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Debit</strong></td>
<td><strong>Credit</strong></td>
<td><strong>Debit</strong></td>
</tr>
<tr>
<td>Rent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest: First mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interest: Second mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayment: First mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prepayment: Second mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes: City</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Taxes: County</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Day of Closing**

All prorations are calculated as of midnight. In that way, a day does not have to be divided into hours or minutes, which would make the calculations more complex. The day of closing, by agreement, is allocated either entirely to the seller or to the buyer, regardless of the time of day in which the closing takes place. The day of closing, therefore, belongs to either the seller or the buyer for purposes of prorating. If the day of closing is the *seller’s day*, prorations are calculated as of midnight on the day of closing. If the day of closing is the *buyer’s day*, the prorations are calculated as of midnight on the day before closing.

The ownership periods of the seller and buyer can be illustrated by using timelines that divide the item that is to be prorated into two parts: one part that represents the seller’s period of ownership, and one part that represents the buyer’s period of ownership.

**Example**: Rent is to be prorated. The closing date is March 17. The day of closing is the seller’s day. Based on this information, the timelines are drawn as follows:

![Timeline Example](image)

The seller would be allotted 17 days of ownership, since the day of closing belongs to the seller. In the same transaction, if the day of closing belonged to the buyer, the time lines would be changed so that March 17 would become a buyer’s day and the seller’s period of ownership would stop on March 16.

**Proration Methods**

There are two accepted methods used for calculating prorations: the 365-day method, and the 12-month / 30-day, or 360-day method. The 365-day method is generally used and would be used if the parties did not agree otherwise in the contract of sale.

- **365-day method**. Real estate taxes, which are paid annually, are divided by 365 days to obtain the daily cost. This amount is multiplied by the number of days that are prorated to determine the amount of the proration. Rent and mortgage interest are divided by the number of days in the month of closing and multiplied by the number of days which are being prorated.

- **12-month / 30-day method**. This method, sometimes called the 360-day method, assumes that a year consists of 12 months with 30 days each. The amount of annual real estate taxes is divided by 12 months to obtain a monthly average cost, which is then divided by 30 to arrive at a daily average cost. All months are considered to have 30 days. To calculate the amount to be prorated, the monthly average cost is multiplied by the number of full months of ownership, and the daily average cost is multiplied by the number of days of ownership in the month of closing. These two figures are added together to obtain the total amount which is to be prorated.
**Items Subject to Proration**

Items subject to proration include mortgage interest when a loan is being assumed, real estate taxes, insurance, and rent. Mortgage interest may be required by a lender to be prepaid in some cases. If so, it is not a proration but simply a charge against the buyer. Real estate taxes are paid on an annual basis, while rent and mortgage interest are generally paid on a monthly basis. Rent is usually paid in advance, while real estate taxes and mortgage interest are generally paid in arrears.

**Prorating Rent**

Rent is usually paid in advance. The monthly rent was already collected by the seller for the month of closing and must be divided equitably between the seller and buyer. The seller is entitled to retain only that portion of the rent that covers the period of time the seller owned the property. The seller is debited for the amount of rent that applies to the buyer’s period of ownership; the buyer receives a credit for that amount.

**Example: Calculating a rent proration**

Rent for April is $300. If the day of closing is April 14 and is allocated to the buyer, what is the amount of the proration using the 365-day method?

First, draw two time lines to illustrate the problem:

$300 Rent per month ÷ 30 Days in the month of April = $10 Daily rent

$10 Daily rent x 13 Days = $130 Seller’s portion to retain

$300 Rent per month - $130 Seller’s portion to retain = $170 Portion of rent seller owes buyer

Entries: $170 debit seller; $170 credit buyer

**Prepayment of Interest on a New Loan**

A prepayment, as the name suggests, is money paid in advance. A prepayment is not the same as a proration. A proration equitably divides an existing obligation between the parties; a prepayment is a new obligation created at closing. Many lenders want all payments to be due on the first of the month. If a closing occurs on any day other than the first of the month, interest for the balance of the current month must be prepaid. There would be no payment due on the first of the month following closing, since the interest normally paid in arrears was prepaid at closing. When prepayments are required, the day of closing is always charged to the buyer.
**Example: Prepayment of interest**

The day of closing is April 14th, which belongs to the buyer. The buyer receives a new loan (first mortgage) with a monthly interest amount of $240. The daily interest is $8 ($240 ÷ 30 days). The buyer will have an expense of $136 for prepaid interest on the first mortgage ($8 per day x 17 buyer days).

The seller has agreed to take back a second mortgage for $10,000 at closing. The prepaid interest is $62 for the second mortgage, which the buyer has agreed to prepay.

How would the entries for the first and second mortgages appear on the closing statement?

The second mortgage is between the buyer and the seller, so it shows as a double-entry item. The first mortgage does not involve the seller, so it shows as a single-item expense for the buyer.

Entries: $62 credit seller; $62 debit buyer (under Prorations and Prepayments)
$136 debit buyer (under the buyer’s Expenses)

**Prorating Interest on an Assumed Mortgage**

Monthly mortgage interest is typically paid in arrears. If a buyer assumes a loan, the seller has paid no interest for the month in which the property is sold. In an amortized loan, part of every payment is applied to pay the interest on the loan for the prior month. In order to make the transaction equitable for both parties, the seller is debited for interest not paid during the month of closing, and the buyer receives credit for the same amount.

**Example: Calculating prorated interest**

The following example applies to an assumed mortgage and is not used as part of the "Completed Closing Statement Example" at the end of this chapter.

Interest for April is $240. Closing is April 14, with the day of closing allocated to the buyer. What is the amount of the interest proration using the 365-day method?

First, draw two time lines to illustrate the problem:

![Time lines](image)

$240 April interest ÷ 30 Days in the month = $8 Daily interest

$8 Daily interest

x 13 Days

$104 Interest amount the seller owes the buyer

Entries: $104 debit seller; $104 credit buyer
Prorating Property Taxes

Property taxes are paid in arrears. The seller has paid no property taxes for the year in which the sale occurs, unless the closing takes place after November 1st and the seller paid them prior to closing. Only one tax bill per year is mailed, and that is sent to the owner of record on November 1st. The buyer will receive the tax bill for the whole year, even though the buyer did not own the property for the whole year. Therefore, the seller is debited for property taxes based on the period of the seller’s ownership, and the buyer is given credit for that amount. If the seller has paid the taxes prior to closing, the seller will be credited and the buyer will be debited.

Example: Calculating property tax prorations

If annual property taxes for a property are $720, and the closing is on April 14th with the day of closing allocated to the buyer, what is the amount of the tax proration using the 365-day method?

Step 1 Calculate the number of days the seller has owned the property.

31 Days in January
28 Days in February
31 Days in March
+ 13 Days in April
103 Days of seller ownership

Step 2 Calculate the daily tax amount.

$720 Annual property taxes ÷ 365 Days = $1.9736 Daily tax amount

Step 3 Calculate the amount of property tax owed by the seller.

103 Days of seller ownership
x $1.9726 Daily taxes
$203.18 Property tax owed by seller

Entries: $203.18 debit seller; $203.18 credit buyer

Completed Section 2 Example

The following shows Section 2 of the closing statement worksheet completed with the prorations determined from the prorating examples provided.

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>Prorations and Prepayments</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
<td>Debit</td>
</tr>
<tr>
<td>170.00</td>
<td>Rent</td>
<td>170.00</td>
</tr>
<tr>
<td></td>
<td>Interest: First mortgage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Interest: Second mortgage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Prepayment: First mortgage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>62.00 Prepayment: Second mortgage</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Insurance</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Taxes: City</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Taxes: County</td>
<td></td>
</tr>
</tbody>
</table>
## SECTION 3 - EXPENSES

The third section of the closing statement involves expenses that are owed by either the seller or the buyer to parties involved with the transaction including attorneys, the state, the title company, and the brokerage firm. Expenses are debited to either the buyer or seller. There are no credits in this section. All items in this section are single-entry only.

<table>
<thead>
<tr>
<th>Seller's Statement</th>
<th>Expenses</th>
<th>Buyer's Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
<td>Debit</td>
</tr>
<tr>
<td>Abstract: Continuation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attorney’s fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Documentary stamps</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State tax: Deed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>State tax: Mortgage note</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intangible tax: Mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recording: Mortgage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Recording: Deed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Title insurance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Brokerage</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Abstract Continuation

The abstract is a history of the title to a property. Since documents are continuously being recorded in the public record, the abstract must be updated to assure that the property has a marketable title. The seller is normally expected to provide either title insurance or an abstract accompanied by an opinion of title as evidence of a marketable title. The seller cannot require the buyer to use a specific title company if the buyer is paying for title insurance.

### State Documentary Stamp Tax on the Deed

Before a deed can be recorded in the public records, documentary stamps must be purchased and affixed to the deed. Stamps are purchased from the clerk of the circuit court, usually when the deed is presented for recordation. Currently, the tax on the deed is calculated at the rate of $.70 per $100 of value, or fractional part thereof, based on the sales price of the property (the tax rate in Dade County only is $.60 rather than $.70). In the absence of any agreement to the contrary, the seller is responsible for the payment of this tax.

#### Example 1: Calculating the state documentary stamp tax on the deed

A rental property in Broward County sold for $80,000. The state documentary stamp tax on the deed is computed as follows:

**Step 1** Calculate the tax units.

\[ \frac{\$80,000}{\$100} = 800 \text{ Tax units} \]

**Step 2** If the results contain a decimal, the number of tax units is rounded up to the next higher whole number.
Step 3 Calculate the state documentary tax on the deed.

800 Tax units
\[ \times \ 0.70 \quad \text{Tax rate (Broward County)} \]
\[ \frac{560}{\text{State documentary tax on deed}} \]

Entry: $560 debit to the seller. This amount is a portion of the seller's expenses listed on the Broker's Statement under Disbursements later in this chapter.

Example 2: Rounding the tax units

If the sales price on a home in Palm Beach County is $60,710, the state documentary stamp tax on the deed is calculated as follows:

Step 1 $60,710 Sales price ÷ $100 = 607.1 Tax units

Step 2 Since the results contain a decimal, the number of tax units is rounded up to the next higher whole number. (607.1 rounded up = 608 Tax units)

Step 3 608 Tax units
\[ \times \ 0.70 \quad \text{Tax rate} \]
\[ \frac{425.60}{\text{State documentary tax on deed}} \]

Entry: $425.60 debit to the seller

State Documentary Stamp Tax on a Promissory Note

The state documentary stamp tax on a promissory note is calculated at the rate of $0.35 per $100 or fractional part thereof on the total amount of the note. The state documentary stamp tax on the note is paid on both new and assumed notes. This tax is not payable if title is taken subject to the mortgage. The buyer usually pays this tax.

Example: Calculating the state documentary stamp tax on a promissory note

The purchaser obtained a new first mortgage in the amount of $25,000 and a second mortgage of $10,000. What is the amount of the state documentary stamp taxes on the promissory notes?

Step 1 Calculate the tax units on both promissory notes.

$10,000 New second mortgage note ÷ $100 = 100 Tax units
$25,000 New first mortgage note ÷ $100 = 250 Tax units

100 + 250 = 350 Total tax units

Step 2 If any decimals had resulted, the number of tax units would be increased to the next higher whole number.
Step 3  Calculate the state documentary tax on the promissory notes.

350  Tax units
x  $0.35  Tax rate
$122.50  State documentary tax on both promissory notes.

Entry:  $122.50 debit buyer. This amount is a portion of the buyer’s expenses listed on the Broker’s Statement under Disbursements later in this chapter.

State Intangible Tax on Mortgages

The state intangible tax on mortgages is paid on all new mortgages only. The state intangible tax on a mortgage is calculated at the rate of 2 mills (.002) on the total amount of a new mortgage. The tax is not payable when a mortgage is being assumed or title to the property is taken subject to the mortgage. The buyer usually pays this tax. The tax is collected when mortgage documents are recorded in the public record.

Example: Calculating the state intangible tax on a mortgage

The borrower obtained new first and second mortgages totaling $35,000. The state intangible tax on the mortgages would be computed as follows:

$35,000  Amount of new mortgages
x  .002  State intangible tax rate
$70  State intangible tax on the new mortgages

Entry:  $70.00 debit buyer. This amount is a portion of the buyer’s expenses listed on the Broker’s Statement under Disbursements later in this chapter.

<table>
<thead>
<tr>
<th>TAXES PAYABLE IN REAL ESTATE CLOSINGS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Usually Paid by:</td>
</tr>
<tr>
<td>Tax</td>
</tr>
<tr>
<td>Tax rate</td>
</tr>
</tbody>
</table>

| Applies when purchased for cash | ✅ |
| Purchased subject to a mortgage | ✅ |
| Purchased with an assumed loan | ✅ |
| Purchased with a new loan | ✅ |

* This tax is calculated at the rate of .60/$100 or fractional part thereof in Miami-Dade County only.
Title Insurance

Providing a marketable (clear) title is the responsibility of the seller. If the title proves to be defective, the seller would need to take the necessary legal action to clear the title before conveying the property to the buyer.

The buyer’s lender requires title insurance to be placed on the property to protect the lender’s interest in the unpaid balance of the loan. The buyer’s interest in the property can also be included in the policy to protect the buyer from any future claims against defects that were undetected when the policy was issued. Either the buyer or seller can pay for title insurance; however, it is never prorated and is shown as an expense to one party.

Attorney Fees

Each party must pay their own attorney for services provided.

Brokerage Fees

Either party can pay the brokerage fee (commission). One or the other, or both may be debited for the broker’s fee based on the negotiated agreement. However, the seller usually pays this fee in residential transactions.

Example: Calculating the brokerage fee

If a property is sold for $80,000, and the seller agrees to pay the brokerage commission, what is the amount of the brokerage fee at a 5% commission rate?

\[
\begin{align*}
\text{Property sales price} & = 80,000 \\
\text{Commission rate} & = 0.05 \\
\text{Brokerage fee} & = 4,000
\end{align*}
\]

Entry: $4,000 debit seller. This amount is listed on the Broker’s Statement under Disbursements later in this chapter.

Completed Section 3 Example

The following shows Section 3 of the closing statement worksheet completed with the documentary stamp and intangible stamp tax examples previously shown in this section and the following additional information.

The seller agrees in the purchase and sale contract to provide a properly prepared deed which includes payment for the documentary stamps required by the state. The attorney’s fee is $30 each for the buyer and seller. The seller agrees to take back a second mortgage, and the buyer will pay for documentary stamps ($122.50) and intangible stamp taxes ($70). The cost for recording the deed is $4 and $8 for recording the mortgage. The seller pays for title insurance at a cost of $350 and the broker’s commission of $4,000.
SECTION 4 - TOTAL DEBITS AND CREDITS

The fourth section of the closing statement shows the total debits and credits for each party from sections 1 and 2 of the closing statement. The amount the seller will receive at closing is calculated by subtracting the seller’s total debits from the seller’s total credits. Subtracting the buyer’s total credits from the buyer’s total debits calculates the amount the buyer must bring to closing.

In the Section 4 example below, shown in the full closing statement worksheet later in this chapter, the amount the seller will receive and the amount the buyer must bring to closing are as follows:

- $80,062.00 Seller’s total credits
- $15,313.18 Seller’s total debits
- $64,748.82 Amount seller will receive at closing
- $80,432.50 Buyer’s total debits
- $36,373.18 Buyer’s total credits
- $44,059.32 Amount buyer must bring to closing

The grand totals add the balance due to the seller to the total seller debits and the balance due from the buyer to the total buyer credits to balance the statement. The grand totals on the seller’s statement must be the same, and the grand totals on the buyer’s statement must be the same. Note that the seller’s grand totals and the buyer’s grand totals do not equal because their expenses are different.

Completed Section 4 Example

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
</tr>
<tr>
<td>15,313.18</td>
<td>80,062.00</td>
</tr>
<tr>
<td>64,748.82</td>
<td>To Seller</td>
</tr>
<tr>
<td>80,062.00</td>
<td>80,062.00</td>
</tr>
</tbody>
</table>
SECTION 5 - BROKER’S STATEMENT

The broker’s statement accounts for all money received by the closing agent (receipts) and all money paid by the closing agent (disbursements). These amounts must equal. (Note that all single-entry items must appear in the broker’s statement. Double-entry items never appear in the broker’s statement.) Receipts include the earnest money held by the real estate broker, proceeds of any new third-party loans, and the balance due from the buyer. The closing agent uses the receipts to pay any money due to the parties, such as the seller, the broker, the state of Florida, the attorney, the title company, and so on. The closing agent also handles recording of the deed.

The grand totals on the broker’s statement are the sum of the receipts and disbursements. These numbers must be equal.

Completed Section 5 Example

In the Section 5 example shown below, all monies received and paid by the closing agent are listed as receipts and disbursements.

<table>
<thead>
<tr>
<th>BROKER’S STATEMENT</th>
<th>Receipts</th>
<th>Disbursements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binder deposit</td>
<td>1,000.00</td>
<td></td>
</tr>
<tr>
<td>Balance due from buyer at closing</td>
<td>44,059.32</td>
<td></td>
</tr>
<tr>
<td>Brokerage fee</td>
<td></td>
<td>4,000.00</td>
</tr>
<tr>
<td>Balance due to seller at closing</td>
<td></td>
<td>64,748.82</td>
</tr>
<tr>
<td>Seller’s expenses, less brokerage</td>
<td>940.00</td>
<td></td>
</tr>
<tr>
<td>Buyer’s expenses</td>
<td></td>
<td>370.50</td>
</tr>
<tr>
<td>Other: New Institutional Loan</td>
<td>25,000.00</td>
<td></td>
</tr>
<tr>
<td>GRAND TOTALS</td>
<td>70,059.32</td>
<td>70,059.32</td>
</tr>
</tbody>
</table>

Completed Closing Statement Example

The examples previously provided are now combined into a narrative that describes an entire transaction. This information is used to complete the closing statement worksheet on the following page.

A buyer agrees to purchase a rental property for $80,000. The buyer gave an earnest money deposit of $1,000 when the contract was signed. The buyer obtains a new $25,000 first mortgage from the lender, and the seller agrees to take back a second mortgage at closing in the amount of $10,000.

The day of closing is April 14th, which belongs to the buyer. The monthly interest on the first mortgage is $240. The buyer agrees to prepay $62 of interest on the new second mortgage. The property is currently rented for $300 per month. The seller purchased an insurance policy on January 1st for one year at a cost of $360. Property taxes for the year are $720. All prorations are calculated by using the 365-day method.

The seller agrees to provide a properly prepared deed that includes payment for the documentary stamps required by the state. The attorney’s fee of $60 is to be split between the buyer and seller. The buyer pays for documentary stamps and intangible stamp taxes related to the promissory notes and mortgage. The cost for recording the deed is $4 and $8 for recording the mortgage. The seller pays for title insurance of $350 and the broker’s commission based on 5% of the sales price.
## Completed Closing Statement Example

<table>
<thead>
<tr>
<th>Seller’s Statement</th>
<th>CLOSING STATEMENT WORKSHEET</th>
<th>Buyer’s Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Debit</td>
<td>Credit</td>
<td>Debit</td>
</tr>
<tr>
<td>80,000.00</td>
<td>Total Purchase Price</td>
<td>80,000.00</td>
</tr>
<tr>
<td>1,000.00</td>
<td>Binder deposit</td>
<td>25,000.00</td>
</tr>
<tr>
<td>10,000.00</td>
<td>First mortgage balance</td>
<td>10,000.00</td>
</tr>
<tr>
<td>Rent</td>
<td>170.00</td>
<td>170.00</td>
</tr>
<tr>
<td>62.00</td>
<td>Prepayment: First mortgage</td>
<td>62.00</td>
</tr>
<tr>
<td>62.00</td>
<td>Prepayment: Second mortgage</td>
<td>62.00</td>
</tr>
<tr>
<td>203.18</td>
<td>Taxes: City</td>
<td>203.18</td>
</tr>
<tr>
<td>30.00</td>
<td>Attorney’s fee</td>
<td>30.00</td>
</tr>
<tr>
<td>560.00</td>
<td>State tax: Deed</td>
<td>122.50</td>
</tr>
<tr>
<td>70.00</td>
<td>Intangible tax: Mortgage</td>
<td>8.00</td>
</tr>
<tr>
<td>4.00</td>
<td>Recording: Deed</td>
<td>136.00</td>
</tr>
<tr>
<td>350.00</td>
<td>Title insurance</td>
<td></td>
</tr>
<tr>
<td>4,000.00</td>
<td>Miscellaneous: New loan prepaid interest</td>
<td>15,313.18</td>
</tr>
<tr>
<td>80,062.00</td>
<td>Balance Due</td>
<td></td>
</tr>
<tr>
<td>1,000.00</td>
<td>To Seller</td>
<td>44,059.32</td>
</tr>
<tr>
<td>80,062.00</td>
<td>From Buyer</td>
<td>64,748.82</td>
</tr>
<tr>
<td>80,062.00</td>
<td>GRAND TOTALS</td>
<td>80,432.50</td>
</tr>
</tbody>
</table>

## Broker’s Statement

<table>
<thead>
<tr>
<th>Receipts</th>
<th>Disbursements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Binder deposit</td>
<td>1,000.00</td>
</tr>
<tr>
<td>Balance due from buyer at closing</td>
<td>44,059.32</td>
</tr>
<tr>
<td>Brokerage fee</td>
<td>4,000.00</td>
</tr>
<tr>
<td>Balance due to seller at closing</td>
<td>64,748.82</td>
</tr>
<tr>
<td>Seller’s expenses, less brokerage</td>
<td>940.00</td>
</tr>
<tr>
<td>Buyer’s expenses</td>
<td>370.50</td>
</tr>
<tr>
<td>Other: New Institutional Loan</td>
<td>25,000.00</td>
</tr>
<tr>
<td>GRAND TOTALS</td>
<td>70,059.32</td>
</tr>
</tbody>
</table>
PREPARING A SELLER’S NET SHEET

Although a sales associate will not need to prepare closing statements, the calculations discussed here are important for all licensees to understand. When listing or selling property, potential sellers and buyers are anxious to know how their decision will affect them financially. Licensees will usually prepare a net sheet that illustrates the costs and charges that will be incurred to assist them in making their decisions.

Since the legal and financial consequences are significant and the closing process is complex, a licensee can often provide valuable assistance at closing by helping to explain the process to members of the public with whom they deal.

RULES OF THUMB FOR CLOSING STATEMENT ENTRIES

As discussed earlier, the debits and credits for the day of closing are allocated by agreement of the parties in the purchase and sales contract. However, there are general rules of thumb that are commonly used to allocate these items.

Rules of Thumb: Closing Statement Entries

<table>
<thead>
<tr>
<th>Closing Statement Item</th>
<th>Seller</th>
<th>Buyer</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Debit</td>
<td>Credit</td>
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<tr>
<td>Purchase price and deposit:</td>
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<tr>
<td>Total purchase price</td>
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<td>✓</td>
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<tr>
<td>Earnest money deposit (already paid by buyer)</td>
<td>✓</td>
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<tr>
<td>Financing:</td>
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<tr>
<td>New loan amount (1st mortgage)</td>
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<tr>
<td>Assumed loan amount</td>
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<td></td>
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<tr>
<td>Seller financing amount (2nd mortgage)</td>
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<tr>
<td>Seller existing loan payoff amount</td>
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<td></td>
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<tr>
<td>Prorations and prepayments (double-entries):</td>
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<td></td>
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<tr>
<td>Rent (collected in advance by seller)</td>
<td>✓</td>
<td></td>
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<tr>
<td>Interest prepayment on a seller-financed loan</td>
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</tr>
<tr>
<td>Interest on an assumed mortgage (paid in arrears)</td>
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<td></td>
</tr>
<tr>
<td>Property taxes (paid in arrears; not paid yet)</td>
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<td>Expenses (single-entries):</td>
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<td>Abstract continuation</td>
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<td>Seller’s attorney fees</td>
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<tr>
<td>Buyer’s attorney fees</td>
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<td>✓</td>
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<tr>
<td>Doc stamp tax on the deed</td>
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<tr>
<td>Doc stamp tax on notes (new or assumed)</td>
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<tr>
<td>Intangible tax on new mortgage</td>
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<td></td>
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<tr>
<td>Brokerage fee (commission)</td>
<td></td>
<td></td>
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<tr>
<td>Recording fees</td>
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<td>Miscellaneous:</td>
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<tr>
<td>Interest prepayment on a new loan</td>
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CHAPTER 14 MATH PROBLEMS

1. If a Broward County property sold for $102,750, what amount must be paid for the documentary stamp tax on the deed?
   Answer: ________________________________

2. A mortgage in the amount of $83,255 is being assumed. What amount must be paid for the documentary stamp tax on the note?
   Answer: ________________________________

3. A Martin County property is being sold for $98,350, and the buyer is taking title subject to an existing mortgage in the amount of $61,220. What is the total of taxes due in this transaction?
   Answer: ________________________________

4. A new loan in the amount of $73,550 is being originated. What is the amount of the state intangible tax on the mortgage?
   Answer: ________________________________

5. Real estate taxes are $1,034. If a closing is to take place on April 16th, with the day of closing belonging to the seller and the 365-day method is used, what is the amount of the proration and how is it handled?
   Answer: Debit the _________, and credit the _________ $__________

6. A residence is rented for $900 per month, with the rent due on the first of the month. If the property is sold on March 6th, with the day of closing belonging to the buyer, what is the amount of the proration and how is it shown on the closing statement?
   Answer: Debit the _________, and credit the _________ $__________

7. A buyer has agreed to assume an existing mortgage loan that has a balance of $86,346. Interest for the month of closing is $697. Closing is scheduled for July 14th, with the day of closing belonging to the seller. How is the interest proration entered on the closing statement?
   Answer: Debit the _________, and credit the _________ $__________
CHAPTER 14 REVIEW QUESTIONS

1. The binder deposit held in escrow by a broker would be entered on the closing statement as a ______________ to the ______________.
2. The ______________ normally pays for the documentary stamp tax on the deed.
3. Expenses on a closing statement are always entered as ______________.
4. Prorations are always entered on a closing statement as ______________ entries.
5. The state documentary stamp tax on the promissory note and intangible tax on a new mortgage is normally paid by the ______________.
6. ______________ is paid in advance; ______________ and ______________ are paid in arrears.
7. The amount due the seller at closing is calculated by subtracting the seller’s total ______________ from the seller’s total ______________.
8. The amount the buyer is required to bring to closing is calculated by subtracting the buyer’s total ______________ from the buyer’s total ______________.
9. The seller’s ______________ and the buyer’s ______________ are not usually equal due to the differences in their expenses.
10. The day of closing is always charged to the buyer for ______________.
11. Entries on the broker’s statement are made as either ______________ or ______________.
12. Prorated rent is entered on the closing statement as a ______________ to the seller and a ______________ to the buyer.
13. No taxes are payable on either the note or mortgage when title is taken ______________ ______________ the mortgage.
CHAPTER 14 PRACTICE EXAM

1. What is the purpose of the closing statement?
   a. To summarize the financial aspects of a real estate transaction
   b. To determine the purchase price of the property
   c. To determine which party pays the brokerage commission
   d. To report income to the Internal Revenue Service

2. Which entry would normally appear as a debit on the buyer’s statement?
   a. First mortgage balance being assumed
   b. Intangible tax on a new mortgage
   c. Documentary stamps on the deed
   d. Impound account balance when a loan is being assumed

3. Which of the following statements best describes a single-entry item?
   a. It appears on both the buyer and seller’s statements.
   b. It is not paid at closing.
   c. It must be accounted for in the broker’s statement.
   d. It is always a credit.

4. Which entry would appear as a credit on the seller’s closing statement?
   a. Documentary stamp tax on the deed
   b. Recording the mortgage
   c. Purchase price
   d. Abstract continuation

5. What document stipulates which party pays which expense in a closing?
   a. Listing agreement
   b. Purchase and sale contract
   c. Deed
   d. Mortgage

6. How is an earnest money deposit held in escrow reflected on the closing statement?
   a. Credit to the buyer
   b. Debit to the buyer
   c. Credit to both the buyer and seller
   d. Credit to the seller

7. In the absence of any agreement between the parties, who pays for the state documentary stamp tax on the deed?
   a. The attorney
   b. The broker
   c. The seller
   d. The state

8. In a residential transaction, how is the brokerage fee reflected on the closing statement?
   a. Credit to the buyer
   b. Credit to the seller
   c. Debit to the buyer
   d. Debit to the seller

9. Which of the following statements is correct regarding a double-entry item?
   a. It must be accounted for in the broker’s statement.
   b. It does not appear in the broker’s statement.
   c. It is entered on the broker’s statement as a credit.
   d. It is entered on the broker’s statement as a debit.

10. How is the amount of a new mortgage obtained by the buyer entered on the closing statement?
    a. Debit to the buyer
    b. Credit to the seller
    c. Credit to the buyer
    d. Debit to the seller

11. How is the amount of a mortgage loan assumed at closing by the buyer entered on the closing statement?
    a. Double entry
    b. Single entry
    c. Credit to the seller
    d. Debit to the buyer
12. Who is paid the balance due from the buyer that is shown on the closing statement?
   a. The seller
   b. The mortgagee
   c. The broker
   d. The closing agent

13. How are expenses that are paid to a third party entered on a closing statement?
   a. Double entries
   b. Credits
   c. Debits
   d. Prorations

14. Complete the statement. When determining prorations on a closing statement, the day of closing ______.
   a. Belongs to the closing agent
   b. Is determined by agreement
   c. Is the responsibility of the seller
   d. Is charged to the buyer

15. Which statement about the broker’s portion of the closing statement is true?
   a. All double-entry items must appear there.
   b. Total receipts, minus the binder deposit, equal the grand total.
   c. Receipts and disbursements must equal.
   d. Total expenses, less the brokerage fee, equal the grand total.
The free enterprise system is an economic system that both produces and distributes goods and services by the application of the four factors of production. The four factors of production are land, labor, capital, and entrepreneurial ability. Entrepreneurial ability refers to the risk-taking and management component of production. No good or service can be delivered to the market without the application of a combination of these four factors.
The following three questions must always be answered with regard to the production and distribution of goods or services:

1. What is to be produced?
2. Who will do the producing?
3. Who will get what is produced?

The answer to these questions is found in the relationship between production, distribution, and demand.

Production

The question “What will be produced?” is not easily answered. Resources are limited, while demand is not. The number and variety of products and services that could be offered is virtually unlimited. The decision to produce an item or provide a service often meets with failure as a result.

Those who are willing to risk their time, expertise, and finances in order to assume the risk are the only ones who can answer the question “Who will do the producing?”

Distribution

The price mechanism answers the question “Who will get what is produced?” The conflict between limited resources and unlimited demand can be solved by the price at which a product or service is offered to the market. As demand continues, price rises at an ever-increasing rate until those unwilling to pay the price withdraw from the market.

Under the free enterprise system, in which real estate is bought and sold, products and services are produced based on the price at which they can be sold profitably. Inefficient suppliers and producers will not be able to compete, and the risk they assumed will not be rewarded.

A market is anywhere a buyer and a seller can interact to conclude a transaction. The prices of items or services create different levels of competition, referred to as stratified demand. Obviously, the seller of a $500,000 home is not in competition with the seller of a $100,000 home.

Price is the amount that is actually paid for an item. It should be distinguished from an asking price or the cost to produce the item. Neither the asking price nor the cost to produce the item controls the ultimate price that will be paid in the market. It is the buyer that ultimately decides whether or not a sale will occur.

Government-Controlled Economies

The free enterprise system is an open system in which anyone can participate. In contrast to the free enterprise system, some nations operate under a government-controlled system. Land is not privately owned. Government decision makers control the money supply and determine the employment offered to citizens. The government determines what products and services will be produced and who will be able to purchase them. Government-controlled systems lack the flexibility that is needed to produce the products that consumers typically demand. In a free society, the entrepreneur replaces the government decision maker that is present in a government-controlled system.
SUPPLY AND DEMAND

Supply

Supply is the quantity of an item that is available, or anticipated to be available, for sale. Price is a function of the number of items available in relation to the number of items in demand. If the supply for a desired product decreases relative to demand, the price increases. At the higher price, fewer buyers may be willing or able to purchase the product and demand will fall. As demand falls, suppliers may be forced to lower prices to attract interested buyers again.

The supply of real estate is affected by several factors as listed below:

- **Availability of materials.** A decrease in the availability of materials can increase the cost of materials, and drive up the builders’ costs. This results in higher finished costs and may make new construction too expensive for buyers who wish to enter the market.

- **Availability of skilled labor.** A decrease in the availability of skilled labor can increase labor costs and drive up the cost of new construction to the point where new construction prices are prohibitive. Supply would be reduced since builders would be hesitant to build in fear of not being able to sell the finished product.

- **Availability of construction loans and financing.** As interest rates on construction loans rise, the cost of borrowing money escalates and builders’ costs increase. Excessively high interest rates make new construction expensive and the finished product unable to compete for buyers with existing properties.

- **Availability of land.** A shortage in the supply of available land can drive up the cost of acquiring land for new development.

- **Increased productivity.** Through the application of new technology, builders are able to make a more efficient use of labor. Builders can sometimes offset increased costs by better use of materials and labor. Increased productivity can result in an increase in supply.

The supply of real estate includes the following four categories:

- The number of vacant properties that are available for sale (vacancy rate)
- The number of properties that are currently under construction, but not completed
- Properties that have been permitted, but are not under construction
- Projects that have been announced, but not permitted

Tracking the number of permits that are being issued is a rather basic, but effective, way to discern trends in market changes as well as changes in supply. There are both short- and a long-term considerations when measuring supply. Obviously, properties that are currently available for sale represent the supply available today. However, properties that are under construction will become available in the near
Developers who have obtained permits have already made significant investments and will likely go forward with their projects. These projects go into the market within a relatively short time, and must be considered as part of the supply. Projects that have been announced, but not permitted, may or may not be constructed, but must be considered in light of current and anticipated supply and demand relationships.

Supply may increase or decrease as a result of new construction, conversion from other uses, or the action of sellers in deciding whether or not to sell. Conversion from other uses is the change of a property from one type of use to another type of use, such as a factory that is converted to apartments.

Changes in supply occur over a relatively long time since construction is a time-consuming process. Even though an individual house may be physically constructed in a few months, the entire process includes site selection and acquisition, planning, permitting, financing, coordination of labor and materials, and finally, construction. The entire process can take one to two years and even longer for major projects.

Demand

The basic measure of demand for residential real estate is net household formations, which is the net difference between the number of households expected to be created within a given period-of-time and the number of households expected to be eliminated during the same period of time. The U.S. Bureau of the Census defines a household as, “a living unit.” A single person who lives alone in an apartment is considered to be a household. Three generations of a family who share a farm home is also considered to be a household. Therefore, net household formation is a measure of living units, not population.

The demand for real estate is closely related to certain factors as well. Those factors include price, income, credit, population, and consumer preferences. Each is defined below.

- **Price.** Price is principally the result of the interaction of material and labor costs. Demand will typically decrease as prices rise. Price and demand are inversely related.

- **Income.** Demand is influenced by income. Effective demand is the combination of a potential buyer’s desire for an item that is coupled with the ability to pay for the item. Demand is not created until both components are present. As income increases, so does demand; income and demand are positively related.

- **Credit.** As credit becomes more readily available and interest rates go down, demand increases. Credit and demand are positively related. The availability of credit is a key market indicator, and is said to be the barometer of the real estate market.

- **Population.** As population grows, so does demand. Population and demand are positively related.

- **Consumer preferences.** Demand is influenced by changes in preferences. Homes today are larger and offer more amenities than those that were available a few years ago. Two or three baths, two- to three-car garages, and central heat and air conditioning have become standard amenities.
**Market Equilibrium**

When considering the relationship between supply and demand, it is important to remember that price varies inversely with demand and inversely with supply. The variance, however, is not necessarily proportionate, as competition in the market puts pressure on both supply and demand. *Market equilibrium* is said to occur when supply and demand are in balance. This is a theoretical concept more than a reality. The market constantly swings back and forth from undersupply to oversupply relative to demand. The number of properties that are available for sale and represented by the number of sellers is a measure of supply. Demand is represented by the number of buyers in the market at any one time. When there are more buyers than sellers, a *seller’s market* exists; when there are more sellers than buyers, a *buyer’s market* exists.

The imbalance between sellers and buyers is not constant. As buyers absorb existing supply, builders and other sellers have an inducement to enter the market. Eventually, supply will grow and exceed demand, which results in an oversupply. It may take months or even years for the oversupply to be absorbed into the market. Eventually, the excess will be absorbed, and there will be a limited supply relative to demand. The cycle will then reverse.

Supply and demand in the residential market are thought to be reasonably in balance when the vacancy rate of homes for sale is about 5%.

**The Business Cycle**

The real estate market is cyclical in nature and tends to follow the business cycle. The business cycle has four phases: *expansion*, *peak*, *contraction*, and *trough*. Each phase is outlined below.

- **Expansion.** During the expansion phase, both supply and demand increase. The market is vibrant during this period. Typically, this period is evidenced by increasing prices since supply cannot keep up with increasing demand.

- **Peak.** The peak phase is generally short-lived and is evidenced by a drop in demand. As demand declines, sales activity slows markedly. Supply continues to increase; therefore, an oversupply becomes evident.

- **Contraction.** The contraction phase is evidenced by a decline in supply from levels at the peak of the market. Some demand is still present, but the available supply is more than adequate to meet that demand. Contraction continues until the oversupply is absorbed.

- **Trough.** The trough phase is at the low end of the cycle where supply and demand are nearly static. When in the trough phase, the entire cycle is poised to repeat itself.

These four phases do not continue for specific lengths of time. The cycle, however, continues to repeat itself. The length and intensity of each phase of the cycle will vary. Historically, however, the complete business cycle lasts between three-and-half to five years. Key market indicators in the business cycle include vacancy rates, price and sales information, and numbers of building permits (indicating increasing or declining construction).
CHARACTERISTICS OF THE REAL ESTATE MARKET

Efficient Market Theory

Changes within a market can be measured, but nothing can be compared to itself; it must be compared to something else. This fact created a difficult problem for economists who wished to make comparisons between markets. How can the automobile market be compared with the clothing market, or the appliance market with the stock market? To compare a market, there must be a standard of comparison by which to begin.

Economists conceived the concept of an efficient market. An efficient market is a perfect market model that allows comparisons of any market to a theoretical standard.

In an efficient market, the following conditions exist.

- Goods and services are homogeneous and readily substitutable.
- Prices of goods and services are low and, therefore, affordable.
- There are a large number of market participants, thereby allowing for open competition for available goods and services; no one participant has a share of available goods that might influence pricing.
- There are no governmental regulations that interfere with or limit production.
- Goods or services are easily and quickly remanufactured to meet demand, therefore, supply and demand are never out of balance.
- Buyers and sellers are fully informed about the goods and services that are offered.
- Information about the market is readily available.
- Buyers and sellers are brought together through an organized market mechanism.
- Goods are small, lightweight, and easily transportable.
- External pressures have no effect on price.
The Real Estate Market

The real estate market tends to violate each element of an efficient market. Real estate is not a homogeneous product. Each parcel of land is unique or different in some way from all others. Due to the unique character of each parcel, the real estate market cannot be centrally organized like the New York Stock Exchange. Instead, it is unorganized and inefficient when compared with other markets.

The real estate market is local in nature. Each parcel of real estate is unique in size, shape, or other physical characteristics. Prices are high compared to most other goods or services. Supply cannot respond quickly to changes in demand. Market participants are rarely fully informed. The laws that control the use of land, building codes, and other factors can be ascertained only from local sources. As a result, a potential purchaser must obtain information with regard to a particular parcel of real estate from a local source.

The real estate market is influenced by four external factors, called externalities. These externalities are social, economic, governmental, and environmental, all of which can originate at the international, national, regional, or local level. Each is defined below.

- **Social.** Social forces are related to population. The number of people, who move into or out of an area, greatly influences value in the market. The number of marriages, deaths, divorce rates, population age, and household formations are all social factors that affect the market.

- **Economic.** A population’s purchasing power is a major factor that affects the real estate market. Employment and wage levels, the cost of materials and labor, vacancy rates, the cost and availability of credit, and the expansion or contraction of industry all have an effect on the market.

- **Governmental.** Zoning, building, and health codes can limit or support construction of new properties. Legislation that concerns homestead exemptions, rent controls, and restrictions related to condominiums and timeshare arrangements can have an enormous effect on markets, as can laws that affect mortgage loans and terms.

- **Environmental.** Both man-made and natural barriers can affect the environment in which real estate markets operate. Roads, highways, bridges, airports, and rail lines are examples of man-made features which limit or affect development. Weather, terrain, soil conditions, and climate are potential barriers as well.

Ultimately, the value of land is a function of the interaction between these four forces. The real estate market can be further understood by examining its physical, economic, and institutional characteristics.

Physical Characteristics of Land

Land is **indestructible.** The land may change in character, but will always occupy a space on the face of the earth. Land does not depreciate. It can always be converted to a different use. Property insurance insures the improvements to the land only, not the land itself.

Real estate is **immobile,** meaning that the property is fixed as to its location. It cannot be moved from location to location. Although a house or other building may be moved, the site on which it is located cannot. The expense of moving the building may be prohibitive as well. A housing shortage in one area cannot be cured by an oversupply in another area.
Real estate is heterogeneous, also referred to as non-standardized or non-homogeneous, which means that no two properties are exactly alike; each property is unique. This unique character of real estate is what makes the real estate market different from all others in many ways.

**Economic Characteristics of Land**

From an economic point of view, land is scarce. No more is being made. Anything with a finite supply can assume a value based on demand. In some areas, land is scarce relative to demand and, therefore, extremely expensive.

The immobility of a parcel of real estate combined with its unique features and ability to provide benefits determines its value. *Situs* is a Latin term, which means, “fixed as to location.”

*Situs value* is used to identify the value that results from the location of a parcel of land within a community. Area preference can impact the situs value. For example, a parcel that is more desirable due to its location near a school may have a higher situs value.

Two or more parcels of land can sometimes be combined under a single ownership to form a tract of land that provides greater utility than was available as individual parcels. Combining two or more parcels of real estate under the ownership of one party is known as *assemblage*. If the combined parcels have a greater value together than they did as separate parcels, the increase in value is known as *plottage value*. Plottage value is the result of the assemblage. For example, if two parcels, each of which has a separate value of $15,000, are combined under a single ownership, the tract value as a single parcel may equal $35,000. This assemblage of the two parcels results in a plottage value.

The real estate market is less flexible than other markets because improvements to land are relatively permanent. Improvements are expected to remain on the land for many years. The relatively high cost cannot be justified otherwise. An oversupply of housing in a market area must be absorbed in that market area, and that can take an extended period-of-time. The real estate market is slow to respond to changes in supply.

The production of improvements to real estate (i.e. the development process), is time-consuming. If real estate is in demand, the demand cannot quickly be satisfied. The real estate market is slow to respond to changes in demand.

**Institutional Characteristics of the Real Estate Market**

The institutional characteristics of the real estate market include government regulation, real estate laws, customs, and trade organizations. These characteristics are defined below.

- **Government regulation.** Government regulation plays an enormous part in the real estate market. Zoning, comprehensive land use plans, rent controls, tax laws, public assistance and housing programs, restrictions and laws which affect financing, laws that restrict or affect development, and the use of land are examples of government regulation.

- **Real estate laws.** Real estate laws are based on the concept of private ownership of legal rights in land. When real property is exchanged in the market, the commodity that is transferred is a bundle of legal rights.

- **Customs.** Customs affect the nature and type of improvements constructed in local, state, and regional areas. Consumer attitude changes from time-to-time so the market must be able to respond to those changes.
• **Trade organizations.** Trade organizations serve to unify, empower, and promote the interests of its members. The principal organizations within the real estate business are the National Association of REALTORS (NAR) and the National Association of Home Builders (NAHB). Both exert a powerful influence on the real estate business.

**NEIGHBORHOOD LIFE CYCLE**

Neighborhoods are thought to go through a cycle of change. There are typically four stages in the life of a neighborhood: growth, stability, decline, and eventual revitalization. This cycle is typical and describes how neighborhoods usually evolve. However, the life cycle of a neighborhood may or may not conform to this pattern since changes in the market do not always change in sequence. Licensees should understand that this is a model that helps relate to conditions that may be observed in the market.

**Growth**

The growth period begins when newly cleared land is made available for construction, or existing properties are converted to other uses. Neighborhood growth usually coincides with periods of economic expansion.

The growth period may last several years or end abruptly due to sudden changes in demand or shifts in market preferences. Increased costs of construction or high interest rates may also cause growth to diminish sharply. However, growth will continue as long as costs remain low, interest rates continue to be favorable, and demand in the area is sustained.

During the growth period, properties are generally constructed to standards of materials and designs that are favored in the market. Properties built during this period tend to be similar in appearance and style, thus reflecting preferences in the market.

**Stability**

Stability is characterized by neither growth nor decline. This period may begin when it is no longer profitable to build in an area or when other neighborhoods are seen as better values by market participants. During a period of stability, values are relatively stable, supply and demand are in balance, and turnovers are low. Neighborhood standards conform to the market, and properties are well kept as residents have sufficient income to maintain them.

**Decline**

When a neighborhood can no longer compete with comparable neighborhoods in the same market, decline is imminent. Maintenance declines as residents may not have sufficient income to continue to keep the properties in proper condition. "For Sale" signs appear with greater frequency, and a higher than normal number of properties become available for rent. Small businesses that formerly served the neighborhood residents may close from lack of local support.

**Revitalization**

Changing land use patterns, preferences, and migration patterns may cause a period of decline to suddenly end. Deteriorated buildings may be demolished to make way for new, more modern structures. Community efforts, redevelopment, and historic preservation programs may also contribute to a reversal of the pattern of decline.
A relatively new phenomenon called *gentrification* has occurred in some older neighborhoods. Younger, single people and small families who want to live in proximity to urban services may purchase properties in areas that have lost favor in the market and rehabilitate or renovate them. This process begins a period of revitalization, which provides both positive and negative effects to the community.

As properties are rehabilitated, values increase, which in turn increases assessed value for taxation purposes. On the negative side, poorer residents who have moved into older neighborhoods are displaced. Gentrification usually begins initially on a small scale, with only one or two properties. As the market realizes the potential benefits associated with the area, it encourages revitalization to continue.

**HIGHEST AND BEST USE**

The *highest and best use* of a parcel of real estate is the legal use that generates the most return on the land and any improvements on the land when compared to alternative uses. There are four criteria used to determine the highest and best use of a parcel. The use of the land must be:

1. Legally permissible
2. Physically possible
3. Financially feasible
4. Maximally productive

These criteria are applied sequentially. If a parcel does not meet a particular use, the use is eliminated from any further consideration. The use that meets the first three criteria and produces the maximum return or greater benefit to the owner is the highest and best use.

For example, a parcel is determined to have four legally permissible uses. Each use is tested to see if it is physically possible based on the size, shape, soil, terrain, and so on of the site. Out of the four legally permissible uses, one is not physically possible; therefore, that particular use is eliminated from consideration. The remaining three uses are tested for economic feasibility. One of the remaining three does not meet this test; therefore, it is eliminated. Out of the two remaining uses, the one that generates the most return or provides the greatest benefit to the owner is considered to be the highest and best use of the real estate.
CHAPTER 15 REVIEW QUESTIONS

1. A good balance between supply and demand for residential real estate is indicated when the vacancy rate is approximately ______________.

2. The four factors of production include land, labor, capital, and __________________________ ________________.

3. The real estate market can best be described as being ______________ and ______________.

4. An economic term used to identify value which results from the location of a parcel of land is ________________.

5. If two or more parcels have a greater value as a single tract than the sum of their individual values as separate sites, their combination results in ________________ value.

6. The use that creates the highest value to the land is its ________________ and ________________ use.

7. The availability of materials, labor, financing, and land are all associated with the ________________ of real estate.

8. Population, credit, income, and consumer preferences are related to the ________________ for real estate.

9. The real estate market is ________________ to respond to changes in supply or demand.

10. Many visible “For Sale” signs and an increased number of rentals may indicate the neighborhood has entered a period of ________________.

11. Immigration and emigration into and out of a neighborhood are an influence on value that can be categorized as a(n) ________________ force.

12. The real estate business cycle has four phases with no beginning or end. When at its peak, the subsequent phases, in order, would be ________________, ________________, and ________________.

13. A ________________ market exists when there is an excess of demand over supply.

14. Price and demand are inversely related. This means that demand will typically decrease as prices ________________ and as prices, decrease demand will typically ________________. 

15. The social, economic, governmental, and environmental forces that affect real estate values are referred to as ________________.

16. Physically, real estate is characterized as being ________________, ________________, and ________________. 
1. Which of the following best describes the free enterprise system?
   a. A market system
   b. A centralized system
   c. A socialist system
   d. A communist system

2. All of the following statements apply to the real estate market, EXCEPT:
   a. Situs value is value resulting from location.
   b. Real estate is immobile.
   c. Each parcel of real estate is unique.
   d. The real estate market is national in nature.

3. How does the real estate market react to shifts in consumer demand?
   a. Rapidly
   b. Slowly
   c. Not at all
   d. Through changes in zoning laws

4. Which of the following market factors will typically result in increased demand?
   a. A decrease in prices
   b. A decrease in income
   c. An increase in mortgage interest rates
   d. A decrease in population

5. In the real estate market, what is a developer considered to be?
   a. A lender
   b. A competitor
   c. A consumer
   d. A supplier

6. The real estate market experiences changes and cycles. What is the term used to describe the phase of the market where there is not enough demand to meet the current oversupply of available housing units?
   a. An inflationary market
   b. A buyer’s market
   c. A seller’s market
   d. An expanding market

7. Two factors that affect a real estate market are supply and demand. Which of the following would be a good indicator of the measure of supply versus demand?
   a. The population of the community
   b. Consumer preferences, such as number of bedrooms and bathrooms
   c. The asking price of recently listed home in the community
   d. The vacancy rate within the community

8. What is the correct order of the business cycle phases?
   a. Expansion, trough, peak, and contraction
   b. Peak, contraction, expansion, and trough
   c. Expansion, peak, contraction, and trough
   d. Peak, trough, expansion, and contraction

9. In which condition does market equilibrium theoretically exist?
   a. When supply exceeds demand
   b. When demand exceeds supply
   c. When costs and prices stabilize
   d. When supply and demand are in balance

10. When estimating supply, it is not necessary to consider which of the following?
    a. Price
    b. Availability of materials
    c. Availability of skilled labor
    d. Availability of land

11. It has been determined that the value of three lots, each having a value of $10,000 each, is $50,000 as a single tract parcel. Which concept does this illustrate?
    a. Attachment
    b. Parcelling
    c. Plotage
    d. Appreciation
12. Which of the following terms is used to describe the relatively new phenomenon in which small families move into older neighborhoods, renovate the properties, and displace poorer residents?
   a. Putrefaction
   b. Gentrification
   c. Stabilization
   d. Blockbusting

13. What is the correct order in which the criteria for estimating highest and best use should be considered?
   a. Physically possible, legally permissible, maximally productive, and economically feasible
   b. Legally permissible, economically feasible, maximally productive, and physically possible
   c. Economically feasible, legally permissible, physically possible, and maximally productive
   d. Legally permissible, physically possible, economically feasible, and maximally productive

14. Which of the following might be indicated if a neighborhood appears to have an abundance of “For Sale” signs and an unusually high number of rentals available?
   a. Neighborhood growth is continuing.
   b. A period of revitalization has begun.
   c. The neighborhood has entered a period of stability.
   d. Decline in the neighborhood may be indicated.

15. Which external force that affects value is indicated by the number of vacancies in an area?
   a. Social
   b. Economic
   c. Governmental
   d. Environmental
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OVERVIEW
Assisting customers and advising principals regarding the value of property are fundamental to the everyday life of anyone who is engaged in the real estate brokerage profession. Licensees must be knowledgeable concerning values, whether working with buyers or sellers. A basic knowledge of the methods, principles, and procedures that are used by professional appraisers will equip licensees with the ability to properly guide members of the public regarding pricing whenever the need arises.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:
- Describe federal and state regulations pertaining to appraising
- Identify the appraiser’s fiduciary relationship
- Identify the economic and physical characteristics of real estate that affect market value
- Explain what the Uniform Standards of Professional Appraisal Practice is and how it affects the appraisal of real property
- Distinguish among the various types of value
- Define market value and describe its underlying assumptions
- Distinguish among value, price, and cost
- Describe the four characteristics of value
- Distinguish among the principles of value
- Differentiate among the three approaches to estimating the value of real property
- Estimate the value of a subject property using the sales comparison approach, the cost-depreciation approach, and the income approach
- Reconcile three approaches to establish a final value estimate
- Calculate value using the gross multiplier technique
- Explain how to prepare a comparative market analysis (CMA), comparing and contrasting with the sales comparison approach

KEY TERMS

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<td>Automated valuation model (AVM)</td>
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<td>Federally related transaction</td>
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APPRAISAL CONCEPTS AND DEFINITIONS

An appraisal is an act or process of developing an opinion of value. An appraisal is numerically expressed as a specific amount (e.g., $100,000), a range of values (e.g., $95,000 to $100,000), or as a relationship to a previous value opinion or benchmark (e.g., “Value is greater than the previous appraised value.” or “The property is worth at least as much as the amount indicated to facilitate the loan.”).

Appraiser

An appraiser is one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective. An appraiser conducts an analysis and renders an opinion as to the value of real property specified in their employment contract. Real property includes the physical land and improvements together with legal rights to own or use the property. (See Chapter 8.)

An appraiser is expected to produce opinions and conclusions based on evidence by sufficient research, analysis of information, and data that supports the rational and logic of those opinions and conclusions.

Appraisers are typically paid a fee that is based on the amount of time and the anticipated degree of difficulty not on the basis of the value of the property. Whether performing an appraisal, appraisal review, or appraisal consulting assignment, all appraisers must adhere to the Uniform Standards of Professional Appraisal Practice (USPAP).

Cost, Price, and Value

The terms cost, price, and value are often used interchangeably. However, these terms are not synonymous and have specific definitions to an appraiser.

These terms are defined as follows:

- **Cost.** Cost is the actual or estimated amount required to create, produce, or obtain a property. It includes labor, materials, financing expense, land, management and overhead, and the contractor’s profit necessary to bring the finished product to the market. Cost may be more than, or less than, the market value of the property.

- **Price.** Price is the amount that is actually paid in a real estate transaction. It is not necessarily the asking amount or amount offered, and may not represent the actual market value of the property. It may be more than, or less than, the market value. Nonetheless, it is the amount that the buyer is willing to pay and the amount the seller is willing to accept.

- **Value.** Value is an opinion of the worth of a property at a given time in accordance with a specific definition of value. It is the monetary relationship between properties and those who buy, sell, or use those properties. There are many types of value, each of which has a different definition. In appraisal practice, value must always be qualified (e.g., market value, liquidation value, or investment value).

  The value most often estimated in real estate valuation is market value. Market value is the amount that should be paid for a property, but not necessarily the amount that is asked or actually paid. Market value can be higher or lower than the cost or price.
Characteristics of Value

The following four elements interact to create or affect the value of real estate:

- **Demand.** Real estate, like any other product or service, has no value unless someone has a need or desire for it. From an economic viewpoint, demand has two components:
  - Desire for the item or service, and
  - The financial ability to pay for it
- **Utility.** Real estate must serve a purpose or be useful in order to have value.
- **Scarcity.** Real estate that is in short supply relative to the demand for it has value.
- **Transferability.** The ability to convey a marketable title is paramount to the value of real estate. Although a property with a defective title can be conveyed, it is risky and a purchaser may substantially discount the price if they feel they would incur time and expense in curing the defect.

### Memory Device: “DUST”

The four characteristics of value are:

- D = Demand
- U = Utility
- S = Scarcity
- T = Transferability

Types of Value

As mentioned previously, there are many types of value, each of which has a different definition. The client and appraiser must agree on the type of value that is to be estimated. The definition of value estimated is included in the appraisal report.

The definitions of some of the types of value are listed as follows:

- **Assessed value.** Assessed value is the value assigned by the property appraiser for ad valorem tax purposes. Generally speaking, properties with a higher assessment should sell for more than properties with lower assessments.

- **Insurable value.** Insurable value, or insurance value, is the value used by insurance companies as the basis for insurance coverage. Insurable value is often considered to be the replacement or reproduction cost plus allowances for debris removal or demolition and non-insurable items. Insurable value is less than the property’s appraised market value, because it excludes the value of land on which the building stands.

- **Investment value.** Investment value is the value of a particular property to a particular investor. Potential purchasers of income-producing properties commonly request investment value appraisals. Investment value is the highest price an investor will pay for a property and the lowest price the seller will accept. Investment
value is the value to a specific individual, while market value is the value in a typical
transaction to a typical buyer.

- **Liquidation value.** *Liquidation value* is the amount that remains after all assets of a
business have been sold in a hurried, but not forced, sale and all liabilities have been
paid. It is the value of a failing business that is not expected to continue. It can also
be used to estimate the minimum value of a profitable business.

- **Market value.** *Market value* is the value to a typical buyer and a typical seller. This is
the most common type of value that is estimated by appraisers. The market value of
a property is the most probable price at which specified property rights should sell.
However, several assumptions are inherent in this definition:

  o The property has been exposed to the market for a reasonable time.
  o Both buyer and seller are well informed and acting in their own self-interest.
  o Neither party is acting under undue duress.
  o The seller has the ability to convey a marketable title.
  o Payment is in cash in U.S. dollars, or terms equivalent to cash.

  All of these conditions are assumed to be present simultaneously. They rarely
are, but the definition assumes them to be.

- **Salvage value.** *Salvage value* is the amount that can be received from the sale of
the parts from a demolished structure.

- **Plottage value.** *Plottage value* is the increase in value resulting from an
*assemblage*, or combining, of two or more adjacent parcels of land under one owner.
Typically, the value of the whole parcel will be greater than the sum of the individual
smaller parcels.

- **Value-in-use.** The *value-in-use* of real property is the net present value (income)
which is generated by the property in a certain use for a certain owner. The value-in-
use of a property may be higher or lower than market value.

Other values that an appraiser might be asked to estimate include going concern value
and the value of partial or fractional interests in property.

**Principles of Value**

Appraisal principles are the rules that govern the formation of value and help to explain
how and why values change in the market. Appraisers use them to assist in arriving at their
value conclusion.

The appraisal principles of value are listed below.

- **Principle of anticipation.** The *principle of anticipation* states that the value of a
property today is the sum of its future benefits. When a potential buyer considers the
purchase of a property, the benefits it will provide during that owner’s period of
ownership forms the basis for the decision to buy, and at what price. Value today is
measured in terms of future benefits.

  This principle is particularly visible in the purchase of income-producing real
estate where present dollars are paid in exchange for the right to receive future
dollars.
• **Principle of change.** The *principle of change* states that circumstances can cause changes to occur in the market, which in turn may affect the value of real estate. An appraisal is made as of a specific date in order to take into account the market forces that influence value at that point in time.

• **Principle of competition.** The *principle of competition* recognizes that sellers compete with other sellers, and buyers compete with other buyers. This principle focuses on the effect of changes in supply and demand.

• **Principle of conformity.** The *principle of conformity* states that the value of a property is sustained when it is in conformity with other properties in the same area. Conformity refers to size, architectural style, and other features.

• **Principle of contribution.** The *principle of contribution* states that the value of a component of the property is the amount it adds to the total value of the property; in other words, the amount by which the value of the property would decrease by its absence. This principle illustrates the difference between the cost of a component and the value added by the component. For instance, a swimming pool may cost $20,000 to install, but it may add only $15,000 to the value of the property.

• **Principle of highest and best use.** The *principle of highest and best use* states that the best use for the property, known as its highest, best, and most profitable use, is that which will most likely produce the greatest net return to the land over a given period-of-time. This net return is realized in terms of money or other amenities.

• **Principle of progression.** The *principle of progression* applies when a lower-priced property is built or an existing property is inadequate (under-improved) in an area that consists of property that is more expensive. The lower-priced property will progress (increase) in value toward the level of the more expensive properties in the area. This principle tends to create price conformity within an area.

• **Principle of regression.** The *principle of regression* applies when a higher-priced property is constructed or an existing property is over-improved in an area that consists of lower-priced properties. The higher-priced property will regress (decrease) in value toward the level of the less expensive properties in the area. This principle, like the principle of progression, tends to create price conformity within an area.

• **Principle of substitution.** The *principle of substitution* recognizes that no one would pay more for a property than the amount necessary to acquire an acceptable substitute. This principle is the basis for all mathematical methods that are used by appraisers to estimate value.

  **Example:** A property owner states that their house is worth $95,000. Buyers in the market can obtain a substitute property with the same features and utility for $90,000. The seller’s house, therefore, has a value of approximately $90,000, not $95,000.
Appraisal Purpose and Intended Use

The purpose of an appraisal and its function are distinct, as defined below.

- **Purpose.** The *purpose* of an appraisal is to estimate some type of defined value. As discussed, there are many different types of value, each of which has a definition of its own. Purpose relates to the work the appraiser was retained to perform, that is, to estimate some type of value. Most appraisals are performed to estimate market value.

- **Intended use.** The use or uses of an appraiser’s reported appraisal, opinions and conclusions, or other valuation services by the appraisal client is referred to as its *intended use* (previously referred to as *function* in USPAP). For example, the client may use the appraisal to decide whether to sell or not, to buy or not, and at what price. A lender may use the appraisal to decide whether a loan should be made or not by using that property as security.

The Appraisal Process

Appraisers follow a defined appraisal process when developing and reporting their opinions and conclusions in an appraisal assignment. The appraisal process is accomplished by following specific steps, the number of which depends on the nature of the appraisal assignment and the data available to complete it. In all cases, however, the valuation process provides the model to be followed in performing market research and data analysis, in applying appraisal techniques and in integrating the results of these analytic activities into an opinion of value.

The steps, in the order in which they are performed, are outlined below.

**Step 1** Define the problem. Before proceeding, the appraiser must have a clear understanding of the problem that needs to be solved in order to determine the appropriate scope of work to apply to the assignment. The following information is required to define the appraisal problem:

- Client and other intended users
- Client’s intended use (function)
- Type and definition of value (purpose)
- Effective date of the opinion
- Relevant characteristics of the property
- Any assignment conditions and assumptions, laws and regulations, or other conditions that affect the scope of work

**Step 2** Determine the scope of work. A preliminary analysis of the assignment is made to determine the type and extent of research and analyses required. The data is then collected and assembled for use. Communication with the client is necessary to obtain much of the information necessary of most elements of problem identification.

Data falls into two types:

- **General data.** *General data* concerns the region, neighborhood, economy, and so on.
- **Specific data.** Specific data is information about the subject property and potential comparable properties to be used in the analysis.

**Step 3** Perform data collection and analysis. This step includes a market analysis and a highest and best use analysis.

- **Market analysis.** The market analysis includes supply, demand, and marketability studies.

- **Highest and best use analysis.** The property is analyzed to determine the highest and best use of the site as if vacant and the property as improved. The highest and best use as vacant is used to establish the value of the site based on how the site should be used rather than how it is being used. The property is analyzed again, thereby considering any improvements that are presently on the site. This assists in determining whether the present use is the best use, or if an alternative should be considered to maximize the value of the land and improvements of the property (property value). Alternatives include renovation or possible removal.

**Step 4** Apply the three approaches to value. Appraisers can utilize three mathematical methods to estimate the value of a subject property. All three are employed to the extent that they are applicable, unless the assignment does not require one or more of them to be used.

  The three methods are:

  - Sales comparison approach
  - Cost-depreciation approach
  - Income approach

  Each approach yields slightly different results, which must then be reconciled. Each of these approaches is discussed later in this chapter.

**Step 5** Reconcile the value indications and estimate a final opinion of value.

After the three approaches have been applied and each has resulted in a value estimate, the three estimates are compared. The appraiser’s confidence in the data and the appropriateness of the approaches to the assignment are weighed. Greater weight is given to the approach that the appraiser feels best reflects the value of the subject, and then a final value is estimated. Weighing the evidence and arriving at a final value conclusion is based on the appraiser’s knowledge, experience, and training. It is not accomplished by averaging the values or using a mathematical process.

**Step 6** Prepare a report of defined value opinions. The objective of the appraisal is to answer the client’s original question with regards to the value of the rights specified in the subject property. Once the final value estimate has been estimated, the appraiser prepares a report that is to be delivered to the client. Although there are legal and technical aspects to the way in which appraisals are performed and appraisal reports are prepared, they can be categorized as a form, narrative, or an oral report.
• **Form reports.** *Form reports* are used in millions of appraisals each year. Most primary lenders and the secondary market require them. The use of a form standardizes the way in which information is reported, and facilitates the underwriting process. This is the reporting preference for most residential appraisals.

• **Narrative reports.** *Narrative reports* are very comprehensive. They provide the client with the reasoning and conclusions of the appraiser in a detailed report that can contain as many as 50 to 300 or more pages. The length and content can vary depending on the nature of the assignment and the requirements of the client.

• **Oral reports.** *Oral reports* are generally given only in connection with court testimony. Appraisers, who provide court testimony, must follow the same procedures used to prepare written reports and must maintain files that support their conclusions and testimony.

Maps, cost information, previous appraisals, and other useful data that an appraiser accumulates and updates were historically referred to as the appraisal *data plant*. Today, this information is usually stored electronically.

**THREE APPROACHES TO VALUE**

There are three approaches to value:

- Sales comparison approach
- Cost-depreciation approach
- Income approach

All three approaches are used by the appraiser if the assignment, the available data, and the requirements of the client do not limit their application. Each yields slightly different results, and the differences must be reconciled into a final value conclusion.

**Sales Comparison Approach**

The *sales comparison approach*, also referred to as the *comparable sales approach*, is used to estimate the value indicated by the recent sales of comparable properties in the market. This approach is a direct application of the principle of substitution. The principle of substitution states that if similar or comparable properties are available for sale, the one with the lowest price will attract the greatest demand. The price at which a property will most likely sell is closely related to the price at which similar properties in the same market have previously sold. The sales comparison approach requires an active market. If no sales have occurred, this method is not applicable. Conversely, this method is appropriate for any type of property where sales have occurred.

This approach is usually the most applicable method for appraising residential properties and vacant land. It is the basis for the value estimates that are used by real estate brokers and sales associates in listing and selling real estate. A sales associate should focus much of their attention on this approach, as it will be used virtually every day in the practice of their profession.
The three steps in the sales comparison approach are as follows:

**Step 1** Locate comparable properties. A comparable property is a property that is competitive with the subject property (the property being appraised) and similar to it in terms of design, size, location, age, and condition. To be comparable, the property should be a recent sale, preferably within the last six months. The sale must have been an arm’s-length transaction in which the seller and the buyer were unrelated and each was attempting to get the best price possible. A minimum of three to five comparable properties is required, but eight to ten are preferable.

**Step 2** Adjust the comparable sales prices. The comparable properties are not exactly the same as the subject property. Adjustments to the sales price of the comparable properties are made to allow for differences between the comparable and the subject property. Adjustments are always made to the comparable property, but never to the subject property. The subject property sets the standard for comparison. The price of comparable properties must be adjusted to reflect the characteristics of the subject property. The price at which a comparable property was sold is a known fact. The value of the subject property is unknown and cannot be adjusted.

If the comparable property is superior to the subject property, the comparable sales price is adjusted downward by the value of the superior features; superior means subtract. If the comparable property is inferior to the subject property, the comparable sales price is adjusted upward by the value of the inferior features; inferior means increase.

Adjustments are made for differences in the following areas and can be made in either dollar amounts or percentages. Adjustments for market conditions and location are often derived based on percentages. Whenever percentages are used, these adjustments must be made in the order shown below.

1. **Financing terms.** The manner in which a property is financed can influence the price a buyer is willing to pay. If favorable terms are offered, the price may have been increased; if prohibitive interest rates are required, the price may have been decreased.

2. **Conditions of sale.** This adjustment allows for the motives of the buyer and/or seller. The definition of market value assumes that no undue duress is involved in a sale. The appraiser makes adjustments to the sale price based on financing terms and conditions of the sale and develops a new value base for the property. Adjustments for market conditions are not applied to the correct value base.

3. **Market conditions.** The market may have changed since the date of the sale of the comparable property. If so, the sales price of the comparable may have to be adjusted to account for the change. Inflation and deflation are the most common reasons for this adjustment. Adjustments for market conditions are made to the previous value base above, which becomes the new value base for adjustments for location and physical characteristics.
4. **Location.** If the comparable property is in a different neighborhood than the subject property, or is influenced by different external forces, such as traffic, an adjustment for differences may be required.

5. **Physical characteristics.** Adjustments are made for differences in the age, condition, number of baths and bedrooms, garage stalls, lot size, square footage of living space, and so on. The final adjustments for location and physical characteristics are now applied to the value base derived in market conditions to arrive at a final adjusted price.

An appraiser can estimate the value of the various physical differences by locating properties in the area, one that has a particular feature and one that does not. Any difference in their sales prices can be ascribed to that feature. This is called *paired sales analysis*.

As an example, a property that sold for $110,000 had a swimming pool. One similar in most respects in the same neighborhood sold for $100,000, but did not have a swimming pool. An appraiser might assume the difference of $10,000 was attributable to the swimming pool. This difference is then used to adjust a property’s sales price.

Sometimes paired sales cannot be located; therefore, different means must be employed to make adjustments. One method is to estimate the cost of a new item and deduct an amount from it, which represents any loss in value due to age and condition. Cost and value are not the same, so care must be used when employing this method.

**Step 3** **Reconcile the adjusted sales prices.** Experience and judgment are used to weigh the adjusted sales price of each comparable property to infer an estimate of value for the subject property. The adjusted sales prices of the comparable properties cannot be simply added and then averaged. A weighted average technique is used to determine the estimate of value.

**Cost-Depreciation Approach**

The *cost-depreciation approach*, or *cost approach*, is used to estimate the current cost of reproducing or replacing a building, minus an estimate for depreciation, plus the value of the land. This approach is also based on the principle of substitution. No one would pay more for an existing property than the cost to purchase land and have comparable improvements constructed on that land, assuming no unusual time delay. The value of the subject property can be estimated by using either replacement cost or reproduction cost. Both are defined below.

- **Replacement cost.** The *replacement cost* is the estimated cost at current prices to construct a comparable building with equal utility to the subject building by using modern materials, design, and features. A replacement building is not necessarily constructed with the same materials as the subject property. Some construction methods and materials may no longer be available; therefore, substitution may be necessary.

- **Reproduction cost.** The *reproduction cost* is the estimated cost to construct at current prices an exact duplicate or replica of the building that is being appraised by using the same materials, design, and layout as the subject property. Reproduction cost is preferred in appraisals of historic properties.
The cost-depreciation approach is best used to estimate the value of newer properties, property proposed for renovation, insurance purposes, and properties infrequently exchanged or sold in the real estate market. The cost-depreciation approach may be the only approach available to estimate the value of special-purpose properties, such as schools, churches, and government buildings.

The cost-depreciation approach is performed in the following six steps:

**Step 1** Estimate the value of the site as if vacant.

The estimated value of the land must be determined as if it were vacant since land does not depreciate. The comparable sales approach is used to estimate the land value. This estimated site value as if it were vacant will be added later (in Step 6) to the depreciated cost of reproducing or replacing the building.

**Step 2** Estimate the cost to replace or reproduce the main improvement by using one of following three different methods:

- **Quantity survey method.** A detailed inventory and precise cost for each item required to construct the main improvement is compiled in the quantity survey method. This is similar to a bid estimate used by contractors to arrive at the estimated cost to construct a building. All components such as labor, materials, financing, and the contractor’s profit and overhead are added together. Although this method is the most accurate, it is time consuming and affords greater detail than is ordinarily required in most appraisals.

- **Unit-in-place method.** In the unit-in-place method, the cost of each component of the property is estimated by using nationally published cost manuals. The cost of a square foot of finished wall, per cubic foot of concrete for foundations, and so on, can be obtained and added together. This method is a shortcut for the quantity survey method. Since the cost of a component, rather than each piece required for construction, is estimated, the method is simpler and faster; therefore, less time-consuming.

- **Unit-of-comparison method.** A unit-of-comparison is a cost per square foot or per cubic foot of an entire building. This figure is multiplied by the number of square feet or cubic feet in a subject building to estimate the cost of the subject. A recently constructed building of a known cost per square foot or per cubic foot, which is called a benchmark building, can be used as a unit-of-comparison.

**Step 3** Estimate the amount of accrued depreciation in the main improvement. Accrued depreciation is the total loss in value the improvement may have incurred over its lifetime, measured against the cost of new. There are three categories of depreciation:

- **Physical deterioration.** Physical deterioration is any loss in value due to normal wear and tear from use, negligence, or aging of the building. Examples include broken windows, deteriorated roof shingles, faded or peeling paint, worn carpeting, and so on.
Physical deterioration can be either *curable* or *incurable*. Whether something is curable or incurable is based on economic feasibility. If repairing an item adds as much or more value than the cost of the repair, it is curable. Otherwise, it is incurable.

- **Functional obsolescence.** *Functional obsolescence* can be caused by either a deficiency or an over-improvement (or super adequacy). A structural deficiency or excess affects consumer preferences, which in turn affects value.

  Functional obsolescence due to a deficiency is a loss in value due to the failure of a property to meet current consumer preferences due to changes in building design or standards. For example, a home with structural deficiencies, such as inadequate lighting, outdated fixtures, lack of central heat or air-conditioning, one bathroom in a four-bedroom home, or an inefficient floor plan all affect demand and, consequently result in decreased value.

  An *over-improvement* is an investment made to a property that does not make the best use of the property or is excessive in comparison with the improvement of similar properties. An over-improved property may suffer functional obsolescence since it will not sell in the market for the amount invested.

  **Example:** A swimming pool that costs $50,000 to construct but the market is only willing to pay $10,000 for the pool.

  Functional obsolescence may also be categorized as curable (added value exceeds cost) or incurable (cost exceeds added value).

  **Example:** It may be economically feasible to install a second bath (curable), but not economically feasible to add a third bedroom (incurable).

- **External obsolescence.** *External obsolescence*, or *economic obsolescence*, is a loss in value caused by factors beyond the boundaries of the subject property. External obsolescence is considered to be incurable on the part of the owner since the problem is beyond the property’s boundaries. A property located near a landfill, wastewater treatment plant, or blighted area may suffer a value loss, but the problem is beyond the control of the property owner.

  There are several methods used by appraisers to estimate the amount of the accrued depreciation. The simplest is called the *economic age-life method*. The appraiser estimates the *total economic life* of a building, which is the number of years it will contribute value above the value of the land; this is 100% of its useful life. The appraiser then estimates the percentage of the total life lost or used up by depreciation. This is called its *effective age*.

  Effective age is the age a property appears to be, due to extensive updates, or excessive wear and tear (condition). *Actual age* is the true age of the property. When presented with both ages in a problem, use effective age for any calculations.

  The effective age is divided by the total economic life to obtain the percentage of accrued straight-line depreciation over the total economic life of the building. This figure is multiplied by the reproduction cost to obtain the dollar amount of the accrued depreciation for the whole time period.
In formula form:

\[
\frac{\text{Effective age}}{\text{Total economic life}} = \text{Total depreciation rate for entire time period}
\]

Total depreciation (%) \(\times\) Reproduction cost ($) = Total accrued depreciation amount for entire time period ($)

**Example:** A building has a total economic life of 50 years, and the appraiser estimates its (current) effective age to be ten years. If the reproduction cost is $100,000, what total amount should be estimated for the accrued depreciation over the expected life of the building?

\[
\frac{10 \text{ years}}{50 \text{ years}} = .20 \text{ (or } 20\%) \text{ Depreciation rate over 10 years}
\]

\[
\begin{align*}
\$100,000 & \text{ Reproduction cost} \\
\times .20 & \text{ Total accrued depreciation rate} \\
\$20,000 & \text{ Accrued depreciation amount after 10 years}
\end{align*}
\]

The yearly depreciation rate can also be calculated by dividing the total depreciation rate for the entire time period by the effective age. In this example:

\[
\frac{.20 \text{ Total depreciation rate}}{10 \text{ years (Effective age)}} = .02 \text{ (2%) Yearly depreciation rate}
\]

**Step 4** Subtract the accrued depreciation from the reproduction cost of the main improvement to derive its depreciated cost.

**Example:** In the economic age-life example shown in Step 3, the reproduction cost was stated to be $100,000 and the total accrued depreciation over 10 years was determined to be $20,000. Using this information, what is the depreciated cost?

\[
\begin{align*}
\$100,000 & \text{ Reproduction cost} \\
- \$20,000 & \text{ Total accrued depreciation over 10 years} \\
\$80,000 & \text{ Depreciated cost of the main improvement}
\end{align*}
\]

**Step 5** Estimate the cost to construct any site improvements, such as driveways, landscaping, fences, and so on, and subtract any depreciation in these items.

**Step 6** Add the vacant site value, the depreciated cost of the main improvement, and the depreciated site improvements. The total is the value of the subject property estimated by the cost-depreciation approach.

Accurately estimating the accrued depreciation is the most difficult aspect of the cost-depreciation approach. If a residence is over 15 years old, the amount of depreciation may be difficult to estimate, and this method may lose reliability.

In some cases, components of a building may be depreciated at different rates. For example, an air conditioner, carpet, or a roof may need to be replaced, resulting in 100% depreciation on those items, while the rest of the building may only be 20 or 25% depreciated. In this case, the components must be depreciated separately, and then
depreciation on each item would be added to arrive at the total accrued depreciation on the building.

**Income Approach**

The *income approach* is used to estimate the value that a property’s net earning power will support. This approach is used to estimate the value of income-producing property and for the valuation of a business.

The income approach is based on the assumption that the value of a property is related to the amount of income that it can produce in the future. It is based on the appraisal principles of substitution and anticipation. The principle of anticipation states that the present value of a property is based on the benefits it can produce and its future income.

The two techniques that can be applied for the income approach are direct capitalization and gross multiplier.

**Direct Capitalization Technique**

*Direct capitalization (or capitalization rate)* is a mathematical process in which future income is converted into a present value.

There are seven steps in the direct capitalization approach:

**Step 1** Forecast the potential gross income (PGI), which is the total annual income for the coming year. The two types of gross income that must be considered are contract rent and market rent.

- **Contract rent.** *Contract rent* is the rent amount that is specified in a lease. It is used if the existing tenants have excellent credit and long-term leases.

- **Market rent.** *Market rent*, or *economic rent*, is the rent amount that is estimated for vacant or owner-occupied space, and space occupied by tenants with short-term leases or those who have questionable credit. Market rent is based on rents charged in the market for properties that are comparable to the subject property.

**Step 2** Vacancy and collection losses (V&C) must be estimated. This represents income that the owner will not receive. The amount of vacancy and collection losses is estimated from the history of the subject property and competitive properties in the same market. It is normally expressed as a percentage of the PGI.

**Step 3** Subtract the V&C from the PGI. The remaining income is called the effective gross income (EGI). If there is any other income (OI) from miscellaneous sources, such as carport rentals, vending machines, and so on, add this amount after the V&C are subtracted. This is the actual amount the owner can expect to receive from operation of the property for one year into the future.

**Step 4** Estimate operating expenses. There are three types of operating expenses:

- **Fixed expenses (FE).** *Fixed expenses* do not change with occupancy levels. Examples of fixed expenses are property taxes and hazard insurance.
- **Variable expenses (VE).** Variable expenses change with occupancy levels. Examples of variable expenses are maintenance, utilities, trash removal, janitorial expenses, and management fees. Management fees are usually based on a percentage of the EGI.

- **Reserves for replacements (R).** Reserves for replacements are funds that are set aside annually to replace short-lived items. Short-lived items are those components that wear out and must be replaced before the end of the economic life of the building. These include items, such as stoves, refrigerators, carpets, roof covers, and so on.

  Operating expenses do not include mortgage payments, tax depreciation, capital improvements, personal expenses unrelated to the operation of the property, and income taxes. These are ownership charges, not property operating expenses.

**Step 5** Subtract all three types of operating expenses from the EGI to calculate the net operating income (NOI).

The first five steps can be illustrated with the following equation:

\[
\begin{align*}
\text{PGI} & \quad \text{Potential gross income} \\
- \ V&C & \quad \text{Vacancy and collections losses} \\
+ \ OI & \quad \text{Other income} \\
\text{EGI} & \quad \text{Effective gross income} \\
- \ OE & \quad \text{Operating expenses (FE + VE + R)} \\
\text{NOI} & \quad \text{Net operating income}
\end{align*}
\]

**Step 6** Select an overall capitalization rate. The overall capitalization rate is a rate that is adequate to provide the investor with a return on the investment, and a return of the investment over the ownership period. This rate is derived from comparable properties in the same market.

**Step 7** Estimate the value of the subject property by dividing the NOI by the overall capitalization rate.

\[
\text{Value (V)} = \frac{\text{Net operating income (I)}}{\text{Capitalization rate (R)}}
\]

**Using the IRV Formula to Derive Capitalization Rates**

The IRV formula provides a simple way to derive capitalization rates from comparable sales by using the estimated value of a subject property and the estimated net operating income required from an investment property. In this formula:

\[
\begin{align*}
I & = \text{net operating Income} \\
R & = \text{capitalization Rate} \\
V & = \text{estimated Value}
\end{align*}
\]

The IRV formula can be expressed in three forms. If any two of the three components of the IRV formula are known, the value of the third or unknown component can easily be determined.
Net operating income \( (I) \) = Capitalization rate \( (R) \) x Value \( (V) \)

\[
\text{Value (V)} = \frac{\text{Net operating income (I)}}{\text{Capitalization rate (R)}}
\]

Capitalization rate \( (R) \) = \( \frac{\text{Net operating income (I)}}{\text{Estimated value (V)}} \)

**Example 1:** If the net operating income is forecast to be $12,000 and the overall capitalization rate is 10%, what is the estimated value of the property?

Since we are looking for the estimated value, we use the \( V = \frac{I}{R} \) form of the formula.

\[
\frac{\$12,000 \text{ (I)}}{0.10 \text{ (R)}} = \$120,000 \text{ Estimated value (V)}
\]

An alternative easy approach to finding an unknown value in the \( I = R \times V \) formula is to write the IRV formula as shown below. Then, cover up (or cross out) the unknown value and perform the math indicated by what is remaining.

\[
\frac{I}{R \times V} \text{ or } \frac{\text{Income}}{\text{Rate} \times \text{Value}}
\]

**Example 2:** If the net operating income is forecast to be $12,000 and the estimated value of the property is $120,000, what is the capitalization rate?

Since the unknown value is the capitalization rate \( (R) \), we cross out “R” and perform the division with the values for “I” and “V” that are remaining.

\[
\frac{I}{R \times V} \rightarrow \frac{I}{V} \rightarrow \frac{$12,000 \text{ (I)}}{$120,000 \text{ (V)}} = 0.10 \text{ or } 10\
\]

\[ R = 10\% \]

**Gross Multiplier Technique**

A gross multiplier technique uses gross rent or income instead of net operating income to estimate the value of one- to four-family rental properties.

A gross rent multiplier (GRM) is applied for monthly rental properties. A gross income multiplier (GIM) is applied for properties with annual gross rental income. Most markets use a monthly GRM, but some areas prefer to use an annual GIM.

- **Gross rent multiplier (GRM)** is used for monthly rental properties and is derived from comparable properties which are rented at the time of sale by using the following formula:

\[
\text{Comparable sales price} \div \text{Gross monthly rent} = \text{Gross rent multiplier (GRM)}
\]
The subject property gross monthly rent is multiplied by the GRM to estimate the value of the subject:

Subject property gross monthly rent \( \times \) GRM = Subject property value

**Example:** A residence sold for $78,000 and rented for $600 per month. The subject residence rents for $650 per month. What is the estimated value of the subject residence by using a GRM?

\[
\frac{\$78,000 \text{ Comparable sales price}}{\$600 \text{ Gross monthly rent}} = 130 \text{ GRM (monthly)}
\]

\[
\$650 \text{ Subject residence monthly rent} \times 130 \text{ GRM} = \$84,500 \text{ Subject residence estimated value}
\]

- **Gross income multiplier (GIM)** is similar to the GRM and is calculated in exactly the same manner but uses annual gross rental income rather than gross monthly rent. By using an annual gross rental income, distortion is prevented in the estimate due to seasonal fluctuations in income during the year.

\[
\frac{\text{Comparable sales price}}{\text{Annual gross rental income}} = \text{Gross income multiplier (GIM)}
\]

Subject property annual gross rental income \( \times \) GIM = Subject property value

**Example:** A property sold for $78,000 and rented for $7,200 per year ($600 \( \times \) 12). The subject property rents for $7,800 per year. What is the estimated value of the subject property by using a GIM?

\[
\frac{\$78,000 \text{ Comparable sales price}}{\$7,200 \text{ Annual gross rental income}} = 10.83 \text{ GIM (annual)}
\]

\[
\$7,800 \text{ Subject property annual gross rental income} \times 10.83 \text{ GIM (annual)} = \$84,474 \text{ Subject property estimated value (round to $84,500)}
\]

As can be seen from these examples, either a monthly (GRM) or annual (GIM) multiplier can be used and the resulting value will be the same. The nature of the income stream and preferences in the local market dictate whether monthly or annual computations should be used.

**APPRAISAL REGULATION**

**Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA)**

In response to the savings and loan crisis, Congress adopted Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989 (Title XI). Title XI was adopted to address the problem of unregulated persons performing incompetent and/or fraudulent appraisals for federally regulated financial institutions. Title XI’s purpose is to “provide that Federal financial and public policy interests in real estate transactions will be...”
protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”

Title XI created a unique, complementary relationship between the States, the private sector, and the Federal government. Title XI recognized that the States were in the best administrative position to certify and license real estate appraisers and to supervise their appraisal-related activities.

Title XI authorized the private sector, consisting of the Appraisal Foundation and its two independent boards, the Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB), to establish uniform minimum appraiser qualifications standards and uniform standards of professional appraisal practice.

Title XI created the Appraisal Subcommittee to oversee the activities of the States and the Appraisal Foundation.

Title XI also authorized the Federal financial institutions regulatory agencies (the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency and National Credit Union Administration) and the U.S. Department of Housing and Urban Development (HUD) to adopt regulations regarding real estate appraisals made in connection with federally related transactions, including, when appraisals are required, who must perform the appraisals, and the manner in which appraisals must be performed.

A **federally related transaction** is any real estate related financial transaction that a Federal Financial Institution Regulatory Agency (FFIRA) has either contracted for or regulates, and requires the services of an appraiser. Appraisal reports involving a federally related transaction must be prepared by a state certified appraiser.

### Appraisal Subcommittee (ASC)

The Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) was created in 1989, pursuant to Title XI of the FIRREA. The purpose of ASC is to provide federal oversight of State appraiser regulatory programs and a monitoring framework for the Appraisal Foundation and the Federal Financial Institutions Regulatory Agencies in their roles to protect federal financial and public policy interests in real estate appraisals utilized in federally related transactions.

### The Appraisal Foundation (TAF)

The Appraisal Foundation (TAF) was established to promote professionalism and to ensure public trust in the valuation profession. This is accomplished through the promulgation of standards, appraiser qualifications, and guidance regarding valuation methods and techniques. TAF is a non-profit organization that is given specific authority by Congress regarding real property appraiser qualifications and appraisal standards. TAF has four independent boards:

- **Board of Trustees (BOT).** The Board of Trustees (BOT) appoints members to the APB, AQB, and ASB; secures funding for TAF operations; and monitors performance and oversight of the TAF’s boards and advisory councils.

- **Appraiser Qualifications Board (AQB).** The Appraiser Qualifications Board (AQB) establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification. In addition, the AQB performs a number of additional duties related to real property and personal property appraiser qualifications.
• **Appraisal Practices Board (APB).** The Appraisal Practices Board (APB) offers voluntary guidance to appraisers, regulators, and users of appraisal services on recognized valuation methods and techniques for all valuation disciplines.

• **Appraisal Standards Board (ASB).** The Appraisal Standards Board (ASB) develops, interprets, and amends the Uniform Standards of Professional Appraisal Practice (USPAP), the generally accepted standards of the appraisal profession.

### Appraiser Licensing and Certification

The 1991 Florida legislature passed legislation that divided F.S. 475 into Parts I and II. Part I regulates real estate brokers, sales associates, and real estate schools; Part II regulates real estate appraisers who perform appraisals in federally related transactions. The purpose of Part II is to regulate real estate appraisers in the interest of the public welfare. [F.S. 475.610]

Part II of F.S. 475 created the Florida Real Estate Appraisal Board (FREAB) to administer and enforce that section of the law.

### The Florida Real Estate Appraisal Board (FREAB)

The FREAB consists of nine members, who are appointed by the governor and confirmed by the senate. Each member is appointed for a four-year term; however, no member may serve for more than two consecutive terms. The members must consist of the following:

- Four members who are real estate appraisers who have been engaged in the general practice of appraising real property in Florida for at least five years immediately preceding the appointment
- Two members who represent the appraisal management industry
- One member who represents organizations that use appraisals for the purpose of eminent domain proceedings, financial transactions, or mortgage insurance
- Two members who are representatives of the general public and are not connected in any way with the practice of real estate appraisal

### Registration and Certification

Appraisers are required to register the office location(s) from which they operate. They must complete at least 30 hours of approved continuing educational courses, and renew their license every two years. Appraisers are subject to disciplinary actions to reprimand, fine, suspend or revoke their license, or be placed on probation.

### Appraiser License Levels

The statute provides for three levels of appraiser: registered trainee appraiser, certified residential appraiser, and certified general appraiser. The definitions and requirements for each are listed on the next page.

- **Registered trainee appraisers.** Registered trainee appraisers are individuals who are registered with the DBPR and are qualified to perform appraisal services only under the direct supervision of a certified appraiser. There are educational requirements but there is no state exam requirement. Registered trainee appraisers provide valuation services in an independent, impartial, and objective manner. Bias
or advocacy, such as personal interest in the property, on the part of an appraiser is prohibited.

The minimum educational requirements are 100 hours of education as follows:

- 30 hours of basic appraisal principles
- 30 hours of basic appraisal procedures
- 15 hours of national Uniform Standards of Professional Appraisal Practices (USPAP)
- 25 hours of appraisal subject matter electives, which shall include 3 hours of Florida rules and laws, and 3 hours of roles and responsibilities for supervisors and trainees

- **State-certified residential appraisers.** State-certified residential appraisers are individuals who are certified by the DBPR and are qualified to issue appraisal reports for residential real property of one- to four-residential units, without regard to transaction value or complexity, or as authorized by federal regulation. Under the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Appraiser Qualifications Board (AQB) establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state certification.

  The minimum AQB qualifications for state-certified residential appraisers are:

  - Satisfaction of at least one of the following options:
    - Bachelor’s degree in any field of study from an accredited college or university
    - An Associate’s degree, or higher, from an accredited college, junior college, community college, or university in a field of study related to business administration, accounting, finance, economics, or real estate
    - Successful completion of at least 30 credit hours of required college-level subject matter courses; These can be from an accredited college, junior college, community college, or university or can be College Level Examination Program (CLEP) examinations, or any combination that ensures all courses have been completed.
    - A minimum of 200 classroom or distance learning hours of approved appraisal education, including the 15-hour national USPAP course
    - 1,500 hours of experience obtained during no fewer than 12 months
    - A passing grade on an AQB approved exam and a Florida state law exam

- **State-certified general appraisers.** State-certified general appraisers are individuals who are certified by the DBPR to issue appraisal reports for any type of real property classification as well as personal property appraisals and business valuations.

  The minimum AQB qualifications are:

  - A bachelor’s degree or higher (in any field) from an accredited college or university
  - A minimum of 300 classroom or distance learning hours of approved appraisal education including the 15-hour national USPAP course
  - 3,000 hours of experience obtained during no fewer than 30 months
  - A passing grade on an AQB approved exam and a Florida state law exam
VALUATION SERVICES PERFORMED BY REAL ESTATE LICENSEES

Real estate licensees may provide certain valuation services to give an opinion of the value of real estate in connection with the listing or sale of property, including:

- A valuation in a non-federally related transaction
- A comparative market analysis
- A broker price opinion

Valuation for Non-Federally Related Transactions

Real estate licensees who are licensed under Part I of F.S. 475 are permitted to perform valuations for a fee in non-federally related transactions. However, a real estate licensee must always remember that although they can perform limited valuation duties, they cannot use the term appraiser or appraisal unless certified or registered to do so.

Comparative Market Analysis (CMA)

A comparative market analysis (CMA) is developed by using the same basic steps as an appraiser uses with the sales comparison approach, but employs less stringent methods. This type of analysis is useful when dealing with sellers to assist them in establishing a listing price, and with buyers who are considering an offering price.

A CMA typically requires a licensee to obtain information about recent sales, properties currently offered for sale, and properties that have previously been listed but failed to sell in the subject neighborhood. Depending on a level of activity in the area, a period of 6-to-12 months should be examined. Comparing the prices of these three groups of properties allows a licensee, and those with whom the licensee deals, to see the range within which a subject property will most likely sell.

Sources of data for a CMA include the MLS, the property appraiser’s office, and the Clerk of Courts.

Properties selected should be as similar as possible. Major features such as square footage of living area, type of roof cover, number of bedrooms and baths, lot size, swimming pools, and so on, should be given greatest weight. Lesser-cost items do not have much effect on prices and do not need to be considered. Adjustments for physical differences should be extracted from the market by using the methods discussed in the sales comparison method of appraising earlier in this chapter.

Software programs are available to create quick, computer-generated CMAs. These programs can provide a quick value snapshot based on public data such as public tax records, but are not a substitute for a genuine CMA performed by a licensee, since the licensee has local knowledge and access to additional information to use as a basis of the sales comparison.

Broker Price Opinion (BPO)

A broker price opinion (BPO) is an estimate of a property’s value, determined by a real estate broker or sales associate. Although BPOs can be requested for many reasons, they are often requested by lenders who either own real estate that they have foreclosed on (REO or Real Estate Owned), or who may be considering a short sale transaction.
A lender may hire a real estate professional to perform a BPO to help determine the selling price of the property since the licensee typically has knowledge of the local market. The licensee will be asked to take photos of the property and complete a BPO report form provided by the lender. The report includes a neighborhood analysis of comparable properties along with local and regional market information. Factors that will affect the price of the property in a BPO report are the values of similar surrounding properties, sales trends in the neighborhood, and the amount of repair needed to put the property up for sale. BPOs are less thorough than an appraisal, but require more analysis than a basic CMA.

Anyone who holds an active broker or sales associate license, or appraisal certification in the state of Florida may prepare a BPO. The preparer is entitled to receive compensation for the BPO.

Automated Valuation Model (AVM)

Automated valuation models (AVMs) are electronic services that can provide an estimate of a property’s valuation very quickly. These models typically use electronic databases to compare the subject property to other properties in the area. Although AVMs may be faster and easier than appraisals or BPOs, they do not take into account property condition, neighborhood characteristics, and recent transactional data. As a result, AVMs are a tool that may be used, but are often followed up with a site visit or an actual appraisal.
CHAPTER 16 MATH PROBLEMS

Sales Comparison Approach Math Problem

An appraiser is appraising a three-bedroom home that has only one bathroom. The standard for the neighborhood is two bathrooms. From an analysis of the market, the appraiser believes that a bathroom contributes $4,000 to the value of a home. If a comparable property that has three bedrooms and two baths recently sold for $126,000 and is similar in all other respects to the subject property, what value should be estimated for the subject?

Answer: _________________________________

Cost-Depreciation Approach Math Problems

A residence has a living area which measures 42' x 38' and a garage that measures 24' x 22'. An appraiser feels that the living area would cost $63.00 per square foot to reproduce and the garage $19.00 per square foot. The home, which is five years old, is estimated to have a useful life of 50 years. Based on this information, answer the following questions.

1. What is the current reproduction cost of the property?

   Answer: _________________________________

2. What is the current depreciated cost?

   Answer: _________________________________

Income Approach Math Problems

1. If the net operating income is $4,000 and the capitalization rate is 16%, what is the value of the property?

   Answer: _________________________________

2. A property has a value of $300,000. If the capitalization rate is 12%, what is the net operating income?

   Answer: _________________________________

3. What is the capitalization rate of a property that has a value of $450,000 and income of $56,250?

   Answer: _________________________________

4. The monthly rent of a residence that recently sold for $91,800 is $850. What is the monthly gross rent multiplier?

   Answer: _________________________________

5. A warehouse sold for $740,000. If market evidence indicates an annual GIM of 8 is appropriate, how much income should be produced?

   Answer: _________________________________
CHAPTER 16 REVIEW QUESTIONS

1. An appraisal is an act or process of developing a(n) ______________ of value.

2. The most common type of value estimated by an appraiser is ______________ value.

3. The ______________ of an appraisal is to estimate some type of defined value.

4. How the appraiser’s client will use the appraisal is the appraisal’s ____________
   ____________.

5. The principle of ______________ states that a property of higher cost than those in the
   same area will have its value reduced.

6. The principle of ______________ states that value in the present is based on benefits
   to be received in the future.

7. A property with an inefficient floor plan would suffer from ______________
   obsolescence.

8. External obsolescence is ______________.

9. If the subject property is superior to a comparable property, the ______________
   property should be adjusted ______________.

10. Replacement cost can be estimated using the ______________ ______________ method, the
    ______________ ______________ method and the ______________ ______________ method.

11. The amount actually paid in a transaction is referred to as the ______________.

12. The amount that should be paid in a transaction is the ______________
    ______________ of the property.

13. The amount necessary to make an exact duplicate of a structure is the ______________
    cost.

14. The four characteristics of value are ______________, ______________,
    ______________ and ______________.

15. The most comprehensive and time-consuming method of estimating cost is the
    ______________ ______________ method.
CHAPTER 16 PRACTICE EXAM

1. What type of value does an appraiser most commonly estimate?
   a. Book
   b. Market
   c. Insurable
   d. Condemnation

2. How is investment value best defined?
   a. The value to an individual
   b. The highest price a property would sell for in an open market
   c. The value based on the use of the property
   d. The minimum value of a business opportunity

3. Which of the following conditions is necessary for the sales price of a property to equal its market value?
   a. The parties cannot be acting in their own self-interest.
   b. The property would have to be exposed to the market for an unreasonably short time.
   c. There can be no existing liens against the title.
   d. The transaction must involve a willing and informed buyer and seller.

4. What is market value?
   a. The amount a buyer is willing to pay
   b. The amount a seller is willing to accept
   c. The amount that should be paid
   d. The amount that was previously paid

5. How is a gross rent multiplier calculated?
   a. Multiply comparable property sales price by comparable property rent.
   b. Divide comparable property sales price by comparable property rent.
   c. Multiply comparable property sales price by subject property rent.
   d. Divide comparable property sales price by subject property rent.

6. Functional obsolescence includes which of the following?
   a. An over-improvement
   b. Broken windows
   c. A waste water treatment plant next to the subject property
   d. A property located in the glide path to an airport

7. Which appraisal approach would be given greater weight when appraising an apartment complex?
   a. Cost-depreciation
   b. Income approach
   c. Sales comparison
   d. Land residual

8. Which appraisal approach is most suitable for estimating the value of a single-family property?
   a. Cost-depreciation
   b. Sales comparison
   c. Income approach
   d. Land residual

9. What is the basis for the principle of substitution?
   a. An informed buyer will pay no more for a property than the cost of acquiring another equally desirable property with the same or equal utility.
   b. Properties will typically hold their value when properties in a neighborhood tend to be similar and conform to common standards.
   c. Although a property may have multiple potential uses, one will be the highest and best use.
   d. Smaller properties in a neighborhood of large properties will tend to increase in value, while larger properties in an area of smaller properties will tend to decrease in value over time.
10. All of the following methods may be used to estimate replacement/reproduction cost, EXCEPT:
   a. Quantity survey
   b. Economic age-life
   c. Unit-in-place
   d. Comparative unit

11. What estimate is a result of income divided by a capitalization rate?
   a. Market value
   b. The effective gross income
   c. Reproduction cost
   d. The amount of accrued depreciation

12. If income remains constant and the capitalization rate is reduced, what is the effect on value?
   a. Insufficient information is provided to determine the effect.
   b. The value decreases.
   c. The value increases.
   d. There is no effect on the value.

13. A new airport built in proximity to a residential neighborhood may cause properties to lose value due to which of the following?
   a. Physical deterioration
   b. External obsolescence
   c. Functional obsolescence
   d. Proximity obsolescence

14. In the income approach, a capitalization rate can be derived from which of the following?
   a. Tables published nationally by appraisal organizations
   b. Rate schedules maintained by lending institutions
   c. The interest rate paid on Treasury bills
   d. The relationship between sale prices and the income of similar properties

15. When making adjustments based on the following information, what should be done with the $2,000?
   Comparable sales price: $40,000
   Comparable property: Two-car garage
   Subject property: No garage
   Garage value: $2,000
   a. It should be added to the price of the comparable property.
   b. It should be added to the price of the subject property.
   c. It should be subtracted from the price of the subject property.
   d. It should be subtracted from the price of the comparable property.
CHAPTER 17
REAL ESTATE INVESTMENTS AND BUSINESS OPPORTUNITY BROKERAGE

OVERVIEW
In this chapter, the following topics are discussed: various types of investment real estate, types of risk associated with the purchase and ownership of real estate, methods of analyzing such investments, the tax consequences of both owner-occupied and investment real estate, and the distinction between most real estate transactions and the sale of a business.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Distinguish among the different types of real estate investments
- Identify the advantages and disadvantages of investing in real estate
- Calculate the percent of profit or loss, given the original cost of the investment, the sale price, and the dollar amount of profit or loss
- Distinguish among the various types of risk
- Explain the importance of investment analysis
- Describe the similarities and differences between real estate brokerage and business brokerage
- Describe the types of expertise required in business brokerage
- Distinguish among the methods of appraising businesses
- Explain how to determine taxable income of investment real estate
- Distinguish between installment sales and like-kind exchange
- Describe the steps in the sale of a business

KEY TERMS

<table>
<thead>
<tr>
<th>Appreciation</th>
<th>Installment sale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asset</td>
<td>Leverage</td>
</tr>
<tr>
<td>Basis</td>
<td>Like-kind exchange</td>
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<tr>
<td>Capital gain/loss</td>
<td>Liquidation value approach</td>
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<td>Cash flow</td>
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<td>Debt service</td>
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<td>Equity</td>
<td>Risk</td>
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<tr>
<td>Going concern value</td>
<td>Tax shelter</td>
</tr>
<tr>
<td>Goodwill</td>
<td>Taxable income</td>
</tr>
</tbody>
</table>

REAL ESTATE INVESTMENT ANALYSIS

The purchase of real estate as an investment has been popular for both high- and moderate-income investors. Most investment decisions depend on the rate of return or profit, which the investor expects to earn by assuming a risk in real estate or other type of
investment. A real estate sales associate can be a major resource to a potential investor if they are familiar with investment real estate, which includes both terminology and analysis.

A thorough analysis is critical when evaluating the potential of a real estate investment. Investment analysis must take into consideration land use controls, such as zoning, deed restrictions, and permitting requirements that affect the value of a property.

Investment analysis considers economic forces, such as population growth, investment of foreign capital, and the impact of taxation on real estate investments. The most important factor underlying every investment decision is economic soundness. Real estate licensees should be capable of evaluating the advantages and disadvantages of a potential real estate investment compared to alternative investments.

The process of investment analysis begins with the search for and location of potentially desirable real estate investments that are based upon the investor’s personal objectives.

Real estate investors can receive potentially significant rewards from real estate investments that include income generated by the property, a build-up of equity, appreciation in value, tax benefits, positive leverage, and prestige. Investment in real estate can also serve as a hedge against inflation when the property has level-payment mortgage where the payments remain the same, but the rental income increases with inflation.

Disadvantages of investing in real estate include the illiquidity of property (it cannot be bought or sold as quickly as other assets), the local (immobile) nature of the real estate market compared to other types of investments that can be bought and sold in a variety of markets, the expense or overhead required to manage the property or hire a property manager, and the need for additional investment assistance from experts such as brokers, tax accountants, and other professionals.

**TYPES OF INVESTMENT PROPERTIES**

The following discussion provides information about some of the different types of real estate available for investment.

- **Agricultural.** Agricultural property investors have many different motivations for investing in agricultural land. Some investors wish to personally engage in agricultural endeavors, while others may own the land and lease it to others for agricultural activities. Investors may also purchase agricultural land in the path of growth, allowing for lower taxes through agricultural exemptions, before ultimately selling or developing the property.

- **Business opportunities.** Business opportunities are typically smaller local businesses, such as barbershops, hair salons, print shops, corner stores, and boat rental businesses. Often an investor may be looking for a small business that he or she could own and manage, creating an income for him or herself. Business opportunities are normally valued based upon applying a multiplier to the net income being produced by the business. Value may also be applied to intangible assets such as a business’s name or reputation in the community.

- **Commercial.** Commercial investment properties include retail centers, such as regional shopping centers usually located near major transportation routes. Major retail centers attract anchor tenants that draw people to the center. Typically, these are the name-brand department stores in which people plan to shop. They are called generative functions, since they generate customer traffic to the center. Suscipient functions are businesses that attract passersby, such as card and gift shops, ice cream and novelty stores, and so on.
• **Industrial.** Industrial investment properties involve manufacturing, assembly, and distribution. These properties are located most often near major transportation arteries. Weight-reducing operations, such as mining operations, prefer locations near the source of their raw materials. Weight-gaining operations, such as assembly plants, prefer locations close to their market areas in order to reduce transportation costs.

• **Office.** Office investment properties are usually located in central business districts or professional office parks in suburban areas near their tenant base. Offices are usually good long-term investments since office tenants generally lease for extended periods.

• **Residential.** Residential investment property is available in a wide range of prices. Important factors to be considered when selecting residential properties are location, availability of transportation, schools, and shopping. Typical residential investments include condominiums, villas, single-family homes, and apartment complexes.

**Real Estate Investment Trust (REIT)**

A real estate investment trust (REIT), a type of business trust, allows groups of investors to invest in income-producing property. A REIT provides a method for individuals to pool financial resources to invest in larger, professionally managed properties. Investment trusts invest in office buildings, large apartment complexes, and retail centers. Purchasing shares in a REIT is similar to purchasing shares in a mutual fund. (Please refer to Chapter 5, Types of Business Formations section for more information on a business trust relationship.)

**REAL ESTATE INVESTMENT TERMINOLOGY**

**Amount Realized**

The amount realized, also referred to as net proceeds from sale, is expressed by the following formula:

\[
\text{Amount realized} = \text{Sale price} - \text{Costs of sale}
\]

Sale price is the total amount the seller receives for the sale, including money, notes, mortgages, or other debts the buyer assumes as part of the sale. The costs of sale include brokerage commissions, relevant advertising, legal fees, seller-paid points, and other closing costs paid by the seller.

**Basis**

Basis, or cost basis, is the original value of an asset for tax purposes. When purchasing a home, the basis includes the purchase price and any associated acquisition costs. Basis is used to determine the gain or loss on the sale, exchange, or other disposition of a property. Adjusted basis is a measurement of how much is invested in a property for tax purposes, including any IRS-allowed improvements, referred to as capital improvements. Examples of capital improvements include a new addition to the home, paving the driveway, replacing the roof, installing central air conditioning, and rewiring the home. By adding the cost of improvements to the basis, the amount of gain is reduced, thereby decreasing the amount of capital gains tax otherwise owed. Refer to "Tax Benefits of Homeownership" in Chapter 18 for tax benefits associated with the sale of a principal residence.
The adjusted basis may also include certain IRS-allowed reductions including such items as depreciation of investment property, casualty losses, and residential energy credits. The basic formula for adjusted basis is:

\[
\text{Adjusted basis} = \text{Cost basis} + \text{Increases} - \text{Decreases}
\]

**Capital Gain/Loss**

A *capital gain* is an increase in the value of an asset, such as personal or investment property, that gives it a higher value than the cost of purchasing the asset. If a property sells for more than the purchase costs, there is a capital gain. A *capital loss* is incurred when there is a decrease in the value of an asset that gives it a lower value than the cost of purchasing the asset. A capital gain or loss is not realized until the property is sold. A capital gain may be short term (one year or less) or long term (more than one year) and must be claimed on the investor’s tax return. The capital gain is represented by the basic formula:

\[
\text{Gain} = \text{Amount realized} - \text{Adjusted basis}
\]

**Cash Flow**

*Cash flow* is the movement of money into or out of a business or investment, measured over a period-of-time. Generally speaking, cash flow is the money that remains after all the income, such as rents, is collected and all the day-to-day expenses associated with owning the property are paid. Cash flow can be ongoing or one-time. *Ongoing cash flows* are received by the investor throughout the investment-holding period, as in rental income. *One-time cash flows* are sales proceeds received as a result of the sale of an investment property. Cash flows may be positive or negative. *Positive cash flow* occurs when there is more money coming in than going out, resulting in money remaining. *Negative cash flow* occurs when there is more money going out than coming in, resulting in a deficiency that the investor or business owner must pay out of pocket. Most investors and business owners desire a positive cash flow in order to achieve a profit and a high rate of return on their investment. However, there are tax benefits to negative cash flows.

**Appreciation**

*Appreciation* is an increase in the value of an investment over time. Investment property can appreciate in value for many reasons, such as inflation, supply and demand, and capital improvements. Most real estate investors purchase income property with the goal of realizing a positive cash flow and appreciation.

**Tax Depreciation**

*Tax Depreciation*, also referred to as *cost recovery*, is an income tax deduction that allows a taxpayer to recover the cost of investment property over a number of years.

**Tax Shelter**

A *tax shelter* is a legal method of minimizing or decreasing an investor’s taxable income, and therefore, their tax liability. Depreciation of a real estate investment can reduce an investor’s taxable income and is, therefore, a form of tax shelter.
**Equity**

*Equity* is the difference between the current market value of a property and the amount the owner still owes on the mortgage. The initial down payment creates equity. Additional equity is created through principal reduction and appreciation.

One advantage of investing in real estate is the *equity build-up* that can occur on mortgaged rental property. An investor who collects rent from a tenant can use the rental income to pay expenses and reduce the principal amount of the loan, which can increase the equity in the property. Over time, the tenant essentially pays for the property to the benefit of the investor. Some investors consider equity build-up as a good use of cash flows when the interest rates on savings accounts and certificates of deposits are lower than the rate of return on the investment property.

**Liquidity**

*Liquidity* refers to an asset's ability to be easily converted through an act of buying or selling without causing a significant movement in the price and with minimum loss of value. Cash is the most liquid asset. A *liquid asset* can be sold rapidly with minimal loss of value. The essential characteristic of a *liquid market* is that there are ready and willing buyers and sellers at all times.

An *illiquid asset* is one which is not readily saleable due to uncertainty about its value or a lull in the market in which it is regularly traded. One disadvantage of investing in real property is that property is considered an illiquid asset, which cannot be transferred as easily as other assets, such as stocks or bonds.

**Risk**

*Risk* is the possibility of losing all or part of the investment. Every investment involves a certain degree of risk. There are two primary types of risk: dynamic and static.

- **Dynamic risk.** Dynamic risk is risk associated with changes in general market conditions. The different types of dynamic risk are outlined below.

  - **Business risk.** Business risk is the possibility that an investment will yield lower than anticipated profits, or that it will experience loss rather than a profit. Business risk is measured by comparing actual income and expenses to budgeted income and expenses. If expenses are higher than projected, and/or income is lower than projected, the investment could be in jeopardy.

  - **Financial risk.** Financial risk is associated with extremely high expenses and/or extremely low income. The investor may be faced with adding to the original investment to keep it in operation. In the alternative, the investor may have to borrow more money or sell other assets to raise capital to prevent losing the investment. If an investor is unable to make the required payments on their debt obligations, they risk defaulting on the loan.

  - **Inflationary risk.** Inflationary risk, or purchasing-power risk, is the risk that future inflation will cause a decrease in purchasing power of the currency, resulting in a rise in the cost of goods and services. Inflation causes the investor's expenses to increase. Potential buyers may also lack the purchasing power to buy the property.
- **Interest rate risk.** *Interest rate risk* is the effect of the economy on the investment. If the value of a dollar increases or decreases because of inflation or deflation, interest rates could increase or decrease, which may affect the value of the investment or reduce the likelihood of selling it.

- **Liquidity risk.** *Liquidity risk* is the risk that an investment property cannot be bought or sold quickly enough to prevent or minimize loss.

- **Market risk.** *Market risk* is the possibility for an investor to experience losses due to the effect of the national or local real estate market. There are many sources of market risk that can affect the real estate market, including recessions, unemployment rates, availability of financing, changes in the economy, and other local conditions affecting specific markets.

- **Static risk.** *Static risk* is risk that can be offset with insurance, such as fire, flood, robbery, and so on.

Investors attempt to evaluate and minimize risk. A *feasibility study* is used as a basis for making a real estate investment decision. The feasibility study assesses financial, governmental, legal, social, physical, and locational factors that may influence the investor’s decisions, based on anticipated risk and potential reward.

**Leverage**

*Leverage* is the use of borrowed funds to purchase assets. Most investors make real estate investments with borrowed money. Positive leverage allows an investor to earn a higher rate of return on funds invested by borrowing than they could earn by paying cash for the investment. Financial leverage can be either positive or negative.

- **Positive leverage.** *Positive leverage* occurs if the investment returns more to the investor than the cost of borrowing the money necessary to purchase the investment.

- **Negative leverage.** *Negative leverage* occurs if the investment returns less to the investor than the cost of borrowing the money necessary to purchase the investment.

In most instances, an investor will use leverage to purchase real estate because of the expectation of positive leverage. However, highly leveraged investments require cash flows from the property to make the mortgage payments; debt service that is too high may make that impossible.

**EVALUATING INVESTMENT PROPERTIES**

Evaluating an investment property begins with the preparation of a *reconstructed operating statement* that shows annual forecasts of income and expenses over a period-of-time. Required rates of return based on forecasted income, expenses, risk, and length of the ownership period are applied to estimate the value of the property. The rate used to estimate value is dictated by the individual investor’s requirements, but tempered by a competitive market.

An analysis of the past income and expenses of an income-producing property can help to evaluate the future income of the property. However, it should be noted that new ownership and new management often result in a change in the operating characteristics of a property. Historical information is obtained from current owners to serve as a basis for making projections, but cannot always be relied upon. Consequently, figures obtained from
the current owner must be evaluated based on the individual investor’s requirements and allowances made for any changes that are anticipated in income and expenses.

As a result, the analysis must be based on revised historical operating data. In this case, the reconstructed operating statement includes items that are not included by the current owner and deletes items that are not expected to recur. Other figures may be increased or decreased based on the investor’s operating philosophy and management.

The forecast of income and expenses (shown below) is performed in the same manner as was discussed in the Appraisal chapter of this book. However, investment analysis goes beyond the calculation of the net operating income and considers the effect of financing and taxation on the investment.

\[
\begin{align*}
\text{PGI} &= \text{Potential gross income (contract rent plus market rent)} \\
- \ V&C &= \text{Vacancy and collection losses} \\
+ \ OI &= \text{Other income (from sources other than rent)} \\
\text{EGI} &= \text{Effective gross income} \\
- \ OE &= \text{Operating expenses} \\
\text{NOI} &= \text{Net operating income} \\
- \ ADS &= \text{Annual debt service (one year’s mortgage payments)} \\
\text{CTO} &= \text{Cash throw-off (BTCF, before-tax cash flow)}
\end{align*}
\]

Operating expenses include fixed expenses, variable expenses, and a reserve for replacements. Each is outlined below.

- **Fixed expenses.** *Fixed expenses* include costs that do not change with the level of occupancy, such as real estate taxes and hazard insurance.

- **Variable expenses.** *Variable expenses* change with the level of occupancy and include costs, such as management fees, maintenance, utilities, yard care, janitorial, and so on.

- **Reserve for replacements.** *Reserve for replacements* is a noncash expense. This money is for future use to replace worn-out components, called *short-lived items*, such as carpeting, appliances, central heat and air systems, roof coverings, and so on.

Mortgage payments, called *debt service*, are not considered an operating expense. Real estate does not borrow money, people do. The type and amount of financing is dictated by the needs of the investor, not the property. It would be inappropriate to charge the property for something unrelated to its operation.

After the net operating income is estimated, debt service is subtracted to obtain the cash throw-off (CTO). This is also called the *before-tax cash flow (BTCF)*. Investors will be concerned with an additional computation to determine the *after-tax cash flow (ATCF)*, which is beyond the scope of the pre-license course.

The objective of real estate investment analysis is to assist an investor in choosing the best property available among available alternatives and to base a price decision on the analysis performed. Applying ratios to the forecasted income and expenses can facilitate analysis. Ratios commonly used in the evaluation of income properties include the operating expense ratio and the loan-to-value ratio.
Operating Expense Ratio

The operating expense ratio expresses the relationship between the expenses incurred in operating the property (the operating expenses) with the amount the investor actually receives (the effective gross income). This relationship is expressed as a percentage, or ratio. The formula is as follows:

\[
\text{Operating expense ratio} = \frac{\text{Operating expenses}}{\text{Effective gross income}}
\]

Loan-to-Value Ratio

The loan-to-value (LTV) ratio measures financial risk in an investment by comparing the mortgage loan amount to the price, or value, of the property. This ratio indicates the percentage of the property value that is represented by debt. A higher LTV ratio increases the risk of the borrower’s default. The formula is as follows:

\[
\text{Loan-to-value ratio} = \frac{\text{Loan amount}}{\text{Property value}}
\]

Calculating Profit on Investment

Profits from investments are calculated on the amount that is originally invested, not on the amount received when the investment is sold or liquidated. The following formula is used to determine the profit based on the original investment amount paid:

\[
\text{Profit or loss } \% = \frac{\text{Amount made}}{\text{Amount paid}}
\]

The money gained or lost (amount made) is the amount that remains after subtracting the original amount paid for the property (amount paid) from the amount received on the sale of the property (liquidation or sale).

Example: Assume that an investor paid $100,000 for a parcel of land, divided it into three separate lots, and sold each lot for $50,000. What is the profit on this investment?

Solution: The profit on this investment is 50%. Profits from investments are calculated on the amount that is originally invested, not on the amount received when the investment is sold or liquidated.

\[
\begin{align*}
\text{Sale price of each separate lot} & = 50,000 \\
\text{Number of lots sold} & = 3 \\
\text{Gross sales price} & = 150,000 \\
\text{Amount paid} & = 100,000 \\
\text{Amount made} & = 50,000
\end{align*}
\]

To determine the percentage of profit, divide the amount made by the amount paid:

\[
\frac{50,000 \text{ (Made)}}{100,000 \text{ (Paid)}} = .50 \text{ (50%) Profit}
\]
Rate of Return (ROR)

The money made in an investment is referred to as the return. The investment amount made with the original purchase is referred to as the capital, or capital investment. The return from an investment is calculated based upon the capital investment. Investors want to achieve a high rate of return.

The IRV formula discussed in Chapter 16 to derive capitalization rates can also be used to calculate the rate of return (ROR). When evaluating investments, the ROR replaces the cap rate that was used in Chapter 16. Dividing the net operating income (NOI) by the investment value will provide the investor with the ROR. This is the rate of return that the property returns to the investor.

\[
\text{Rate of return (ROR)} = \frac{\text{Net operating income (NOI)}}{\text{Investment value}}
\]

If the investor wishes to determine the rate that is being received based upon the actual equity invested (vs. the rate on the overall investment), then an equity dividend ratio would be used. The formula for equity dividend ratio (EDR) is:

\[
\text{Equity dividend ratio (EDR)} = \frac{\text{Cash throw off (CTO)}}{\text{Original equity}}
\]

The equity dividend ratio provides the investor with a return on the money they invested in the project (i.e., return on their down payment or cash invested).

Loan Constant

A loan constant is an interest and principal factor used to calculate a level monthly payment necessary to pay off both principal and interest over the term of the loan. Today, financial calculators and computers are typically used to calculate payments and amortization schedules. In the past, booklets were published where the interest rate and term of the loan were matched to arrive at a constant. The constant was then applied to the original loan amount to determine the monthly payment.

Example: Calculate the monthly payment on a new loan of $100,000 at 10% for 30 years, using a monthly loan constant of .0087757.

Solution:

\[
\text{Loan Balance} \times \text{Loan Constant} = \text{Monthly Payment}
\]

\[
\begin{align*}
100,000 \times 0.0087757 &= 877.57 \\
\end{align*}
\]

IMPACT OF FEDERAL TAXATION

Real estate investment strategies and long-term planning of investment portfolios are impacted by federal taxation. Since taxation is an important consideration in all real estate transactions, real estate licensees must be knowledgeable concerning tax matters. However, they must also exercise extreme caution to avoid giving advice regarding tax matters. Investors should be advised to seek the advice of qualified experts in the field of taxation.
The Tax Reform Act of 1986, the Tax Act of 1993, the Taxpayer Relief Act of 1997, and revisions to the tax code made in 2003 have made significant changes in tax treatment associated with real estate. The following discussion presents some of the changes related to these laws.

Depreciation

One benefit that is not available to homeowners but is available to investors and the owners of businesses is the ability to deduct a portion of the money that they have invested in their property each year from their gross income. This deduction is referred to as cost recovery, or tax depreciation.

A system called the Modified Accelerated Cost Recovery System (MACRS) was adopted in 1986, thereby replacing the Accelerated Cost Recovery System that was implemented in 1980. Cost recovery, in the language of the tax code, refers to tax depreciation. The MACRS stipulates the time periods over which investment real estate can be depreciated for tax purposes. The time period begins when the property is placed in service, which, essentially, means the time in which title is taken.

Tax law currently allows the owners of residential and low-income investment properties to depreciate a portion of their investment over 27.5 years on a straight-line basis. The residential category includes single-family rentals, all apartment rentals, and mobile homes. The owners of nonresidential investment properties may depreciate a portion of their investment over 39 years, also on a straight-line basis. Hotels and motels are classified as nonresidential.

To calculate the amount of the allowable deduction, the total cost of acquisition, including the total cost of the property plus closing costs, is allocated on a percentage basis to the land and improvements. The basis for depreciation is that portion of the total cost, including closing costs, which applies to the improvements. Land cannot be depreciated. This amount is evenly divided by the number of years allowed, either 27.5 or 39, depending on the type of property. That is what is meant by straight-line; the same dollar amount is deducted each year. This percentage can be calculated by having an appraisal made or using the percentages of land and improvements utilized by the property appraiser’s office. The basis is reduced each year by the amount allowed until the total depreciable basis equals zero or the property is sold.

Example: An apartment complex was purchased for $100,000; closing costs were $10,000. An appraisal indicated the improvements represented 75% of the value of the property. What amount may the investor deduct each year for tax purposes?

Solution:

\[
\begin{align*}
\text{Purchase price} & = \$100,000 \\
\text{Closing costs} & = \$10,000 \\
\text{Total acquisition cost} & = \$110,000 \\
\text{Improvements percentage} & = .75 \\
\text{Basis for depreciation} & = \$82,500
\end{align*}
\]

\[
\frac{\$82,500 \text{ Basis for depreciation}}{27.5 \text{ Residential depreciation (in years)}} = \$3,000 \text{ Per year cost recovery}
\]

In the example above, the investor can claim $3,000 each year as an expense on their personal tax return until the entire $82,500 has been claimed.
Capital Gains Tax

Capital gain is profit made when an income property is sold.

Under the American Taxpayer Relief Act of 2012, the top capital gain tax rate has been permanently increased to 20% (up from 15%) for single filers who have incomes above $400,000 and married couples filing jointly who have incomes exceeding $450,000. The Act also changed the depreciation recapture rate to 25% for all taxpayers, independent of tax bracket.

A summary of the current capital gain tax rates for taxable income ranges follows:

<table>
<thead>
<tr>
<th>Single Taxpayer</th>
<th>Married Filing Jointly</th>
<th>Capital Gain Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $36,250</td>
<td>$0 - $72,500</td>
<td>0%</td>
</tr>
<tr>
<td>$36,251 - $400,000</td>
<td>$72,501 - $450,000</td>
<td>15%</td>
</tr>
<tr>
<td>$400,001 +</td>
<td>$450,001 +</td>
<td>20%</td>
</tr>
</tbody>
</table>

If tax depreciation has been deducted during the ownership period, the proceeds of a sale will be taxed at two different rates. The capital gains tax rate shown above is for capital assets held over 12 months. A portion of depreciation claimed during the ownership must be recaptured at the time of sale, and is taxed at a depreciation recapture rate of 25%. Profit made on the sale of property owned for a period of 12 months or less is taxed at the investor’s ordinary tax rate.

**Example:** Capital gains tax calculation.

An apartment building was purchased for $100,000 by an investor with a taxable income of $300,000. Closing costs were $10,000. An appraisal indicated the value of the improvements represent 75% of the value of the property.

Only that portion of the purchase price allocated to the improvements can be depreciated. The basis for depreciation is reduced each year to arrive at the adjusted basis. When the adjusted basis reaches zero, no further depreciation may be claimed.

After five years of ownership, the adjusted basis is calculated as shown:

\[
\begin{align*}
\$100,000 & \text{ Purchase price} \\
+ \$10,000 & \text{ Closing costs} \\
\$110,000 & \text{ Acquisition cost} \\
\times 0.75 & \text{ Improvement percentage} \\
\$82,500 & \text{ Basis for depreciation} \\
\end{align*}
\]

\[
\frac{\$82,500 \text{ Basis for depreciation}}{27.5 \text{ Residential depreciation (in years)}} = \$3,000 \text{ Annual depreciation allowance}
\]

\[
\begin{align*}
\$3,000 & \text{ Annual depreciation allowance} \\
\times 5 & \text{ Years of ownership} \\
\$15,000 & \text{ Total depreciation} \\
\$82,500 & \text{ Basis for depreciation} \\
- \$15,000 & \text{ Depreciation already claimed} \\
\$67,500 & \text{ Adjusted basis}
\end{align*}
\]
If the property was held longer than 12 months and sold for $150,000, the capital gains tax due on sale would be calculated in two steps:

**Step 1**

\[
\begin{align*}
\text{Sales price} & = \$150,000 \\
\text{Acquisition cost} & = \$110,000 \\
\text{Capital gain} & = \$40,000
\end{align*}
\]

\[
\begin{align*}
\text{Capital gains tax rate} & = 0.15 \\
\text{Tax on gain} & = 0.15 \times \$40,000 = \$6,000
\end{align*}
\]

**Step 2**

\[
\begin{align*}
\text{Depreciation recaptured} & = \$15,000 \\
\text{Tax rate on recapture} & = 0.25 \\
\text{Tax on recapture} & = 0.25 \times \$15,000 = \$3,750
\end{align*}
\]

\[
\begin{align*}
\text{Total tax due} & = \$6,000 + \$3,750 = \$9,750
\end{align*}
\]

Income Classification

Under the Tax Reform Act of 1986, income must be separated into three categories: active, passive, and portfolio.

- **Active income.** Active income is income from salaries and wages.

- **Passive income.** Passive income includes income from rental activity and any investments in which the investor does not materially participate.

- **Portfolio income.** Portfolio income is income from dividends.

The significance of the separation of income into separate categories is that a loss cannot be offset against income from another classification; it can be offset only by income in the same classification. This is in order to eliminate many forms of tax shelters, and to expose more income to federal income tax. Losses that cannot be offset by gains in any given year must be carried forward to subsequent years; they may not be deducted against income from other sources such as salary, interest, dividends, or other active business income. If a property is sold at a gain, any losses from previous years may be used to offset losses carried forward.

Exceptions are as follows:

- **Limited exception.** A limited exception is when a small investor has an opportunity to retain a tax shelter advantage. An investor with an adjusted gross income of $100,000 or less may offset up to $25,000 of passive losses against active portfolio income as long as,
  
  o Management decisions are made by the taxpayer  
  o The taxpayer owns at least 10% of the investment  
  o The adjusted gross income of the taxpayer is below $100,000

  This benefit is phased out on a percentage basis when the investor’s income rises above $100,000, and is eliminated when the investor’s income is above $150,000.  
  This exception exists even if a rental agent or property management firm handles the property. Management decisions include approving new tenants, deciding on rental terms, approving expenditures, and other similar decisions.

- **Exception for real estate licensees.** The exception for real estate licensees is found in the Tax Law of 1993 that provides additional relief for real estate licensees who spend a minimum of 750 hours per year in the real estate business and incur passive loss from rental activities. Real estate licensees who own investment real estate should contact their tax accountants for clarification of this provision.
Capital Gains and Losses

A capital gain or loss occurs when an investment or business property is sold for an amount greater or lesser than the amount paid. Income from properties held for sale to customers, such as model homes offered for sale by builders, is considered to be an active income since these are not considered to be investment properties.

As discussed above, passive losses must be carried forward and offset against future gains from passive activity. Capital gains, on the other hand, are realized income. Generally speaking, realized income is subject to income tax in the year in which it is earned.

There are two methods an investor can use when a property is sold to reduce or defer the amount of tax due on the transaction: a tax-deferred exchange or an installment sale.

- **Tax-deferred exchange.** A tax-deferred exchange allows any capital gain realized from the sale of investment property to be transferred into another property by exchanging properties. An investment real estate that is exchanged for other investment real estate is called a *like-kind exchange*. The problem with this type of transaction is that most properties do not have the same value. Therefore, in order to conclude the exchange, investors often include cash, or other forms of unlike property, to equalize the transaction. Unlike property received in a tax-deferred exchange is called *boot* and is taxable to the recipient. To the extent that the equities are equal, the capital gain is deferred, or postponed, until the property is sold.

  Note that this does not eliminate the tax; it is allowed to be recognized in a later tax year. This can be an advantage in tax planning, particularly when an investor expects to be in a lower income tax bracket in future years.

- **Installment sale.** Installment sale is a form of seller financing. No down payment is required to qualify as an installment sale. It qualifies as long as at least one payment is received in a tax year subsequent to the year of sale. Under installment sale treatment, only the percentage of gain received in any given year is taxable. Therefore, the gain can be spread over several years, thereby reducing the amount of tax due in any tax year.

**Investment Interest Limitation**

Deduction of investment interest is limited to the amount of net investment income within the tax year. The investment interest limitation applies to all interest paid for tax years beginning after December 31, 1986, regardless of when the debt was incurred.

- **Investment interest.** *Investment interest* is all interest charged on debt that is not incurred in connection with the taxpayer’s primary trade or business.

- **Investment income.** *Investment income* is gross income from interest, dividends, rents, royalties, and income not derived from a trade or business.

- **Net investment income.** *Net investment income* is the excess of investment income over investment expense.
At-Risk Rules

A taxpayer may deduct losses from an activity only to the extent of the amount of investment capital that is at risk. Retained provisions of the Tax Reform Act of 1986 include credits for a taxpayer who restores a historical building. The Act also provides credits for qualified low-income housing projects.

BUSINESS ENTERPRISE AND OPPORTUNITY BROKERAGE

Business Brokerage

A business brokerage offers real estate services that are connected with the sale or lease of businesses. The sale of a business may or may not include the sale of real property.

The sale or lease of a business is a real estate transaction. Persons and firms that offer brokerage services connected with the sale or lease of a business are regulated by F.S. 475, and are required to hold a real estate license. Regulation of business brokerage became effective in 1982. The legislature believed a real estate license should be required in the brokerage of a business since the transaction almost always involves either the sale of real estate or negotiation of a lease.

The sale of a business may involve the transfer of ownership of shares of stock, limited partnership interests, or other forms of securities. Persons who deal in securities are required to have a separate license. Real estate licensees must be certain that securities laws are not violated when listing or selling a business.

A real estate licensee may also need to hold a securities license if the transaction includes the transfer of corporate stock or limited partnership interests. Legal counsel is strongly advised before proceeding with the sale of a business.

Business brokerage consists primarily of analyzing financial statements. Those engaged in this aspect of real estate are required to have knowledge concerning business formations, and be able to read and understand operating statements and financial balance sheets. An income statement is a history of income and expenses over a stated period, such as a month or a year. A balance sheet reflects the financial condition of a business as of a particular time.

Business Enterprise Defined

A business enterprise involves transactions that are in excess of $200,000. The brokerage of larger businesses usually involves the transfer of stock shares or other types of security. The transaction may or may not involve the sale of real estate. If not, negotiation of a lease may be required.

Markets for business enterprises are typically wider in geographic scope than markets for individual parcels of real estate.

Business Opportunity Defined

Business opportunities involve smaller businesses with sales prices of $200,000 or less. These businesses typically have a limited amount of assets. The ownership of such businesses may also involve securities, but many are sole proprietorships or partnerships that do not.

The sale of many of these businesses involves only the sale of inventory and fixtures, and an assignment of a lease.
**Expertise Required of Business Brokers**

Generally, business brokers work in conjunction with certified public accountants and attorneys. Business brokers must have an understanding of corporate finance and knowledge regarding the classes and characteristics of corporate stock, securities analysis and valuation, capital management, and budgeting.

A business broker must have knowledge regarding business accounting, including classes of assets and liabilities, income statement analysis, balance sheet analysis, cash-flow analysis, asset depreciation methods, and taxation.

**Appraisal Using the Liquidation Value Approach**

The comparable sales approach, cost-depreciation approach, and income approach (discussed in Chapter 16) can all be used to appraise a business. A fourth method, the liquidation value approach, may also be used. This approach is unique to the valuation of a business.

Liquidation value is the value that remains after liquidating all the assets of the business and satisfying all the liabilities. This approach is used to value a failing business that is not expected to continue to do business. It can also be used to establish the minimum value of a profitable business.

The appraisal of a profitable business presents a unique challenge. The value of the business is not just the value of any real estate owned, but rather, a composite of the values of the real estate, personal property, and intangible assets, such as licenses, franchises, noncompetition contracts, and so on. When the value of all assets is combined, it creates what is known as going concern value.

**Reasons for a Business Appraisal**

Business owners or potential purchasers may request an appraisal in order to establish a sales or purchase price, obtain a loan, or for insurance purposes. Other reasons include condemnation, buy-sell agreements, property settlements, estate settlements, or to be used in connection with employee stock option plans.

**Uniform Commercial Code**

The *Uniform Commercial Code (UCC)* is a body of standardized rules that regulate commercial transactions throughout the nation by focusing on the sale and financing of personal property. Florida has adopted a version of the UCC as law.

When personal property is sold in a commercial transaction, a *Bill of Sale* is used to identify the property conveyed. This document is similar to a deed. If financing is involved, a standard *Security Agreement* is used to identify the property that is security for the debt. The Security Agreement is similar to a mortgage and is usually recorded to protect the lender’s interest in the property.

An attorney must be retained to prepare documents used in compliance with the UCC; real estate licensees may not prepare these on behalf of customers or principals.
Accounting Terms

Agents involved in the selling of businesses should be familiar with the following terms and the accounting formula:

- **Assets.** Assets are items of value that are owned by a business. Assets include accounts and promissory notes receivable, cash, inventory, production machinery, real estate, personal property, patents, trademarks, and *goodwill* (the value of the name of the business in the marketplace).

- **Liabilities.** Liabilities are debts that are owed by a business. Liabilities include accounts and notes payable, and long and short-term debt. Short-term liabilities are debts that must be recognized within one year or less. Long-term liabilities are debts that will not come due for more than a year, such as mortgage balances.

- **Owner’s equity.** *Owner’s equity* is the difference between assets and liabilities.

- **Basic accounting formula.** The *basic accounting formula is*

  \[
  \text{Assets} - \text{Liabilities} = \text{Owner equity}
  \]

- **Capital.** Capital is the total amount that is invested. Capital includes the funds that were used to start the enterprise, money that is invested during operation, and retained capital.

- **Tangible assets.** Tangible assets are assets that have physical existence such as buildings, furniture, office equipment, and so on.

- **Intangible assets.** Intangible assets have no physical existence, but have monetary value. Intangible assets include stock shares, trademarks, copyrights, research and development expenses, noncompetition contracts, franchises, and goodwill.

Steps in the Sale of a Business

The steps taken to list and sell a business are not unlike the steps that are taken to list and sell any other real estate. The exception, of course, is the knowledge and experience necessary to properly value and market the business.

- **Step 1 Acquire the listing.** The listing process is virtually the same as listing other property for sale.

- **Step 2 List the assets.** A detailed list of all tangible and intangible assets is required.

- **Step 3 Determine the value of the business.** Estimate the value of the business by using the appropriate appraisal methods.

- **Step 4 Deduct liabilities.** The value established in Step 3 must be reduced by the amount of liabilities, long- and short-term. This includes the value of any preferred, outstanding stock.
Step 5  **Determine the value of the stock.** If a corporation is being sold by transferring shares of stock, the share value must be determined. Divide the net value of the business by the number of shares to determine the per-share value.

Step 6  **Ensure legal compliance.** Review the transaction carefully before proceeding in order to be certain that all laws have been complied with. This includes real estate, securities, mortgage brokerage licensing laws, and UCC requirements.

Step 7  **Close the transaction.** Locate a buyer who is interested in the business and conclude the sale.
CHAPTER 17 MATH PROBLEMS

The following information has been obtained regarding an investment property that is being analyzed.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase price</td>
<td>$280,000</td>
</tr>
<tr>
<td>Down payment</td>
<td>$ 70,000</td>
</tr>
<tr>
<td>Annual debt service</td>
<td>$ 21,148</td>
</tr>
<tr>
<td>Interest portion of the debt service</td>
<td>$ 18,805</td>
</tr>
<tr>
<td>Potential gross income</td>
<td>$ 70,000</td>
</tr>
<tr>
<td>Effective gross income</td>
<td>$ 65,800</td>
</tr>
<tr>
<td>Reserve for replacements</td>
<td>$ 6,000</td>
</tr>
<tr>
<td>Net operating income</td>
<td>$ 34,600</td>
</tr>
</tbody>
</table>

Based on this information, find the answers to the following questions.

1. What is the loan-to-value ratio?

Answer: 

2. What is the operating expense ratio?

Answer: 

3. What is the before-tax cash flow?

Answer: 

4. You are reviewing the Closing Disclosure (for property that is not located in Miami-Dade County) and note that the documentary tax on the deed is $6,000. The tax on the promissory note is $2,500. What is the loan-to-value ratio of this transaction?

Answer: 

5. What is the operating expense ratio of a property that has an effective gross income of $90,000 and a net operating income of $40,000?

Answer: 

CHAPTER 17 REVIEW QUESTIONS

1. A business with sales of less than $200,000 is classified as a business ____________________.

2. The Uniform Commercial Code essentially covers the sale of __________________________
__________________________.

3. __________________________ liabilities mature in more than one year.

4. The basic accounting formula states that assets minus liabilities equals
__________________________
__________________________.

5. _________________ assets are those that have no physical existence.

6. When the cost of borrowing money to purchase an investment exceeds the rate of return on the investment, the investor is experiencing ________________ leverage.

7. The transfer of personal property in a commercial transaction is generally accomplished using a(n) ________________ ________________ ________________.

8. An instrument similar to a mortgage that is used to secure payment due on the sale of personal property in a commercial transaction is called a(n) ____________________
______________________.

9. Liquidation value may be used to establish the minimum value of a business that is ________________.

10. The ability that a business broker must possess that distinguishes them from most other real estate brokers is knowledge of ________________ and ________________
__________________________.

11. A business broker must be able to read and understand ________________
__________________________ and ________________ ________________.

12. Dividing the operating expenses by the effective gross income results in the calculation of the ____________________ ________________ ratio.

13. The risk associated with losses from storms, fire, or theft, is referred to as ________________ risk.

14. The money made in an investment is referred to as a(n) ________________.
1. Why is the process of real estate investment analysis important to an investor?
   a. It helps an investor to select properties that meet personal objectives.
   b. It determines the amount of taxes due on income-producing property.
   c. It determines the exact cash flow from an investment property.
   d. It makes possible the best use for a property based on zoning.

2. Fixed expenses typically include which of the following?
   a. Real estate taxes and hazard insurance
   b. Management fees and depreciation
   c. Utilities and repairs
   d. Mortgage payments and income taxes

3. Which of the following statements regarding reserves for replacements is correct?
   a. They are a cash expense.
   b. They should not be considered in a residential income property.
   c. They are used to pay for normal maintenance of the property.
   d. They are a noncash expense that is used to replace short-lived components that wear out from time to time.

4. What is the formula to determine the loan-to-value ratio?
   a. Loan multiplied by value
   b. Value divided by loan
   c. Loan divided by value
   d. Loan subtracted from value

5. What type of risk is caused by changes in general business conditions?
   a. Dynamic
   b. Equity
   c. Leverage
   d. Static

6. If an investor earns a lower rate of return on invested capital than the rate that is paid on borrowed funds, what type of leverage is indicated?
   a. Positive
   b. Neutral
   c. Negative
   d. Cumbersome

7. What is the time period established by the IRS over which nonresidential investment real estate can be depreciated?
   a. 39 years
   b. 27.5 years
   c. 22 years
   d. 15 years

8. All of the following items are relevant when estimating the value of a business, EXCEPT:
   a. Personal property owned
   b. Short-term liabilities
   c. Business goodwill
   d. Personal income taxes

9. Which document indicates the financial condition of a business as of a particular time?
   a. Operating statement
   b. Profit and loss statement
   c. Balance sheet
   d. Bank statement

10. Which of the following statements best describes business brokerage?
    a. It should not be conducted by real estate licensees.
    b. It cannot be conducted by real estate licensees unless they also possess a mortgage broker’s license.
    c. It consists primarily of analyzing financial statements.
    d. It would rarely involve securities transactions.
11. Real estate licensees who are engaged in business brokerage might need to have a securities license if the transaction involves which of the following?
   a. Negotiation of a new mortgage loan
   b. An analysis of financial statements
   c. Renegotiation of an existing lease
   d. Transferring shares of stock or limited partnership interests

12. Under the Uniform Commercial Code, what is the document used to secure financing of personal property?
   a. Deed
   b. Bill of sale
   c. Security agreement
   d. Trust agreement

13. All of the following are considered business assets, EXCEPT:
   a. Goodwill
   b. Notes payable
   c. Accounts receivable
   d. Furniture and equipment

14. Which document most closely resembles a deed?
   a. Bill of sale
   b. Security agreement
   c. Balance sheet
   d. Operating statement

15. Which of the following is not considered an operating expense for appraisal or income tax purposes?
   a. Fixed expenses
   b. Variable expenses
   c. Reserve for replacements
   d. Annual debt service
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OVERVIEW

Taxes which are associated with real estate ownership are of critical importance to individuals when buying a home or making a real estate investment. A real estate professional must be familiar with property taxes in order to provide information and answer customer’s questions concerning the effect of taxes. A real estate professional should be capable of discussing the services local government provides that are funded by property tax revenues.

OBJECTIVES

After completing this chapter, you should be able to do all of the following:

- Distinguish among immune, exempt, and partially exempt property
- Describe the various personal exemptions available to qualified owners of homestead property
- Compute the property tax on a specific parcel, given the current tax rate, assessed value, eligible exemptions, and transfer of assessment limitation difference (Save Our Homes portability), if applicable
- List the steps involved in the tax appeal procedure
- Describe the purpose of Florida’s Green Belt Law
- Calculate the cost of a special assessment, given the conditions and amounts involved
- Describe the tax advantages of home ownership

KEY TERMS

| Ad valorem | Just value |
| Assessed value | Mill |
| Assessment limitation | Millage rate |
| Exempt properties | Save Our Homes portability |
| Homestead tax exemption | Special assessment |
| Immune property | Tax rate |
|                      | Taxable value |

REAL PROPERTY TAXATION

Purpose and Use of Real Estate Taxes

The U.S. Constitution prohibits the federal government from levying property taxes. The Florida State Constitution limits the tax burden that can be placed on individual properties. The U.S. government relies mainly on income taxes as a source of revenue, while the state relies on state sales and use taxes to fund the cost of state government services. Property tax revenue is collected and used by local government to provide public services such as law enforcement, fire protection, roads, schools, and so on. There are three primary taxing districts in Florida: city, county, and school board. In addition, there are numerous smaller special taxing districts that provide neighborhoods with certain types of services that are not provided to the entire area. These may include fire control districts,
flood control districts, mosquito control districts, and others. A resident who lives outside of a taxing authority (i.e. outside of the city limits) would not have taxes levied for that taxing district.

**Tax Rates Expressed in Mills**

A *tax rate* is the percentage at which an item is taxed. Property and school tax rates in Florida are expressed in the form of *mills*, or *millage rates*. The millage rate is the amount per $1,000 that is used to calculate the tax.

One mill is expressed as the decimal number .001, the equivalent of 1/1,000 of a dollar.

There are ten mills in a penny, 100 mills in a dime, and one thousand mills in a dollar.

Mills are written as decimals rather than whole numbers, so it is necessary to convert the number of mills into decimal before calculating the real estate tax levy. Since mills are expressed in thousandths of a dollar, the decimal form of a mill uses three places to the right of the decimal point.

**Example:**

1 mill = .001; 8 mills = .008; and 13 mills = .013.

An easy way to convert mills into a decimal value is to place an implied decimal point to the right of the number of mills. Then, move the decimal point three spaces to the left, inserting zeros to hold the place as follows:

6 mills $\Rightarrow$ 0 0 .6. = .006

When adding the decimal form of mills, you must line up the decimal places.

\[
\begin{array}{c}
6 \text{ mills} \\
+ 12 \text{ mills} \\
\hline
18 \text{ mills}
\end{array}
\]

\[
\begin{array}{c}
= .006 \\
= + .012 \\
= .018
\end{array}
\]

**The 10 Mill Cap**

The Florida Constitution limits local government tax rates to 10 mills for each taxing authority. This is referred to as the *10 mill cap*. The taxing body may select any rate necessary as long as it does not exceed the statutory limit. The state legislature has, from time-to-time, established rates that are lower than 10 mills, but they cannot be higher.

**Property Tax Assessments**

Real estate property taxes are *ad valorem taxes*, which means “according to value” and, therefore, are based on the value of the property. The term “property tax” is used interchangeably with the term “ad valorem tax.”

The county property appraiser in each county assesses all property for real estate tax purposes each year. The estimate of value that is determined by the county property appraiser is called the *assessed value*, which by law must be based on the concept of *just value*. Just value means “fair value,” and has been interpreted by the courts in Florida to represent the market value of the property. To avoid duplication of effort, all taxing districts in the county must base their taxes on the assessed value that is determined by the county property appraiser.

An *exemption* is an amount allowed by law based on certain circumstances or status that reduces the amount that would otherwise be taxed. *Taxable value* is the assessed value of property minus the amount of any applicable exemptions. A property’s taxable
value is the value used for determining the property owner’s tax liability. The tax levy is the actual amount of tax payable by each property owner. The tax levy is not determined by the property appraiser’s office. The tax levy is determined by multiplying the taxable value by the applicable millage rates.

After the county property appraiser determines the assessed value of the land and any improvements, the property owner is notified by mail of the assessment through a True Rate in Millage (TRIM) notice. The TRIM shows the assessed value, how much tax was paid last year, how much the taxes will be if no change is made in the budget, and how much the taxes will be if proposed changes are made in the budget.

The assessment is as of January 1st; the TRIM notice is generally mailed in August, and the budgets are not adopted until September. Since the budget has not been finalized as of the time in which the TRIM notice is mailed, the county property appraiser cannot provide the actual amount of the taxes that are due.

Protesting the Tax Assessment

Not all property owners are willing to accept the assessed value that is determined by the county property appraiser. A protest procedure allows an owner, who disagrees with their assessment, to challenge the value and, hopefully, receive a lower assessment, thereby resulting in a lower tax bill.

Protesting a tax assessment is a three-step process:

Step 1
Protest the assessment by requesting an informal conference with the county property appraiser. This conference can be conducted at any time throughout the year, but is usually not very effective until the assessment for the current tax period is known.

Step 2
Within 25 days of the mailing date of the TRIM notice, file a request for a hearing before the Value Adjustment Board. The Value Adjustment Board is composed of two county commissioners, one school board member, and two private citizens. One local homesteaded homeowner will be appointed by the county. The other citizen will be appointed by the school board, and must be a business owner who occupies commercial space in the school district.

Step 3
File an appeal with the District Court of Appeals (certiorari proceeding) within 60 days from the date of the hearing before the Value Adjustment Board. [F.S. 194.011]

The protest may be successful at any one of these three steps. If the protest should fail all three steps, the property owner has no further alternative but to pay the taxes due based on the original assessed value.

REAL ESTATE TAX EXEMPTIONS AND LIMITATIONS

Tax revenues pay the bulk of the cost of local government. The total revenue required is determined by the amount of the budget. Any property owner who pays a reduced tax bill or none at all means that other properties will have to pay more in order for the budgeted amount to be realized. That does not say that all exemptions should be eliminated, but the effect of exemptions should be fully realized by licensees. An exemption is not truly an exemption; it is a shift of the responsibility for payment of the amount required to maintain government services from one party to another.
For tax purposes, properties can be classified as follows:

- Full payment: Those who pay a full tax levy
- Partially exempt: Those who pay a reduced levy because they qualify for a partial exemption that is less than 100%
- Fully exempt: Those who pay no real estate taxes because they qualify for a full exemption (100%)
- Immune: Those who are not included in the taxable value because they are immune from paying taxes

**Exempt Property**

Property owned by churches and nonprofit organizations that are engaged in charitable activities are assessed for tax purposes but receive a 100% exemption from payment of property taxes.

**Immune Property**

Property owned by local, state, and federal governments is *immune*. This would include airports, schools, county court houses, military bases, etc. These properties are not assessed, or subject to taxation when used to provide government services. Government-owned properties that are leased to private businesses, such as office buildings and warehouses, are subject to property taxes.

**Greenbelt Laws**

Greenbelt laws provide farmers with favorable tax treatment if their property is used for agricultural purposes. Greenbelt laws assure that the property will continue to be assessed the same as other agricultural properties, thereby protecting against increased taxes caused by encroaching uses that would tend to raise property values. Greenbelt laws limit the property assessment; they are not an exemption.

**Homestead Tax Exemption [F.S. 196.031]**

Every person who owns and resides on real property in Florida on or before January 1st and makes the property their permanent residence may be eligible to receive a homestead exemption of up to a maximum of $50,000 of assessed value. The amount of the exemption is determined by the assessed value of the property.

The first $25,000 (basic exemption) applies to all property taxes, including school district taxes. All qualifying owners can deduct up to $25,000 from the assessed value of the property. For properties with an assessed value under $25,000, there are no ad valorem taxes.

An additional (2nd) exemption, up to $25,000, applies to the assessed values greater than $50,000 for city and county taxes only (not school taxes). For assessed values over $50,000 but less than or equal to $75,000, the 2nd exemption is the amount over $50,000. For assessed values over $75,000, the 2nd exemption amount is capped at $25,000. Therefore, the property must have a minimum assessed value of $75,000 for the homeowner to receive the full $50,000 exemption.
To qualify for the homestead tax exemption, the property owner must file for the exemption with the county property appraiser between January 1st and March 1st of each year. The property must be the owner’s primary residence. Filings that are made after March 1st apply to the following calendar year.

Many counties automatically renew previously filed homestead exemptions and mail postcards to homeowners to notify them of the renewal. If the use of the property or condition of the owner changes the exempt status of the property, Florida law requires the owner to notify the county property appraiser. By not returning the card, the owner is stating that they claim entitlement to the exemption for another year; this constitutes a new filing. Typically, returning the card to the appraiser’s office is done when the property owner no longer qualifies for the exemption. Penalties for failure to notify include being subject to the taxes exempted plus 15% interest, and a penalty of 50% of the taxes exempted. Any person who falsely claims the homestead exemption may also be guilty of a first-degree misdemeanor. [F.S. 196.131, 196.161]

### Additional Property Tax Exemptions

The following additional exemptions from property taxes are available for certain disabled individuals:

<table>
<thead>
<tr>
<th>Individuals Eligible for Additional Exemptions*</th>
<th>Additional Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Widows and widowers who have not remarried</td>
<td>$500</td>
</tr>
<tr>
<td>Blind persons</td>
<td>$500</td>
</tr>
<tr>
<td>Veterans of military service with at least a 10% military service-related disability</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

* Additional exemptions are added to the basic exemption only. They are not added to the 2nd exemption.

A nonveteran may claim only the first two of these additional exemptions. Therefore, the maximum homestead tax exemption for nonveterans is $51,000. [F.S. 196.202]

Any individual, veteran or not, who is totally and permanently disabled is entitled to 100% exemption from payment of property taxes. The person must be certified as totally and permanently disabled by two Florida licensed physicians, by the U.S. Department of Veterans Affairs, or by the Social Security Administration. [F.S. 196.012(11)]

Any person who is a quadriplegic is 100% exempt from payment of real estate taxes. [F.S. 196.101(1)]

Any person who is a paraplegic, hemiplegic, or has some other total and permanent disability and must use a wheelchair or in addition to the permanent disability is also blind, is 100% exempt from payment of real estate taxes. [F.S. 196.101(2)]

The Florida State Constitution allows counties and cities to adopt legislation that adds up to an additional $50,000 to the homestead tax exemption for specified property owners. To qualify for this exemption, the city or county must first authorize the additional benefit. To
qualify, a homeowner must be 65 years of age or over, and have a household income of $20,000 or less. This income limitation is adjusted annually by the percentage change in the average cost of living index. [F.S. 196.075]

To calculate the tax to be levied against a property, the amount of all exemptions to which an owner is entitled is subtracted (or deducted) from the total tax liability.

**Save Our Homes Assessment Limitation**

Beginning with the calendar year 1995, the assessed value of homestead property is limited as to the amount of increase the county property appraiser may assign to the lesser of 3%, or the percentage change in the Consumer Price Index (CPI). The purpose of this assessment limitation legislation was to limit the increase in the amount of tax dollars a homeowner could be assessed in any given year and to protect against inflationary increases that could force property owners to sell because of an increased tax burden. [F.S. 193.155(1)(a)(b)]

The tax rolls show two different values for homestead property. One value is the assessed value that is based on just value as determined by the county property appraiser; the other is the adjusted value that reflects the change in value that is authorized by this legislation. The taxable value is the lesser of these two.

When homestead property is sold, this limitation is removed, and the new owner will be assessed at the full taxable value. The annual cap on non-homesteaded properties is 10%. This cap applies to second homes, commercial properties, and unimproved land, but does not apply to school district taxes. The assessment cap is applied automatically and does not require an application be filed.

**Save Our Homes Benefit Portability to a New Residence**

Homeowners are allowed to transfer some or all of the Save Our Homes benefit to a new residence that is located anywhere in the state of Florida.

If the new homestead (purchased property) is more expensive or is the same price as the prior homestead (sold property), the homeowner can transfer the actual cap savings to the new homestead. The maximum amount of transferrable cap savings is limited to $500,000. [F.S. 193.155(8)(a)]

**Example:** The new homestead is more expensive than the prior homestead. The prior homestead assessment limitation (cap) ported to the new homestead is $150,000.

<table>
<thead>
<tr>
<th>New ≥ Prior</th>
<th>Prior Homestead</th>
<th>New Homestead (With Portability)</th>
<th>New Homestead (Without Portability)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Value</td>
<td>$400,000</td>
<td>$500,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Assessed Value</td>
<td>$250,000</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Assessment Cap</td>
<td>$150,000</td>
<td>- $150,000</td>
<td>- $150,000</td>
</tr>
<tr>
<td>Assessed Value</td>
<td>$250,000</td>
<td>$350,000</td>
<td>$500,000</td>
</tr>
<tr>
<td>Homestead Exemption</td>
<td>$50,000</td>
<td>- $50,000</td>
<td>- $50,000</td>
</tr>
<tr>
<td>Taxable Value</td>
<td>$200,000</td>
<td>$300,000</td>
<td>$450,000</td>
</tr>
</tbody>
</table>

If the new homestead is less expensive than the prior homestead, a percentage of the actual cap savings can be transferred. When moving to a less expensive property, the assessed value of the new homestead is calculated by dividing the market value of the new homestead by the market value of the prior homestead and multiplying by the assessed value of the prior homestead. However, the difference between the market value of the new homestead and its assessed value cannot be more than $500,000. [F.S. 193.155(8)(b)]
Example: The new homestead is less expensive than the prior homestead.

\[
\frac{\$300,000 \text{ Market value of new homestead}}{\$400,000 \text{ Market value of prior homestead}} = .75
\]

\[
\$250,000 \text{ Assessed value of prior homestead} \times .75 = \$187,500 \text{ Assessed value of new homestead}
\]

## Example: New < Prior

<table>
<thead>
<tr>
<th>Prior Homestead</th>
<th>New Homestead (With Portability)</th>
<th>New Homestead (Without Portability)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Value</td>
<td>$400,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Assessed Value</td>
<td>$250,000</td>
<td>$187,500</td>
</tr>
<tr>
<td>Assessment Cap</td>
<td>$150,000</td>
<td>$300,000</td>
</tr>
<tr>
<td>Assessed Value</td>
<td></td>
<td>$137,500</td>
</tr>
<tr>
<td>Homestead Exemption</td>
<td>- $50,000</td>
<td>- $50,000</td>
</tr>
<tr>
<td>Taxable Value</td>
<td>$200,000</td>
<td>$250,000</td>
</tr>
</tbody>
</table>

### Calculating a Real Estate Tax Levy

#### Applying the Tax Rate and Exemptions

The following example illustrates how a tax levy is calculated with exemptions.

**Example:** A widow lives in Tampa, Florida. Her home is assessed at $80,000. She has been a resident of the state for 15 years and qualifies for the homestead tax exemption. The county tax rate is 6 mills, the city tax rate is 5 mills, and the school board tax rate is 5 mills. What is the widow’s tax levy?

**Solution:** To calculate the tax to be levied against a property, the amount of all exemptions to which an owner is entitled is subtracted (or deducted) from the total tax liability. Since the assessed value is over the minimum second exemption amount of $75,000, both the basic and second homestead exemptions will be applied.

Each taxing district applies its millage rate to the taxable value of the property. The widow owes taxes to all three taxing authorities. However, the “widow” exemption is taken only once from all three taxing authorities as shown below.

**Step 1** Calculate what the taxes would be without any exemptions.

\[
\$80,000 \text{ Assessed value} \times .016 \text{ (16 mills) Total tax rate (county, city, and school)} = \$1,280 \text{ Total tax liability}
\]
Step 2  Calculate first tier exemption ($25,000 basic) for all three taxing authorities.

$25,000  Basic exemption amount
+  $500  "Widow" exemption
$25,500  Total exemption amount
x .016  (16 mills) Total tax rate
$408  Deduction for basic exemption

Step 3  Calculate second tier exemption for city and county taxes only.

$25,000  Second exemption amount
x .011  (11 mills) City + county tax rates
$275  Deduction for second exemption

Step 4  Subtract each deduction amount from the total tax liability to determine the total tax levy.

$1,280  Total tax liability
- $408  Basic exemption
  $872
- $275  Second exemption
  $597  Total tax levy

Special Assessments

Special assessments are tax levies that are used to pay for specific public improvements that add value to the property. Special assessment liens may be for paving a street, connecting property to a central water or sewer system, street lighting, and so on.

Special assessments that have been announced but not completed are called pending special assessment liens. Those that have been completed are called certified special assessment liens. The seller of a property generally pays a completed special assessment lien since the value of the property was improved and can be recaptured in the sales price. A potential buyer normally pays for a pending special assessment lien since they ultimately receive the benefit of the improvement.

Property owners are usually given a choice of either paying for the assessment upon completion, or financing the improvement over a period of years at a stipulated interest rate. If the owner elects to finance the improvement, the payments are made along with the annual tax levy. This can affect the price a buyer is willing to pay for a property; therefore, licensees should be aware of those areas in which such improvements have been made.

Special assessments are not an ad valorem tax. The cost of the improvement is apportioned among the property owners who receive the benefit. Often the city or county agrees to pay a share of the cost, and the balance is allocated to the property owners. The cost to each property owner is based on the degree of benefit received, not the value of the property. Two methods of allocating the cost of the improvement are used, depending on the type of improvement.

Each method is defined below.

- **Pro rata share.** Pro rata share is the cost divided equally by the number of property owners who benefit from the improvement. This method is often used for utility and sewer line installations, and for street lighting.
• **Front-foot basis.** Front-foot basis is the cost of the improvement that is expressed as a cost per front-foot, and is allocated among the property owners on the basis of the number of feet the owner has along the street. This method is used when streets are being paved or sidewalks are being installed. Licensees should be aware that when lot dimensions are being quoted, the first number given is always the length along the street. Side dimensions follow the street dimension.

The following is an example of how a special assessment is calculated:

**Example:** The city plans to repave a road. The lot next to the road measures 110’ x 130’. The cost of the improvement is estimated to cost $10 per lineal foot. The city decides to assume 30% of the expense. What is the special assessment to the property owner?

**Solution:**

\[
\begin{align*}
110 \text{ Front-feet} \\
\times 10 \text{ Estimated cost per foot} \\
= 1100 \text{ Total cost} \\
\times 0.30 \text{ City share (30%)} \\
= 330 \text{ City contribution} \\
\end{align*}
\]

\[
\begin{align*}
1100 \text{ Total cost} \\
- 330 \text{ City contribution} \\
= 770 \text{ Property owners’ contribution} \\
\times 0.50 \text{ Two property owners (50% each)} \\
= 385 \text{ Each property owner’s cost}
\end{align*}
\]

Note in the example that each owner is only charged for one-half of the cost of the improvement. This is due to the fact that someone owns the other side of the street; each party pays only to the middle of the street, regardless of who owns the property or what physical feature exists on the opposite side of the street (i.e., lake or park).

**PAYING THE TAX LEVY**

Real estate taxes are assessed on an annual basis, from January 1st to December 31st. Property taxes are due and payable as of March 31st of the following year. A discount applies for early payment prior to the March due date. If the payment is not made prior to March, the property owner must pay the full amount of the property tax. The discount schedule is as follows:

<table>
<thead>
<tr>
<th>Month of Payment</th>
<th>Discount</th>
</tr>
</thead>
<tbody>
<tr>
<td>November</td>
<td>4%</td>
</tr>
<tr>
<td>December</td>
<td>3%</td>
</tr>
<tr>
<td>January</td>
<td>2%</td>
</tr>
<tr>
<td>February</td>
<td>1%</td>
</tr>
</tbody>
</table>

**Delinquent Property Taxes**

If the property owner does not pay the property taxes before April 1st of the year following the assessment, the tax becomes delinquent. Delinquent tax bills are subject to a late charge. During the month of May, a list of all delinquent tax bills is advertised in a newspaper with countywide distribution in the county where the property is located. Each delinquent tax bill is available for purchase by an investor at a tax certificate sale. The advertisement specifies the place, date, and time for the sale.
A real estate property tax certificate represents a lien on real property. The cost to purchase a tax certificate, which includes the amount of the unpaid tax and interest plus advertising cost, is listed beside each parcel in the advertisement.

Real estate property taxes, as we have discussed, are used to support the cost of local government services. If owners do not pay their taxes when due, the taxing district will not receive all of the money that was anticipated in the budget. This shortage could interfere with the delivery of those government services.

**Tax Certificate Sale**

The *tax certificate sale* is a public auction of each tax certificate; the proceeds of which are paid to the tax collector.

During the public auction, investors make bids on the tax certificate based on the interest rate that they wish to receive in exchange for paying the gross taxes, interest, and associated sales costs of the tax certificate. Bidding for the tax certificate opens at 18% interest, and sells to the lowest bidder (i.e. the person who bids the lowest interest rate). If no bids are received for a tax certificate, the county is issued the tax certificate at 18% interest.

**Redemption of a Tax Certificate**

Within two years, the property owner can redeem the tax certificate to retain ownership of the property. To do this, the property owner must pay the amount of the tax certificate plus interest at the rate at which the certificate was sold, calculated from the month of sale to the month of redemption. Payment is made to the county tax collector; the tax collector then pays the holder of the tax certificate.

If the property owner does not redeem the tax certificate within two years from the date in which the tax certificate was sold, the certificate holder can apply for a tax deed. That triggers a public sale of the property at public auction. The proceeds of which are used to pay the holder of the tax certificate. The holder of the tax certificate bids the amount due from the property owner at auction, and if no bids higher are received, the holder of the certificate receives the title to the property.

The life of a tax certificate is seven years from the date of issuance. If the holder of the certificate does not apply for a tax deed within this period, the certificate is null and void.

**The Effect of Federal Income Taxes on Homeownership**

The impact of federal income taxes is an important consideration in all real estate transactions. Major changes have been made in recent years that have altered the benefits of ownership of real estate. Although brokers and sales associates are expected to be knowledgeable regarding taxes, they are cautioned not to attempt to advise members of the public regarding tax matters. If a licensee believes a party’s actions may cause financial loss or difficulty, they should advise the party to seek the advice of a qualified expert.

The tax benefits that apply to homeowners are different from those for investors (as discussed in Chapter 17), but both receive certain advantages under the law.

**Tax Benefits of Homeownership**

Homeownership is encouraged through favorable treatment in the tax code. Tax deductions generally serve to reduce the taxable income, thereby reducing the amount of tax to be paid.
Some of the tax benefits of homeownership are listed below.

- **Real estate property tax deduction.** Real estate property taxes are deductible as an expense when calculating federal income taxes for all homeowners who file itemized returns.

- **Mortgage interest deduction.** As of 2018, taxpayers can deduct mortgage interest of up to $750,000 of acquisition indebtedness (previously $1,000,000). *Acquisition indebtedness* is mortgage debt incurred to acquire, construct, or substantially improve a principal or secondary residence.

- **Home equity loan interest deduction:** The Tax Cuts and Jobs Act of 2017 allows taxpayers to deduct interest paid on home equity loans only when the loan is used to buy, build, or substantially improve the taxpayer’s main home or second home that secures the loan.

- **Sale of a principal residence.** The Taxpayer Relief Act of 1997 established new tax treatment for homeowners when the sale of a principal residence occurred after May 6, 1997. Under the Act, married couples filing jointly, who have owned and used the property as a principal residence for at least two of the previous five years prior to sale, may exclude up to $500,000 of gain on the sale from taxation.

  Single homeowners may exclude up to $250,000 of gain. This exclusion from gain can be used over and over during the taxpayer’s life, but no more often than once every two years.

  **Example:** A married couple bought a home for which the cost basis was $300,000. During the period of their ownership, the owners made certain IRS-allowable capital improvements totaling $100,000. How much can they sell the property for without being taxed on the gain?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost basis</td>
<td>$300,000</td>
</tr>
<tr>
<td>+ IRS-allowed capital</td>
<td>+ $100,000</td>
</tr>
<tr>
<td>improvements</td>
<td></td>
</tr>
<tr>
<td><strong>Adjusted basis</strong></td>
<td><strong>$400,000</strong></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted cost basis</td>
<td>$400,000</td>
</tr>
<tr>
<td>+ Allowable exclusion</td>
<td>+ $500,000</td>
</tr>
<tr>
<td>(married couple)</td>
<td></td>
</tr>
<tr>
<td><strong>Maximum sale price</strong></td>
<td><strong>$900,000</strong></td>
</tr>
<tr>
<td>without being taxed on</td>
<td></td>
</tr>
<tr>
<td>the gain</td>
<td></td>
</tr>
</tbody>
</table>

  A recreational vehicle or a boat qualifies as a principal residence, as long as it has a kitchen, and sleeping and bath facilities. A taxpayer cannot have more than one principal residence at the same time.

  If a principal residence is sold at a loss to the homeowner, the loss is not tax deductible.

- **IRA withdrawal for first-time homebuyers.** Homebuyers under the age of 59 ½ may take a distribution of up to $10,000 from their IRA without paying the normal 10% additional tax penalty. The distribution must be used to buy, build, or rebuild a first home, or pay reasonable settlement, financing or closing costs. If both spouses are first-time homebuyers, each spouse can receive distributions up to $10,000 without penalty.

  A first-time homebuyer is defined as a homebuyer who has no present interest in a main home during the two-year period ending on the date of acquisition of the home that the distribution is being used to buy, build, or rebuild. If married, both spouses must also meet this no-ownership requirement.
REAL PROPERTY INSURANCE

Homeowner’s Insurance Policy

A homeowner’s insurance policy provides property insurance and personal liability coverage. Contents coverage is generally included up to specified limits. Homeowners can select additional coverage by paying additional premiums. Mortgage lenders require homeowner insurance to be maintained, and for the mortgage company to be named in the policy under a loss payable clause.

The actual form of the homeowner’s policy will vary according to the type of property that is insured, the insurance company that issues the policy, and the needs of the insured. Commonly, insurance policies contain exclusions of coverage from certain types of loss.

In Florida, homeowners can encounter problems in obtaining homeowners insurance policies. The Citizen’s Property and Casualty Association (CPCA; formerly the Residential Property and Casualty Joint Underwriting Association) was established as a state-operated pool in order to enable homeowners to obtain insurance if unobtainable through other insurance sources. Florida law requires the CPCA policies to be priced higher than the average rates for homeowner policies because of the risk due to location or other factors associated with some property.

Flood Insurance

Federal lending laws require any federally regulated lender to have a property covered by flood insurance when used as collateral for a loan if the property is located within certain designated flood hazard areas. This is discussed further in the “National Flood Insurance Program” section of Chapter 19. It is important to remember that homeowner insurance policies do not cover flood losses.

Multiple Insurance Policies

If an owner obtains coverage from two or more insurance companies on the same property, each company would only pay a proportional share of a covered loss. The property owner cannot collect more than the amount of the loss by attempting to collect the total loss from two or more insurance companies.

Example: Calculating pro-rata liability. A property has a value of $100,000. An insurance policy has been obtained from Company A for $25,000, and a second policy is obtained from Company B for $75,000. If a loss of $20,000 is sustained, what is the amount recoverable from Company A?

\[
\begin{align*}
\frac{\$25,000}{\text{Company A}} + \frac{\$75,000}{\text{Company B}} &= \frac{\$25,000}{\$100,000} = .25 (25\%) \text{ Liability} \\
\$20,000 \text{ Loss} \times .25 \text{ Company A Liability} &= \$5,000 \text{ Amount paid by Company A}
\end{align*}
\]
CHAPTER 18 MATH PROBLEMS

1. The assessed value for a residence is $70,000. The homeowner qualifies for homestead tax exemption.
   a. What is the amount of the basic exemption?
   Answer: __________________________
   
b. What is the amount of the 2nd exemption?
   Answer: __________________________

2. Jane is a widow who has lived in her home in Clearwater for the past 15 years. Although she is totally blind, she continues to live alone. The city tax rate is 5.5 mills, the county rate is 7.5 mills, and the school board rate is 6.5 mills. Her home is assessed for $86,000 for tax purposes. If she files for all allowable exemptions, what is the amount of her tax levy?
   Answer: __________________________

3. The city is paving the street in front of Bill's home. The cost of the paving is estimated to be $18.50 per lineal foot, and the city has agreed to pay 20% of the cost. If Bill has a lot that measures 115' x 150', what is Bill's share of the assessment?
   Answer: __________________________
CHAPTER 18 REVIEW QUESTIONS

1. Real estate taxes are ________________ taxes.

2. The county property appraiser determines the ________________ value based on a property's ________________ value.

3. A property owner has 25 days to protest their assessed value to the ________________ ________________.

4. The basic homestead tax exemption allows a deduction of ________________ from the assessed value.

5. A veteran with at least a 10% military service connected disability is eligible for an additional exemption of ________________ when calculating taxes on homestead property.

6. Church-owned property is ________________ from paying real estate taxes.

7. Government-owned property used to provide government services is said to be ________________ from paying real estate taxes.

8. The total basic homestead tax exemption for a nonveteran cannot exceed ________________.

9. Agricultural properties are limited in assessed value as a result of ________________ ________________.

10. One mill expressed as a decimal is ____________.

11. The maximum rate of interest on a tax certificate is ________________.

12. After ________ years, the holder of a tax certificate that has not been redeemed may request a ________________ ________________.

13. A married couple who has owned and lived in their principal residence for at least ____________ years out of the previous ____________ prior to sale, may exclude from federal income tax up to ________________ of gain on the sale.

14. The amount of gain on the sale of a principal residence owned by a single person who has occupied the home for at least two of the past five years is limited to ________________.

15. Homeowners may deduct ________________, ________________, and ________________, ________________, when filing itemized income tax returns.
CHAPTER 18 PRACTICE EXAM

1. To which organization is real estate tax most important?
   a. The federal government
   b. The state government
   c. The local government
   d. Local nonprofit organizations

2. What does the county property appraiser determine?
   a. Tax rate
   b. Market value
   c. Assessed value
   d. Just value

3. Which of the following statements best describes the Greenbelt laws?
   a. They limit the assessed value on agricultural land in or near urban areas.
   b. They help to raise the tax base.
   c. They provide for the best use of land.
   d. They prevent land from being used for development.

4. What discount percentage is given to property owners who pay their real estate tax bill in November?
   a. 1%
   b. 2%
   c. 3%
   d. 4%

5. Which statement would be correct regarding a single homeowner who sold a principal residence and itemized deductions on their federal income tax return?
   a. Any capital gain realized from the sale is taxable at a reduced rate.
   b. All capital gain would be subject to tax at the taxpayer's marginal rate.
   c. A loss of up to $3,000 on the sale may be deducted from adjusted income.
   d. Up to $250,000 may be excluded from taxation if the taxpayer had occupied the residence for at least two of the past five years.

6. What must an individual do to qualify for a homestead tax exemption?
   a. Own the property.
   b. Own and use the home as a primary residence.
   c. File for a homestead tax exemption by March 31st.
   d. Live in their principal residence for the entire year.

7. Complete this statement. In Florida, the owner of a homestead property located outside of the city limits is required to pay property taxes levied ________.
   a. On the total assessed value of the property
   b. By the nearest city
   c. By the county and school board
   d. By the state of Florida

8. Who can appraise property for purposes of taxation?
   a. The county property appraiser
   b. The local school board
   c. The city in which the property is located
   d. Special taxing districts

9. How is 10 mills expressed as a decimal?
   a. 1.00
   b. .100
   c. .010
   d. .001

10. Special assessments are used to pay for which of the following?
    a. School bonds
    b. Sidewalks, sewers, and other public improvements that benefit the property owner
    c. City services in excess of operating revenues
    d. New public structures, such as sport facilities
11. **Complete this statement. If a property owner fails to pay property taxes, the resulting lien is _______.**
   a. Held by the county until the certificate is sold  
   b. Owned by the county property appraiser  
   c. Foreclosed on by the sheriff  
   d. Sold at public auction for the highest interest rate

12. **According to Florida’s Save Our Homes Act, the assessed value of homestead property cannot be increased in any one year by more than which of the following?**
   a. The lesser of 3% or the CPI  
   b. The greater of 3% or the CPI  
   c. 10 mills  
   d. An amount determined by the county property appraiser

13. **Homeowners who file itemized tax returns are allowed deductions for which of the following items?**
   a. Real estate taxes and repairs  
   b. Hazard insurance and depreciation  
   c. Real estate taxes and mortgage interest  
   d. Mortgage interest and utilities

14. **Which statement is correct with respect to homeowner insurance coverage?**
   a. All losses are covered.  
   b. Flood losses are limited to $25,000.  
   c. Personal property is not covered.  
   d. Homeowners with multiple policies will not receive the full amount of their loss from each insurer.

15. **Which statement best describes the interest that is payable on tax certificates?**
   a. It is based on the lowest bid received.  
   b. It is never lower than 18%.  
   c. It is negotiable between property owner and bidder.  
   d. It is established by law.
CHAPTER 19

PLANNING, ZONING, AND ENVIRONMENTAL HAZARDS

OVERVIEW
This chapter explores the history and purpose of planning and zoning; the interaction of local, state, and federal programs; and the purposes served by growth management and related issues, such as the national flood insurance program.

OBJECTIVES
After completing this chapter, you should be able to do all of the following:

- Describe the composition and authority of the local planning agency
- Explain the purpose of land-use controls and the role of zoning ordinances
- Identify the provisions of Florida's comprehensive plan and the Growth Management Act
- Distinguish among the five general zoning classifications
- Distinguish among zoning ordinances, building codes, and health ordinances
- Explain the purpose of a variance, special exception, and a nonconforming use
- Calculate the number of lots available for development given the total number of acres contained in a parcel, the percentage of land reserved for streets and other facilities, and the minimum number of square feet per lot
- Describe the characteristics of a planned unit development (PUD)
- Understand the basic provisions of the national flood insurance program
- Describe the impact of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
- Explain the various environmental hazards associated with real estate

KEY TERMS

<table>
<thead>
<tr>
<th>Asbestos</th>
<th>Health ordinances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buffer zone</td>
<td>Nonconforming use</td>
</tr>
<tr>
<td>Building code</td>
<td>Planned unit development (PUD)</td>
</tr>
<tr>
<td>Building inspections</td>
<td>Special exception</td>
</tr>
<tr>
<td>Building permit</td>
<td>Special flood hazard area (SFHA)</td>
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<tr>
<td>Certificate of occupancy</td>
<td>Variance</td>
</tr>
<tr>
<td>Concurrency</td>
<td>Zoning ordinance</td>
</tr>
<tr>
<td>Environmental Impact Statement</td>
<td></td>
</tr>
</tbody>
</table>

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GOVERNMENT PLANNING

Real estate does not operate in a totally free market. Government planning began in the early years of our nation’s growth. Philadelphia, planned in 1682, Savannah in 1733, and Washington, D.C., in 1791 are examples of some of our older planned cities. The industrial revolution brought about a move away from formal planning as the economic philosophy of laissez-faire became popular, a concept that allowed citizens to do what they wished free of government intervention. The laissez-faire concept was based on the idea that competition and profit should prevail over the common good, regardless of the social costs.

Uncontrolled growth led to many problems. By allowing anything to be built anywhere, great concern was created, particularly among homeowners. Encroaching development of industrial plants into residential neighborhoods potentially threatened property values. Citizens developed a renewed interest in planning to control growth and protect values.

However, the introduction of zoning laws also brought about concern over lost property value, as communities imposed restrictions on the use of land. For instance, a parcel that might have a higher value for use as a factory might be restricted to the use for a residence. Property owners were faced with losses in value without recourse. In 1926, opposition to zoning ultimately resulted in the U.S. Supreme Court ruling that zoning was a constitutional function of government that was based on the overriding benefits that accrued to the community.

The scope of planning today has been broadened to include wide geographic areas and is not limited to the city or county jurisdictional boundaries.

Planning Goals

There are many benefits to planning. Some of the key goals and benefits of planning include:

- Create an optimal social and economic environment
- Allow the maximum number of properties to achieve their highest and best use
- Ensure adequate provision of services
- Reduce the cost of growth (tax money) by preventing reconstruction due to uncontrolled sprawl
- Prevent losses in value by limiting the potential encroachment of incompatible uses
- Provide for road right-of-ways and setbacks
- Protect against costly drainage, flooding, or other environmental problems
- Proactively reduce any political or equity issues in the site locations for landfills, prisons, and other possibly controversial, but necessary, facilities

FLORIDA’S COMPREHENSIVE PLAN

Florida has one of the most comprehensive and progressive land use planning programs in the country. From the first planning legislation in 1928, many laws, rules, regulations, and policies have been enacted affecting the planning and development activities of the state and local governments.

There are three levels of planning: local, regional, and state as described below.

- Local government planning (county or municipality). In Florida, the authority for establishing and implementing the roles, processes, and powers of comprehensive planning and future development rests primarily with the local governments (counties or municipalities), which have regulatory authority over the use of land.
The governing body of each local government designates a local planning agency. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity. The planning agency must include a representative of the school district, appointed by the school board. The governing body may designate itself as the local planning agency with the addition of a nonvoting school board representative.

All meetings of the local planning agency must be public meetings, and agency records are public records.

- Regional planning councils (inter-jurisdiction). Regional planning councils address land use planning and infrastructure issues that span multiple jurisdictions to ensure that the local plans are coordinated with plans of surrounding areas.

- State comprehensive planning. State comprehensive planning, administered under the Florida Department of Economic Opportunity, provides standards and processes to ensure that all comprehensive plans are financially feasible and that the plans provide the infrastructure needed to support development.

Florida's Growth Management Act of 1985

In 1985, Florida enacted the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, of the Florida Statutes. This statute commonly referred to as Florida’s Growth Management Act, required local governments to develop a land-use plan that must be coordinated with the land-use plans of surrounding localities. The goal of this Act was to limit and control growth to acceptable levels, thereby considering the environmental, political, social, and human needs of society. Cities and counties were prevented from issuing building permits to developers or permit real estate growth ahead of or in advance of adequate infrastructure. Adequate facilities for transportation, streets, sewage and water, schools, police and fire protection, and health services were required to have approved planning and funding for their installation in advance of development.

Under the Growth Management Act, all cities and counties within the state were required to submit comprehensive plans, in compliance with the State Comprehensive Planning Act, to the Department of Community Affairs (DCA) for evaluation and approval before adoption.

Bert J. Harris Private Property Rights Protection Act of 1995

The Bert J. Harris Private Property Rights Protection Act of 1995 was enacted to provide remedies for property owners who are burdened by inordinate government restriction on the use of land. A simplified method was put in place that allows owners to obtain compensation from the government when such restrictions reduce the ability to use their land.

Community Planning Act of 2011

In 2011, The Growth Management Act specified in F.S. 163 was significantly modified and renamed as the Community Planning Act. The new Act strengthened the role, processes, and powers of the local governments in the comprehensive planning. The revised statutes streamlined the planning process, expedited the state review process by reducing the levels of review at the state and regional levels, and reduced costs to the state and to property owners and developers.

Also in 2011, the community development and planning responsibilities that were previously under the DCA were moved to the Division of Community Development within the Florida Department of Economic Opportunity (DEO).
Concurrency [F.S. 163.3180]

F.S. 163 contains concurrency rules, which require a minimum level of public infrastructure be available to support growth and development around the development site. Every comprehensive plan is required by statute to address the following infrastructure items, referred to as concurrency elements, on a statewide basis:

- Sanitary sewer
- Solid waste
- Drainage
- Potable water

The Community Planning Act made other previously required concurrency elements optional and gave the local governments the option to extend concurrency requirements to additional public facilities within their jurisdictions. If they do so, the comprehensive plan must provide the principles, guidelines, standards, strategies, and means to ensure that the adopted levels of service can be reasonably met.

The comprehensive plan must be implemented by adopting sufficient land use control ordinances and capital improvement programs for the required concurrency elements.

- Land use. Land use is the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under an adopted comprehensive plan or element.

- Capital improvement. Capital improvement refers to the physical assets constructed or purchased to provide, improve, or replace a public facility, and which are typically large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multiyear financing. The physical assets that have been identified as existing or projected needs in the individual comprehensive plan elements are considered capital improvements.

Authority of the Local Planning Agency

A comprehensive plan, or master plan, is an overall plan for the city or county. The purpose of the comprehensive plan is to ensure that area growth is consistent with an overall concept. Since change is inevitable, the plan must remain flexible. The development of the comprehensive plan is the primary function and responsibility of the local planning agency. The agency makes recommendations to the governing body regarding the adoption of the comprehensive plan and amendments.

During the preparation of plans, and prior to any recommendation to the governing body, the local planning agency must hold at least one public hearing, with public notice on the proposed plan or amendment.

The local planning agency has authority in the following three areas: review and approval of site plans, sign control, and subdivision plans.

- Site plans. Site plans include a map that describes the following:
  - How the land will be developed
  - Location of buildings and other structures
  - Parking facilities
  - Traffic control
  - Landscaping
• **Sign control.** Signs are an important advertising medium for businesses; however, they can be the cause of distraction and traffic accidents. Many people object to the size and placement of signs because they often lack aesthetic value. These concerns and others have led planners and government bodies to enact laws that control and restrict the size and placement of signs.

• **Subdivision plan.** *Subdivision plans* must be prepared and submitted by developers before an overall plan of construction can begin. A map called a *plat* must be approved by the local planning agency, after which it is reviewed by the governing body. Once approval of the governing body has been obtained, the plat is recorded in the public records, and assigned a book and page number for reference. Building permits cannot be issued until the plat has been made a part of the public record. (See Chapter 10, Plat Method.)

### Preparing the Comprehensive Plan

Information must be accumulated to develop the comprehensive plan. Several background studies form the basis for the comprehensive plan. These studies are outlined below.

• **Population study.** The *population study* examines trends in population (both permanent and seasonal) over the past 20 or 30 years. The path of development and movement of people over time may indicate how future development should be coordinated.

  Demographic information developed in this study is the most important element used to develop the comprehensive plan. From an estimate of the growth in the number of households, planners can estimate the future need for roads, schools, police, fire, and medical services, and other infrastructure required to support the community’s requirements. This information can also be useful in anticipating the need for additional social services.

• **Thoroughfare study.** A *thoroughfare study* examines the existing system of streets, highways, and traffic patterns to determine the future arterial needs. A thoroughfare study generally involves several levels of government including city, county, and regional planning groups. Information gained in the population study forms the basis by which decisions are made that concern future requirements for streets, roads, and public transportation.

  Federal and state laws mandate that studies be performed in urban areas that exceed certain population density. A large urban community draws traffic from surrounding areas, impacts the infrastructure, and clogs traffic arteries. By requiring a coordinated planning effort between cities, counties, and the state, better traffic systems can be developed at lesser taxpayer cost than would be possible with uncontrolled urban sprawl.

• **Physiographic study.** A *physiographic study* is one in which soil types and the load-bearing capacity of the land are studied. Land with low load-bearing capacity would not be suitable for high-rise offices or heavy industry. Soil types are important in planning for potential agricultural use. Area maps are prepared based on these studies that show the various soil types. By using this information, planners can help assure that the highest and best use of land can be achieved.
- **Economic base analysis study.** An economic base analysis study reviews local business activity. It examines employment within the community to assist in projecting population, income, and other variables that affect the community. Employment is broken down and classified as being either basic or service by comparing national employment with local employment in the same business or industry.

  Basic industries or businesses, also called export, are those whose payroll costs are met essentially by dollars generated from outside the community. Examples of such businesses include large manufacturing plants, large tourist attractions, metropolitan airports, and government centers, such as Tallahassee, colleges and universities, and professional sports franchises. These businesses draw purchasing power into the area, thereby adding to the economic health of the community.

  Service businesses hire and pay people locally with dollars earned from others who live in the same community, such as florist shops, ice cream parlors, beauty shops, movie theaters, and the like. These businesses provide the day-to-day services everyone wants, but essentially recirculate the same dollars within a community.

- **Existing land use study.** The existing land use study identifies how the land is currently developed and used. Every parcel of land within the study area is shown on a map that indicates the current use. Color codes are often used to identify different land uses. Once completed, these maps identify growth patterns and trends, which in turn help to determine the best future use of parcels in the path of growth.

  Understanding the current use of land provides the basis for planning for the future.

  Land uses are generally categorized by user types. Each category is also divided into classifications, which may vary from one political jurisdiction to another. The five different categories of land use and classification examples are listed below.

  - Residential
    - Single-family
    - Small residential
    - Large income properties
  - Commercial (Often subdivided based on the relative size of the structure or the nature of the business.)
    - Retail
    - Medical offices
  - Industrial
    - Light assembly
    - Warehouse
    - Heavy industry
  - Agricultural
  - Special purpose
• Recreation and community facilities study. The recreation and community facilities study locates and analyzes existing recreational and community facilities to determine the community's ability to continue to provide these services in the future. Based on information derived from the population study, planners can anticipate the number and location of similar facilities that may be required.

Required Contents of the Comprehensive Plan [F.S. 163.3177(6)]

The comprehensive plan must include the following plans:

• Future land use. The future land use plan states the proposed future general distribution, location, and extent of the uses of land. The proposed plan must be shown on land use maps and must be based upon surveys, studies, and data regarding the area. The approximate acreage and the general range of density or intensity of use must be provided.

  o Density. Density is a measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre.

  o Intensity. Intensity is a measurement of the extent to which land may be developed or used, including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services.

  The future land use plan must also establish the long-term direction of the land use programs and activities.

• Transportation. The transportation plan must address traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways. The plan must include a map showing the general location of the existing and proposed transportation system features and must be coordinated with the future land use maps.

• Water, sanitary and storm sewers, and solid waste. A general plan is required indicating ways to provide for sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge protection. This plan must be correlated to the future land use plan and may be a detailed engineering plan with a topographic map.

• Conservation of natural resources. A plan is required for the conservation, use, and protection of natural resources in the area, including air, water, water recharge areas, wetlands, water wells, estuarine marshes, soils, beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine habitat, minerals, and other natural and environmental resources, including factors that affect energy conservation. Natural resources must be analyzed and existing recreational or conservation uses, known pollution problems, including hazardous wastes, and the potential for conservation, recreation, use, or protection must also be identified.

• Recreation. A recreation and open space plan is required that provides a comprehensive system of public and private sites for recreation, including, but not limited to, natural reservations, parks and playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other recreational facilities.
1. **Housing.** A housing plan consisting of principles, guidelines, standards, and strategies is required in the following situations:

   - The provision of housing for all current and anticipated future residents of the jurisdiction
   - The elimination of substandard dwelling conditions
   - The structural and aesthetic improvement of existing housing
   - The provision of adequate sites for future housing, including affordable workforce housing, housing for low-income, very low-income, and moderate-income families, mobile homes, group home, and foster care facilities, with supporting infrastructure and public facilities

2. **Coastal zone protection.** A coastal management plan is required to set the principles, guidelines, standards, and strategies for the local government’s decisions and programs in order to do the following:

   - Maintain, restore, and enhance the overall quality of the coastal zone environment
   - Preserve the continued existence of viable populations of all wildlife and marine life
   - Avoid irreversible loss and protect the orderly and balanced utilization and preservation of all living and nonliving coastal zone resources
   - Use ecological planning to determine the suitability of land development
   - Protect human life against the effects of natural disasters
   - Direct the orderly development, maintenance, and use of ports to facilitate deep water commercial navigation and other related activities
   - Preserve historic and archaeological resources

3. **Intergovernmental coordination.** An intergovernmental coordination plan is required that states the principles and guidelines to be used in coordinating the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination plan must describe joint processes for collaborative planning and decision-making on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses.

### ZONING AND LAND USE RESTRICTIONS

**Zoning** is the division of land into separate categories of legally permitted uses. The city or county government enacts ordinances that prescribe various zones or districts, which are then applied to specific areas or parcels of land.

#### Authority for Zoning

Zoning regulations are an application of the police power of government, which is derived from the U.S. Constitution and conferred to the states. Subsequently, the states delegated the authority to the counties and local governments. The U.S. Constitution provides government with the power to regulate the citizens when such regulation is to promote or preserve the health, safety, morals, and general welfare of the community and its citizens. (See the Police Power section in Chapter 9.)
Purpose of Zoning

Zoning can protect an owner from a loss in value due to the encroachment of undesirable uses of contiguous land. Zoning can also ensure that future land uses will be compatible. Development can be controlled so that adequate streets, sewer and water, utilities, schools, police and fire protection, and recreational facilities are provided as growth continues. Low-income or minority land users may not be prevented from buying real estate in certain areas. Any attempt to zone by using these criteria is referred to as exclusionary zoning and is illegal.

Effects of Zoning

Zoning can be used to regulate the use of land, lot sizes, types of structures that are permitted, architectural and structural design, density, setbacks, and the height and bulk of buildings. Zoning is the primary tool that is used by planners to implement the comprehensive plan. Developers are often frustrated when confronted with restrictions on possible use and must proceed only after obtaining necessary permits. Ordinary citizens are afforded protection of their property values by restrictions on uses that would have an adverse effect on value. Speculators can sometimes profit by obtaining zoning changes that increase the value of their property. Zoning can have an enormous effect on the value of property. A parcel zoned for residential use would have a value quite different than one zoned for industry; one zoned for apartments would have a much different value than one zoned for agriculture. Zoning and other government regulations account for a large portion of the total value of a parcel of real estate.

Zoning Classifications

Zoning classifications are based primarily on the type of use, as previously noted. The five basic classifications of zoning are residential, commercial, industrial, agricultural, and special use (public). Each classification is outlined below.

- **Residential zoning.** Residential zoning is based on density. Density limits the number of dwelling units that are allowed per acre. Planners typically control density with lot size, setbacks, and lot coverage percentage limits. There are many subcategories of residential zoning that allow for variations in density. Residential zoning includes single-family homes, small multifamily structures, condominiums, and apartments. It is common to find several classifications within each of these uses, such as low density, medium density, or high density.

  **Example:** A local zoning ordinance designated “R4” limits on lot sizes to no less than 8,500 square feet. A developer, with the intention to build homes, purchases a tract of land that contains 100 acres. The developer needs to know how many units can be constructed in order to prepare an overall development plan.

  Based on residential zoning requirements, how is the number of allowable homes calculated if 25% is reserved and 75% is available for development?
Step 1  Multiply the number of square feet per acre by the percentage allowed for development.

\[
43,560 \times 0.75 = 32,670
\]

Step 2  Divide the amount available per acre by the lot size required by code.

\[
\frac{32,670 \text{ sq. ft. available for development per acre}}{8,500 \text{ Lot size required by code}} = 3.84 \text{ Lots per acre}
\]

Step 3  Multiply the lots per acre by the number of acres available to calculate the total number of lots allowed.

\[
3.84 \times 100 = 384 \text{ Lots allowed}
\]

- **Commercial zoning.** Commercial zoning is based on the degree or intensity of use. Commercial zoning stipulates parking requirements as well as the size and height of improvements.

- **Industrial zoning.** Industrial zoning is based on the degree or intensity of use. The control of pollutants, air emissions, wastewater discharges, and by-products such as noise, odor, smoke congestion, and chemicals that result from manufacturing or production processes are one function of industrial zoning. **Bulk zoning** is part of the industrial zoning process. The overall height and total land coverage of industrial structures is a concern when these types of structures are being planned.

- **Agricultural zoning.** Agricultural zoning restricts use to agricultural production. Generally, the specific type of agricultural use is not specified. Raising cattle or growing crops would both be permitted.

- **Special use (public) zoning.** Special use, or public, zoning, applies to government-owned land for use as schools, courthouses, parks, and other public facilities.

**Zoning Board of Adjustment**

Zoning laws can and do change in response to strong community and economic pressure. Information regarding zoning or zoning changes can be obtained from the local zoning office or the planning board. Local governments create zoning boards of adjustment to provide flexibility. The zoning board of adjustment conducts public hearings that deal with individual zoning requests. In some cases, an owner may request the zoning classification of their property to be changed to another use. In other situations, the owner may request only a variance or special exception, each of which is outlined below. Owners can appeal adverse decisions to the courts.
**Variance.** A request for a variance is not a request to change the use of a property. Instead, it is a request to vary from the specific or literal interpretation of the ordinance. A variance may be granted when the ordinance imposes an undue hardship on an owner. For example, if zoning requires a minimum of 7,500 square feet to obtain a building permit, the owner of a 7,400-square-foot lot could apply for and, likely, receive a variance that allows construction on the smaller lot.

**Special exception.** A request for a special exception is a request to depart from the use as provided for by the zoning ordinance. Uses other than that specified that are not deemed to be undesirable or incompatible are listed in the ordinance. As an example, a church might be considered to be a special-exception use in a residential neighborhood.

**Nonconforming use.** A property use that does not conform to current zoning is known as a nonconforming use. The goal of zoning is to eventually phase out uses that predate and conflict with current ordinances. Other nonconforming uses may be created by a change in zoning from one classification to another.

A property’s use is legally nonconforming if the use was established prior to implementation of the current ordinance or a zoning change caused a previously conforming use to become a nonconforming use. The owner is allowed to continue the nonconforming use, subject to certain limitations. Each zoning ordinance contains a nonconforming use section that prescribes the conditions under which these uses are allowed to continue. The legal permission to continue a nonconforming use is called grandfathering.

Nonconforming use provisions vary from one area to another. It is common to prevent an owner from rebuilding if a fire, flood, or other natural disaster destroys over 50% of a structure. Property owners who allow a property to deteriorate over 50% of their value usually cannot receive permission to renovate. Legally nonconforming commercial use may be lost as the result of an abnormal closing, where the owner discontinues operation for an extended time. A property’s use is an illegal nonconforming use if the owner is in violation of existing zoning ordinances. This occurs if an owner changes the use without obtaining the necessary zoning changes, variances, or special exceptions.

**BUILDING CODES**

While zoning laws dictate how a property may be used, building codes establish the minimum standards for design and construction of buildings or structures. Every aspect of construction is covered by code, including electrical, plumbing, insulation, fire protection, support systems, and so on. Building codes become law when enacted by the appropriate government authority.

**Building Permits**

A building permit is the authorization required for new construction or renovation. A building permit must be granted before the construction of a new or existing building can legally occur. Approval and issuance of a building permit usually requires the submittal of plans prepared by an architect or engineer. The building department ensures that the plans comply with the local building codes before issuing the permit. The building owner pays a fee for the building permit, which helps fund the process.
Building Inspections

Once a building permit is issued, work can begin. At various stages throughout the construction, inspections are scheduled. Building inspections are designed to ensure that the contractor is completing construction in accordance with the approved plans, and is in compliance with the building code.

One example of an area that may be inspected is the insulation factor, or R-value, within the structure. R-value is a measure of thermal resistance. The higher the number, the better insulated the building will be. The building inspector will check to ensure that the contractor has installed the proper insulation to meet the building code.

Certificate of Occupancy

Upon completion of construction, a final inspection is performed. If all aspects of the plans and specifications have been met, a certificate of occupancy (CO) is issued. A certificate of occupancy (CO) is a document issued by the local government when work has been completed and final inspections passed. Issuance of the CO effectively closes the building permit and authorizes occupancy of the structure.

Health Ordinances

In addition to building codes, city and county governments also enact health ordinances. Health ordinances are local rules or laws that are created to protect the general welfare of the citizens in the community. General areas of coverage may include pets, air quality issues, outside burning, childcare centers, garbage disposal, restrictions on dangerous weapons, noise, nuisances, pest control, swimming pool barriers, and many others.

MODERN PLANNING TRENDS

Development of Regional Impact (DRI) [F.S. 380.06, F.S. 480.0651]

Control and limitation on the size and type of new developments has become necessary in order to ensure adequate public services are available, and to help guarantee an acceptable quality of life. No development that exceeds the guidelines established by the state can be approved for construction until a Development of Regional Impact (DRI) review has been performed.

A DRI is any development that, because of its character, magnitude, or location would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. Statewide standards determine whether projects, such as airport construction, attractions and recreation facilities, office or retail development, and schools must undergo a review before approval can be obtained and development begun.

The review process includes an evaluation of schools, police and fire protection, roads, air quality, and the effect on the environment. Included is an evaluation of projects that include residential, commercial, and industrial development.

DRI review committees are established and are operated in much the same manner as city or county planning boards. Members are appointed to serve and are assisted by a professional staff of trained planners. These committees are also advisory in nature, with final approval made by the city or county government, subject to state guidelines.

The federal government is not directly involved in the planning process but has a powerful influence on development as the result of legislation that is related to the environment and transportation.
Planned Unit Development (PUD)

Planned unit development (PUD), also called cluster zoning, has become part of the zoning ordinances in most parts of the country, including Florida. The concept of planned unit development is an attempt to alleviate many of the problems that are associated with traditional zoning.

Traditional zoning prescribes separate areas for different uses, thereby creating traffic congestion and an increased infrastructure requirement. Time-distance relationships between the neighborhoods where people live, work, play, go to school, shop, and find recreational facilities may be greater than necessary. Planned unit developments bring people closer to the amenities, services, and facilities they require.

Under this concept, a large tract of land is designated for planned unit development rather than for a single use. The developer is required to submit a plan that combines residential single-family use with other uses, such as multifamily, condominiums, apartments, commercial, and even light industrial. A requirement for development must include a portion of land that is reserved for common area usage. To compensate developers for reserving land for common use, they are allowed a certain percentage of the development to include smaller than normal lots or zero lot line and patio homes to be built.

Buffer zones are often built into a planned community. A buffer zone is a planned neutral space between two different types of zoning categories, buildings, or properties that is intended to minimize disturbances between potentially incompatible land uses. A buffer zone can be a tract of undeveloped land with trees or shrubbery or other areas that add enjoyment or value to the community such as parks or golf courses.

Before a buyer executes a contract to purchase property that is located in a PUD where membership in a homeowners’ association is mandatory, and failure to pay membership dues may result in placement of a lien on the property, the buyer must be given a copy of the Homeowner’s Association Disclosure form specified in F.S. 720.401.

The sales contract must contain in conspicuous type a clause containing the following language:

If the disclosure summary required by F.S. 720.401 has not been provided to the prospective purchaser before executing this contract for sale, this contract is voidable by buyer by delivering to seller or seller’s agent or representative written notice of the buyer’s intention to cancel within three days after receipt of the disclosure summary or prior to closing, whichever occurs first. Any purported waive of this voidability has no effect. Buyer’s right to void this contract shall terminate at closing.

A contract for the sale of property located in a PUD that does not comply with this disclosure requirement is voidable at the option of the purchaser.

Environmental Impact Statement (EIS)

An environmental impact statement (EIS) is a report that is prepared to describe the effects that a proposed activity may have on the environment. This could include the effects on the physical environment, as well as the people in the area. Common items that are addressed include air, water, structures, environmental value, living organisms, as well as social, cultural, and economic aspects. An impact is a change. Change can be either positive or negative. An EIS may describe ways to mitigate or remove potential negative impacts.
NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

Floodplain Designations

The Federal Emergency Management Agency (FEMA) was created by the Federal Flood Protection Disaster Act to provide directives as to where to build and not to build in coastal and floodplain areas. Flood hazard areas are identified as special flood hazard areas (SFHA), moderate flood hazard areas, or minimum flood hazard areas. There are four principal floodplain zone designations that are used to identify the potential for flooding in any given area: Zones V, A, B, and X.

These areas, or zones, are divided and labeled on FEMA flood maps. Each zone has certain characteristics as to the probability or likelihood of flooding, as described below.

- **Zone V.** Zone V is a special flood hazard area that identifies the wave velocity (“V”) zone, which is the most hazardous flood zone. Zone V follows the coastline and into river mouths, bays, and estuaries. Properties located in this zone have the highest probability of flooding. As might be expected, these properties are subject to the highest flood insurance rates.

- **Zone A.** Zone A is a special flood hazard area and is the next most vulnerable zone with a high potential for flooding. Zone A constitutes the 100-year floodplain and is usually near a lake, river, stream, or other body of water. This means that there is a 1-percent chance that any property located in this zone will flood in any given year. The base flood elevation is the water surface level corresponding to a 100-year flood.

- **Zone B.** Zone B is a moderate flood hazard area and identifies the 500-year floodplain. This means that there is a .2-percent chance that any property located in this zone will flood in any given year. Zone B may be areas protected by levees, or shallow flooding areas with average depths of less than one foot.

- **Zone X.** Zone X is a minimal flood hazard area and is not considered to be a flood hazard zone. That does not mean the area will never flood. It merely means there is a low probability it will flood.

Flood Maps

Flood maps are prepared and distributed by FEMA for every city and county in the United States. City maps must be obtained separately from county maps, as county maps do not include incorporated areas.

Each city and county is required to adopt building codes that conform to FEMA specifications. Each FEMA floodplain designation has certain minimum construction requirements that must be incorporated into local building codes; no permit may be issued for construction that does not meet the FEMA minimum standards for each zone.

Flood maps are limited as to the amount of detail they contain. Many streets are not shown, thereby making it difficult in many cases to isolate the exact location of a particular property. Thus, making a determination as to the flood zone in which a property is situated based on these maps is frequently impossible. Flood maps may be unreliable for other reasons.
Many maps were prepared several years ago and are often based on outdated information. Experience has shown that these maps are frequently inaccurate. Consequently, real estate licensees should be aware of these limitations and not make decisions, recommendations, or statements based on flood maps. Licensees should never make definitive statements that concern the location of a property within a certain flood zone. Using them in real estate practice for anything other than general information can lead to serious legal consequences.

**Flood Insurance**

The Federal Government underwrites flood insurance through FEMA. Over 40% of purchasers of national flood insurance are in Florida. Homeowner insurance policies cover windstorm damage, but not flooding. Seventy-five percent of all natural disasters are flood related. Homeowners may obtain flood insurance through their local insurance carrier. Premiums are related to risk; therefore, premiums will be higher for properties located in an area designated as Zone V and lower for those located in a Zone X.

Flood insurance may be purchased for properties in any designated zone. FEMA experience indicates that approximately 30% of all flood losses are sustained by properties that are located in Zones B and X.

Federal lending laws require any federally regulated lender to have a property covered by flood insurance when used as collateral for a loan if the property is located in either Zones V or A. Insurance is not required when properties are located in Zones B or X, although lenders may, in some cases, require insurance for properties that are located in Zone B or for those that may have experienced prior flooding.

**Construction Standards**

FEMA establishes minimum construction standards for each flood hazard zone. Each city and county must adopt building codes that conform to these standards and must not permit construction that does not meet such minimums. Specifications include base-floor elevation requirements and materials that may be used in construction.

Of particular importance are requirements for construction of residential properties located in Zone V, the velocity zone. Homes constructed in this zone are required to be built with the first floor above the base flood elevation by using elevated construction with an open area below the first floor. The open space below the living area can be enclosed only with breakaway materials and may not contain operating electrical equipment, electrical outlets, or plumbing fixtures. The lower level is to be used only for parking and storage. This area cannot be enclosed with permanent construction; breakaway walls are intended to give way and not impede the flow of floodwaters.

Non-residential structures in Zone V must meet the residential requirements or must be made watertight below the base flood elevation.

Properties which are constructed in flood Zone A, must meet established base elevation standards. These areas are identified on flood maps as "A E." "E" means that FEMA has established a base elevation for that area. The base elevation can be met by the use of fill dirt or elevated construction. If elevated, construction requirements are different from for properties in Zone V.

Properties located in floodplains designated as Zone B are considered to be at minimal risk and standards have not been adopted. Floodplains designated as Zone X are also low risk and no federal construction standards apply.

The FEMA makes periodic inspections of the local permitting process in order to monitor compliance with construction and permitting standards.
If a city or county is found to be in violation of FEMA standards, it may be in danger of FEMA withdrawing federal flood insurance coverage for all properties in that jurisdiction. Without this insurance, federally backed mortgage loans might be impossible to obtain, and, following a major hurricane, residents may find themselves without federal assistance in rebuilding.

Significance to Real Estate Licensees

Construction standards and materials, as previously noted, are specified for use in certain areas. Unless a licensee has the requisite training, experience, and knowledge, they should avoid making definitive statements that indicate a property conforms to applicable codes, especially with reference to residences located in what appear to be a Zone V.

It has been estimated that as many as 30% of homes that were legally permitted and constructed in Zone V have subsequently had the area below the first floor illegally enclosed or had permanent construction installed by the homeowner. A licensee could incur serious liability should they represent these homes as being in compliance with code.

In some instances, local authorities have knowingly permitted construction that is not in conformity with FEMA standards. In other cases, they have failed to enforce FEMA requirements when homeowners have illegally installed permanent construction in lower sections of properties located in Zone V. Although FEMA may insure these properties, extremely high insurance rates may be imposed due to added risk.

Potential buyers should be referred to local authorities in order to obtain information that concerns a property’s conformity to code.

ENVIRONMENTAL HAZARDS

Environmental hazards are events or occurrences that have the potential to threaten the surrounding natural environment and adversely affect people’s health. Some hazards, such as asbestos, mold, lead paint, and radon gas are indoor hazards that typically affect the occupants of one structure. Other outdoor hazards, such as improper septic tanks, toxic waste in the soil, chemical contamination, and leaky underground storage tanks may have more far-reaching impact including contaminating water supplies.

Additional hazards, such as termites or other wood destroying organisms (WDO) may cause structural damage or decay to a building over time. Purchasers of property may be required to obtain a WDO inspection prior to obtaining financing. By Florida Statute, a WDO report is provided when a home or other structure is being sold and the mortgage lender or buyer requires the inspection as part of the transaction. If an inspection is performed for these purposes, the inspection must be reported on a particular state form (F.S. 482.226). The WDO report generally includes subterranean termites or dry wood termites, and may include wood destroying beetles and wood decaying fungi. Carpenter ants and carpenter bees are not reportable on the state form.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), known as “Superfund,” was enacted to address abandoned hazardous waste sites. The law was enacted in the wake of discovery of toxic waste dumps such as Love Canal and Times Beach in the 1970’s, giving the Environmental Protection Agency (EPA) the power to seek out those parties responsible for any release of toxic materials, and assure their cooperation in the cleanup.
Potential buyers of property need to be aware that they may be liable for any contamination on the property, even though they were not involved in the actual polluting. The Superfund Cleanup Acceleration Act of 1998 requires purchasers of commercial property to perform a Phase I Environmental Site Assessment (ESA) to identify the existence of potential environmental issues. If potential issues are discovered, a Phase II ESA may be required. A phase II ESA requires collection of samples of soil, ground water, or possibly building materials for analysis of potential contaminants such as petroleum hydrocarbons, heavy metals, pesticides, solvents, etc. If contaminants are found, a Phase III ESA will be required to plan the remediation of the site.
CHAPTER 19 REVIEW QUESTIONS

1. A(n) __________________ planning attitude refers essentially to government noninterference in private affairs, where competition and profit should prevail over the common good.

2. _______________ is a measurement of the number of people or residential units allowed per unit of land, such as residents or employees per acre. _______________ is a measurement of the extent to which land may be developed or used.

3. The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), known as the _______________ was enacted to address abandoned hazardous waste sites.

4. The tool used by government to implement the comprehensive plan is _______________.

5. Residential zoning is based on _______________.

6. Elevated construction is a FEMA requirement when a residence is located in a floodplain designated as _______________.

7. A property owner may qualify for a(n) _______________ if they can show they suffer a hardship.

8. Zoning is derived from governmental authority originating from _______________ _______________.

9. The restriction that does not allow a building permit to be issued until adequate infrastructure is provided is a requirement of the _______________ _______________.

10. Legal permission to continue a nonconforming use is called ____________________________.

11. _______________ businesses are those that bring money into a community to meet local payroll costs.

12. A planned unit development is also referred to as _______________.

13. Legal permission to change the use of a property within a zoning classification requires the owner to seek a _______________ _______________.

14. A _______________ _______________ must be granted before the construction of a new or existing building can legally occur. A _______________ _______________ authorizes occupancy of a newly constructed structure and is issued by the local government when work has been completed and final inspections passed.
CHAPTER 19 PRACTICE EXAM

1. Which statement provides the basic justification for zoning?
   a. There must be regulations in place to prevent pollution.
   b. The government does not want to encourage land development.
   c. The inappropriate use of one property may affect the value of another.
   d. Professional planners want to control development.

2. What is the rationale behind government planning of real estate development?
   a. To manage future real estate growth
   b. To encourage more landscaping
   c. To limit commercial areas
   d. To maintain the character of the community

3. In Florida, which entity is primarily responsible for establishing and implementing the roles, processes, and powers of comprehensive planning and future development?
   a. Florida’s Governor
   b. Local government and planning agencies
   c. Regional planning councils
   d. State comprehensive planning administrators under the Florida Department of Economic Opportunity

4. Which zoning classification typically includes single-family homes, small multifamily structures, condominiums, and apartments?
   a. Commercial
   b. Residential
   c. Industrial
   d. Special Use

5. Which statement best describes the master plan?
   a. It must be inflexible.
   b. It is prepared by the state legislature.
   c. It stops growth.
   d. It serves as a guide for an area’s future growth.

6. Which of the following would a church need in order to build in a residential neighborhood?
   a. Public zoning permit
   b. Special exception
   c. Variance
   d. Nonconforming use permit

7. What is the purpose of the zoning board of adjustment?
   a. To settle monetary claims by property owners
   b. To grant variances and special exceptions
   c. To develop the comprehensive plan
   d. To determine infrastructure requirements

8. Which term is used to describe a property use that predates the current zoning ordinance but is allowed to exist for at least a period of time?
   a. Legally conforming
   b. Progressive
   c. Legally nonconforming
   d. Capitalized

9. Which statement which best describes a Planned Unit Development (PUD)?
   a. A PUD offers fewer amenities than are possible with more traditional forms of zoning.
   b. A PUD impacts the environment to a greater degree than most zoning classifications.
   c. A PUD prohibits the use of zero lot line development.
   d. A PUD is also called cluster zoning.
10. Which statement is correct with respect to a Development of Regional Impact (DRI)?
   a. A DRI is defined as any development that substantially affects the health, safety, or welfare of the citizens of more than one county.
   b. The state of Florida has no authority concerning guidelines for development or review of Developments of Regional Impact.
   c. The review process for a new Development of Regional Impact is concerned only with residential construction.
   d. The federal government has no influence on local development.

11. Adequate infrastructure available to support growth and development was mandated by Florida’s Growth Management Act and is specified in which of the following?
   a. DRI reviews
   b. Concurrency rules
   c. County zoning ordinances
   d. Local building codes

12. What is the category of a business that meets payroll expense by using dollars generated by persons who live in the immediate vicinity?
   a. Service
   b. Basic
   c. Export
   d. Regenerative

13. Which of the following would be considered a basic industry when performing an economic base analysis?
   a. Florist shop
   b. Fire station
   c. University
   d. Movie theater

14. With regard to residential properties located within a flood hazard Zone V, which statement is correct?
   a. Base-elevation requirements can be achieved by using fill dirt.
   b. The structure must be on elevated construction.
   c. Flood insurance is always required.
   d. There is a 1-in-500 percent probability of a flood in any given year.

15. Which standard or process establishes the minimum standards for design and construction of buildings or structures?
   a. Comprehensive planning
   b. DRI reviews
   c. Zoning
   d. Building codes
Practice Exam Instructions

The 15-Question Math Practice Exam and 100-Question Practice Final Exam that are included in this section are provided as tools to help you prepare to take your end-of-course final exam. These practice exams are designed to help you to do the following:

- Practice timed test-taking
- Develop an approach for studying the chapter material
- Identify a few topics where you may need additional review

These practice exams include a sampling of question types and topics that you may see on your end-of-course exam, but they do not include all topics. Your end-of-course final exam will include topics that are not tested with these practice exams.

We suggest that you take each of these exams as if you were taking an actual final exam. Since your end-of-course final exam is timed, we suggest that you time yourself when taking the Practice Final Exam. The end-of-course final exam is limited to three hours.

When taking a timed exam, a good approach is to follow these steps:

1. Go through the entire exam, answering the questions for which you feel confident of the answer.
2. As you go through the exam, mark the questions you skip, so you will remember to go back to them.
3. After you have answered all of the questions that you know, return to the skipped questions and do your best to answer them.
4. Attempt to answer every question to the best of your ability without referring back to the chapter material or the answer key.
5. When finished, score your results by using the answer key at the back of the book.

After scoring your practice exam, go back and review the chapter material for questions that you missed or were unsure of, to make sure you understand the rationale for the correct answer. For the Math Practice Exam, make sure you understand the topic concepts and steps required to solve the problem. The answer key provides solutions to these problems, but simply memorizing a particular answer on the practice exam will not help you on the end-of-course final exam.

After reviewing the material, if you still have questions about a particular topic or math question, contact your classroom or online instructor for additional assistance.
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1. A $40,000 mortgage for a term of 20 years was originated at an 8% interest rate, with monthly mortgage payments of $334.58. What is the principal balance remaining after the second monthly payment?
   a. $39,932.09
   b. $39,863.72
   c. $39,794.90
   d. $39,725.62

   Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

2. If the price of a lot is $9 per square foot, how many square feet are contained in a lot that sells for $27,000?
   a. 243
   b. 3,000
   c. 30,000
   d. 33,333

3. What is the tax levy of a non-homestead property that is assessed at $36,000 with a tax rate of 11 mills?
   a. $110.00
   b. $115.50
   c. $121.00
   d. $396.00

   Reference: Ch. 18, Calculating a Real Estate Tax Levy

4. A property has annual taxes of $450. The date of closing of October 12th is charged to the seller. Using the 365-day proration method, what is the amount of the tax proration, and how should it be entered on the closing statement?
   a. $ 98.63 credit seller, debit buyer
   b. $ 98.63 credit buyer, debit seller
   c. $351.37 credit seller, debit buyer
   d. $351.37 credit buyer, debit seller

   Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Property Taxes

5. Broker Max agrees to pay sales associate Sally 60% of all sales commissions she generates for the office. If Sally sells a property for $72,000 at a 7% brokerage commission, what is her share of the commission?
   a. $5,040
   b. $3,024
   c. $2,520
   d. $2,016

   Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission

6. A buyer purchased a property for $65,000. A lending institution loaned the buyer 80% of the purchase price and charged a discount of 4 points. What is the amount of the discount paid?
   a. $13,000
   b. $2,600
   c. $2,080
   d. $208

   Reference: Ch. 12, Mortgage Loan Fees

7. A property sold for $90,000 and has an 85% mortgage. What is the total amount of the state documentary stamp tax on the note and intangible tax on the mortgage?
   a. $153.00
   b. $261.75
   c. $267.75
   d. $420.75

   Reference: Ch. 14, Section 3 - Expenses
8. An investor purchased a property for $350,000. The investor made a cash down payment of $150,000 and obtained a mortgage of $200,000. The effective gross income for the property is $67,000 and the operating expenses are $25,000. What is the loan to value ratio?
   a. 42.86%
   b. 57.14%
   c. 19.14%
   d. 7.14%
   Reference: Ch. 17, Evaluating Investment Properties, Loan-to-Value Ratio

9. Based on the information in the previous question, what is the operating expense ratio?
   a. 16.67%
   b. 25.37%
   c. 37.31%
   d. 59.52%
   Reference: Ch. 17, Evaluating Investment Properties, Operating Expense Ratio

10. Calculate the number of acres in a property with the following legal description: SW 1/4 of the SW 1/4 of the SE 1/4 and the E 1/2 of the E 1/2 of the SW 1/4 of Sec. 23
    a. .625
    b. 1.25
    c. 2.50
    d. 50
    Reference: Ch. 10, Government Survey Method, Calculating Acreage in a Parcel Containing Contiguous Tracts

11. A property is rectangular and measures 500’ x 640’. How many acres does it contain?
    a. 5.21
    b. 6.38
    c. 7.35
    d. 9.24
    Reference: Ch. 10, Common Area Measurements

12. A homestead property is assessed at $65,000. The tax rate is 22 mills, the city rate is 7 mills, the county rate is 6 mills, and school rate is 9 mills. How much are the annual taxes on the property?
    a. $1,430
    b. $685
    c. $869
    d. $440
    Reference: Ch. 18, Calculating a Real Estate Tax Levy

13. A property has a value of $240,000 and a net operating income of $30,000. What is the rate of capitalization?
    a. 12.5%
    b. 15.5%
    c. 16.3%
    d. 17.5%
    Reference: Ch. 16, Three Approaches to Value, Using the IRV Formula to Derive Capitalization Rates

14. A tenant paid rent of $450 on the first of the month when due. The property sold on March 12th and the day of closing belonged to the seller. What is the amount of the rent proration, and how should it be entered on the closing statement?
    a. $174.19, debit seller, credit buyer
    b. $174.19, debit buyer, credit seller
    c. $275.81, debit seller, credit buyer
    d. $275.81, debit buyer, credit seller
    Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Rent

15. The income generated by a property is $20,000, and the rate of return is 10%. What is the value of the property?
    a. $100,000
    b. $150,000
    c. $175,000
    d. $200,000
    Reference: Ch. 17, Evaluating Investment Properties, Rate of Return
1. When must a written No Brokerage Relationship (nonrepresentation) Notice be provided to customers?
   a. Immediately upon the signing of a listing agreement
   b. At an open house when providing a brochure containing information about the property
   c. Before showing homes that are listed
   d. In every real estate transaction

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Nonrepresentation (No Brokerage Relationship)

2. Which of the following cannot be used by the Federal Reserve to change or control the money supply?
   a. Change the discount rate
   b. Alter income tax rates
   c. Increase or decrease the reserve requirement
   d. Buy or sell government notes

   Reference: Ch. 13, Federal Reserve System

3. A broker has an exclusive right of sale listing to sell an owner's property, with no other authority granted. What type of agency does the broker have with the principal?
   a. General agency
   b. Special agency
   c. Universal agency
   d. Trusteeship

   Reference: Ch. 4, Agency Law; Ch. 11, Listing Contracts

4. A licensee is being disciplined by the FREC for multiple violations of F.S. 475. Which penalty may the Commission NOT impose?
   a. Revocation
   b. Suspension for up to ten years
   c. A fine not to exceed $5,000 per offense
   d. Imprisonment not to exceed one year

   Reference: Ch. 6, Administrative Penalties, Range of Penalties

5. A judgment is awarded against a licensee for $100,000. What is the maximum the complainant may be compensated from the Real Estate Recovery Fund?
   a. 25%
   b. 50%
   c. 75%
   d. 100%

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

6. What term is applied to the practice of keeping low-income people out of a particular neighborhood?
   a. Income zoning
   b. Exclusionary zoning
   c. Nonconforming use
   d. Subdivision exception

   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes, Purpose of Zoning

7. Complete this statement. A transaction broker __________.
   a. Owes full disclosure to both parties
   b. Owes limited confidentiality to both parties
   c. Must be compensated by both parties
   d. Cannot work in a nonresidential transaction

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Transaction Broker

8. Broker Jones committed fraud in a real estate transaction that involved six investors in a limited partnership. What is the maximum recovery possible from the Real Estate Recovery Fund for a single judgment against the broker as a result of this fraudulent activity?
   a. $25,000
   b. $30,000
   c. $50,000
   d. $150,000

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund
9. A mortgagor defaulted on his loan payments. The lender foreclosed on the property. Some states allow the party that was foreclosed the right to redeem the property following foreclosure. What is the term used to describe this right?  
   a. Statutory right of redemption  
   b. Equitable right of redemption  
   c. Due-on-sale redemption  
   d. Declaratory redemption  

Reference: Ch. 12, Default  

10. The sales comparison approach usually CANNOT be used when estimating the value of which of the following?  
   a. Income-producing industrial property  
   b. Income-producing commercial property  
   c. Residential property  
   d. Special-purpose properties  

Reference: Ch. 16, Three Approaches to Value, Sales Comparison Approach  

11. Which of the following describes expenses on a closing statement?  
   a. Prorated between parties  
   b. Always entered as double entries  
   c. Always entered as debit entries  
   d. Entered as disbursements  

Reference: Ch. 14, Section 3 - Expenses  

12. The original mortgagor is NOT released from liability if title to real property is taken by what?  
   a. As a result of a short sale  
   b. Foreclosure of the mortgage  
   c. Novation of the mortgage  
   d. Subject to the mortgage  

Reference: Ch. 12, Sale of Mortgaged Property  

13. What is the purpose of the closing statement?  
   a. To verify the terms of the contract  
   b. To provide a source of income for closing agents  
   c. To summarize and simplify the transaction  
   d. To inform each party the closing costs to be charged to the other  

Reference: Ch. 14, Closing Statements  

14. Which of the following best describes an acknowledgment of a deed?  
   a. It is the same as the seal.  
   b. It is not required before recording.  
   c. It cannot be taken by a notary public.  
   d. It can be taken by an officer of the state.  

Reference: Ch. 9, Deeds, Transferring Title  

15. The Federal Reserve Board is charged with the responsibility of monitoring and controlling the supply of money and cost of credit. What actions could it use to cause an increase in interest rates?  
   a. Buy government securities, increase the reserve requirement, and increase the discount rate  
   b. Buy government securities, decrease the reserve requirement, and increase the discount rate  
   c. Sell government securities, decrease the reserve requirement, and decrease the discount rate  
   d. Sell government securities, increase the reserve requirement, and increase the discount rate  

Reference: Ch. 13, Federal Reserve System  

16. Which statement regarding a Planned Unit Development (PUD) is correct?  
   a. Common areas are not an essential element.  
   b. Commercial and industrial developments are not permitted.  
   c. Zero lot line and patio homes are the only type of residential construction allowed.  
   d. It is a type of zoning that permits flexibility from rigid zoning standards.  

Reference: Ch. 19, Modern Planning Trends, Planned Unit Development (PUD)  

17. Who or what determines the rates for documentary stamps?  
   a. Current interest rates  
   b. State law  
   c. Mortgage bankers  
   d. The closing agent  

Reference: Ch. 14, Section 3 - Expenses
18. Which term is used to refer to the difference between current market value of a property and the amount the owner still owes on the mortgage?
   a. Equity  
   b. Down payment  
   c. Escrow  
   d. Interest  
   Reference: Ch. 12, Common Mortgage Features

19. Who determines the form for the closing statement?
   a. Florida Real Estate Commission  
   b. Department of Business and Professional Regulation  
   c. The broker  
   d. The closing agent  
   Reference: Ch. 14, Closing Statements

20. Concerning all FHA/VA mortgages, which statement is correct?
   a. FHA/VA loans have prepayment penalties.  
   b. Neither type of loan is assumable.  
   c. Interest rates are set by the government.  
   d. Borrowers must meet minimum requirements.  
   Reference: Ch. 13, Types of Mortgages, FHA Insured Mortgage Loan Programs; VA Guaranteed Loans

21. When may the equity of redemption be exercised?
   a. Until the time of foreclosure  
   b. For 30 days following foreclosure  
   c. For up to one year  
   d. At any time  
   Reference: Ch. 12, Default

22. What type of planning study deals with local business activity?
   a. Physiographic  
   b. Economic base analysis  
   c. Thoroughfare  
   d. Community facilities  
   Reference: Ch. 19, Florida’s Comprehensive Plan, Preparing the Comprehensive Plan

23. A broker may deposit all of the following into escrow, EXCEPT:
   a. Cash  
   b. Personal checks  
   c. Securities that can be converted to cash  
   d. Personal funds in excess of FREC limits  
   Reference: Ch. 5, Escrow Funds

24. The 1988 Fair Housing Amendment Act expanded on the Civil Rights Act of 1968 to include banning discrimination on the basis of what?
   a. Age  
   b. Sex  
   c. Handicap  
   d. Race  
   Reference: Ch. 7, Federal Fair Housing Laws, 1988 Fair Housing Amendment

25. The monthly payment under FHA 203(b) may NOT include what?
   a. Mortgage life insurance  
   b. Property taxes  
   c. Fire insurance  
   d. Private mortgage insurance (PMI)  
   Reference: Ch. 13, Types of Mortgages, FHA Insured Mortgage Loan Programs

26. To whom is the original judgment assigned when money is to be paid from the Real Estate Recovery Fund?
   a. Florida Real Estate Commission  
   b. The courts  
   c. Department of Business and Professional Regulation  
   d. An administrative law judge  
   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

27. What municipal ordinances specify the standards for altering, remodeling, and new construction?
   a. Building codes  
   b. Zoning codes  
   c. Subdivision requirements  
   d. Health codes  
   Reference: Ch. 19, Building Codes
28. **Who orders a summary suspension?**
   a. The governor with affirmation by the senate
   b. The secretary of the department of Business and Professional Regulation
   c. The Division of Administrative Hearings
   d. The Florida Real Estate Commission

   Reference: Ch. 6, The Disciplinary Process

29. **What are the Federal Reserve actions taken to affect interest rates?**
   a. Capital recovery policy
   b. Variance policy
   c. Intermediation policy
   d. Monetary policy

   Reference: Ch. 13, Federal Reserve System

30. **Savings associations compete for new money to make mortgage and construction loans with which of the following?**
   a. Common stocks only
   b. Government bonds only
   c. Business investments only
   d. All other lenders and users of money

   Reference: Ch. 13, The Primary Mortgage Market, Mortgage Lenders

31. **Who are the parties involved in a deed of trust?**
   a. Beneficiary, mortgagee, and mortgagor
   b. Beneficiary, trustee, and mortgagor
   c. Beneficiary, trustee, and trustor
   d. Benefactor, trustee, and trustor

   Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans, Title Theory of Mortgages

32. **Which type of valuation is typically requested to determine the selling price of a property in a short sale transaction?**
   a. Appraisal by a licensed appraiser
   b. Appraisal by a real estate licensee
   c. Comparative market Analysis (CMA)
   d. Broker price opinion (BPO)

   Reference: Ch. 1, Introduction to the Real Estate Business, Valuation, and Market Conditions; Ch. 16, Valuation Services Performed by Real Estate Licensees

33. **What is the first step in an appraisal?**
   a. Gather data
   b. Adjust comparable sales
   c. Reconcile value
   d. Define the problem

   Reference: Ch. 16, The Appraisal Process

34. **The subject property has three bedrooms; the comparable property has four bedrooms. A bedroom is worth $5,000. What is the correct adjustment?**
   a. Add $5,000 to the subject property
   b. Add $5,000 to the comparable property
   c. Subtract $5,000 from the subject property
   d. Subtract $5,000 from the comparable property

   Reference: Ch. 16, Three Approaches to Value, Sales Comparison Approach

35. **A relatively new four-bedroom home with only one bathroom is an example of which of the following?**
   a. Physical deterioration
   b. Functional obsolescence
   c. External obsolescence
   d. Accrued depreciation

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

36. **What is one example of external obsolescence?**
   a. Missing roof shingles
   b. A one-car garage
   c. 60-ampere electrical service
   d. A freeway constructed adjacent to a lot

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

37. **What type of depreciation cannot be recovered?**
   a. Intrinsic
   b. Inherent
   c. Incurable
   d. Innate

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach
38. Depreciation or obsolescence that results from ordinary wear and tear is called which of the following?
   a. Straight-line depreciation
   b. External obsolescence
   c. Physical depreciation
   d. Functional obsolescence

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

39. What document would be used to return title to the trustor when a deed of trust is satisfied?
   a. Bill of sale
   b. Quitclaim deed
   c. Sheriff’s deed
   d. Reconveyance deed

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Title Theory of Mortgages

40. About what should an appraiser who estimates the value of a three-year-old home in a rural area be most concerned?
   a. Physical depreciation
   b. Functional obsolescence
   c. External obsolescence
   d. Straight-line depreciation

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

41. What appraisal principle states that homes in a neighborhood of similar homes should have similar values?
   a. Absorption
   b. Conformity
   c. Correlation
   d. Utility

   Reference: Ch. 16, Appraisal Concepts and Definitions, Principles of Value

42. What is the effect on present value when net income increases?
   a. Increases
   b. Decreases
   c. Stabilizes
   d. Varies

   Reference: Ch. 16, Three Approaches to Value, Income Approach

43. To avoid an undue hardship imposed by zoning regulations, a property owner may request which of the following?
   a. A special exception
   b. A variance
   c. Grandfathering
   d. A designated exception

   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes, Zoning Board of Adjustment

44. A house valued comparably to all houses in the neighborhood was assessed at a tax base $5,000 less than the others. Excluding any special tax exemptions, what should the property sell for?
   a. Less than the others
   b. More than the others
   c. The same as the others
   d. Insufficient information

   Reference: Ch. 16, Three Approaches to Value, Sales Comparison Approach

45. Prior to acceptance of an offer, to whom does the earnest money deposit belong?
   a. Broker individually
   b. Buyer and seller mutually
   c. Seller only
   d. Buyer only

   Reference: Ch. 5, Escrow Funds, Broker’s Rights to Escrowed Funds

46. When a seller takes back a second mortgage, how is it entered on a closing statement?
   a. Credit to the seller
   b. Debit to the seller
   c. Debit to the buyer
   d. Credit to the broker

   Reference: Ch. 14, Section 1 – Total Purchase Price, First or Second Mortgage Balance
47. Leverage is used with the expectation of which of the following?
   a. Increasing the yield on an investment by using borrowed money
   b. Decreasing the yield on an investment by using borrowed money
   c. Avoiding federal income tax
   d. Estimating the rate of return

Reference: Ch. 17, Real Estate Investment Terminology, Leverage

48. Which party normally pays for documentary stamps on the deed?
   a. The seller
   b. The buyer
   c. The closing agent
   d. The listing broker

Reference: Ch. 14, Section 3 – Expenses, State Documentary Stamp Tax on the Deed

49. By what right does the government enforce zoning regulations?
   a. Laws passed by citizens
   b. Police power
   c. Eminent domain
   d. Condemnation

Reference: Ch. 9, Limitations on Property Ownership, Government Limitations on Private Property Ownership

50. What does Freddie Mac stand for?
   a. Farmer’s Home Loan Mortgage Corporation
   b. Federal Home Loan Mortgage Corporation
   c. Federal National Mortgage Corporation
   d. Farmer’s National Mortgage Corporation

Reference: Ch. 13, The Secondary Mortgage Market

51. When the mortgagor fulfills all obligations under the note, what clause protects his rights to the property?
   a. Cognovit
   b. Defeasance
   c. Subordination
   d. Condemnation

Reference: Ch. 12, Essential Elements of a Mortgage

52. Which of the following is a two-party arrangement that uses the property as security, and creates a lien on the property that may be removed by foreclosure?
   a. Deed
   b. Conveyance
   c. Mortgage
   d. Deed of trust

Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans

53. Which two items are equivalent?
   a. Tier and section
   b. 1/36 and township/section
   c. Range and township
   d. Meridian and baseline

Reference: Ch. 10, Government Survey Method

54. What is deducted from potential gross income to calculate effective gross income when performing direct capitalization with the income approach to appraising?
   a. Vacancy and collection loss
   b. Sources of income other than rent
   c. Operating expenses
   d. Reserves for replacement

Reference: Ch. 16, Three Approaches to Value, Income Approach; Direct Capitalization Technique

55. What is the maximum amount of a VA guaranteed loan?
   a. $36,000
   b. $60,000
   c. $89,912
   d. No maximum

Reference: Ch. 13, Types of Mortgages, VA Guaranteed Loan

56. When a mortgage is paid in full, which document should be delivered to the mortgagor?
   a. Assignment
   b. Satisfaction
   c. Deed
   d. Estoppel

Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Satisfaction of Mortgage
57. **Real estate physically is what?**  
   a. Homogeneous  
   b. Indestructible  
   c. Intangible  
   d. Immobile  
   Reference: Ch. 15, Characteristics of the Real Estate Market, Physical Characteristics of Land

58. **What is the purpose of an estoppel certificate?**  
   a. To establish the mortgagee’s position  
   b. To establish a lien on the property  
   c. To provide the right of foreclosure  
   d. To provide information to the mortgagee or mortgagor  
   Reference: Ch. 12, Sale of Mortgaged Property, Verification of Loan Balance

59. **F.S. 475 identifies certain activities that are classified as first-degree misdemeanors. This includes violation of which of the following?**  
   a. Timeshare disclosure requirements and false advertising  
   b. Rental fee requirements and concealment of a material fact  
   c. False advertising  
   d. Rental fee requirements  
   Reference: Ch. 6, Criminal Penalties

60. **In which federally designated floodplain is elevated construction mandatory for residential properties?**  
   a. “V” zone  
   b. “B” zone  
   c. “X” zone  
   d. “A” zone  
   Reference: Ch. 19, National Flood Insurance Program (NFIP), Construction Standards

61. **Complete this statement. To be valid, a deed does NOT have to __________.**  
   a. Be in writing  
   b. Be under seal  
   c. Be delivered and accepted  
   d. Stipulate a consideration  
   Reference: Ch. 9, Deeds

62. **An owner promises to give a listing to only one broker, setting forth the price, terms, time, and commission, but reserves the right to sell the property without paying any commission. What type of listing has the seller given?**  
   a. Exclusive right of sale  
   b. Exclusive  
   c. Net  
   d. Open  
   Reference: Ch. 11, Listing Contracts, Types of Listing Contracts

63. **Which disciplinary action could the Department of Business and Professional Regulation impose for a violation of F.S. 475?**  
   a. Imprisonment  
   b. Injunction  
   c. Suspension  
   d. Citation  
   Reference: Ch. 6, Criminal Penalties; Administrative Penalties, Range of Penalties

64. **What type of listing best protects the broker?**  
   a. Exclusive right of sale  
   b. Exclusive  
   c. Open  
   d. Net  
   Reference: Ch. 11, Listing Contracts, Types of Listing Contracts

65. **Complete this statement. If a husband and wife both signed a note indicating that they are jointly and severally liable for a debt _______.**  
   a. Only the husband is liable  
   b. Only the wife is liable  
   c. Neither party is individually liable  
   d. Both parties are liable collectively  
   Reference: Ch. 5, Joint Business Relationships, General Partnership

66. **What is the only warrant found in a bargain and sale deed?**  
   a. Quiet enjoyment  
   b. Seisin  
   c. Habendum  
   d. Reddendum  
   Reference: Ch. 9, Deeds, Types of Deeds
67. All of the following items must be disclosed when answering background questions on the application for sales associate, EXCEPT:
   a. Minor traffic violations
   b. Felony or misdemeanor convictions
   c. Driving under the influence (DUIs)
   d. Any offenses for which adjudication was withheld

   Reference: Ch. 2, Obtaining a Florida Real Estate License, Answering Background Questions

68. Building activity is related to the business cycle. If the current phase of the business cycle is expansion, what is the correct order of the next phases in the cycle?
   a. Contraction, peak, and trough
   b. Peak, contraction, and trough
   c. Trough, peak, and contraction
   d. Contraction, trough, and peak

   Reference: Ch. 15, Supply and Demand, The Business Cycle

69. Jones sells a parcel of property to Mason, who thereafter leases the property to Jones. The seller has entered into which of the following?
   a. Sale-contractback
   b. Buy-leaseback
   c. Sale-leaseback
   d. Contract for deed

   Reference: Ch. 9, Leases, Types of Leases

70. Complete this sentence. Valuable consideration _________.
   a. Can only be money
   b. Could be a promise
   c. Is a requirement of all contracts
   d. Refers to "love and affection"

   Reference: Ch. 11, Contracts

71. If the broker has escrow, and a dispute arises concerning the disposition of escrowed funds, what should the broker’s first action be?
   a. Ask the FREC for an escrow disbursement order
   b. Give the deposit to the seller
   c. Collect the broker’s portion of the deposit as damages
   d. Notify the FREC within 15 business days if the dispute remains unresolved

   Reference: Ch. 5, Escrow Funds, Escrow Disputes

72. All of the following describe the real estate market, EXCEPT:
   a. Influenced by externalities
   b. Unorganized and inefficient
   c. Local in nature
   d. Supply and demand are usually in balance

   Reference: Ch. 15, Characteristics of the Real Estate Market; Supply and Demand, Competition in the Marketplace

73. What does an encumbrance affect?
   a. Mortgage
   b. Deed
   c. Title
   d. Structure

   Reference: Ch. 9, Title, Title Insurance

74. Which term refers to criminal conduct on the part of a licensee that is considered contrary to the standards of justice, honesty, or good morals?
   a. Moral turpitude
   b. Breach of trust
   c. Culpable negligence
   d. Misrepresentation

   Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

75. Which method of describing property would NOT be utilized by a licensed surveyor in developing a legal description?
   a. A street number and address
   b. Reference to a recorded plat
   c. Description by metes and bounds
   d. Government survey

   Reference: Ch. 10, Legal Descriptions
76. The city of Sunnydale, Florida, owns one-third of all the real property within the city limits including schools, highway right-of-ways, public buildings, and common areas. How is the city taxed on these properties?
   a. 2/3
   b. 1/2
   c. 1/3
   d. Not at all

Reference: Ch. 18, Real Estate Tax Exemptions and Limitations, Immune Property

77. If no clause appears in a contract concerning damages, what are any damages awarded as a result of a breach of contract?
   a. Revocable
   b. Extraordinary
   c. Liquidated
   d. Unliquidated

Reference: Ch. 11, Contract Termination, Types of Damages

78. How many acres are contained in 1/36 of a township?
   a. 640
   b. 460
   c. 160
   d. 40

Reference: Ch. 10, Government Survey Method, Townships, Section Subdivided into Quarter Sections

79. Complete this statement. To help prevent fraudulent documents from being placed in the public records, the documents are _________.
   a. Filed in duplicate
   b. Entered in the computer records
   c. Acknowledged by an officer of the state
   d. Witnessed by two persons

Reference: Ch. 9, Deeds, Transferring Title

80. Complete this statement. A licensee who has appealed a decision by the Florida Real Estate Commission regarding a disciplinary decision may have his or her license privileges restored by _________.
   a. Injunction
   b. Warrant
   c. The administrative law judge
   d. Writ of mandamus

Reference: Ch. 6, The Disciplinary Process, Step 7 - Judicial Review

81. Which of the following is true regarding general warranty deeds?
   a. They assure good title.
   b. They assure marketable title.
   c. They state that the grantor will defend against all lawful claims.
   d. They are used principally to cure defects in title.

Reference: Ch. 9, Deeds, Types of Deeds

82. Who may the Department of Business and Professional Regulation subpoena?
   a. Anyone thought to have information or evidence pertinent to an investigation
   b. Any member of the public
   c. Only licensees and applicants
   d. No one

Reference: Ch. 6, The Disciplinary Process

83. What is the most comprehensive form of real property ownership?
   a. Fee simple estate
   b. Life estate
   c. Tenancy in common
   d. Tenancy for years

Reference: Ch. 8, Estates
84. Complete this statement. Following expiration of their licenses, sales associates may _____________.
   a. Continue operating in an inactive status
   b. Take listings as long as they allow other licensees to sell them
   c. Collect a commission they legally earned before the expiration date
   d. Market listings taken before expiration

Reference: Ch. 5, Sales Associate Duties, Compensation

85. All of the following are required to obtain an active sales associate license, EXCEPT:
   a. Complete pre-licensing education and pass the state licensing exam.
   b. Provide proof of Florida residency.
   c. Obtain employment by an active, licensed broker or owner-developer.
   d. Submit an application along with the fee payment.

Reference: Ch. 2, Obtaining a Florida Real Estate License

86. If you begin at a point and go north 90° east, in what direction would you be traveling?
   a. North
   b. South
   c. East
   d. West

Reference: Ch. 10, Surveyor's Method

87. Complete this statement. A listing contract would not terminate as the result of _____________.
   a. The death of the seller
   b. The death of the broker
   c. Destruction of the improvements
   d. Abandonment by the seller

Reference: Ch. 11, Listing Contracts, Termination of a Listing

88. What is the legal instrument that includes the borrower's promise to repay a loan with interest according to the terms and conditions specified?
   a. Mortgage
   b. Lien
   c. Deed of trust
   d. Promissory note

Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans

89. What is required to create a joint tenancy?
   a. Three parties
   b. A husband and wife
   c. The four unities
   d. A will

Reference: Ch. 8, Estates

90. If a seller revoked an exclusive right of sale listing without cause and then sold the property to a neighbor, which statement would be true?
   a. A seller always has the right to revoke a listing.
   b. Only the broker may revoke this listing.
   c. The broker is due a commission based on the sales price.
   d. The broker may sue for damages for time and expenses.

Reference: Ch. 11, Listing Contracts, Types of Listing Contracts

91. If a sales associate is entitled to 60% of all commissions earned, and sells a property for $64,000 with a 7% commission due to the broker, how much should the broker pay the sales associate?
   a. $1,726
   b. $1,792
   c. $2,688
   d. $4,480

Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission
92. County taxes are 6 mills, city taxes are 8 mills, and school board taxes are 7 mills. If homestead property is assessed at $110,000, what are the annual taxes?
   a. $1,316
   b. $1,435
   c. $1,880
   d. $2,310

Reference: Ch. 18, Calculating a Real Estate Tax Levy

93. If interest at 12% for 3 months equals $135, what is the principal amount?
   a. $2,600
   b. $2,750
   c. $3,800
   d. $4,500

Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

94. Taxes for the year were $12,800. Closing is March 17th, and the seller has agreed to be responsible for all charges on the day of closing. Using the 365-day method, how would this proration appear on the closing statement?
   a. Debit Seller $2665.21, Credit Buyer $10,134.79
   b. Debit Buyer $10,134.79, Credit Seller $2665.21
   c. Debit Seller $2665.21, Credit Buyer $2665.21
   d. Debit Buyer $2665.21, Credit Seller $2665.21

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Property Taxes

95. What is the principal balance of a $50,000 mortgage at 12% interest after two monthly payments of $514.31?
   a. $49,985.69
   b. $49,971.24
   c. $49,956.64
   d. $49,941.90

Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

96. A property that measures 120' x 300' sold for $38,500. What was the price per square foot?
   a. $1.07
   b. $1.31
   c. $1.51
   d. $1.70

97. A developer purchased a tract of land for $100,000, subdivided the parcel into three lots, and sold the lots for $50,000 each. What was the developer’s profit on investment?
   a. 20%
   b. 30%
   c. 40%
   d. 50%

Reference: Ch. 17, Evaluating Investment Properties, Return on Investment (ROR)

98. If a property’s effective gross income is $44,000, operating expenses are $26,000, and the capitalization rate is 10%, what is the value of the property?
   a. $18,000
   b. $80,000
   c. $180,000
   d. $220,000

Reference: Ch. 16, Three Approaches to Value, Income Approach, Direct Capitalization Technique; Using the IRV Formula to Derive Capitalization Rates
99. **If property value equals $120,000, operating expenses are $45,000, and the net operating income is $15,000, what is the capitalization rate?**
   a. 12.25%
   b. 12.50%
   c. 12.75%
   d. 13.25%

Reference: Ch. 16, Three Approaches to Value, Income Approach, Direct Capitalization Technique; Using the IRV Formula to Derive Capitalization Rates

100. **If a lender charges four points on a loan with an interest rate of 11%, what would be the approximate yield to the lender?**
   a. 11.25%
   b. 11.50%
   c. 11.75%
   d. 11.85%

Reference: Ch. 12, Common Mortgage Features, Mortgage Loan Fees – Effective Yield
This section contains 1001 multiple-choice practice exam questions that are divided up into ten, 100-question Q&A Cram Exams. The questions in these exams have been compiled over many years from feedback we have received from students after taking the state exam. As such, these questions provide an important tool to help you prepare for your state licensing exam.

Do not use these questions to study for your end-of-course final exam. These questions are designed to use AFTER you have passed the end-of-course final exam. These extensive practice exam questions are designed to help you:

- Prepare for the wide variety and complexity of questions you may see on the state exam
- Provide more complex math problems that you may encounter on the state exam
- Provide a more comprehensive review of the subtleties of the license laws and rules
- Identify course topics where you may need more in-depth knowledge

We suggest that you take each of these ten exams as if you were taking an actual state exam. Record your answers on a separate piece of paper. Since your end-of-course final exam is timed, we suggest that you give yourself three hours when taking each of the ten Q&A Cram Exams.

When taking a Q&A Cram Exam, attempt to answer every question to the best of your ability without referring back to the chapter material or the answer key. When finished, score your results by using the answer key at the back of the book.

After scoring each Q&A Cram Exam, go back and review the chapter material for questions that you missed, or that you were unsure of, to make sure you understand the rationale for the correct answer. For math problems, make sure you understand the topic concepts and steps required to solve the problem. The answer key provides solutions to these problems, but simply memorizing a particular answer on the cram exam will not help you on the state exam.

After completing all ten Q&A Cram Exams in this manner, we strongly suggest that you repeat the process two more times (for all 1001 questions). By the end of the third time, you should see significantly increased scores on the exams, indicating a more in-depth knowledge of the course material.
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1. In which area of brokerage has absentee ownership increased the demand?
   a. Business opportunity brokerage
   b. Commercial sales
   c. Agricultural sales
   d. Property management

   Reference: Ch. 1, Specialization within the Real Estate Profession

2. How is a real estate appraiser typically paid?
   a. A fee based upon seniority
   b. A fee based upon time and difficulty of the appraisal
   c. A fee based upon the value of the property appraised
   d. A commission based upon the value of the property

   Reference: Ch. 1, Appraising

3. What does the local planning agency have the authority to approve?
   a. Building permits
   b. Deed restrictions
   c. Escheat actions
   d. A subdivision plat map

   Reference: Ch. 19, Authority of the Local Planning Agency

4. What is it called when a developer gives land to a governmental body?
   a. Eminent domain
   b. Condemnation
   c. Lis pendens
   d. Dedication

   Reference: Ch. 1, Construction and Development

5. What business is a licensee engaged in who markets, leases, and maintains property for someone else?
   a. Property management
   b. Business brokerage
   c. Universal agency
   d. Estoppel

   Reference: Ch. 1, Specialization within the Real Estate Profession

6. In which service of real estate must a licensee disclose the agency relationship and the responsibilities of that relationship to the public?
   a. Residential sales
   b. Residential leasing
   c. Real estate appraisals
   d. Real estate auctions

   Reference: Ch. 4, Disclosure Requirements

7. Which power authorizes the FREC to pass or revise rules?
   a. Ministerial powers
   b. Quasi-executive
   c. Quasi-judicial
   d. Quasi-legislative

   Reference: Ch. 3, The FREC, Powers of the Commission

8. All of the following would be grounds for suspension or revocation of a real estate license, EXCEPT:
   a. Not giving the proper agency disclosure
   b. Falsifying information on a license application
   c. Not being a resident of Florida
   d. False advertising

   Reference: Ch. 2, General Qualifications; Ch. 6, Exhibit 6.3

9. Sandy works as a sales associate for a broker and has been asked to work weekends for a developer to sell new homes on commission. What must Sandy do to work for the developer?
   a. Transfer her license from the broker to the owner-developer
   b. Notify the broker where she can be found on weekends
   c. Contact the state and be issued a group license
   d. Contact the state and be issued multiple licenses

   Reference: Ch. 2, Employment; Ch. 5, Sales Associate’s Duties, Change of Employer or Address
10. **What does the license law require that a licensee complete before the first renewal of a Florida real estate license?**
   a. A continuing education course
   b. A minimum number of transactions
   c. A post-licensing course
   d. A REALTOR orientation course

   Reference: Ch. 2, Renewing a Florida Real Estate License

11. **In a brokerage corporation, the officers and directors can be active or inactive brokers or nonlicensed registered persons. If someone who is nonlicensed and registered wants to become a broker, what must they do?**
   a. File an application with the secretary of state
   b. Only take a 40-question law exam
   c. Qualify for a broker license in the same way as anyone else
   d. Demonstrate two years of experience in the real estate business

   Reference: Ch. 2, Obtaining a Florida Real Estate License, License Categories, Broker; Ch. 5, Real Estate Brokerage Corporation

12. **Who would be exempt from the real estate licensing law?**
   a. An apartment manager in an on-site rental office renting for two years
   b. A condominium manager leasing units for two years on salary
   c. A mortgage broker negotiating a lease for one year
   d. A person who rents mobile home lots

   Reference: Ch. 2, Individuals Who are Exempt from Licensure

13. **Which entity provides the best protection for the public during a real estate transaction?**
   a. The National and State Association of REALTORS
   b. The punishment of licensees dealing dishonestly
   c. The NAR Code of Ethics
   d. FREC and the license law

   Reference: Ch. 2, Purpose of the Law; Ch. 3, The Florida Real Estate Commission

14. **Which of the following is a characteristic of group license?**
   a. It allows a broker to have branch offices.
   b. It allows a sales associate to work for more than one broker.
   c. It may be held by a sales associate or broker associate.
   d. It allows a broker to qualify for more than one brokerage firm.

   Reference: Ch. 3, Group License and Multiple Licenses, Group License

15. **All of the following are exempt from F.S. 475, EXCEPT:**
   a. Trustees for an estate
   b. Personal representatives for an estate
   c. Mortgage brokers engaged in financing activities
   d. Business brokers

   Reference: Ch. 2, Individuals Who are Exempt from Licensure

16. **Complete the sentence. A broker who holds more than one broker license:**
   a. Holds multiple licenses
   b. Is in violation of the license law
   c. Must register one as a branch license
   d. Can have only one active at a time

   Reference: Ch. 3, Group and Multiple Licenses

17. **Complete the sentence. General partners in a brokerage partnership that are not qualified to perform the services of real estate must be registered:**
   a. As inactive sales associates
   b. As ostensible partners
   c. As inactive broker associates
   d. For identification purposes

   Reference: Ch. 5, Types of Business Formations
18. Bill’s license expired on September 30. On February 14, of the following year, he wants to renew it. If it is not his first renewal, what must Bill do?
   a. Start over with a pre-license course
   b. Pay a late fee and complete two 14-hour continuing education classes
   c. Pay a late fee and complete 14 hours of continuing education
   d. Pay a late fee and complete 45 hours of post-license education

Reference: Ch. 2, Renewing a Florida Real Estate License

19. Ron and his wife each have real estate licenses before he enters the military. Ron is stationed in Washington, D.C., and his wife accompanies him there. If they make their licenses inactive:
   a. Only Ron is exempt from renewal requirements until six months after he is discharged.
   b. Only Ron is exempt from renewal requirements until 12 months after he is discharged.
   c. Ron and his wife are exempt from renewal requirements until two years after Ron’s discharge.
   d. Ron and his wife are exempt from renewal requirements until 12 months after Ron’s discharge.

Reference: Ch. 2, Members of the Armed Forces

20. What is the status of a sales associate’s license if the sales associate works for a broker, and that broker loses his license?
   a. Unaffected
   b. Suspended
   c. Revoked
   d. Involuntary inactive

Reference: Ch. 3, Void and Ineffective Licenses

21. The Florida Real Estate Commission may do all of the following, EXCEPT:
   a. Impose imprisonment as a penalty
   b. Pass rules to implement the license law
   c. Make determination of violations
   d. Establish licensing fees

Reference: Ch. 6, Range of Penalties

22. Karl’s license expired on September 30, 2015. On February 10, 2019 he wants to activate it again. Which is correct?
   a. He must complete 28 hours of continuing education.
   b. His license is null and void.
   c. He must complete 42 hours of continuing education.
   d. He must complete 45 hours of post-license education.

Reference: Ch. 3, Active and Inactive License Status

23. A real estate broker has entered into a single agency relationship with the sellers of a three-bedroom, two-bath house. One of the agents in that broker’s office has found an investor wanting to hire the brokerage firm as a single agent. For the investor to be shown this seller’s house:
   a. The broker can work as a dual agent for both the buyer and the seller.
   b. This would be legal as long as the broker assigns a designated agent for each party.
   c. The seller must be informed that the brokerage firm is representing the buyer.
   d. Both the seller and the investor must agree to transition to transaction broker status.

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

24. What must be given to a seller who is about to enter into a fiduciary relationship with a brokerage firm?
   a. Single Agency Notice
   b. Transition to Transaction Broker Notice
   c. Transaction Broker Notice
   d. No Brokerage Relationship Notice

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships
25. What should a sales associate do if his employing broker instructs him not to show properties to people of a certain race?
   a. Ignore the broker’s instruction
   b. Follow the broker’s instruction
   c. Ask the broker to put the instruction in writing
   d. Find a new employer

   Reference: Ch. 7, Federal Fair Housing Laws

26. Which form requires the signature of all parties?
   a. No Brokerage Relationship Notice
   b. Transaction Broker Notice
   c. Single Agent Notice
   d. Transition to Transaction Broker

   Reference: Ch. 4, Brokerage Relationship Disclosure Act

27. In which instance must the agency disclosure forms developed by the state be used?
   a. Commercial leasing
   b. Residential leasing
   c. Residential sales
   d. Residential auctions

   Reference: Ch. 4, Brokerage Relationship Disclosure Act

28. Which duty does a broker owe to a customer?
   a. Full disclosure
   b. Avoid adverse interests
   c. Obedience
   d. Disclose known facts affecting the value of residential property

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

29. What must all advertising of listed property contain?
   a. Name of the sales associate
   b. Telephone number for the brokerage firm
   c. Name of the brokerage firm
   d. Telephone number of the sales associate

   Reference: Ch. 5, Advertising

30. Sales associate Glenn works for broker John. If Glenn receives an escrow deposit on Tuesday, what should he do?
   a. Deliver it to his broker by Friday (third business day)
   b. Hold deposit until contract is accepted
   c. Deliver it to his broker immediately (next business day)
   d. Deliver it to his escrow account immediately

   Reference: Ch. 5, Depositing Escrow Funds

31. A broker may hold escrow deposits in any of the following, EXCEPT:
   a. A savings association
   b. A commercial bank
   c. A credit union
   d. A mutual fund

   Reference: Ch. 5, Escrow Funds, Escrow Account

32. To whom do listings obtained by a sales associate belong?
   a. The employing broker
   b. The listing sales associate
   c. The multiple listing service
   d. The local association of REALTORS

   Reference: Ch. 5, Sales Associate’s Duties

33. A broker sells a rental list to a prospective tenant for $200. In a written agreement, the broker states that the fee is nonrefundable. This is:
   a. Legal because it was disclosed in advance
   b. Illegal under F.S. 475
   c. Legal but not ethical
   d. Legal because the fee was less than $500

   Reference: Ch. 5, Rental Information
34. A sales associate wants to use a trade or fictitious name. Which statement applies?
   a. The name must be registered with the county clerk.
   b. The name must be registered with FREC.
   c. This would violate F.S. 475.
   d. The name must be registered with the secretary of state.

   Reference: Ch. 5, Fictitious (or Trade) Names

35. Jim is a sales associate applicant but has failed the state exam twice. After reviewing his most recent exam, he feels that some of the questions he missed were really correct and marked wrong in error. What may Jim do?
   a. File a complaint against the testing company
   b. Request a retest at no charge
   c. File a written objection to the questions during the scheduled question review
   d. Request an informal hearing before FREC

   Reference: Ch. 2, The State License Exam

36. Craig is a real estate sales associate working for ABC Realty, Inc. Craig decides to have refrigerator magnets made to give out to the public. What must he include on the magnets?
   a. Since Craig is paying for them, he can put anything he wants on them.
   b. They must contain Craig’s license status.
   c. They must contain the name ABC Realty, Inc.
   d. They must contain the word REALTOR or broker.

   Reference: Ch. 5, Advertising

37. A borrower applied for and received an adjustable rate mortgage (ARM). The interest rate increased more than the periodic cap would allow. The new payment does not cover the full interest that is added to the principal balance and deferred. What is this called?
   a. Negative amortization
   b. Index rate
   c. Margin
   d. Teaser rate

   Reference: Ch. 13, Adjustable Rate Mortgage (ARM)

38. Which business entity may NOT register as real estate brokerage firm?
   a. Corporation
   b. Corporation not for profit
   c. Corporation sole
   d. General partnership

   Reference: Ch. 5, Types of Business Formations

39. When there is a dispute over escrow funds, the procedures include four choices. Which choice involves a third person recommending a solution?
   a. Arbitration
   b. Mediation
   c. Litigation
   d. Escrow disbursement order

   Reference: Ch. 5, Dispute Settlement Procedures

40. Which step follows the investigation in the complaint process?
   a. Probable cause determination
   b. Administrative complaint
   c. Formal hearing
   d. Informal hearing

   Reference: Ch. 6, The Disciplinary Process

41. Complete the sentence. If a licensee does not dispute a citation, it has the same effect as a:
   a. Cease and desist order
   b. Reprimand
   c. Final order
   d. Formal complaint

   Reference: Ch. 6, Citation Authority
42. What is the maximum criminal penalty that a court could impose for a second-degree misdemeanor?
   a. $2,000 fine and/or two years in jail
   b. $1,000 fine and/or one year of jail time
   c. $500 fine and/or 60 days of jail time
   d. $5,000 fine and/or five years in jail

   Reference: Ch. 6, Criminal Penalties

43. Who has the right to file a complaint against a licensee with the DBPR?
   a. FREC
   b. Anyone
   c. DRE
   d. DBPR

   Reference: Ch. 6, The Disciplinary Process

44. Which punishment would FREC likely impose for a first offense against a broker found guilty of a minor violation?
   a. $500 fine
   b. Notice of noncompliance
   c. Citation
   d. Suspension

   Reference: Ch. 6, Administrative Penalties

45. What is the maximum number of years that FREC may suspend a real estate license?
   a. 3
   b. 5
   c. 10
   d. 15

   Reference: Ch. 6, Range of Penalties - Suspension

46. For multiple claims against a licensee, what is the maximum reimbursement from the Florida Real Estate Recovery Fund?
   a. $150,000
   b. $50,000
   c. $25,000
   d. $15,000

   Reference: Ch. 6, Florida Real Estate Recovery Fund

47. Complete the sentence. The Florida Real Estate Recovery Fund:
   a. Is replenished from state taxes if needed
   b. Covers punitive damages
   c. Is to protect licensees
   d. Is funded from licensing fees

   Reference: Ch. 6, Florida Real Estate Recovery Fund

48. Where must the appeals of FREC final orders be filed?
   a. Circuit Court of Appeals
   b. District Court of Appeals
   c. Offices of the Association of REALTORS
   d. Offices of the Department of Financial Services

   Reference: Ch. 6, The Disciplinary Process

49. What is the maximum fine the Commission could impose against a licensee who was found guilty of two violations of Chapter 475, F.S.?
   a. $10,000
   b. $7,500
   c. $5,000
   d. $1,000

   Reference: Ch. 6, Range of Penalties

50. What charge may be filed against a broker who fails to pay their sales associate?
   a. Culpable negligence
   b. Concealment
   c. Commingling
   d. Failure to account

   Reference: Ch. 6, Fraudulent Activities

51. The Fair Housing Act of 1968 (as amended) prohibits discrimination based upon:
   a. Race, color, citizenship, sex, family status, or religion
   b. Race, color, religion, sex, age, national origin, or handicap
   c. Race, color, religion, sex, national origin, family status, or handicap
   d. Race, color, age, residency, sex, national origin, or handicap

   Reference: Ch. 7, Federal Fair Housing Laws
52. What law requires that buyers be given a good faith estimate of closing costs prior to closing?
   a. Florida Statute 475
   b. Truth-in-Lending Act
   c. Sherman/Clayton Antitrust Act
   d. RESPA

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures

53. A licensee picks the properties a particular buyer is shown based on the race of the buyer. What is this illegal act?
   a. Redlining
   b. Blockbusting
   c. Steering
   d. Commingling

   Reference: Ch. 7, Florida Landlord and Tenant Act

54. Telling homeowners that minority families are moving into their neighborhood in an attempt to get them to sell their home and move is referred to as which of the following?
   a. Steering
   b. Redlining
   c. Blockbusting
   d. Boycotting

   Reference: Ch. 7, Federal Fair Housing Act

55. Broker Bill has been hired to rent Mrs. Brown’s apartment building located in a large college town. Broker Bill quotes lower rents and deposits to females because he has found through experience that they will cause less trouble than males, and females will maintain their apartments in much better condition. This is:
   a. True and therefore no problem
   b. A violation of the Civil Rights Act of 1866
   c. A violation of the Equal Rental Opportunity Act of 1972
   d. A violation of the Fair Housing Act of 1968

   Reference: Ch. 7, Federal Fair Housing Laws

56. Which is correct according to the Florida Landlord and Tenant Act?
   a. Deposits may be held in an interest-bearing account, and the landlord keeps the interest.
   b. Deposits may not be held in a non-interest-bearing account.
   c. Deposits may be commingled into the landlord’s personal account, provided the landlord has posted a surety bond with a notary public.
   d. Landlord must inform tenant within 30 days how the deposit is being held.

   Reference: Ch. 7, Florida Landlord and Tenant Act

57. A developer advertises homes for sale with a total down payment of $1,500. The developer knows that all of the houses with that amount of down payment have been sold. Is this transaction covered under truth-in-lending laws?
   a. No, because the advertising was done by a builder/developer, not a broker
   b. Yes, because this is bait and switch advertising and is illegal
   c. No, because single-family residence is exempt from Regulation Z
   d. Yes, because this is puffery and is illegal

   Reference: Ch. 5, False Advertising; Ch. 13, Laws Regarding Fair Credit and Lending Procedures

58. What is the main purpose of Regulation Z?
   a. Require lenders to disclose the true cost of credit to consumers
   b. Require lenders to disclose closing costs to borrowers
   c. Require brokers to disclose closing costs to buyers
   d. Require sales associates to disclose commissions to customers

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Truth-in-Lending Act
59. **Under the Truth in Lending Act, in credit advertising, which would not be considered a “triggering term”?**
   a. $1,500 down
   b. Easy terms
   c. 6% interest
   d. 10% down

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Triggering Terms

60. **A broker receives a kickback or referral fee from a title insurance company. This practice is:**
   a. Legal
   b. A violation of RESPA
   c. Legal; however, not recommended
   d. Illegal; however, FREC will allow it to continue as long as the broker is active

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures

61. **A property that borders a river or stream includes which rights?**
   a. Allodial
   b. Alluvial
   c. Littoral
   d. Riparian

   Reference: Ch. 8, Real and Personal Property

62. **The courts usually apply legal tests to determine if personal property has become a fixture. Which of the following is included in those tests?**
   a. Date of purchase
   b. Extent of the parties
   c. Relationship of the parties
   d. All of the above

   Reference: Ch. 8, Real Estate Transaction Property Distinctions

63. **An owner of a piece of real estate has purchased the materials to fence the backyard. What type of property is the fencing material?**
   a. Trade fixture
   b. Real estate
   c. Personal property
   d. Fixture

   Reference: Ch. 8, Real and Personal Property

64. **Three friends buy a property together with equal shares at the same time. If they have the right of survivorship, what type of tenancy have they created?**
   a. Joint tenancy
   b. Tenancy in common
   c. Tenancy for years
   d. Tenancy by the entireties

   Reference: Ch. 8, Estates

65. **Who owns the property in a tenancy by the entireties?**
   a. Two cohabitating adults
   b. Husband and wife
   c. Entirely one person
   d. An entire family

   Reference: Ch. 8, Freehold Estates

66. **What type of tenancy exists when a tenant remains in possession of a property after their rights have expired?**
   a. Joint tenancy
   b. Tenancy by the entireties
   c. Tenancy at will
   d. Tenancy at sufferance

   Reference: Ch. 8, Estates

67. **The purpose of the homestead exemption is to protect the surviving spouse and children and to exempt property from foreclosure for:**
   a. Property taxes
   b. Debts other than direct debts and federal liens
   c. Mortgage debts
   d. All debts

   Reference: Ch. 8, Constitutional Homestead Rights

68. **Which tenancy contains the right of survivorship?**
   a. In common
   b. Joint
   c. Sufferance
   d. At will

   Reference: Ch. 8, Estates
69. **The initial tax exemption for homestead is available only to owners that:**
   a. Claimed the property as their principal residence as of January 1 and filed by April 15
   b. Claimed the property as their principal residence as of January 1 and filed by March 1
   c. Claimed their property as their principal residence as of March 1 and filed by April 15
   d. Recorded their deed by January 1 and filed by April 1

   Reference: Ch. 18, Homestead Tax Exemption

70. **What would be the best bundle of rights with a timeshare include?**
   a. Right to use
   b. Interval ownership
   c. Membership
   d. Leasehold

   Reference: Ch. 8, Timeshare Ownership

71. **How is the right to occupy a cooperative evidenced?**
   a. Tenancy in common
   b. Joint tenancy
   c. Deed
   d. Proprietary lease

   Reference: Ch. 8, Cooperative Association

72. **What term refers to the power that the government has to take land for the public good?**
   a. Encumbrance
   b. Escheat
   c. Eminent domain
   d. Easement

   Reference: Ch. 9, Methods of Acquiring Title, Transfer by Involuntary Alienation

73. **Which clause in a deed states that the grantor was in possession and has the right to sell the property?**
   a. Seisin
   b. Granting
   c. Premises
   d. Habendum

   Reference: Ch. 9, Clauses in Deeds

74. **What is actual notice?**
   a. Recording the deed in the public records
   b. Possession of the property that can be seen and heard
   c. Less valid than constructive notice
   d. Notarizing the documents of transfer

   Reference: Ch. 9, Title, Notice of Ownership

75. **Complete the sentence. A deed must be:**
   a. Notarized
   b. Witnessed
   c. Recorded
   d. Signed by the grantee

   Reference: Ch. 9, Deeds, Transferring Title

76. **How is a quitclaim deed most often used?**
   a. As a tax deed
   b. As a way to clear clouds on title
   c. As a personal representative’s deed
   d. As a guardian’s deed

   Reference: Ch. 9, Types of Deeds

77. **Complete the sentence. The ownership of a property actually transfers from the grantor to the grantee when the deed is:**
   a. Notarized and recorded
   b. Delivered and accepted
   c. Signed by the grantee and witnessed
   d. Signed by the grantee and recorded

   Reference: Ch. 9, Deeds – Transferring Title

78. **What is the purpose of a title search?**
   a. Locate all important documents for a closing
   b. Issue title insurance
   c. Give constructive notice
   d. Run a chain of title

   Reference: Ch. 9, Protecting Title
79. What is a title?
   a. A deed of conveyance
   b. A legally binding contract
   c. A piece of paper
   d. A bundle of ownership rights

   Reference: Ch. 9, Title, Title to Real Property

80. Private restrictions are enforced by private citizens. Which of the following is the strongest control they have over a property owner?
   a. Leases
   b. Easements
   c. Deed restrictions
   d. Liens

   Reference: Ch. 9, Private Limitations on Property Ownership

81. Which statement correctly applies to owner’s title insurance?
   a. It is transferable to new owners.
   b. It protects the mortgagee from title defects.
   c. It protects the buyer from title defects.
   d. It is required on all transactions.

   Reference: Ch. 9, Title Insurance

82. Which deed contains no warrants or promises?
   a. General warranty deed
   b. Bargain and sale deed
   c. Special warranty deed
   d. Quitclaim deed

   Reference: Ch. 9, Types of Deeds

83. If an owner dies intestate with no known heirs, how can the state take the property?
   a. Elective share
   b. Dower rights
   c. Eminent domain
   d. Escheat

   Reference: Ch. 9, Methods of Acquiring Title, Transfer by Involuntary Alienation

84. How many acres does the following legal description contain?
   The S 1/2 of the SW 1/4 of the NW 1/4 and the N 1/2 of the NW 1/4 of the SW 1/4 of a Section
   a. 20
   b. 40
   c. 625
   d. 640

   Reference: Ch. 10, Government Survey Method, Calculating Acreage in a Parcel Containing Contiguous Tracts

85. The southeast corner of Section 31, Township 1 North, Range 3 West, is how many miles from Tallahassee?
   a. 17
   b. 18
   c. 23
   d. 24

   Reference: Ch. 10, Government Survey Method

86. The horizontal strip of land six miles wide immediately north of the Tallahassee baseline would be:
   a. Township 1 East
   b. Section 1 North
   c. Range 1 North
   d. Township 1 North

   Reference: Ch. 10, Government Survey Method

87. What type of listing can be held by more than one broker at the same time?
   a. Open listing
   b. Exclusive right of sale listing
   c. Exclusive listing
   d. All of the above

   Reference: Ch. 11, Types of Listing Contracts

88. Which action can terminate a contract?
   a. Novation
   b. Performance
   c. Rejection
   d. Subrogation

   Reference: Ch. 11, Contract Termination
89. **Which item is an essential element of a sales contract?**
   a. An offer and acceptance
   b. Witnesses
   c. A notary seal
   d. An earnest money deposit

   Reference: Ch. 11, Essentials of a Valid Contract

90. **What does the statute of frauds require?**
   a. Lawsuits about oral contracts must be filed within four years
   b. All contracts must be in writing
   c. To be enforceable, a contract transferring an interest in real estate must be in writing
   d. Violations are punishable by fines not to exceed $1,000

   Reference: Ch. 11, Statute of Frauds

91. **What is stated in the statute of limitations?**
   a. The sentencing guidelines for violations of the law
   b. The time frame in which a contract can be enforced
   c. To be enforceable, real estate contracts must be written
   d. Contracts must be notarized to be enforceable

   Reference: Ch. 11, Statute of Limitations

92. **The essential elements of a contract include all of the following, EXCEPT:**
   a. Consideration
   b. Offer and acceptance
   c. Competent parties
   d. Notarized

   Reference: Ch. 11, Essentials of a Valid Contract

93. **In states which operate under title theory, the borrower:**
   a. Transfers ownership to the mortgagee or a third party until paid
   b. Transfers possession to the mortgagee or a third party until paid
   c. Pledges the property as security on the loan
   d. Creates a tenancy in common with the lender

   Reference: Ch. 12, Title Theory of Mortgages

94. **What is the amount of guarantee based upon for a VA guaranteed loan?**
   a. Appraised value
   b. Assessed value
   c. Loan amount
   d. Sale price

   Reference: Ch. 13, VA Guaranteed Loans

95. **Fill in the blanks. Conventional lenders usually want the buyer’s housing ratio not to exceed ____ and the total obligations ratio not to exceed _____.**
   a. 31%, 43%
   b. 29%, 41%
   c. 29%, 36%
   d. 28%, 36%

   Reference: Ch. 12, Income Ratios - Conventional

96. **What is the name for the legal document that pledges a property as security for a loan?**
   a. Promissory note
   b. Mortgage
   c. Title
   d. Bond

   Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans

97. **What does the FHA do with respect to mortgage lending?**
   a. Purchases existing loans
   b. Makes loans
   c. Guarantees loans
   d. Insures loans

   Reference: Ch. 13, Types of Mortgages

98. **What is it called when a buyer buys a property and takes over responsibility on an existing loan?**
   a. Agreement for deed
   b. Subject to the mortgage
   c. Assumption of the mortgage
   d. Any of the above

   Reference: Ch. 12, Sale of Mortgaged Property
99. **When calculating housing and total obligations ratios, which income value does the lender use?**
   a. Gross monthly income 
   b. Net monthly income 
   c. Gross annual income 
   d. Net annual income 

   Reference: Ch. 12, Lender Risk, Income Ratios

100. **Which type of loan uses both real and personal property as security?**
   a. Blanket mortgage 
   b. Purchase money mortgage 
   c. Package mortgage 
   d. Chattel mortgage 

   Reference: Ch. 13, Types of Mortgages
101. **Which remedies are available when a seller breaches a contract?**
   a. A suit for specific performance
   b. Buyer gets deposit returned
   c. A or b but not both
   d. Notifying FREC

   Reference: Ch. 11, Legal Remedies for Breach of Contract

102. **What term refers to the right of a mortgagor to stop a foreclosure process by paying the entire balance, interest and so on?**
   a. Equity of estoppel
   b. Right of redemption
   c. Right of defeasance
   d. Equity of disposition

   Reference: Ch. 12, Default

103. **Which type of mortgage is known as seller financing?**
   a. Package mortgage
   b. Term mortgage
   c. Second mortgage
   d. Purchase money mortgage

   Reference: Ch. 13, Types of Mortgages

104. **Where are the interest rate, payment, and other terms of a loan found?**
   a. Note
   b. Lease
   c. Satisfaction
   d. Mortgage

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans

105. **Which statement is correct in a lien-theory state such as Florida?**
   a. The borrower will obtain title only after the loan is paid.
   b. Foreclosure will take place much quicker than in title theory states.
   c. The borrower conveys title to the lender using a deed of trust.
   d. The mortgage serves as a lien against the property.

   Reference: Ch. 12, Lien Theory of Mortgages

106. **Which of the following is a characteristic of an amortized or level payment mortgage?**
   a. The early payments are mostly interest.
   b. The early payments are mostly principal.
   c. Each monthly payment increases and the balance decreases.
   d. With each monthly payment, the interest increases and the balance decreases.

   Reference: Ch. 13, Loan Repayment Methods, Amortized Mortgage

107. **Which term refers to the process of sand deposits building up over time, causing an increase in land?**
   a. Reliction
   b. Accretion
   c. Erosion
   d. Alluvion

   Reference: Ch. 8, Real Property

108. **Which estate or tenancy is the most comprehensive?**
   a. Fee simple
   b. Life estate
   c. Estate for years
   d. Free sample estate

   Reference: Ch. 8, Estates

109. **Which term refers to the government’s right to limit or control the actions of citizens in the form of such things as zoning codes and building codes?**
   a. Police power
   b. Eminent domain
   c. Escheat
   d. Taxation

   Reference: Ch. 9, Limitations on Property Ownership, Government Limitations on Private Property Ownership
110. Which process is used by the government to take private land for public use?
   a. Escheat
   b. Encroachment
   c. Condemnation
   d. Acknowledgment

   Reference: Ch. 9, Limitations on Property Ownership, Government Limitations on Private Property Ownership

111. Which term refers to the interest that is charged when banks borrow from the Federal Reserve?
   a. Prime rate
   b. Discount points
   c. Usury rate
   d. Discount rate

   Reference: Ch. 13, Federal Reserve System

112. If a lender charges 8% interest plus 2 points, what is the approximate yield on the loan?
   a. 9.00%
   b. 8.50%
   c. 8.25%
   d. 8.13%

   Reference: Ch. 12, Mortgage Loan Fees, Effective Yield

113. The primary purpose of the Federal Home Loan Bank System is to provide support for which of the following?
   a. Savings associations
   b. Federal commercial banks
   c. Mortgage brokers
   d. Insurance companies

   Reference: Ch. 13, The Secondary Mortgage Market – Freddie Mac

114. Which characteristic applies to the note documentary stamp tax?
   a. Paid by the seller
   b. $.70 per $100
   c. .002 of the loan amount
   d. $.35 per $100

   Reference: Ch. 14, Section 3 – Expenses, State Documentary Tax on a Promissory Note

115. What would the Federal Reserve do when it wants to increase the supply of loanable funds?
   a. Sell government securities
   b. Increase the reserve requirement
   c. Increase the discount rate
   d. Decrease the reserve requirement

   Reference: Ch. 13, Federal Reserve System

116. When is intermediation in financial institutions most likely to occur?
   a. When demand and supply of funds are both decreasing
   b. When demand and supply of funds are both increasing
   c. When supply of funds is decreasing, and the demand is increasing
   d. When supply of funds is increasing, and the demand is decreasing

   Reference: Ch. 13, Money in the Marketplace

117. How would an escrow deposit typically appear on a closing statement?
   a. Credit to seller
   b. Debit to seller
   c. Credit to buyer
   d. Debit to buyer

   Reference: Ch. 14, Section 1 – Total Purchase Price, Binder Deposit

118. What may the lender request the court to grant when there is a foreclosure and the auction sale does not provide enough proceeds to pay the entire mortgage debt?
   a. Estoppel judgment
   b. Novation judgment
   c. Satisfaction judgment
   d. Deficiency judgment

   Reference: Ch. 12, Default, Foreclosure Process

119. What results in a decrease of land mass?
   a. Accretion
   b. Littoral
   c. Riparian
   d. Erosion

   Reference: Ch. 8, Real Property
120. What is the description of the township located due east of T4N, R3W?
   a. T4N, R4W
   b. T4N, R2W
   c. T3N, R2W
   d. T5N, R4W

   Reference: Ch. 10, Government Survey Method

121. The highest and best use of a parcel of land is the use that creates which of the following?
   a. Greatest density
   b. Greatest value for the land
   c. Greatest intensity
   d. Greatest tax base

   Reference: Ch. 15, Highest and Best Use

122. The subject property has a garage. The comparable property has no garage. If a garage has a value of $14,500, and the comparable property sold for $149,900, what adjustment should be made?
   a. Add a $14,500 adjustment to the subject property
   b. Subtract a $14,500 adjustment from the subject property
   c. Add a $14,500 adjustment to the comparable property
   d. Subtract a $14,500 adjustment from the comparable property

   Reference: Ch. 16, Three Approaches to Value, Sales Comparison Approach

123. All of the following are basic types of depreciation, EXCEPT:
   a. Physical deterioration
   b. Functional obsolescence
   c. External obsolescence
   d. Component depreciation

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

124. The present value of a future cash flow is the basis for which appraisal technique?
   a. Cost depreciation
   b. Direct capitalization
   c. Market data
   d. Comparable sales

   Reference: Ch. 16, Three Approaches to Value, Income Approach

125. How would a purchase money mortgage appear on a closing statement?
   a. Credit the buyer and debit the seller
   b. Credit the seller and debit the buyer
   c. Debit the seller and debit the buyer
   d. Credit the seller and credit the buyer

   Reference: Ch. 13, Types of Mortgages, Purchase Money Mortgage; Ch. 14, Section 1 – Total Purchase Price, First or Second Mortgage Balance

126. What method can be used to depreciate residential real estate purchased after 1986?
   a. 27.5 years straight-line
   b. 39 years straight-line
   c. 27.5 years double declining
   d. 39 years double declining

   Reference: Ch. 17, Impact of Federal Taxation, Depreciation

127. What is the name for the annual income that an investment property could make with no vacancies or collection losses?
   a. Annuity gross income
   b. Effective gross income
   c. Net operating income
   d. Potential gross income

   Reference: Ch. 17, Evaluating Investment Properties

128. What is a contract for deed, or land contract?
   a. A type of ownership or tenancy
   b. A legal document that conveys title
   c. A purchase and sale contract for unimproved land
   d. A form of owner financing

   Reference: Ch. 12, Sale of Mortgaged Property, Contract for Deed (Land Contract)

129. What is required for a person who represents themselves as a business broker?
   a. A business sales associate’s license
   b. A business broker’s license
   c. An appraiser’s license
   d. A real estate license

   Reference: Ch. 17, Business Brokerage
130. Which term refers to the tangible and intangible resources of a business?
   a. Liabilities
   b. Net worth
   c. Owner’s equity
   d. Assets
   Reference: Ch. 17, Business Enterprise and Opportunity Brokerage, Accounting Terms

131. Which asset is the most difficult to set a dollar value on for a business?
   a. A leasehold estate
   b. Existing equipment
   c. Corporate stock
   d. Goodwill
   Reference: Ch. 17, Accounting Terms - Assets

132. John has the opportunity to invest in a property with a 9% return. He can borrow the money at an interest rate of 7%. Which investment characteristic exists?
   a. Liquidity
   b. Negative leverage
   c. Neutral leverage
   d. Positive leverage
   Reference: Ch. 17, Real Estate Investment Terminology

133. What are ad valorem taxes?
   a. Special assessment taxes
   b. Real estate property taxes
   c. Income taxes
   d. Quasi-taxes
   Reference: Ch. 18, Property Tax Assessments

134. When do property taxes in Florida become delinquent?
   a. April 15 of the following year
   b. January 1 of the tax year
   c. April 1 of the tax year
   d. April 1 of the following year
   Reference: Ch. 18, Paying the Tax Levy, Delinquent Property Taxes

135. Who can assess property for tax purposes?
   a. County property appraiser
   b. County commission
   c. School board
   d. Special taxing district
   Reference: Ch. 18, Property Tax Assessments

136. Which law requires farmland near an urban area to be valued the same as more distant farmland for tax purposes?
   a. Statute of limitations
   b. Estoppel law
   c. Green belt law
   d. Zoning laws
   Reference: Ch. 18, Real Estate Tax Exemptions and Limitations

137. The Johnsons have lived in their home for the last four years. Now they are selling and expect a profit of nearly $200,000. Which statement applies?
   a. $125,000 of the gain can be excluded from being taxable.
   b. The gain can be moved to another house of equal or greater value to delay the tax.
   c. The gain is exempt from tax.
   d. They must pay tax on 40% of the gain.
   Reference: Ch. 18, Save Our Homes Benefit Portability to a New Residence

138. Failure to pay property taxes will lead to the sale of tax certificates. In order to force the sale of the property, how many years must the investor wait?
   a. 2
   b. 3
   c. 5
   d. 7
   Reference: Ch. 18, Paying the Tax Levy, Tax Certificate Sale
139. **Which governmental power authorizes a city to make zoning laws?**
   a. Police power  
   b. Eminent domain  
   c. Escheat  
   d. Riparian doctrine  

   Reference: Ch. 9, Government Limitations on Private Property Ownership

140. **A convenience store existed at a location prior to zoning law changes that would have disallowed it. Under which type of exception can the store remain?**
   a. Hardship exception  
   b. Special use exception  
   c. Variance  
   d. Nonconforming use  

   Reference: Ch. 19, Zoning Board of Adjustment

141. **What results from zoning laws?**
   a. Safer building methods are adopted  
   b. Plat maps must be approved by the local planning agency  
   c. Communities are divided into districts based on use  
   d. Standards are set for style and compatibility  

   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes

142. **What is the membership composition of the value adjustment board?**
   a. Three school board members and two county commissioners  
   b. Two county commissioners, one school board member and two private citizens  
   c. Three county commissioners and the tax assessor  
   d. Four county commissioners and three school board members  

   Reference: Ch. 18, Protesting the Tax Assessment, Step 2

143. **Local planning agencies have the final authority for all of the following, EXCEPT:**
   a. Subdivision plat approval  
   b. Site plan approval  
   c. Sign control  
   d. Zoning variances  

   Reference: Ch. 19, Authority of the Local Planning Agency

144. **What must a person do in order to qualify for the homestead tax exemption?**
   a. File for the exemption each year  
   b. File for the exemption only once  
   c. Live in the house all year  
   d. Live in the house at least six months of the year  

   Reference: Ch. 18, Homestead Tax Exemption

145. **If an owner felt that a zoning rule was causing an economic hardship, not of their own making, they may seek relief by requesting a(an):**
   a. Variance  
   b. Site plan exemption  
   c. Special use exemption  
   d. Nonconforming use exemption  

   Reference: Ch. 19, Zoning Board of Adjustment

146. **All of the following are characteristics of real estate, EXCEPT:**
   a. The market is local in nature.  
   b. The market is slow to respond to changes in supply and demand.  
   c. There is no central control over the market.  
   d. The market is homogenous.  

   Reference: Ch. 15, Characteristics of the Real Estate Market
147. **What is the purpose of building codes?**
   a. To set standards for the amount of land a building can cover
   b. To specify the style of building that may be built
   c. To regulate government properties
   d. To establish minimum standards of building design and construction

   Reference: Ch. 19, Building Codes

148. **What are the two most important financial summary statements of a business?**
   a. Working capital and depreciation reports
   b. Balance sheet and income statement
   c. Cash flow and asset reports
   d. Tax returns and asset report

   Reference: Ch. 17, Business Brokerage

149. **In which market would there be a shortage of housing?**
   a. Buyers' market
   b. Housing market
   c. Sellers' market
   d. Deficit market

   Reference: Ch. 15, Competition in the Marketplace

150. **Which financial statement shows the status of a business as of a specific date?**
   a. Income statement
   b. Balance sheet
   c. Profit and loss statement
   d. IRS Form 1040

   Reference: Ch. 17, Business Brokerage

151. **A lawn service company sold for $125,000. The tangible assets amounted to the lawn equipment valued at $48,000. The intangible assets were the customer base and the company’s good reputation. What is the value of the intangible assets?**
   a. $173,000
   b. $77,000
   c. $48,000
   d. $38,500

   Reference: Ch. 17, Accounting Terms

152. **A property manager of an office building leases 2,500 square feet of space to a doctor’s office, which is 12.5% of the total space. What is the total square footage of the building?**
   a. 20,000
   b. 40,000
   c. 100,000
   d. 200,000

153. **A homesteaded property has an assessed value of $249,000. If the county tax rate is seven mills, the city is eight mills and the school board is nine mills, how much does the homestead exemption save the homeowner?**
   a. $25,000
   b. $6,000
   c. $5,376
   d. $975

   Reference: Ch. 18, Calculating a Real Estate Tax Levy

154. **James, a potential buyer, is told by the lender that he can have a loan at an interest rate of 6%. When he goes to the closing, he notices that the truth-in-lending statement says the APR is 6.5%. Using the rule of thumb calculation, how many points were most likely charged?**
   a. 3
   b. 4
   c. 5
   d. 6

   Reference: Ch. 12, Mortgage Loan Fees - Effective Yield

155. **Carol is borrowing money to purchase her first home. The lender has agreed to a 5% loan with 2 discount points. What is the approximate yield on the loan?**
   a. 3.00%
   b. 4.75%
   c. 5.25%
   d. 7.00%

   Reference: Ch. 12, Mortgage Loan Fees - Effective Yield
156. **Jack has an income of $85,000 per year, and Patricia, his wife, has an income of $75,000. They have car payments of $540 per month each, credit card payments of $600 and student loan payments of $1,000 per month. The loan they are applying for would have a monthly payment of $3,400. What is the housing expense ratio?**
   a. 53%
   b. 45%
   c. 38%
   d. 26%

Reference: Ch. 12, Lender Risk, Income Ratios

157. **What amount of the second monthly payment would be applied to principal on a $180,000 loan with an annual interest rate of 6.5% for 30 years, with payments of $1,137.72?**
   a. $162.72
   b. $163.60
   c. $974.12
   d. $975.00

Reference: Ch. 13, Amortizing Loan Payments

158. **Sandy is purchasing a home for $570,000, with a down payment of $114,000. If she finances the difference, what is the loan-to-value ratio?**
   a. 85%
   b. 80%
   c. 65%
   d. 60%

Reference: Ch. 12, Lender Risk, Loan-to-Value Ratio

159. **Sarah made an escrow deposit of $8,500 on her sales contract. The sale price is $200,000, and she has arranged for an 85% loan. If her closing costs are $6,000, how much additional cash must she bring to the closing?**
   a. $21,500
   b. $24,200
   c. $27,500
   d. $36,000

Math Concept: Additional Cash = (Down payment – Escrow deposit) + Closing costs

Reference: Ch. 14, Section 2, Prorating Rent

160. **A property that listed for $400,000 sold for 93% of the listing price with a 5% commission. It was sold by another office. The commission is to be split 50% to the listing office and 50% to the selling office. If the sales associate is to receive 40% of the listing office share, how much will the listing broker receive?**
   a. $4,000
   b. $4,650
   c. $5,580
   d. $6,000

Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission

161. **A developer purchased two adjacent lots of 200 front feet each for $35,000 each. He then divided them into three lots and sold them for $225 per front foot. What was the percentage of profit?**
   a. 14.5%
   b. 22.0%
   c. 29.0%
   d. 57.0%

Reference: Ch. 17, Calculating Profit on Investment

162. **A real estate closing for a duplex is scheduled for September 7, with the day of closing charged to the buyer. Monthly rent is $1,300 per unit. Which closing statement entry is correct?**
   a. Debit the buyer $520.00
   b. Credit the buyer $520.00
   c. Debit the buyer $2,080.00
   d. Credit the buyer $2,080.00

Reference: Ch. 14, Section 2, Prorating Rent

163. **Closing date is June 8 with the day of closing belonging to the buyer. Annual real estate taxes are $2,730. Using the 365-day method, what prorated amount of taxes will be debited to the seller?**
   a. $957.37
   b. $1,181.75
   c. $1,548.25
   d. $1,772.63

Reference: Ch. 14, Prorating Property Taxes
164. In November, the seller paid $1,375 for the annual property taxes. The closing date is December 14, and the day of closing belongs to the seller. Using the 365-day method, what prorated amount of taxes will be debited to the buyer?
   a. $1,310.96  
   b. $1,194.18  
   c. $180.82  
   d. $64.04  
   Reference: Ch. 14, Prorating Property Taxes

165. A ten-year-old home is being appraised. The square footage of gross living area is 3,680 and there is also a 420-square-foot garage. If the construction cost is $70 per square foot for living area and $35 for a garage, what is the reproduction cost of the structure?
   a. $128,800  
   b. $158,200  
   c. $257,600  
   d. $272,300  
   Reference: Ch. 16, Cost-Depreciation Approach

166. Calculate the total state taxes due in the following transaction: The sales price is $249,480. The buyer will assume the seller’s first mortgage of $190,000. The seller has agreed to take back a new purchase money second mortgage for $25,000.
   a. $1,796.50  
   b. $2,176.50  
   c. $2,461.50  
   d. $2,549.00  
   Reference: Ch. 14, Section 3 – Expenses

167. Mr. Johnson owns an apartment building that produces an effective gross income of $85,000 per year. What would be the value, given operating expenses of $30,000, and an overall capitalization rate of 11%?
   a. $272,727  
   b. $300,000  
   c. $500,000  
   d. $772,727  
   Reference: Ch. 16, Income Approach – Using the IRV Formula to Derive Capitalization Rates

168. An investment property has a potential gross income of $300,000, a vacancy rate of 5% and operating expenses including $13,000 of reserves for replacement totaling $140,000. What is the net operating income?
   a. $132,000  
   b. $145,000  
   c. $155,000  
   d. $160,000  
   Reference: Ch. 16, Income Approach – Direct Capitalization Technique, Step 5 illustration

169. What is the monthly gross rent multiplier for a house that sold for $269,500, and was rented for $2,000 per month?
   a. 11.23  
   b. 134.75  
   c. 145.25  
   d. 156.10  
   Reference: Ch. 16, Gross Multiplier Technique, GRM

170. What is the gross income multiplier for an investment property that has a gross income of $550,000 and a net income of $330,000 if the value is $4,125,000?
   a. 3.4  
   b. 4.7  
   c. 7.5  
   d. 12.5  
   Reference: Ch. 16, Gross Multiplier Technique, GIM
171. If a lot measures 125 feet by 225 feet, and the street in front is scheduled to be paved at a cost of $100 per front foot, how much would one homeowner’s special assessment be if the county is paying 30%?
a. $1,875  
b. $2,187  
c. $4,375  
d. $7,875

Reference: Ch. 18, Special Assessments

172. An eight-year-old building looks only three years old because it has been well maintained. The reproduction cost the building is $400,500, and the economic life is 45 years. The land is valued at $80,000. What is building’s approximate depreciation?
a. $2,700  
b. $7,200  
c. $26,700  
d. $71,200

Reference: Ch. 16, Cost-Depreciation Approach, Step 3

173. An investor purchased an office building for $655,000, with acquisition costs of $42,300. If the building represents 80% of the cost, what is the annual IRS depreciable allowance?
a. $14,303.59  
b. $16,794.87  
c. $23,818.18  
d. $25,356.36

Reference: Ch. 17, Depreciation

174. A comparable property recently sold for $429,000. The comparable property is built of superior materials valued at $25,000 but has less square footage than the subject property, valued at $35,000. What is the adjusted sale price of the comparable property?
a. $369,000  
b. $419,000  
c. $439,000  
d. $489,000

Reference: Ch. 16, Comparable Sales Approach

175. A homeowner purchased a primary residence for $395,500 including $15,000 in closing costs and $60,000 for the lot. After the closing, hurricane shutters were installed at a cost of $12,600. What is the adjusted basis for tax purposes?
a. $348,100  
b. $423,100  
c. $382,900  
d. $408,100

Reference: Ch. 18, The Effect of Federal Income Taxes on Homeownership, Tax Benefits of Homeownership

176. Who may be compensated, directly by an owner, for performing any of the eight services of real estate?
a. Broker  
b. Sales associate, if employed by an owner-developer  
c. Principal  
d. Both a and b

Reference: Ch. 2, Employment, Ch. 5, Sales Associate’s Duties, Compensation
177. A, B, and C bought 640 acres of land with equal and undivided interest. A and B were brokers, and C was not. A and B were frequent business partners but decided to let C handle the resale of the tract. C had very little experience but was able to find a buyer willing to pay a good price. Because of this, A and B decided to give C 40% of the profits and divide equally the balance of the profit. Which applies? 
a. C can do this if C is an attorney  
b. C can do this because A and B are brokers  
c. F.S. 475, has been violated  
d. Since C is selling C's own land, C does not have to be registered

Reference: Ch. 2, Persons Who are Required to be Licensed

178. Jerry was notified that he passed the state sales associate license exam. For which type of employer does his license allow him to perform real estate services? 
a. A broker  
b. An owner-developer  
c. A real estate brokerage corporation  
d. a, b, or c

Reference: Ch. 2, Employment; Ch. 5, Types of Business Formations, Real Estate Brokerage Corporation

179. Owner A and friend B meet on the street. A says, "I would like to sell my house." B takes the information and says, "I'll find you a buyer; I've done it several times for our friends." B finds a buyer for A's house, and the transaction is closed. Based on the above facts, which of the following applies? 
a. A has violated F.S. 475  
b. B has violated F.S. 475  
c. Both A and B have violated F.S. 475  
d. Neither have violated F.S. 475

Reference: Ch. 2, Persons Who are Required to be Licensed

180. The requirements for obtaining a Florida real estate license include all of the following, EXCEPT: 
a. Passing two exams  
b. Having a high school diploma or equivalency  
c. Completing a pre-licensing course  
d. Being a Florida resident

Reference: Ch. 2, Obtaining a Florida Real Estate License

181. Mary does not have a real estate license and works for AAA Syndicate, which buys, sells, manages, and leases its own property. Mary was hired to lease and sell AAA's property; she is compensated by a salary. Which statement is correct? 
a. Mary needs a real estate license.  
b. This activity is okay only if Mary is paid 50% on sales and 50% on leasing.  
c. There is no violation of F.S. 475.  
d. This activity is okay only if no more than 50% of Mary's salary is fixed.

Reference: Ch. 2, Individuals Who are Exempt from Licensure

182. Which information is included in the public records? 
a. Real estate school test questions  
b. A licensee's test results  
c. A sales associate's application  
d. State exam answers

Reference: Ch. 2, Obtaining a Florida Real Estate License, Answering Background Questions; Ch. 3, Testing New Applicants
183. An owner of a service station who holds an inactive sales associate’s license has been appointed by the court to appraise another service station. Which statement is most correct?
   a. Since they have registration status, that person may be compensated for this service of real estate.
   b. They must have an active license to be compensated.
   c. They may be compensated by a licensed broker.
   d. They may be compensated directly for this service.

Reference: Ch. 2, Individuals Who are Exempt from Licensure

184. What must a sales associate do to be eligible to take the broker examination?
   a. Be employed by one or more actively licensed brokers for at least 24 months within the preceding five years.
   b. Work for one broker for at least 12 months as an active sales associate.
   c. Have a total of one year as an active sales associate with a broker or owner-developer within the last five years.
   d. Prove that they have been actively engaged in the selling of real estate within the last five years.

Reference: Ch. 2, Obtaining a Florida Real Estate License - Broker

185. Which action would cause an applicant’s request for licensure be denied without prejudice?
   a. Cheating on the state exam.
   b. Having been convicted of fraud.
   c. Having been disbarred from the legal profession.
   d. Omitting one or more answers to questions on the application.

Reference: Ch. 2, Application Approval or Denial

186. Jasper Judd is a salaried resident manager of the Golden Age Condominium complex. Adolph Ajax, an owner of one of the units in the condominium, has asked Jasper to lease his unit while he is away on an extended trip to Bulgaria. Jasper may:
   a. Lease out the unit for any period of time, as long as he is not compensated.
   b. Lease out the unit for Adolph for not more than one year, as long as he is not compensated in addition to his salary.
   c. Not lease out the unit since this would violate F.S. 475.
   d. Lease out the unit but may not be compensated more than $100.

Reference: Ch. 2, Individuals Who are Exempt from Licensure

187. George Portfolio is a stockbroker who does not hold a real estate license. He believes the stock of the Gasaway Corporation has high potential. Upon contacting the president of Gasaway to assist the corporation in listing its stock for sale, he learns that the success of the company hinges on the negotiation of an oil lease. George offers his assistance, and the company engages him to negotiate the lease with Slick Slacker, the owner. Upon closing the lease, the company employs George as its stockbroker. George subsequently sells the corporation’s stock. The corporation pays George a commission on the stock sale and gives him five shares for handling the oil lease. George:
   a. Is exempt as a salaried employee.
   b. Acted properly functioning as a stockbroker.
   c. Has violated F.S. 475.
   d. Has not violated F.S. 475.

Reference: Ch. 2, Activities Requiring a Real Estate License
188. **Mr. White referred his sister to a real estate broker, and she purchased a $200,000 home. What may the broker do to show his thanks?**
   a. Take Mr. White to dinner  
   b. Give Mr. White a bottle of wine  
   c. Send a thank you note to Mr. White  
   d. Pay a referral fee  

   Reference: Ch. 4, Referral Fees

189. **Which is the best license status for practicing real estate?**
   a. Valid  
   b. Valid and current  
   c. Current  
   d. Valid and not current  

   Reference: Ch. 3, Active and Inactive License Status, Summary of License Status Terminology

190. **A resident of Canada that has been denied a license in the Province of Ontario subsequently moves to Florida and applies for a real estate sales associate’s license. Which would most likely apply?**
   a. The applicant will automatically be denied a license in Florida.  
   b. The person will be granted a hearing, and the application will be pending based on the result of the hearing.  
   c. The Canadian denial will have no bearing in Florida.  
   d. The previous problem does not need to be noted on the application as it took place outside the country.  

   Reference: Ch. 2, Application Approval or Denial

191. **Which of the following best describes the purpose of the real estate license law?**
   a. It teaches salesmanship  
   b. It aids licensees in understanding the basic practice of law  
   c. It puts forth the fundamental principles of law that every licensee must adhere to in order to protect the public  
   d. Both a and b  

   Reference: Ch. 2, Real Estate License Law

192. **XYZ Development Corp. was developing a PUD (planned unit development) in Carol City. Sales associate Green, employed by XYZ Corp., was employed to sell vacant home sites. XYZ Corp. had a subsidiary company, the Sunshine Corp., in another city 200 miles away, developing another PUD. If sales associate Green is transferred to the Sunshine Corp., which statement is correct?**
   a. He could apply for a multiple license and notify the FREC.  
   b. He could apply for a group license and notify the FREC.  
   c. This would be a violation of F.S. 475.  
   d. As long as he notified XYZ Corp., this is legal.  

   Reference: Ch. 3, Group License and Multiple Licenses

193. **Robert, a sales associate, has been working with an investor that is looking for single-family properties for income. In order to get preferential treatment, the investor offers a $1,000 finder’s fee directly to Robert for each suitable property he finds. This arrangement would be:**
   a. A violation of the civil rights laws  
   b. Acceptable since it is a finder’s fee, not a commission  
   c. A violation since finder’s fees cannot exceed $50  
   d. A violation of F.S. 475, because it is not paid through his broker  

   Reference: Ch. 5, Sales Associate’s Duties, Compensation

194. **What should a sales associate do if they consider a rule to be invalid?**
   a. Notify the state legislators  
   b. Notify the local board of REALTORS  
   c. Notify FREC  
   d. Ignore the rule  

   Reference: Ch. 3, Powers of the Commission
195. **Aaron Applicant has passed the state examination for becoming a sales associate.** An hour later, Aaron has the opportunity to list his neighbor's house. Aaron may:

a. List the house as long as he has an employing broker and both Aaron and the employing broker are properly registered on the records of the DBPR

b. Not list the property until he has sent a copy of his pass slip and a copy of his employing broker's business tax receipt number to the Division of Real Estate for certification

c. List the property as long as he has been properly preregistered with his new owner-developer, and the pass slip is physically in his possession

d. Not list the property until he has joined and paid the required fees to the local Association of REALTORS

Reference: Ch. 2, Employment

196. **Before the rules and regulations enacted by the FREC become effective, with which entity must they be filed?**

a. Attorney general

b. Secretary of state

c. Secretary of the senate

d. Governor's office

Reference: Ch. 3, Powers of the Commission

197. **Which entity signs the certificates of the FREC meetings that reflect the actions of the Commission?**

a. Secretary of state

b. FREC chairperson or vice chairperson

c. Chief investigator of the DRE

d. Any FREC commissioner

Reference: Ch. 3, Documentation of Proceedings of the Commission

198. **Which items would be optional on a branch office sign?**

a. Branch office name

b. The words, “Licensed Real Estate Broker”

c. The name of the business entity

d. The name of an individual broker

Reference: Ch. 5, Office Signs

199. **Jeff is the owner of a building that is leased to Craig. If Jeff sells the building, what is the status of the lease?**

a. It becomes a tenancy at will

b. It must be renewed

c. It is terminated

d. It is binding on the new owner

Reference: Ch. 8, Non-freehold (Leasehold) Estates

200. **A sales associate went on vacation. While gone, the broker moved the office around the block. When the sales associate returned, there was an urgent message that two serious prospects had called. Also, a sale closed in his absence and the broker owes him a commission. What should the sales associate do first?**

a. Demand the commission

b. Forget the commission since the sales associate wasn’t there

c. Call the two prospects immediately

d. Immediately request a reissue of license from FREC

Reference: Ch. 5, Sales Associate’s Duties, Change of Employer or Address
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201. **Sales associate, Tim, received a signed contract from a buyer and mailed it to the seller. The seller agreed to the terms and the escrow deposit was deposited safely in the broker’s escrow account. Tim has a disagreement with his broker and quits. The broker refuses to pay a commission since Tim was not in their employ when the contract was actually received and signed. What should Tim do?**
   a. Notify the state
   b. Sue the seller for his share
   c. Sue the broker
   d. Forget it; he is not entitled to the commission

   Reference: Ch. 5, Sales Associate’s Duties, Compensation

202. **Who is the principal, or employer?**
   a. The buyer
   b. The seller
   c. The one who engages the broker in a single agency relationship
   d. The one who pays the broker

   Reference: Ch. 4, Definitions

203. **Homeowner Owen signed an exclusive right of sale listing with Bob, a registered broker. The listing states that Bob is employed to find a purchaser and that Owen agrees to pay a 10% commission to Bob or any person, partnership, corporation, or firm that sells the property. The remainder of the listing deals with the terms and conditions of the sale and duration of the listing. While Owen was away on vacation, Percy made a written offer to purchase the property at the listed price, terms, and conditions. Bob, on behalf of owner Owen, accepted Percy’s offer and signed it for Owen. Which statement is correct?**
   a. The listing authorized Bob to accept the best offer obtained for Owen.
   b. The listing did not give Bob the right to obligate Owen to Percy’s offer.
   c. The listing gave Bob the equivalent authority of power of attorney.
   d. Bob can accept Percy’s offer for Owen.

   Reference: Ch. 11, Listing Contracts

204. **Sales associate John attends a cocktail party with his friend Bill, where he introduces Bill to another friend, Jack. It turns out that Jack has a house for sale, and Bill agrees to purchase it. Sales associate John makes it clear that he wants no commission, but John’s broker demands a commission. Which statement is correct?**
   a. The broker is the procuring cause and is entitled to a commission.
   b. The broker should reduce his commission because of John’s friendship.
   c. The broker is not entitled to a commission.
   d. The broker is entitled to a referral fee only.

   Reference: Ch. 4, Broker’s Right to Compensation
205. **A broker, while looking for a deal for his best friend, gets a listing. The seller must sell because of a family emergency. What should the broker say to his best friend?**

a. Say nothing about the seller, and ask the buyer to make an offer
b. Tell the buyer that the seller must sell quickly so that he would probably accept any reasonable offer
c. Give the buyer only the suggestion that the seller is motivated
d. Tell the buyer that a dual agency exists

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

206. **If an oral offer is made to a broker on a property the broker has listed, what should be the broker's response?**

a. Demand that the offer be in writing
b. Inform the buyer that the offer violates the statute of frauds
c. Ask for a substantial deposit
d. Submit the offer to the seller

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Presenting Offers

207. **If a broker is aware of a construction lien on a piece of property, what should they do?**

a. Make the buyer aware
b. Tell the buyer before the closing
c. Not disclose the lien
d. Tell the buyer before going to contract

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

208. **A broker lists a property for $30,000. The broker learns of a new development that will be built beside the listed property. The broker purchases the property from the seller for the full listed price and discloses the fact that he is a licensed broker. The broker then sells the property to the developer for $50,000. Which statement is correct?**

a. The broker acted ethically.
b. The broker is guilty of concealment.
c. The broker is guilty of failure to account.
d. The broker is guilty of culpable negligence.

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

209. **Which township is immediately west of T1N, R1E?**

a. T2N, R1E
b. T2N, R1W
c. T1N, R2E
d. T1N, R1W

Reference: Ch. 10, Government Survey Method

210. **John Smith is the broker of ABC Realty. He is preparing to open a branch office. All of the following items are required on the branch office sign, EXCEPT:**

a. Licensed real estate broker
b. ABC Realty
c. John Smith
d. Branch office

Reference: Ch. 5, Brokerage Office Requirements, Office Signs
211. **Broker Jones takes a listing on a condominium from Mr. Charles. Mr. Charles notifies Jones that the roof leaks. Jones negotiates the sale of the condominium to Smith without disclosing the leak. Smith, a year later, sells the condominium for a profit. Which statement applies?**
   a. This was a legal transaction since it was the buyer’s responsibility to check for leaks.
   b. This would have been an illegal sale if the property had not been sold at a profit.
   c. The broker would have been liable had the property sold at a loss.
   d. The broker could be disciplined for concealment.

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

212. **Which of the following limits the actions of brokers?**
   a. Certificate of estoppel
   b. Statute of frauds
   c. Law of agency
   d. All of the above

Reference: Ch. 4, Types of Laws and Their Purposes

213. **To help his customers sell their property a mortgage broker agrees to hold an open house and prepares an offer to purchase on a standard contract for a fee of $250. Which statement is correct?**
   a. He is exempt from real estate licensure if the property owners requested this service.
   b. He is exempt from the real estate license law because he is a mortgage broker.
   c. He is exempt from the real estate license law because he used a standard contract.
   d. He is guilty of a third-degree felony.

Reference: Ch. 2, Persons Who are Required to be Licensed; Ch. 6, Criminal Penalties

214. **A broker’s principal is away on vacation. The broker receives an offer of $75,000 for his principal’s property. Before the principal returns, the broker receives a second offer of $72,000. What should the broker do?**
   a. Refuse the second offer since it is not as good as the first offer
   b. Submit the offer they feel is best
   c. Hold the second offer pending acceptance of the first offer
   d. Submit both offers to the principal

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Presenting Offers

215. **Broker Brown lists Smith’s property for $20,000. Broker Brown hears from a friend on the planning commission that they are intending to put a highway right next to Mr. Smith’s property, making his lot a corner lot. He tells another friend about what he has heard, and the friend buys the property for $20,000. Which statement is correct?**
   a. Broker Brown’s license may be suspended for not telling Smith.
   b. Broker Brown is not obligated to pass on rumors to the seller.
   c. Broker Brown has done nothing wrong.
   d. Broker Brown is guilty of culpable negligence.

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships; Ch. 6, Exhibit 6.3

216. **A seller lists a property at $75,000 but tells the broker he will go as low as $72,000. Which statement is correct?**
   a. The broker cannot tell the buyer of the lower price.
   b. The broker must tell the buyer of the lower price.
   c. The broker can accept a $72,000 offer for the seller.
   d. either b or c

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships
217. Complete the sentence. A fiduciary relationship is one of:
   a. Trust
   b. Confidence
   c. Trust and confidence
   d. Trust and confidence when accepted

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Single Agent

218. Can a broker be entitled to two commissions when consummating an exchange?
   a. No, as this would be a conflict of interest
   b. Yes, providing both parties are advised and approve
   c. Yes, but only if both brokers agree
   d. No, since a broker can only have one principal

   Reference: Ch. 4, Broker's Right to Compensation, Payment of Commission

219. A seller listed their property at a price that the broker knew was below market value. The broker had his wife buy the property in her maiden name and subsequently resold the property at a profit. What could the broker be charged with?
   a. Nothing
   b. Concealment and fraud
   c. Alienation of affection
   d. Culpable negligence

   Reference: Ch. 4, Illegal Commissions; Ch. 6, Administrative Penalties, Fraudulent Activities

220. In a real estate transaction, what type of relationship can a buyer and seller expect to have?
   a. A fiduciary relationship
   b. A relationship of trust
   c. An arm's length relationship
   d. A relationship of confidence

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

221. What is a licensee with full representation to both parties in the same transaction referred to as?
   a. Transaction broker
   b. Single agent
   c. Dual agent
   d. Subagent

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

222. Which of the following documents not only recommends that the principal sign it, but requires it?
   a. Consent to Transition to Transaction Broker
   b. Notice of Nonrepresentation
   c. Single Agent Notice
   d. Transaction Broker Notice

   Reference: Ch. 4, Brokerage Relationship Disclosure Act - Definitions

223. Which term refers to the misstatement, omission, or concealment of a factual matter?
   a. Misrepresentation
   b. Conspiracy
   c. Conversion
   d. Puffery

   Reference: Ch. 6, Administrative Penalties, Fraudulent Activities
224. An Illinois corporation is transferring its employees to Florida. The firm retained a Florida broker to find homes for its employees. The attorney representing the Illinois corporation, notifies the Florida broker that in the state of Illinois, an attorney is recognized as a real estate broker. Therefore, the attorney wants a referral fee. What should the Illinois attorney do?

a. Produce a certified statement to the Florida broker that Illinois attorneys are recognized as brokers
b. Not expect a referral from the Florida broker
c. Notify FREC prior to expecting any referral fee
d. Expect to receive a referral fee because he is recognized as a broker in Illinois

Reference: Ch. 4, Referral Fees

225. A licensed broker and one of their employed sales associates purchase a parcel of real estate together. What relationship have they formed?

a. A joint venture
b. A limited partnership
c. A general partnership
d. An illegal venture, since only brokers can be members of a real estate partnership

Reference: Ch. 5, Types of Business Formations

226. When moving from one branch office to another, what must a broker do?

a. Send in the old branch office registration with a request for transfer
b. Apply for and obtain a new registration for the new branch and pay the proper fee
c. Change the address on his branch office registration certificate
d. Be at least five miles from the main office

Reference: Ch. 5, Branch Office Requirements

227. Broker A and Broker B are working exclusively for one developer on adjoining projects. They agree to hire a sales associate between them for a half week each. The sales associate:

a. Must be licensed to both of them
b. Must be licensed with the developer
c. Must be registered with both the brokers and the developer
d. Cannot have two registered employers

Reference: Ch. 2, Employment

228. Unless exempt, performing a service of real estate for someone else for compensation in Florida without an active license is considered to be which of the following criminal violations?

a. Misdemeanor of the first degree
b. Misdemeanor of the second degree
c. Felony of the first degree
d. Felony of the third degree

Reference: Ch. 6, Criminal Penalties

229. Broker Davis, Broker Ben, and Broker Boone form a partnership. The partnership buys, develops, and sells land. Sales associate Jerry becomes an equal partner in the firm. A sale is made, resulting in a $40,000 profit. Which statement is correct?

a. The partnership is illegal unless Jerry becomes broker.
b. The partnership agreement must be filed with the Secretary of State.
c. The profits may be divided equally.
d. Jerry cannot receive any portion of the profit.

Reference: Ch. 5, Types of Business Formations, General Partnership

230. What must be included on a real estate brokerage sign?

a. Sales associate’s name
b. Office phone number
c. Brokerage firm’s license number
d. Name of the brokerage firm

Reference: Ch. 5, Office Signs
231. Six brokers wish to become partners in a real estate agency and each be active in real estate sales. What is required?  
a. That they register with the DBPR as inactive brokers  
b. That they all be licensed as active brokers  
c. That they have at least one active broker  
d. That they register the partnership with the Department of State  

Reference: Ch. 5, Types of Business Formations, Real Estate Brokerage Partnership

232. Broker Rick sold Janey a rental list on March 8 for $100.00. Janey inspected all the properties and found them to be occupied. On April 6, Janey demands a refund. What action should Broker Rick take?  
a. Refund $100 immediately  
b. Refund $100 within 30 days  
c. Refund $75  
d. None, no refund is due  

Reference: Ch. 5, Rental Information

233. A discount broker has opened an office in town. Two sales associates from full-price, full-service offices agree not to show the discount broker's listings. This practice is:  
a. Illegal because it constitutes discrimination against the discount broker  
b. Acceptable because sales associates may show any properties they choose  
c. Required because discount brokerage is illegal  
d. Illegal because it constitutes price fixing among the sales associates.  

Reference: Ch. 4, Broker's Right to Compensation, Uniform Commission Rates

234. All of the following are required to be displayed at a broker's office, EXCEPT:  
a. Copies of each sales associate's license  
b. A fair housing poster  
c. A proper sign on or about the entrance  
d. The license status of any broker's listed on the office sign  

Reference: Ch. 5, Office Signs; Ch. 7, HUD Poster

235. Which is the best definition for "escrow?"  
a. Holding something for someone else in trust  
b. Uncollected funds held as earnest money  
c. The broker's claim on earnest money  
d. Something of value held by an "interested" third party  

Reference: Ch. 5, Escrow Account

236. Unless there is a reasonable benefit for the borrower, the Florida Fair Lending Act prohibits a lender from refinancing the same borrower within how many months?  
a. 6  
b. 12  
c. 15  
d. 18  

Reference: Ch. 13, Florida Fair Lending Act
237. **Buyer Smith gave a postdated check to sales associate Brown that the seller accepted. Smith told Brown to hold the check for two weeks until he (the buyer) could fly to New York and transfer the funds from a savings account to a checking account. On the date Brown received the postdated check, the broker was out of town, but returned the following business day. Following the buyer’s instructions, Brown deposited the postdated check into the broker’s escrow account two weeks later.**

**Sales associate Brown:**

a. Acted properly as the seller had accepted the postdated check
b. Should have turned over the postdated check to the broker the next business day
c. Acted improperly since a post-dated check may never be accepted as a deposit
d. Acted properly by following the principal’s instructions

Reference: Ch. 5, Depositing Escrow Funds

238. **What should a new sales associate expect his broker to provide?**

a. Salary
b. Business cards
c. Training
d. Health insurance

Reference: Ch. 4, Policy and Procedures Manual

239. **In the complaint process, if there is no dispute over material facts, how may the case be resolved?**

a. An informal proceeding
b. Going to court and filing a bill of interpleader
c. A formal hearing
d. A binding arbitration

Reference: Ch. 6, The Disciplinary Process

240. **A broker from Tampa sells a property listed by a Miami broker. At closing, the Miami broker refuses to pay the Tampa broker’s share of the commission. Charges are filed by FREC against the Miami broker for failure to account. The Commission has the Miami broker subpoenaed, but the broker fails to appear. The Miami broker:**

a. Does not have to appear
b. May be fined for contempt of court
c. Could have license suspended or revoked by FREC
d. Both b and c are correct

Reference: Ch. 6, The Disciplinary Process

241. **A broker has shown by their actions that they are an immediate danger to the public. What can be done?**

a. The license can be immediately revoked.
b. The license can be immediately suspended.
c. The chairperson of FREC can issue a writ of supersedeas.
d. The secretary of the DBPR can issue a summary suspension.

Reference: Ch. 6, The Disciplinary Process

242. **A broker has been found guilty of mail fraud by a court and sent to jail. The broker’s license will:**

a. Automatically be revoked
b. Automatically be suspended
c. Probably be revoked because of the conviction
d. Be renewed while he is in jail

Reference: Ch. 6, The Disciplinary Process; Exhibit 6.3

243. **What is the maximum allowable payment from the recovery fund for any financial losses suffered due to a licensee’s acts?**

a. $25,000
b. $75,000 for multiple transactions
c. $50,000 per transaction, with a maximum of $150,000 for multiple transactions
d. Any amount equal to the losses

Reference: Ch. 6, The Real Estate Recovery Fund
244. Which court is the final court in the appeal process?
   a. Circuit court  
   b. District court of appeals  
   c. Florida Supreme Court  
   d. Small claims court  

Reference: Ch. 6, The Disciplinary Process

245. A violation of F.S. 475 can result in any of the following actions, EXCEPT:  
   a. Revocation  
   b. Imprisonment  
   c. Direct denial of compensation  
   d. A fine of $10,000 per offense  

Reference: Ch. 6, License Law Violations; Criminal Penalties; Range of Penalties

246. An investor lost $30,000.00 due to his broker’s negligence. The investor sued the broker and awarded a judgment totaling $30,000.00. The broker went bankrupt, and the bankruptcy court forced the broker to pay the investor $8,000.00. What amount from the recovery fund may the investor obtain?  
   a. $3,000  
   b. $10,000  
   c. $22,000  
   d. $25,000  

Reference: Ch. 6, The Real Estate Recovery Fund

247. If a licensee violates F.S. 475, the Commission is allowed to impose any of the following penalties, EXCEPT:  
   a. Revoke the license  
   b. Suspend the license  
   c. Fine the licensee $10,000  
   d. Refuse to renew the license  

Reference: Ch. 6, License Law Violations; Criminal Penalties; Range of Penalties

248. If FREC imposed a fine and issued a final order, how much longer does the licensee have to pay the fine?  
   a. 10 days  
   b. 30 days  
   c. 60 days  
   d. 90 days  

Reference: Ch. 6, Citation Authority

249. A sales associate has a fight with a seller and hits the seller on the head with a canoe paddle. What penalty will the Commission administer on the sales associate?  
   a. Suspend the canoe paddle for 30 days  
   b. Revoke the sales associate’s license  
   c. Suspend the sales associate’s license indefinitely  
   d. None, since assault and battery is not a violation of F.S. 475  

Reference: Ch. 6, License Law Violations; Criminal Penalties

250. A broker who has been charged with a minor violation where no threat to the safety of the public exists, will probably have which action taken?  
   a. License revocation  
   b. License suspension  
   c. Citation  
   d. Reprimand  

Reference: Ch. 6, Range of Penalties; The Disciplinary Process – Step 2

251. What is the maximum administrative fine for a violation of F.S. 475?  
   a. $500  
   b. $1,000  
   c. $1,500  
   d. $5,000  

Reference: Ch. 6, Range of Penalties
252. A licensee becomes a convicted felon serving a prison term. The Commission:
a. Would probably suspend the license for the length of the term
b. Could revoke the license
c. Will revoke the license
d. Will suspend the license

Reference: Ch. 6, Range of Penalties; Exhibit 6.3

253. A broker is sued for misrepresentation. The court awards the buyer $100,000 in damages. What kind of penalty is this?
a. Civil
b. Administrative
c. Criminal
d. Civic

Reference: Ch. 6, License Law Violations

254. What is the maximum time the license can be suspended on the first offense?
a. Two years
b. Five years
c. Ten years
d. No suspension is likely on the first offense

Reference: Ch. 6, Range of Penalties

255. A licensee files a false affidavit to make a claim against a property. How is this criminal action classified?
a. First-degree felony
b. Second-degree felony
c. First-degree misdemeanor
d. Second-degree misdemeanor

Reference: Ch. 6, Criminal Penalties

256. A person being investigated by the Department of Business and Professional Regulation must be notified in all of the following situations, EXCEPT:
a. There is probable cause that there may have been a violation of F.S. 475.
b. There is probable cause that there may have been a violation of Chapter 61J2, F.A.C.
c. The act that is under investigation is a criminal offense.
d. The investigation is ordered by the DBPR.

Reference: Ch. 6, The Disciplinary Process

257. Michael and Jerry are both brokers. They decide to share office space. They do not use a trade name or common letterhead, although they share a secretary. Prior to putting up their signs, Jerry defrauds a prospect who came into the office. Based on this information, which statement is correct?
a. Michael and Jerry have committed estoppel.
b. Michael and Jerry are general partners.
c. Michael can be held responsible for Jerry’s acts.
d. Jerry alone is responsible for this fraud.

Reference: Ch. 5, Ostensible Partnership
258. **Broker Smith, in selling building lots, offers each buyer the opportunity to purchase, for $5.00, a chance in a lottery in which (if 20 lots are sold by the end of the week) the winner would be entitled to one-half off the price of his lot. At the end of the week, only 16 lots were sold, so Smith decided to return the entrants’ $5.00. Which statement is true?**

a. Smith is in violation because he conducted a device, lottery, scheme, or trick.
b. Smith is not in violation since the monies were returned.
c. This is not a violation of F.S. 475.
d. This would be a violation only if Smith in fact gave the discount to the winner of the lottery.

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Using Lotteries

259. **In pursuit of an unpaid commission, a broker hires an attorney to attempt to obtain a judgment lien against the seller. In the course of the action, and on the advice of the attorney, the broker filed a lis pendens against the seller’s property. What action may be taken against the broker?**

a. None, since no violation has occurred
b. FREC could fine the broker up to $10,000
c. FREC could impose a criminal penalty
d. The broker’s license may be suspended or revoked

Reference: Ch. 4, Broker’s Right to Compensation, Payment of Commission; Ch. 9, Liens, Lis Pendens

260. **A broker has a Texas securities license as well as a Florida real estate license. The broker commits fraud on a securities transaction in Texas and agrees to make full restitution. Most likely the broker will:**

a. Have nothing happen in Florida because it was an out of state securities matter
b. Have the Florida broker’s license revoked or suspended
c. Have nothing happen because he made restitution
d. Be sentenced to 90 days of community service by FREC

Reference: Ch. 6, Range of Penalties; Exhibit 6.3

261. **Broker Smith owns a Real Estate Brokerage Corporation. When filing his tax return, he forgets to include a referral fee received from a Georgia broker. What will the Commission most likely do?**

a. Suspend the broker’s license
b. Not renew the broker’s license
c. Take no action if Smith files an amended return with the IRS and pays any penalties involved
d. Cancel the corporation’s license

Reference: Ch. 6, Range of Penalties; Notice of Noncompliance
262. A buyer enters a broker’s office and requests to be shown only houses in black neighborhoods. The broker advises the buyer that he will show him houses without regard to the racial characteristics of the neighborhood. The broker shows the buyer houses in both predominately black and predominately white neighborhoods. The buyer is interested in two of the houses in the predominately-black neighborhoods. If the broker had followed the buyer’s initial instructions, he would:
   a. Have violated federal laws but not the Florida real estate license law
   b. Have violated the Civil Rights Act and Florida law and could have his license suspended or revoked
   c. Not have violated any laws since he must follow his seller’s instructions
   d. Not have violated any laws since he must follow his buyer’s instructions

263. A seller refuses to accept an offer submitted by a broker on behalf of a buyer. The offer meets the terms of the listing contract. To what is the listing broker entitled?
   a. No compensation because offer was rejected
   b. 25% of the full commission
   c. 50% of the full commission
   d. 100% of the full commission

264. What is the purpose of the Real Estate Settlement Procedures Act (RESPA)?
   a. To ensure that land developers do not misrepresent the sale of subdivided lands
   b. To ensure that buyers are informed about the amount and type of charges they will expect to pay at closing
   c. To ensure that lenders disclose the annual percentage of interest charged to borrowers
   d. To ensure that lenders do not charge a usurious interest rate on mortgages

265. Which phrase would be legal to use in advertising property?
   a. Minority neighborhood
   b. Integrated neighborhood
   c. Caucasian neighborhood
   d. None of the above

266. A Methodist church owns a nursing home for its members. They refuse to admit anyone to the home who is not a member of their church. This is:
   a. Not a violation of the Fair Housing Act
   b. A violation of the Civil Rights Act of 1866
   c. A violation of the Civil Rights Act of 1968
   d. A violation of the Fair Housing Act
267. Mrs. Murphy is a struggling small investor who owns a boarding house and rents rooms to tenants. Which statement is correct?
   a. She may advertise to attract tenants of a particular race or religion.
   b. She may refuse to rent to any tenant that she feels would be incompatible with existing boarders.
   c. She cannot refuse to rent to a boarder that she feels may be incompatible.
   d. Private owners are exempt from the Fair Housing Act.

Reference: Ch. 7, Federal Fair Housing Laws

268. A private club has a lodge in the mountains. The club refuses to rent rooms in the lodge to certain minority groups. Which statement applies?
   a. This is a violation of the Fair Housing Act.
   b. This is a violation of the Civil Rights Act of 1968.
   c. Under the Fair Housing Act, they may restrict rentals to members of their own club.
   d. Under the Fair Housing Act, they may discriminate.

Reference: Ch. 7, Federal Fair Housing Laws

269. All of the following are exempt from RESPA requirements, EXCEPT?
   a. A loan for the construction of a ten-unit apartment building
   b. A loan for a commercial property
   c. A loan to purchase a new home in a subdivision
   d. An all cash payment for a single-family home

Reference: Ch. 13, RESPA

270. Who is exempt from provisions of the Fair Housing Act of 1968?
   a. Sales associates
   b. Brokers
   c. Mortgagees
   d. Homeowners who are selling their only single-family home as a FSBO

Reference: Ch. 7, Exemptions to the Civil Rights Act of 1968

271. Which entity published Regulation Z?
   a. Federal Trade Commission
   b. Federal Housing Administration
   c. Board of Governors of the Federal Reserve System
   d. Department of Veterans Affairs

Reference: Ch. 13, Truth-in-Lending Act

272. A tenant is two months delinquent on the rent. What is the first step available to the landlord to remedy the situation?
   a. Disconnect the utilities
   b. Ask the sheriff to evict the tenant
   c. Ask the court for a writ of possession
   d. Post a three-day notice to pay the rent or vacate

Reference: Ch. 7, Landlord-Tenant Relationships

273. A broker can legally show homes based upon which requests?
   a. Caucasian neighborhood
   b. African American neighborhood
   c. Hispanic community
   d. retirement community

Reference: Ch. 7, Federal Fair Housing Laws

274. A Hispanic buyer asks to see a home in a certain price range. What should a licensee show him?
   a. Homes in only a predominately-Hispanic area
   b. Homes in only a predominately-Caucasian area
   c. Six homes in each type of area
   d. Available homes in his price range, regardless of area

Reference: Ch. 7, Federal Fair Housing Laws
275. Widow McFee found that her deceased husband left his entire estate, except for homestead, to his secretary. What can Widow McFee do?
   a. File for her dower share of one-third of all real property owned by her deceased husband
   b. File for an elective share of 30% of all real and personal property owned by her deceased husband
   c. File for 100% of his property under Florida’s community property law
   d. Only file a civil suit to contest the will

   Reference: Ch. 8, Estates

276. Mr. Reynolds inspects a piece of property. He notes a pile of fencing that the seller tells him he had purchased with the intent of fencing in the yard but has not gotten around to doing it yet. When Mr. Reynolds buys the house and takes occupancy, he finds that the fencing has not been installed and has been removed. Mr. Reynolds consults his lawyer who advises him that:
   a. Since he saw the fencing at the time of inspection, it is part of the sale and should have remained.
   b. Since it was not yet installed, it is personal property and the seller had the right to remove it.
   c. He ought to try to negotiate with the seller for its return prior to taking legal action.
   d. According to real estate license law, this is a fixture of the property and the seller’s right to the fencing would probably be upheld in a court of law.

   Reference: Ch. 8, Fixtures

277. Which tenancy exists when a tenant remains in possession of a property after the termination of the lease without the landlord’s agreement?
   a. Tenancy at will
   b. Tenancy at sufferance
   c. Tenancy for years
   d. Tenancy in common

   Reference: Ch. 8, Estates

278. Which of the following shares of real property will a widow with no children receive at her husband’s death in the absence of a will?
   a. One-third
   b. All
   c. One-half
   d. Life estate

   Reference: Ch. 8, Elective Share

279. What does personal property that is permanently attached to the land become?
   a. An encumbrance
   b. An attachment
   c. A fixture
   d. An encroachment

   Reference: Ch. 8, Real and Personal Property

280. Which type of estate is the most comprehensive?
   a. Life estate
   b. Fee simple estate
   c. Estate for years
   d. Estate at will

   Reference: Ch. 8, Estates

281. What would a developer do to help a development hold its value?
   a. File a plat map
   b. File subdivision restrictive covenants
   c. Order surveys
   d. Obtain a zoning variance

   Reference: Ch. 9, Private Limitations on Property Ownership
282. **Which type of estate refers to the lessor’s interest in leased property?**
   - a. An estate for years
   - b. An estate in reversion
   - c. An estate by the entireties
   - d. A leasehold estate

   Reference: Ch. 8, Estates

283. **What do homestead rights provide?**
   - a. Protection from the negligence of a spouse
   - b. Protection from a prior judgment
   - c. Compliance with fair housing laws
   - d. Protection from property tax foreclosure

   Reference: Ch. 8, Constitutional Homestead Rights

284. **What is the name for the gradual buildup of sand on the riparian or littoral owner’s shoreline by natural causes?**
   - a. Alluvial
   - b. Accretion
   - c. Reliction
   - d. Aeolian

   Reference: Ch. 8, Real Property

285. **If two or more persons have an undivided interest in real property, which estate cannot be created unless specific wording in the deed provides for the right of survivorship?**
   - a. Joint tenancy
   - b. Tenancy in common
   - c. Tenancy by the entireties
   - d. Tenancy at will

   Reference: Ch. 8, Estates

286. **Which type of interest in real property is created by a type of contractual agreement having all essential elements of a contract, plus a property description and a definite term of tenancy?**
   - a. Tenancy at will
   - b. Leasehold
   - c. Fee simple estate
   - d. Life estate

   Reference: Ch. 8, Estates

287. Jim, Matt, and Jack were co-owners of a parcel of real property. Matt died, and his co-ownership passed according to his will to become part of his estate. What type of tenancy did Matt have?
   - a. Tenancy by the entireties
   - b. Joint tenancy
   - c. Tenancy in common
   - d. Tenancy at will

   Reference: Ch. 8, Estates

288. **Which estate would NOT convey legal title?**
   - a. Estate for years
   - b. Fee simple estate
   - c. Life estate
   - d. Estate by the entireties

   Reference: Ch. 8, Estates

289. **Which estate or tenancy shows an ownership interest in land?**
   - a. Tenancy for years
   - b. Tenancy in common
   - c. Tenancy at will
   - d. Estate for years

   Reference: Ch. 8, Estates

290. **Which statement accurately describes an owner’s title insurance policy?**
   - a. It is transferable.
   - b. It covers the amount of the mortgage.
   - c. It guarantees against all defects and encumbrances.
   - d. It guarantees against all defects and encumbrances to which no exception has been taken.

   Reference: Ch. 9, Title Insurance

291. **Which type of deed warrants title only against claims made by the grantor, their heirs, assignees, executors, administrators, or others who represent them?**
   - a. Specific warranty deed
   - b. General warranty deed
   - c. Quitclaim deed
   - d. Special warranty deed

   Reference: Ch. 9, Types of Deeds
292. What type of easement must be obtained when a utility company wants to put power line poles through a property?
   a. By prescription
   b. By necessity
   c. In gross
   d. Appurtenant

   Reference: Ch. 9, Private Limitations on Property Ownership

293. The neighbors have used Farmer Jones’ “ruts” (easement by necessity) for over 20 consecutive years. It may now be considered an:
   a. Easement appurtenant
   b. Easement in gross
   c. Easement by prescription
   d. Implied easement

   Reference: Ch. 9, Private Limitations on Property Ownership

294. Complete the statement. A deed must be acknowledged (notarized):
   a. Prior to being witnessed
   b. By an attorney
   c. To make it valid
   d. To make it recordable

   Reference: Ch. 9, Deeds

295. If an unrecorded deed is accidentally destroyed, who owns the property?
   a. Title holder of record
   b. Grantee
   c. Vendor
   d. Grantor

   Reference: Ch. 9, Deeds

296. Under the laws of eminent domain, for what does an individual have the right for reimbursement?
   a. Personal anguish
   b. Assessed value
   c. Fair market value
   d. Intrinsic value

   Reference: Ch. 9, Government Limitations on Private Property Ownership – Eminent Domain

297. Complete the statement to make it correct. An easement is the legal right of use:
   a. Of another’s property for any purpose
   b. Of another’s property for a specific purpose
   c. For up to seven years
   d. For up to 20 years

   Reference: Ch. 9, Private Limitations on Property Ownership

298. Which of the following clauses in a deed names the parties, describes the property, shows legal consideration, and provides words of conveyance?
   a. Habendum clause
   b. Reddendum clause
   c. Granting clause
   d. Restriction clause

   Reference: Ch. 9, Clauses in Deeds

299. Where do special assessment liens on property rank in priority of payment?
   a. After private liens
   b. Ahead of private liens
   c. Ahead of real property tax liens
   d. Ahead of all liens

   Reference: Ch. 9, Liens

300. Which of the following is essential for a deed to be valid?
   a. Competent grantee, both legally and mentally
   b. Acknowledged and recorded
   c. Signed by the grantor and/or grantors
   d. Stipulates the exact amount of consideration involved

   Reference: Ch. 9, Deeds
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301. **Which covenant in a deed assures the grantee that there are no claims or liens on the property other than those specifically listed on the deed?**
   a. Warrant of quiet enjoyment
   b. Encumbrance clause
   c. Seizin clause
   d. Warrant of further assurance

   Reference: Ch. 9, Warrants or Covenants in Deeds

302. **Which set of terms is NOT synonymous?**
   a. Vendee, purchaser
   b. Mortgagee, lender
   c. Lessor, landlord
   d. Grantee, seller

   Reference: Ch. 9, Leases; Ch. 9, Deeds; Ch. 11, Real Estate Sales Contracts; Ch. 12, Parties to a Mortgage

303. **Mr. Able sold his home to Mr. and Mrs. Baker and gave them a warranty deed. The Bakers moved into the home but did not record the deed. Two days later, Mr. Able died, and his heirs up north sold the property without any knowledge of the previous sale. The heirs conveyed title to Mr. and Mrs. Charles, who did record the deed. Who owns the property?**
   a. Mr. and Mrs. Baker
   b. Mr. and Mrs. Charles
   c. Mr. Able’s heirs
   d. The Charles and the Bakers as joint tenants

   Reference: Ch. 9, Deeds

304. **In the case of eminent domain, what should the owner expect to receive?**
   a. Payment of fair compensation
   b. No compensation
   c. Payment of 50% of market value
   d. Payment of whatever they feel is appropriate

   Reference: Ch. 9, Government Limitations on Private Property Ownership

305. **Broker Bob has an exclusive listing. The owner calls and asks if Bob has any offers. Bob says no. Broker Charles submits an offer to the owner that is accepted. Which statement is correct?**
   a. Bob can sue for unliquidated damages but not commission.
   b. Bob and Charles must share the commission.
   c. Bob receives no commission and can do nothing about it.
   d. Bob is entitled to full commission.

   Reference: Ch. 11, Types of Damages; Types of Listing Contracts

306. **Broker Brown gets a listing from Mr. Jones. Broker Brown agrees to advertise, caravan and print material intended to help in the sale of the house. Mr. Jones agrees to pay a commission to Broker Brown no matter who sells the house. Which type of listing is in place?**
   a. An exclusive listing
   b. An implied listing
   c. A general agency agreement
   d. An exclusive right of sale listing

   Reference: Ch. 11, Types of Listing Contracts

307. **What is the most likely consequence for a broker who negotiates a contract for the sale of a house between the owner and purchaser in violation of the statute off frauds?**
   a. Have their registration suspended
   b. Have their registration revoked
   c. Lose their commission on the sale
   d. Not be disciplined

   Reference: Ch. 11, Statute of Frauds
308. Which of the following is a characteristic of a parol contract?
   a. In writing
   b. Signed by two witnesses
   c. Covered by statute of frauds
   d. Oral

   Reference: Ch. 11, Contracts

309. Which item creates a formal contract?
   a. An acknowledgment
   b. Signatures
   c. A written form
   d. A notary’s statement

   Reference: Ch. 11, Acknowledgment and Seal

310. A broker accepts a listing that has an unmerchantable title. A sales contract is signed, and a deposit is obtained contingent upon the owner clearing title. At closing, the owner cannot give a clear title. The deposit is returned to the buyer. Which statement applies to this situation?
   a. The broker is entitled to a full commission.
   b. The owner can sue the broker and the buyer.
   c. The buyer can sue the owner.
   d. The contingency was not met, so the contract is dead.

   Reference: Ch. 11, Contract Termination

311. Which statement is correct regarding a lease agreement for 12 months or less?
   a. Must be in writing to be valid (enforceable)
   b. Must be in writing to benefit the lessee
   c. Must be in writing to benefit the lessor
   d. Should be in writing to avoid misunderstanding

   Reference: Ch. 11, Statute of Frauds

312. Florida has established three authorized brokerage relationships. Unless otherwise established by agreement, what is the broker’s relationship with the public?
   a. Nonrepresentation
   b. Single agency
   c. Dual agency
   d. Transaction brokerage

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

313. Which of the following is a unique characteristic of an option contract?
   a. Executed
   b. Unilateral
   c. Bilateral
   d. Parol

   Reference: Ch. 11, Option Contracts

314. The buyer signs an offer with a deposit, but the seller changes the price. What should the sales associate do?
   a. Make the necessary changes, have the seller sign and initial the changes, and then have the buyer initial the changes
   b. Make the changes, have the buyer sign, and then have the seller sign
   c. Prepare a new offer reflecting the changes and then have all parties sign
   d. Advise the seller that there can be no changes

   Reference: Ch. 11, Real Estate Sales Contracts

315. What type of listing is held by two or more licensed brokers?
   a. A multiple listing
   b. An exclusive right of sale listing
   c. An open listing
   d. A net listing

   Reference: Ch. 11, Types of Listing Contracts
316. A broker has a 90-day listing with Mr. and Mrs. Jones and shows the property to Mr. and Mrs. Smith prior to expiration of the listing. The Smiths show an interest in the property but go back north without making an offer. Next season, the Smiths are back and happen to meet Mr. and Mrs. Jones while shopping. After several meetings, the Smiths make an offer and purchase the property. The broker: 
   a. Is the procuring cause of the sale and is entitled to a commission 
   b. Is entitled to damages 
   c. Is entitled to nothing 
   d. May request FREC to interplead

Reference: Ch.11, Listing Contracts, Broker's Right to Receive Compensation – Protection Period

317. What is an option contract? 
   a. A unilateral contract, binding on both parties 
   b. A bilateral contract, binding only on the optionee 
   c. A unilateral contract, binding only on the optionor 
   d. A bilateral contract, binding on both parties

Reference: Ch. 11, Option Contracts

318. A broker lists a property for $25,000, which must be all cash. A buyer makes an offer for $30,000 but asks the broker to show the additional $5,000 in the contract as a down payment, which the buyer does not intend to provide. The buyer does this to show a higher purchase price to the lender so that he can get approved for a $25,000 loan. Under this arrangement, the seller would only receive the $25,000, thereby meeting the seller’s terms. What should the broker do? 
   a. Charge a commission based on $30,000 
   b. Charge a commission based on $25,000 
   c. Find another buyer 
   d. Withdraw from the listing

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Conspiracy

319. Which statement best applies to a planned unit development (PUD)? 
   a. It provides a higher number of dwellings and maximum utilization of open areas. 
   b. It typically includes only residential use. 
   c. It requires areas to be left open for future growth. 
   d. It is a less efficient use of land than other types of communities.

Reference: Ch. 19, Planned Unit Development

320. What do zoning laws regulate? 
   a. Type of use 
   b. Structures and building materials 
   c. Public right of way and easements 
   d. Color of exteriors, type of roof tile, etc.

Reference: Ch. 19, Zoning

321. An owner wants to build a 15-foot deck on the side of a house. There is a ten-foot setback requirement. If he builds the deck, there would be only five feet left over. What can the owner do? 
   a. Ask for a variance 
   b. Request a special exception or special use 
   c. Build the deck under a nonconforming use 
   d. Send the plans to the building department for approval

Reference: Ch. 19, Zoning Board of Adjustment

322. What is the term that is applied to the practice of keeping low-income people out of a particular neighborhood? 
   a. Zoning 
   b. Exclusionary zoning 
   c. Nonconforming use 
   d. Subdivision exception

Reference: Ch. 19, Purpose of Zoning
323. Which entity would an owner approach when seeking to subdivide their land?
   a. Florida Real Estate Commission
   b. Division of Florida Land Sales
   c. Department of Housing and Urban Development
   d. Local planning board or the appropriate government agency
   
   Reference: Ch. 19, Zoning Board of Adjustment

324. From which type of loss can zoning protect an owner?
   a. A loss in value due to decreased demand
   b. A loss in value in a residential area with urban encroachment
   c. A loss due to flooding
   d. A loss due to a change in market conditions
   
   Reference: Ch. 19, Purpose of Zoning

325. Health ordinances are local laws and rules created to protect the general welfare of the citizens in the community. These could include all of the following areas of coverage, EXCEPT:
   a. Limitations on type and number of pets
   b. Restrictions and rules for outside burning
   c. Restrictions on the legal use of land
   d. Restrictions on permissible noise levels
   
   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes

326. What is the role of the local planning agency in matters concerning site planning, subdivision plat approval, and sign acceptability?
   a. Makes recommendations that are subject to the local governing body
   b. Is accountable to no other authority
   c. Has no authority
   d. Is not concerned
   
   Reference: Ch. 19, Authority of the Local Planning Agency

327. The owner of an apartment building would be required to provide all of the following EXCEPT:
   a. Heat and hot water
   b. Garbage pickup
   c. Laundry service
   d. Pest control services
   
   Reference: Ch. 7, Landlord’s Obligation to Maintain the Premises

328. Under specific circumstances, real estate law allows a broker to appoint one sales associate to represent the seller and another to represent the buyer. What term is used for a sales associate who meets all the qualifications of these circumstances?
   a. Dual agent
   b. Transaction broker
   c. Designated sales associate
   d. Special agent
   
   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

329. In order for a broker to appoint designated sales associates to represent the buyer and seller, all of the following conditions must be met, EXCEPT:
   a. It is a residential transaction.
   b. It is a nonresidential transaction.
   c. The buyer and seller must sign statements.
   d. The buyer and seller must have assets of at least one million dollars.
   
   Reference: Ch. 4, Designated Sales Associate

330. All REALTORS are licensees, but not all licensees are REALTORS. What must a licensee do to become a REALTOR?
   a. File with FREC
   b. Become a member of a local Association of REALTORS
   c. Complete a FREC educational program
   d. Complete 45 hours of post-license education
   
   Reference: Ch. 1, Professional Organizations
331. **What does the term “follow-up” refer to in the real estate industry?**
   a. A broker following up on his sales associates
   b. Staying in touch with a customer after the sale
   c. FREC following up on legally sufficient complaints
   d. Sales associates keeping up with “for sale by owners”

   Reference: Ch. 1, Introduction to the Real Estate Business

332. **All of the following activities would be considered fraudulent, EXCEPT:**
   a. A selling agent and a buying agent agree to split a commission with permission by all parties to the transaction.
   b. An agent for the buyer develops a scheme with the selling agent to obtain a contract with a higher purchase price.
   c. A buyer’s agent chose not to inform the buyer about a planned airport extension adjacent to a prospective property.
   d. A broker arranges to collect commission from both parties in a transaction without informing the seller.

   Reference: Ch. 4, Broker’s Right to Compensation; Ch. 6, Administrative Penalties, Fraudulent Activities

333. **What is the primary reason for the increased need for property managers over recent years?**
   a. Farming
   b. Absentee ownership
   c. Stricter license law
   d. Channeling

   Reference: Ch. 1, Specialization within the Real Estate Profession, Property Management

334. **The purchase price of a business, less the value of the tangible assets of that business, equals the intangible assets of the business. Which item would be an intangible asset of the business?**
   a. Real property
   b. Office furniture
   c. Goodwill
   d. Personal property

   Reference: Ch. 17, Business Enterprise and Opportunity Brokerage, Accounting Terms

335. **In the process of mortgage underwriting (qualifying), which is of most concern to the lender?**
   a. Assets
   b. Credit history
   c. Deductions
   d. Income

   Reference: Ch. 12, Lender Risk

336. **What title does a buyer have when they sign a sales contract (or have purchased under contract for a deed)?**
   a. Ostensible title
   b. Real title
   c. Actual title
   d. Equitable title

   Reference: Ch. 11, Real Estate Sales Contract; Contract for Deed

337. **In a lien-theory state, what instrument would be conveyed by the mortgagee to the mortgagor when the mortgage has been paid in full?**
   a. A reconveyance deed
   b. A notice of redemption
   c. A quitclaim deed
   d. A letter of satisfaction

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Satisfaction of Mortgage

338. **All of the following are required for a valid mortgage, EXCEPT:**
   a. The legal description of the property
   b. Signature of the mortgagee
   c. Signature of the mortgagor
   d. It be in writing

   Reference: Ch. 12, Mortgage Requirements
339. What part of an amortized mortgage payment reduces the principal balance?
   a. Debt service
   b. Amortization
   c. Interest
   d. Principal and interest
   Reference: Ch. 13, Amortized Mortgage

340. Under what circumstance is personal property included in the purchase of a home as additional security for the loan?
   a. As an optional extra feature
   b. As an additional down payment
   c. As part of a package mortgage
   d. Never
   Reference: Ch. 13, Types of Mortgages

341. A buyer purchases a property with an existing mortgage and assumes personal responsibility for the note. Which term describes this situation?
   a. An assignment of mortgage
   b. Novation
   c. Purchasing subject to a mortgage
   d. An assumption of mortgage
   Reference: Ch. 12, Sale of Mortgaged Property

342. Complete the sentence. The maximum loan permissible for a VA loan is:
   a. $104,250
   b. Determined by location
   c. Determined by the VA
   d. Determined by individual lenders
   Reference: Ch. 13, VA Guaranteed Loans

343. A buyer takes over the seller’s mortgage payments but does not assume liability. Which statement best describes this situation?
   a. The buyer is purchasing subject to the mortgage.
   b. The buyer is assuming the loan with novation.
   c. This is legal only when the mortgage contains a due-on-sale clause.
   d. This is an example of an assumption.
   Reference: Ch. 12, Sale of Mortgaged Property

344. Which clause in a mortgage requires the lender to look to the mortgaged property only for satisfaction?
   a. Defeasance clause
   b. Exculpatory clause
   c. Cognovit clause
   d. Subordination clause
   Reference: Ch. 12, Essential Elements of a Mortgage

345. Which loan does NOT require a down payment?
   a. VA guaranteed
   b. Conventional
   c. FHA insured
   d. Adjustable rate mortgage
   Reference: Ch. 13, Types of Mortgages

346. The buyer receives all of the following items at closing, EXCEPT:
   a. Deed
   b. Mortgage
   c. Opinion of title
   d. Closing statement
   Reference: Ch. 12, Parties to a Mortgage

347. Who are the three parties in a trust deed?
   a. Benefactor, trustee, and trustor
   b. Beneficiary, mortgagor, and trustee
   c. Beneficiary, trustor, and trustee
   d. Beneficiary, mortgagee, and trustor
   Reference: Ch. 12, Title Theory of Mortgages
348. Which entity regulates a life insurance company in the primary mortgage market?
   a. RESPA
   b. The federal government
   c. The state in which it operates
   d. None, they are not regulated

   Reference: Ch. 13, The Primary Mortgage Market

349. All of the following loans can be first liens, EXCEPT:
   a. First mortgage
   b. Home equity loan
   c. Second mortgage
   d. Purchase money mortgage

   Reference: Ch. 12, First Mortgages vs. Junior Mortgages

350. What is the effect of positive leverage?
   a. Increases the lender’s yield
   b. Increases the lender’s loan to value yield
   c. Increases the borrower’s yield
   d. Allows an individual to lift a heavy weight

   Reference: Ch. 17, Real Estate Investment Terminology, Leverage

351. Which clause in a mortgage calls for the principal balance to be paid in full?
   a. Satisfaction clause
   b. Defeasance clause
   c. Due on sale clause
   d. Cognovit clause

   Reference: Ch. 12, Essential Elements of a Mortgage

352. What is included in the annual percentage rate (APR)?
   a. Annual interest
   b. Finance charge
   c. Simple annual interest
   d. Simple annual interest plus finance charges

   Reference: Ch. 13, Truth-in-Lending Act

353. What type of loan covers several parcels of land?
   a. Package mortgage
   b. Blanket mortgage
   c. Balloon mortgage
   d. Purchase money mortgage

   Reference: Ch. 13, Types of Mortgages

354. Which mortgage provides an interest-only loan?
   a. Term mortgage
   b. Amortized mortgage
   c. Reverse mortgage
   d. Home equity loan

   Reference: Ch. 13, Types of Mortgages

355. Which mortgage clause calls for the entire balance to be paid?
   a. Cognovit clause
   b. Special-purpose and circumstance clause
   c. Defeasance clause
   d. Acceleration clause

   Reference: Ch. 12, Essential Elements of a Mortgage

356. Which clause in a mortgage allows the borrower to borrow back up to the original loan amount?
   a. Open end clause
   b. Prepayment clause
   c. Reborrowing clause
   d. Escalation clause

   Reference: Ch. 12, Essential Elements of a Mortgage

357. All of the following entities make loans, EXCEPT:
   a. Life insurance companies
   b. Mortgage lenders
   c. Mortgage loan originators
   d. Commercial banks

   Reference: Ch. 13, The Primary Mortgage Market
358. Which mortgage clause permits the mortgagee to have a third party appointed to collect income and manage the property until foreclosure proceedings have been accomplished?
   a. Personal representative clause
   b. Administrator’s clause
   c. Redemption clause
   d. Receivership clause

Reference: Ch. 12, Essential Elements of a Mortgage

359. Which type of mortgage allows a homeowner, age 62 or older, to receive a lump sum or monthly advance based on the equity in their home?
   a. HELOC
   b. Home equity loan
   c. Purchase money mortgage
   d. Reverse mortgage

Reference: Ch. 13, Loan Repayment Methods

360. What happens when the Federal Reserve orders financial institutions to increase their reserves?
   a. The supply of loans increases.
   b. The supply of loanable funds is reduced.
   c. Interest rates go down.
   d. The money supply increases.

Reference: Ch. 13, Federal Reserve System

361. Which entity controls the U.S. monetary policy?
   a. President of the United States
   b. Federal Reserve System
   c. Federal Trade Commission
   d. Federal Housing Finance Board

Reference: Ch. 13, Federal Reserve System

362. What is the function of a secondary lender as opposed to a primary lender?
   a. Provides money for purchase money mortgages
   b. Lends money directly to borrowers
   c. Provides second mortgage financing
   d. Buys existing mortgages

Reference: Ch. 13, The Secondary Mortgage Market

363. Savings associations look to what agency to sell their mortgages?
   a. FDIC
   b. Freddie Mac
   c. RTC
   d. FHA

Reference: Ch. 13, The Secondary Mortgage Market

364. All of the following are tools used by the Federal Reserve to control the money supply, EXCEPT:
   a. Changing the discount rate
   b. Setting fiscal policy
   c. Opening market operations
   d. Changing the reserve requirement

Reference: Ch. 13, Federal Reserve System

365. For which of the following are Fannie Mae and Freddie Mac responsible?
   a. Offering nonconforming loans
   b. Finding new sources in the primary mortgage market
   c. Insuring loans made by approved lenders
   d. Standardizing lending practices and forms

Reference: Ch. 13, The Secondary Mortgage Market

366. Which condition would decrease the supply of loanable funds for real estate loans?
   a. The government bonds this year are 9% compared to 8% last year.
   b. There is a 3% increase in family income nationwide.
   c. People take money from their savings accounts to put into retirement accounts.
   d. There is an overall increase in consumer spending.

Reference: Ch. 13, The Federal Reserve System

367. All of the following entities are secondary mortgage market participants, EXCEPT:
   a. Fannie Mae
   b. Freddie Mac
   c. Federal Reserve
   d. Ginnie Mae

Reference: Ch. 13, The Secondary Mortgage Market
368. **Who could be the seller?**
   a. Mortgagor
   b. Vendee
   c. Grantor
   d. Grantee

   Reference: Ch. 9, Deeds; Ch. 11, Real Estate Sales Contracts; Ch. 12, Parties to a Mortgage

369. **All of the following entities may assign a mortgage, EXCEPT:**
   a. Freddie Mac
   b. A mortgagee
   c. Fannie Mae
   d. A mortgagor

   Reference: Ch. 12, Parties to a Mortgage, Selling the Mortgage Contract; Ch. 13, The Secondary Mortgage Market

370. **All of the following are primary lenders, EXCEPT:**
   a. Mortgage loan originators
   b. Commercial banks
   c. Life insurance companies
   d. Savings associations

   Reference: Ch. 13, The Primary Mortgage Market

371. **Which type of lending institution is formed by private investment groups to purchase real estate for investment and to make short-term construction and long-term mortgage loans?**
   a. Credit union
   b. Savings association
   c. REIT
   d. Commercial bank

   Reference: Ch. 13, The Primary Mortgage Market

372. **All of the following statements apply to an estoppel certificate, EXCEPT:**
   a. It may also be called a letter of estoppel.
   b. It is used to confirm that a lien or obligation exists.
   c. It is used to confirm the outstanding loan balance as of a given date.
   d. It forms a lien against the property.

   Reference: Ch. 12, Sale of Mortgaged Property – Verification of a Loan Balance

373. **Which combination of appraisal approach and property type would be agreeable to an experienced appraiser?**
   a. Income approach: special-purpose properties
   b. Income approach: owner-occupied home
   c. Comparable sales approach: vacant land
   d. Cost-depreciation approach: residential land

   Reference: Ch. 16, Three Approaches to Value

374. **Which appraisal method values the land separately from the improvements?**
   a. Gross multiplier
   b. Income
   c. Comparable sales
   d. Cost-depreciation

   Reference: Ch. 16, Three Approaches to Value

375. **Which of the following could be an example of external obsolescence?**
   a. The architectural design of a building
   b. A zoning change in the area
   c. Peeling paint on the exterior of the building
   d. An outdated oil-burning range in the kitchen

   Reference: Ch. 16, Cost-Depreciation Approach

376. **What is the term used to refer to the process of arriving at a final estimate of value in appraising?**
   a. Highest and best use
   b. Averaging
   c. Reconciliation
   d. Computation

   Reference: Ch. 16, The Appraisal Process
377. What are the main steps in direct capitalization when using the income approach to valuation of real estate?
   a. Estimate the gross income, add in the operating expenses, and capitalize the net operation income
   b. Estimate the capitalization rate, adjust the gross income for vacancies and divide
   c. Estimate gross income, deduct the vacancies and operating expenses, and capitalize the net operating income into value by dividing by an overall rate
   d. Identify the gross income, plan the appraisal, and collect the expenses

Reference: Ch. 16, Direct Capitalization Technique

378. Which principle of value indicates that the value of a property is sustained when the property is harmoniously used with surrounding properties in the same area?
   a. Contribution
   b. Conformity
   c. Balance
   d. Highest and best use

Reference: Ch. 16, Appraisal Concepts and Definitions, Principles of Value

379. With the income approach to appraising, the value of the property today is:
   a. More than the future value
   b. Measured in future benefits
   c. Not considered in an appraisal
   d. To be paid to the appraiser

Reference: Ch. 16, Principles of Value – Principle of Anticipation; Income Approach

380. A house valued comparably to all houses in the neighborhood was assessed at a tax base $5,000.00 less than the others. Excluding any special tax exemptions, what should the property sell for?
   a. Less than the others
   b. More than the others
   c. Same as the others
   d. The property will not sell at all

Reference: Ch. 16, Comparable Sales Approach; Ch. 18, Property Tax Assessments

381. The steps in the cost-depreciation approach to estimating market value include all of the following, EXCEPT:
   a. Finding the current cost to reproduce the building as new
   b. Finding the land value using comparables
   c. Subtracting the accrued depreciation from the reproduction cost
   d. Calculating the net operating income

Reference: Ch. 16, Cost-Depreciation Approach

382. An appraiser is appraising an apartment building in a college town and finds that the students’ leases are below the market. What type of rental income would the appraiser use to value the property?
   a. Gross rent
   b. Economic rent
   c. Contract rent
   d. Base rent

Reference: Ch. 16, Income Approach

383. Which type of depreciation is usually incurable?
   a. Physical deterioration
   b. Physical obsolescence
   c. Functional obsolescence
   d. External obsolescence

Reference: Ch. 16, Cost-Depreciation Approach

384. A man lives in a neighborhood of $50,000 homes. He decides to install expensive imported marble tile throughout the home. Of which type of depreciation is this an example?
   a. Incurable physical depreciation
   b. Incurable functional depreciation
   c. Curable functional depreciation
   d. Curable physical depreciation

Reference: Ch. 16, Cost-Depreciation Approach
385. What is “price?”
   a. Amount actually paid in a real estate transaction
   b. Assessed value of a property
   c. Market value
   d. Actual or estimated amount to obtain, create, or reproduce a property

   Reference: Ch. 16, Cost, Price, and Value

386. Amenities, or features, used to compare properties in an appraisal could include all of the following, EXCEPT:
   a. Intangible amenities
   b. Tangible amenities
   c. Location
   d. Ethnic makeup

   Reference: Ch. 16, Sales Comparison Approach

387. A house has a bathroom built onto the side of the kitchen. The bathroom has a laundry tub but no room for a bathtub. What is this an example of?
   a. Physical deterioration
   b. Functional obsolescence
   c. External obsolescence
   d. Economic obsolescence

   Reference: Ch. 16, Cost-Depreciation Approach

388. All of the following are examples of physical depreciation, EXCEPT:
   a. Peeling paint
   b. Termites in the woodwork
   c. Dry rot in the walls
   d. A garage detached from a single-family home

   Reference: Ch. 16, Cost-Depreciation Approach

389. Which appraisal approach would usually be requested by insurance companies?
   a. Cost-depreciation approach
   b. Sales comparison approach
   c. Income capitalization approach
   d. Land residual approach

   Reference: Ch. 16, Three Approaches to Value

390. Who must pay any points that are due on a VA guaranteed loan?
   a. Seller
   b. Buyer
   c. Lender
   d. Party specified in the contract

   Reference: Ch. 13, VA Guaranteed Loans

391. Which characteristic is NOT normally taken into account when determining the value of a good?
   a. Homogeneity of the product
   b. Transferability of the product
   c. Scarcity of the product
   d. Utility of the product

   Reference: Ch. 15, Characteristics of the Real Estate Market

392. All of the following are types of depreciation, EXCEPT:
   a. Physical deterioration
   b. External obsolescence
   c. Commercial depreciation
   d. Functional obsolescence

   Reference: Ch. 16, Cost-Depreciation Approach

393. Which condition would NOT indicate functional obsolescence?
   a. Too few electrical outlets
   b. A house with one bathroom
   c. A poor floor plan
   d. Damaged carpet

   Reference: Ch. 16, Cost-Depreciation Approach

394. What would be an investor’s motivation for deducting depreciation?
   a. Maximizing cash flow
   b. Minimizing cash flow
   c. Maximizing liability
   d. Minimizing income

   Reference: Ch. 17, Depreciation
395. Under Truth in Lending, “triggering terms” include information regarding all of the following, EXCEPT:
   a. Amount of down payment required in a credit sale transaction
   b. Amount of finance charge
   c. Number of loan payments
   d. Easy monthly payments

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Triggering Terms

396. Which definition best describes the equity a homeowner has in their home?
   a. The difference between the market value and the mortgage balance
   b. The amount of upfront cash paid upon purchase of the home
   c. The amount still owed on the home
   d. The value determined by an appraiser

   Reference: Ch. 12, Common Mortgage Features, Equity

397. Depreciation can be taken on all of the following, EXCEPT:
   a. An office building
   b. A warehouse building
   c. A garage
   d. Land

   Reference: Ch. 17, Depreciation

398. To which type of transaction does Regulation Z apply?
   a. Single-family home used for rental income
   b. Building used for a gas station
   c. Vacant land used for a parking lot
   d. Single-family home used as residence

   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Truth-in-Lending Act

399. Residential investment property is depreciated over a useful life of how many years?
   a. 27.5 years
   b. 31.5 years
   c. 39 years
   d. 17.5 years

   Reference: Ch. 17, Impact of Federal Taxation, Depreciation

400. When determining the net operating income (NOI) for direct capitalization, all of the following items are subtracted from the potential gross income (PGI), EXCEPT:
   a. Vacancies and collection losses
   b. Reserves for replacements
   c. Mortgage payments
   d. Property taxes

   Reference: Ch. 16, Income Approach - Direct Capitalization Technique
401. Which government survey legal description is the closest to the Tallahassee Principal Meridian?
   a. Tier 2 S, Range 3 E
   b. Tier 1 N, Range 4 W
   c. Tier 2 N, Range 2 E
   d. Tier 4 S, Range 1 E
   Reference: Ch. 10, Government Survey Method

402. A line from a POB running N90°E would be best described as a(an):
   a. North/south line
   b. North line
   c. Westbound line
   d. East/west line
   Reference: Ch. 10, Surveyor’s Method

403. What section is immediately due west of Section 18?
   a. Section 17
   b. Section 13
   c. Section 19
   d. Section 20
   Reference: Ch. 10, Government Survey Method - Township

404. The southwest corner of Section 31, T1N, R4E is how many miles from Tallahassee?
   a. 6
   b. 12
   c. 18
   d. 24
   Reference: Ch. 10, Government Survey Method

405. Which is best description of a township?
   a. 1 square mile
   b. 6 miles square
   c. 36 miles square
   d. 6 square miles
   Reference: Ch. 10, Government Survey Method – Township. Note: One mile square is not the same as one square mile.

406. What is the opposite of N10°E?
   a. N90°W
   b. S40°E
   c. N10°W
   d. S10°W
   Reference: Ch. 10, Surveyor’s Method

407. Which of the following is equivalent to an acre?
   a. 1/640 of a section
   b. 43,560 square feet
   c. 208.71-foot square parcel
   d. All of the above
   Reference: Ch. 10, Common Area Measurements

408. How many townships are in a check?
   a. 36
   b. 24
   c. 16
   d. 4
   Reference: Ch. 10, Government Survey Method - Township

409. How many acres are in the following: The NW 1/4 of the NW 1/4 of the SW 1/4 of the SW 1/4 of the NW 1/4 of the SW 1/4 of Section 27.
   a. 5 acres
   b. 2.5 acres
   c. 1.25 acres
   d. Approximately .001 acre
   Reference: Ch. 10, Calculating Acreage in a Parcel Containing Contiguous Tracts

410. Where is section 33 located within a township?
   a. North
   b. South
   c. East
   d. West
   Reference: Ch. 10, Government Survey Method - Township
411. Which legal descriptions would equal five acres?
   a. E 1/2, SE 1/4, NW 1/4, Section 24
   b. SE 1/4, SE 1/4, NW 1/4, Section 24
   c. N 1/2, SE 1/4, SE 1/4, Section 24
   d. N 1/2, SE 1/4, SE 1/4, NW 1/4, Section 24

   Reference: Ch. 10, Calculating Acreage in a Parcel from a Legal Description

412. After what period of time may a tax certificate holder request a tax deed?
   a. One year, but not after five years
   b. Two years, but not after five years
   c. Two years, but not after seven years
   d. Three years, but not after eight years

   Reference: Ch. 18, Paying the Tax Levy, Redemption of a Tax Certificate

413. What is the term used for the amount of money that a homeowner pays in property taxes?
   a. The tax base
   b. The tax levy
   c. Exempt property
   d. Taxable property

   Reference: Ch. 18, Property Tax Assessments

414. What is one mill?
   a. One-hundredth of a dollar
   b. One-thousandth of a dollar
   c. One-hundredth of a penny
   d. One-tenth of a dime

   Reference: Ch. 18, Tax Rates Expressed in Mills

415. The following are exempt or immune from property taxes, EXCEPT:
   a. Farmland
   b. Nonprofit hospitals
   c. Libraries
   d. Churches

   Reference: Ch. 18, Real Estate Tax Exemptions and Limitations

416. Which circumstance would qualify for the $500,000 exclusion of capital gains tax on the sale of a principal residence?
   a. The seller had occupied it for one of the last five years with a gain up to $500,000.
   b. The accumulated capital gain is under $750,000.
   c. A couple has occupied it for two of the last five years with a gain up to $500,000.
   d. A couple has never taken the exemption before, and gain is up to $750,000.

   Reference: Ch. 18, The Effect of Federal Income Taxes on Homeownership

417. Which entity establishes the rates for the documentary stamps?
   a. DBPR
   b. FREC
   c. The county where the property is located
   d. State of Florida

   Reference: Ch. 14, Expenses

418. Mr. Brown sold his home for $160,000; $10,000 was allocated for closing costs, leaving him with a net of $150,000. Seven years prior to the sale of his home, Mr. Brown purchased the home for $100,000, thereby realizing a profit of $50,000. Mr. Brown had lived in the home for seven years. How much of the capital gain is taxable in the year of the sale?
   a. $15,000
   b. $5,000
   c. $1,000
   d. $0

   Reference: Ch. 18, Tax Benefits of Homeownership – Sale of Principal Residence
419. When a property owner does not agree with his tax assessment, what is the proper order for a review?
   a. Value adjustment board, county tax assessor, circuit court
   b. Circuit court, county tax assessor, value adjustment board
   c. County tax assessor, circuit court, value adjustment board
   d. County tax assessor, value adjustment board, circuit court

   Reference: Ch. 18, Protesting the Tax Assessment

420. Long-term capital gains can exist when the property has been held for more than how many months?
   a. 12
   b. 18
   c. 24
   d. 36

   Reference: Ch. 17, Real Estate Investment Terminology, Capital Gain/Loss

421. You purchased two tax certificates at auctions. Three years later, what may you do?
   a. Apply for a tax deed
   b. Claim the property
   c. Force foreclosure
   d. Apply for a general warranty deed

   Reference: Ch. 18, Paying the Tax Levy, Redemption of a Tax Certificate

422. All of the following statements apply to special assessments, EXCEPT:
   a. They are charged to the owner of the property.
   b. They are levied to finance specific improvements.
   c. They are charged only for improvements that will increase the value of the property.
   d. They are used to provide revenue for the county’s operating budget.

   Reference: Ch. 18, Special Assessments

423. To which of the following entities do real estate taxes provide revenue?
   a. Local, state, and federal governments
   b. City, county, and state governments
   c. City and county governments
   d. School boards, city, and county governments

   Reference: Ch. 18, Purpose and Use of Real Estate Taxes

424. When the county assesses property and collects taxes, what are they doing?
   a. Establishing the base rate
   b. Levying taxes
   c. Assessing taxes
   d. Establishing a millage rate

   Reference: Ch. 18, Property Tax Assessments

425. What is the maximum interest rate on a tax certificate?
   a. 18%
   b. 10%
   c. 9%
   d. 5%

   Reference: Ch. 18, Paying the Tax Levy, Tax Certificate Sale

426. All of the following are characteristics of real estate, EXCEPT:
   a. Heterogeneous
   b. Market is elastic in the short run
   c. Homogeneous
   d. Immobility

   Reference: Ch. 15, Characteristics of the Real Estate Market

427. Through what mechanism does the free enterprise system distribute goods and services in the marketplace?
   a. Government regulation
   b. The price system (market mechanism)
   c. Efficiency
   d. Production

   Reference: Ch. 15, The Free Enterprise System
428. **Factors of demand in residential real estate** include all of the following, **EXCEPT**:
   a. Price
   b. Cost
   c. Income
   d. Credit
   Reference: Ch. 15, Demand

429. **Building activity** is related to the business cycle. When in the expansion phase of the business cycle, what is the next phase?
   a. Contraction
   b. Peak
   c. Revival
   d. Recovery
   Reference: Ch. 15, The Business Cycle

430. **Which statement applies to the real estate market?**
   a. It is organized centrally.
   b. It cannot be allowed to operate free of controls.
   c. It must be allowed to operate free of controls.
   d. It responds rapidly to changes in supply and demand.
   Reference: Ch. 15, Characteristics of the Real Estate Market

431. **All of the following are physical characteristics of real estate, EXCEPT:**
   a. Immobility
   b. Situs
   c. Homogeneous
   d. Heterogeneous
   Reference: Ch. 15, Physical Characteristics of Land

432. **Bob purchased two-fifths interest in joint property** for $28,000. What was the total sale price of this property?
   a. $11,200
   b. $35,000
   c. $46,666
   d. $70,000
   Math Concept: Bob’s joint interest is 2/5 of the sale price.

433. **A sales associate collected a $4,800 commission** on the sale of the NE 1/4 of the NW 1/4 of the SW 1/4 of a section. The broker’s share of the 10% commission was 60%. How much did the property sell for per acre?
   a. $8,000
   b. $10,000
   c. $12,000
   d. $120,000
   Reference: Ch. 10, Calculating Acreage in a Parcel from a Legal Description;

434. **MacBurger USA wants to purchase a piece of land** for the purpose of constructing a 15,000-square-foot restaurant to accommodate 85 people. The zoning ordinances require one parking space for every two people and that each space be six feet by 12 feet. In addition, they must allow 10% of the paved area for lanes and dividing lines. There are two lots available. Lot A is 100 feet by 200 feet; lot B is 90 feet by 210 feet. Which of the two lots might MacBurger choose?
   a. Lot A
   b. Lot B
   c. Either lot A or B
   d. Neither lot A nor B
   Math Concept: Total area needed = Area of parking lot (including extra 10% for lanes and dividing lines) + Area of the restaurant building

435. **A developer sells two lots that are each 60 feet by 100 feet** for $20 per square foot each. On the first lot, she makes a 20% profit. On the second lot, she suffers a 20% loss. Calculate her net profit or loss.
   a. $5,000
   b. $10,000
   c. $15,000
   d. $0, she broke even.
   Reference: Ch. 17, Calculating Profit on Investment
436. A licensee receives a monthly salary of $500, a 2% commission on all listings that sell, and 3% on all sales. Last month, none of her listings sold, but she did receive a total of $7,400 in salary and commissions. What is the value of the properties that she sold?
   a. $250,000
   b. $246,667
   c. $230,000
   d. $148,000

   Math Concept: Value x % Sold = Total $ received – Salary received

437. A mortgage is $55,000 with 12% interest for 30 years, and monthly payments of $565.74. If the loan is held to maturity, how much interest would the borrower have paid?
   a. $148,666.40
   b. $198,000.00
   c. $203,666.40
   d. $403,333.33

   Reference: Ch. 13, Amortizing Loan Payments

438. Mr. Smith buys a house for $38,000. He pays 10% down and will take out a mortgage on the balance at 14% interest for 30 years. The monthly loan constant is .011849. What is the total amount of interest paid in the third month?
   a. $432.77
   b. $399.00
   c. $398.93
   d. $398.85

   Reference: Ch. 17, Loan Constant; Ch. 13, Amortizing Loan Payments

439. A tenant pays rent at a cost of $5.00 per square foot. When he rents the property, the CPI (rent index) is at 1.5. The CPI goes up to 1.8. How much will his rent be increased to if it is based on the CPI?
   a. $5.50 per square foot
   b. $6.00 per square foot
   c. $7.50 per square foot
   d. $8.00 per square foot

   Math Concept: Set up a ratio between the current cost as CPI of 1.5 and the increased cost at a CPI of 1.8.

440. A buyer is purchasing a home for $48,000 with an FHA loan. He borrows the maximum loan amount with the minimum down payment. How much of a down payment will the buyer need?
   a. $0
   b. $800
   c. $1,700
   d. $4,632

   Reference: Ch. 13, FHA Insured Mortgage Loan Programs

441. A person owns an acre of property. After allowing for a road 60 feet wide and 246 feet long, how many 80-foot by 90-foot lots could be developed?
   a. Three lots
   b. Four lots
   c. Five lots
   d. Six lots

   Reference: Ch. 10, Common Area Measurements

442. A corner lot measures 100 feet by 100 feet. The only restriction is a ten-foot setback from the road. What is the maximum usable square footage?
   a. 8,000 square feet
   b. 8,100 square feet
   c. 9,000 square feet
   d. 10,000 square feet

   Math Concept: Subtract the setback amount from both the length and width of the lot to find the maximum usable square footage.

443. If 10,000 new households are expected in an area over the next five years, and each household will use about 1/4 acre of land, how many additional acres will the community have to service?
   a. 2,500
   b. 5,000
   c. 7,500
   d. 12,500

   Math Concept: Find the number of quarter acres for 10,000 households.
444. A broker was asked by a seller to appraise the seller’s home in a residential neighborhood. The seller’s home was a three-bedroom, two-bath house. Homes have been appreciating in this area at 10% per year. The broker estimates bedrooms in this area to be worth $12,000, and bathrooms are worth $5,000. Using the following three comparables, estimate the approximate market value of the subject home assuming that the comparables are weighted equally.

- No. 1: 3/3 sold one year ago for $81,000
- No. 2: 4/2 sold six months ago for $91,000
- No. 3: 2/2 sold recently for $72,500

a. $82,000  
b. $83,000  
c. $84,000  
d. $85,000  

Reference: Ch. 16, Comparable Sales Approach

445. A building cost $55 per square foot to build today but cost $45 per square foot to build when it was new ten years ago. It was kept in good condition and appears to be only seven years old. It contains 3,000 square feet. The lot measures 100 feet by 120 feet and comparable sites are selling for $3.10 per square foot. Site improvements are valued at $4,000. Using a 35-year useful life, estimate the value of the property.

a. $173,200  
b. $159,057  
c. $149,200  
d. $137,629  

Reference: Ch. 16, Cost-Depreciation Approach

446. A five-year-old building has a reproduction cost of $100,000. The building requires a new roof, which will cost $4,000. Estimate the accrued depreciation based on a 25-year useful life.

a. $29,000  
b. $23,200  
c. $19,200  
d. $4,000  

Reference: Ch. 16, Cost-Depreciation Approach

447. An investment property has 60 identical units. It can have an income of $566,000 annually. It has a monthly operating expense of $20,000 and 3% of potential gross income is in reserve. The usual vacancy is three units per month. How much is the net operating income (NOI)?

a. $280,720  
b. $306,662  
c. $308,234  
d. $500,720  

Reference: Ch. 16, Income Approach, Direct Capitalization Technique

448. An investor buys an income property for $300,000 that shows a $30,000 income. If the investor could increase the yield to 12%, how much additional money could the investor earn per year?

a. $2,500  
b. $3,600  
c. $6,000  
d. $9,000  

Reference: Ch. 16, Using the IRV Formula to Derive Capitalization Rates

449. A property sells for $200,000 with a $30,000 down payment and debt service of $1,500 per month. What is the loan to value ratio?

a. 9%  
b. 15%  
c. 85%  
d. 91%  

Reference: Ch. 12, Lender Risk, Loan-to-Value Ratio
450. If a property was purchased for $200,000 with a $30,000 down payment and the PGI is $50,000, vacancies are 5% and the expenses are $25,500 (which includes $2,000 in reserves). What is the cap rate or capitalization rate?
   a. 11.0%
   b. 11.6%
   c. 12.9%
   d. 22.5%

Reference: Ch. 16, Income Approach, Direct Capitalization Technique

451. Which characteristic of an adjustable rate mortgage limits any single adjustment amount, possibly resulting in negative amortization?
   a. Payment cap
   b. Teaser rate
   c. Index
   d. Margin

Reference: Ch. 13, Loan Repayment Methods, Adjustable Rate Mortgage (ARM)

452. The owner of a 150-foot by 200-foot warehouse wants to subdivide each of its four floors into ten-foot by 20-foot bins and rent out each bin for $6.00 per month; 20% of each floor will be unusable because of elevators, closets, bathrooms and hallways. What will the owner's annual income be?
   a. $34,200
   b. $34,560
   c. $43,200
   d. $43,560

Math Concept: Find the total usable space and the size of each bin. Then, divide the usable space by the size of each bin to find the number of bins for all four floors. Then multiply by the annual rent.

453. The sales price is $62,300 and the brokerage fee is 7%. The commission will be split as follows: MLS 5%, with the remaining 95% split between the sales associate (65%) and broker (35%). How much commission will the sales associate receive?
   a. $2,834.65
   b. $2,692.92
   c. $1,526.35
   d. $1,450.03

Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission

454. A seller wishes to net $55,000 after paying a 7% commission. What should the selling price be?
   a. $55,000
   b. $58,000
   c. $58,850
   d. $59,140

Reference: Ch. 11, Types of Listing Contracts – Net Listings

455. A house is valued at $65,000.00. The monthly rent is $500.00, monthly debt service is $375.00, and annual taxes are $840.00. If there are no other expenses, what is the GRM?
   a. 75
   b. 80
   c. 130
   d. 108.3

Reference: Ch. 16, Income Approach – Gross Multiplier Technique

456. An apartment complex has three apartments rented for $600.00 each, six apartments rented for $400.00 each, and six apartments rented at $300.00 each. All apartments are rented on a monthly basis, with rental payments due on or before the first of each month. If the gross rent multiplier is 85, what is the value of the property?
   a. $612,000
   b. $510,000
   c. $425,300
   d. $357,000

Reference: Ch. 16, Income Approach – Gross Multiplier Technique
457. 12,000 square feet of warehouse space is leased at $.075 per square foot per month. The gross income multiplier is 7.5. What is the market value of the property?
   a. $6,750  
   b. $10,800  
   c. $81,000  
   d. $108,000

Reference: Ch. 16, Income Approach – Gross Multiplier Technique - GIM

458. If the documentary stamp tax on the deed was $520.10, and the note tax on the purchase money mortgage was $227.50, how much was the sales price and the purchase money mortgage?
   a. $150,000 and $55,000  
   b. $148,600 and $32,500  
   c. $74,300 and $65,000  
   d. $32,500 and $15,000

Reference: Ch. 13, Purchase Money Mortgage; Ch. 14, State Documentary Stamp Tax on the Deed, State Documentary Stamp Tax on a Promissory Note

459. A house is purchased for $175,000. The buyer will assume the existing first mortgage with a balance of $110,512, and the seller will take back a purchase money second mortgage for $21,500. Calculate the total state documentary stamp taxes that will be charged in this transaction.
   a. $1,730.04  
   b. $1,730.35  
   c. $1,951.06  
   d. $1,951.37

Reference: Ch. 14, State Documentary Stamp Tax on the Deed, State Documentary Stamp Tax on a Promissory Note

460. Mr. Smith qualifies for homestead exemption. He is a widower and has an additional exemption because he is blind. The county millage rate is 7¼ mills, the city millage rate is 6½ mills, and the school millage rate is 9¼ mills. If his property is assessed at $125,000, how much is his tax bill reduced by exemptions?
   a. $1,000.00  
   b. $365.25  
   c. $611.00  
   d. $967.25

Reference: Ch. 18, Calculating a Real Estate Tax Levy

461. The city tax rate is 8 3/4 mills, the county rate is 9½ mills and the school board rate is 7¼ mills. If the property is assessed at $50,000 and enjoys a homestead exemption, how much would the taxes be for the year?
   a. $1,300  
   b. $1,170  
   c. $780  
   d. $650

Reference: Ch. 18, Calculating a Real Estate Tax Levy

462. What would the value of a homestead exemption be for a property assessed at $285,000, if the city tax rate is nine mills, the county rate is eight mills and the school board rate is ten mills?
   a. $1,100  
   b. $560  
   c. $480  
   d. This question cannot be answered as the school board rate exceeds the cap.

Reference: Ch. 18, Calculating a Real Estate Tax Levy
463. It costs the city $20 per foot to pave the road in front of a 100-foot lot. The city has agreed to pay for 30% of the cost. What would be the amount of the special assessment tax?
   a. $700
   b. $1,000
   c. $1,400
   d. $2,000

   Reference: Ch. 18, Special Assessments

464. A buyer purchases Mr. Orange’s home for $190,000, assuming the first mortgage, which covers 80% of the purchase price. Mr. Dis Count, a licensed mortgage loan originator, arranges a second mortgage for 46% of the difference. Mr. Dis Count wants 2½ points as an origination fee. What will the total down payment be, including the origination fee?
   a. $20,957
   b. $17,480
   c. $14,145
   d. $437

   Reference: Ch. 12, Mortgage loan Fees

465. The quoted interest rate on a conventional loan is 12.5%, but after allowing for the origination fee, the true APR is 13%. Approximately how many points did the bank charge for the loan?
   a. 4
   b. 5
   c. 6
   d. 8

   Reference: Ch. 12, Mortgage Loan Fees – Effective Yield

466. How is an existing mortgage that is being retired at closing shown on a closing statement?
   a. Debit to seller
   b. Debit to buyer
   c. Credit to seller
   d. Prorated between the buyer and seller

   Reference: Ch. 14, Section 1 – Total Purchase Price, First or Second Mortgage Balance

467. The binder deposit shows on the seller's closing statement only under which condition?
   a. It is paid in cash.
   b. The deposit exceeds the commission.
   c. It is paid directly to the seller by the buyer.
   d. The closing will be handled by a title company.

   Reference: Ch. 14, Section 1 – Total Purchase Price, Binder Deposit

468. How are property taxes accounted for on a closing statement?
   a. Debited entirely to the buyer
   b. Prepaid entirely by the buyer
   c. Prorated between the buyer and seller
   d. Debited entirely to the seller

   Reference: Ch. 14, Section 2 – Prorations and Prepayments

469. What would you expect to see on a broker's reconciliation section of the closing statement?
   a. Disbursements equal the receipts, minus the brokerage fee
   b. Broker's fee is prepaid by the buyer
   c. Disbursements equal receipts plus brokerage
   d. Disbursements equal receipts

   Reference: Ch. 14, Section 5 – Broker’s Statement

470. Which of the following is an entry on a broker's cash reconciliation statement?
   a. Expenses of the buyer are shown as a disbursement
   b. Expenses of the seller shown as a receipt
   c. Expenses of the buyer shown as a receipt
   d. Expenses of the broker shown as a disbursement

   Reference: Ch. 14, Section 5 – Broker’s Statement
471. Which of the following items would typically appear as debits to the seller on the closing statement?

a. First mortgage interest, purchase price, and expenses
b. Assumed mortgage interest, taxes, and expenses
c. Expenses, deposit, and purchase price
d. Taxes, mortgage interest, and purchase price

Reference: Ch. 14, Section 2 – Prorations and Prepayments

472. An individual is buying an eight-unit apartment complex that closes on June 10 (closing day to the seller). If rent is $235.00 per month per unit in advance, how will the rent proration appear on the closing statement?

a. Debit seller $626.67, credit buyer $626.67
b. Credit seller $1253.33, debit buyer $1253.33
c. Debit seller $1253.33, credit buyer $1253.33
d. Debit seller $1253.33, credit buyer $626.67

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Rent

473. The buyer has agreed to assume the existing mortgage of $74,260.00 at 8 1/2% interest, with monthly payments of $622.60. The remaining term of the loan is 22 years, and the closing date is May 18 (prorate as of midnight the day prior to closing). Prorate the interest using the calendar year. How will the interest portion of the payment be prorated on the closing statement?

a. Debit seller $288.46, credit buyer $288.46
b. Debit seller $288.46, credit buyer $237.56
c. Debit seller $341.43, credit buyer $341.43
d. Debit buyer $293.99, credit seller $293.99

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Interest on an Assumed Mortgage

474. Mr. Smith agreed to sell his house to Mrs. Brown. The closing date was set for October 15. Smith agreed to pay for all charges incurred on the day of closing. The estimated taxes for the year are $4,800. Using the 365-day method, how would the taxes appear on the closing statement?

a. Debit buyer $3,787.40, credit seller $3,787.40
b. Debit seller $3,787.40, credit buyer $3,787.40
c. Debit seller $1,012.60, credit buyer $1,012.60
d. Debit buyer $1,012.60, credit seller $1,012.60

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Property Taxes

475. Closing date is June 5, and the day of closing belongs to the buyer. Annual real estate taxes are $730. Using the 365-day method, prorate the amount of taxes debited to the seller.

a. $420
b. $418
c. $312
d. $310

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating Property Taxes

476. Closing date is January 10, and the day of closing belongs to the seller. The buyer has arranged for a new $200,000 mortgage at an interest rate of 8%. The prepaid interest due at closing is $956. Which of the following would be a correct entry on the closing statement?

a. Debit buyer $956, credit seller $956
b. Credit buyer $956, debit seller $956
c. Debit buyer $956
d. Credit seller $956

Reference: Ch. 14, Section 2 – Prorations and Prepayments, Prorating an Interest Prepayment
477. All of the following statements are correct with respect to a broker registered with a real estate brokerage corporation, EXCEPT:
   a. The broker may be a stockholder.
   b. The broker has to be an officer or director.
   c. The broker does not have to be a resident of Florida or a citizen of the United States.
   d. The broker can be an active broker and officer in one corporation and an inactive broker in another corporation.
Reference: Ch. 5, Real Estate Brokerage Corporation

478. Owner Tim was in need of cash and contacted broker Mildred to list his property. Mildred inspected the property and advised Tim that the house was worth $90,000. Since Tim had to sell quickly, he listed the property for $84,000. Mildred acquired a 60-day option for $1,500 consideration and sold the property two weeks later for $92,000. Which choice is correct?
   a. Mildred has committed fraud.
   b. Mildred may retain the difference.
   c. Tim only owes Mildred a commission.
   d. Tim should file a civil action against Mildred.
Reference: Ch. 11, Option Contracts, Option Contracts as Listings

479. Builder Paul obtained a mortgage to develop lots in a new subdivision, with a release clause allowing the sale of each lot for $10,000. Broker Sally locates a buyer for one of the lots for $9,000, which Paul agrees to accept. Without disclosing the terms of the mortgage to the buyer, Sally sells the lot. Based on this information, which statement is correct?
   a. Paul must pay $1,000 to the bank at closing.
   b. Sally must make up the difference.
   c. Sally has committed fraud.
   d. Paul and Sally have formed a conspiracy.
Reference: Ch. 6, Fraudulent Activities; Ch. 12, Essential Elements of a Mortgage – Release Clause

480. A broker has been found guilty by the Florida Real Estate Commission of advertising in a fraudulent, false, deceptive, or misleading way. In addition to administrative penalties, what criminal violation has occurred?
   a. First-degree misdemeanor
   b. Second-degree misdemeanor
   c. Second-degree felony
   d. Third-degree felony
Reference: Ch. 6, Criminal Penalties
481. An investigator for the Department has audited a broker’s escrow account and found a balance of $12,000. The trust liability totaled $30,000. If the broker's commissions on the pending transactions total $18,000, which statement is correct?
   a. The investigator will approve the audit.
   b. The broker may be disciplined by the Florida Real Estate Commission.
   c. No violation of the law is evident based on this audit.
   d. The broker will be required to deposit $18,000 into the escrow account within three working days of the audit.

Reference: Ch. 5, Escrow Funds, Monthly Reconciliation

482. A broker held up a bank and escaped with a large amount of cash. What is the consequence if the broker is apprehended?
   a. Broker’s license must be revoked.
   b. Broker is subject to discipline by the Florida Real Estate Commission.
   c. Broker must be suspended.
   d. Florida Real Estate Commission may impose a fine of $1,000 and imprison the broker for no more than one year.

Reference: Ch. 6, Exhibit 6.3(g)

483. Which statement is true with respect to limited partners in a limited partnership formed to broker real estate?
   a. All limited partners must be brokers, either active or inactive.
   b. Limited partners are not allowed to perform management services.
   c. Actively licensed limited partners may perform management services for the partnership.
   d. All limited partners must be licensed as inactive brokers or inactive sales associates.

Reference: Ch. 5, Types of Business Formations, Limited Partnership

484. A Florida broker was arrested in Alabama and charged with possession of stolen property. The broker has confessed to a role in a theft ring and has provided the names of his accomplices. Should the FREC be made aware of this prior to the case going to trial, what action would it take regarding the broker’s license?
   a. The Commission cannot take action against the broker until the broker is proven guilty in a court of law.
   b. The broker will be suspended pending the outcome of the trial.
   c. The Commission may revoke the broker’s license.
   d. Since the activity does not involve real estate, and occurred outside the state of Florida, the Commission has no jurisdiction over the broker’s actions.

Reference: Ch. 6, Administrative Penalties; The Disciplinary Process; Exhibit 6.3

485. A broker lists an owner’s property for six months on an exclusive listing agreement for $80,000 at a commission of 7%. Three months later the owner sells the property to a nephew for $74,400. Which statement is correct?
   a. The owner owes the broker a commission based on the listed price of $80,000.
   b. The owner does not owe the broker a commission.
   c. The owner is liable to the broker for damages.
   d. The owner owes a commission based on the sale price of $74,400.

Reference: Ch. 11, Listing Contracts, Types of Listing Contracts
486. Peggy and Joan wish to form a partnership to buy and sell real estate for others. Which statement is correct?
   a. Peggy and Joan must both be actively licensed brokers.
   b. Either Peggy or Joan must be an actively licensed broker.
   c. If Peggy is an actively licensed broker, Joan must be an inactively licensed broker or be registered as an unlicensed partner.
   d. If Joan is an actively licensed broker, Peggy must be an actively licensed sales associate or broker associate.

Reference: Ch. 5, Types of Business Formations, Real Estate Brokerage Partnership

487. Broker Stan showed Benny a 30-year-old home owned by Chuck. Benny was concerned about the age of the house, but Stan convinced Benny to buy it for the listed price of $89,000 by promising to buy the home from Benny for the full price within three months if Benny found the home to be unsatisfactory. Which statement is correct?
   a. Stan’s promise violates the license law, and he is subject to disciplinary action.
   b. If Benny asks Stan to purchase the home from him, and Stan refuses, Stan would be in violation of the license law.
   c. Stan would not be required under the license law to purchase the home from Benny.
   d. Chuck would be required to repurchase the property as the broker was acting as his agent in the transaction.

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Promise to Resell

488. Ernie is a licensed broker in Chicago who had a customer for a condominium in Tampa. Ernie accompanied the customer to Tampa and introduced him to broker Dora, a licensed Florida broker. Ernie went to the beach while Dora showed the customer condominiums and was successful in obtaining a contract. Ernie returned to Dora’s office a short time later and demanded a share of the commission. Which is correct?
   a. Ernie violated the license law by accompanying the prospect to Florida.
   b. Both Ernie and Dora are in violation of F.S. 475.
   c. If Dora pays Ernie a commission, she would be in violation of the license law.
   d. Dora may pay Ernie a commission.

Reference: Ch. 4, Referral Fees

489. Which statement is correct regarding a broker acting as a transaction broker?
   a. The broker has fiduciary duties to both parties.
   b. The broker has fiduciary duties to the seller, but not to the buyer.
   c. Both parties must give their prior written consent before the broker may act as a transaction broker.
   d. The broker must treat both parties with honesty and fairness.

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Transaction Broker
490. **Broker Dan and broker Fred both have an open listing on Gail's home. Broker Dan showed Gail's home to customer Paula. Six months later broker Fred shows Gail's home to Paula and Paula buys it. Which is correct?**

- a. Gail owes Fred a commission.
- b. Gail owes Dan a commission.
- c. Fred and Dan must share the commission.
- d. Gail must pay both brokers a commission.

**Reference:** Ch. 11, Listing Contracts, Types of Listing Contracts – Open Listing

491. **Broker A has an exclusive agency listing on Mary's property. Broker B showed Mary's home to a customer and succeeded in obtaining a full price contract that Mary accepted. Mary paid broker B a commission. Which is correct?**

- a. Mary owes a commission to broker A.
- b. Broker B must share the commission with broker A.
- c. Mary owes both brokers a commission.
- d. Mary is liable to broker A for damages.

**Reference:** Ch. 11, Listing Contracts, Types of Listing Contracts – Exclusive Agency Listing

492. **A sales associate's license expires. If the associate immediately applies for a renewal, when will the renewal become effective?**

- a. The day following expiration of the current license
- b. When the department receives the renewal application and fee payment
- c. The date the application is postmarked
- d. When the renewal license is received by the sales associate

**Reference:** Ch. 3, Licensing Periods, Renewal

493. **Broker Paul was served a subpoena to testify in court. Paul introduced his license into evidence to support his qualifications to testify. What did Paul achieve by this action?**

- a. It is a rebuttable presumption.
- b. It serves as *prima facie* evidence of the broker's license status.
- c. Nothing; it has no effect in a court of law.
- d. Nothing; it is not required to be presented since the broker had been served a subpoena.

**Reference:** Ch. 2, Licensure and Registration; Ch. 3, The Florida Real Estate Commission, Documentation of Proceedings of the Commission

494. **A broker has an abstract accompanied by an opinion of title by a qualified attorney in his files that was prepared one year ago. When potential buyers inquired whether or not the title to the property was merchantable, the broker gave them a copy of the abstract and opinion of title and assured them that the title was indeed merchantable. The broker:**

- a. Is in violation of the license law
- b. Is not in violation of the license law
- c. Has acted properly, and if a title problem arises, the purchaser may sue the attorney
- d. Should have delivered the original documents to the purchaser rather than copies

**Reference:** Ch. 6, Administrative Penalties, Fraudulent Activities – Rendering an Opinion of Title; Ch. 9, Protecting Title
495. **Buyer Norma gave sales associate Julie a postdated check as a binder deposit and told Julie the check would not clear until the following week. The broker was tied up with negotiations on a large transaction, so Julie presented Norma’s offer and disclosed to the seller that the check was postdated and would not clear until next week. The seller asked Julie to hold the check and deposit it when the funds were available. The broker was unaware of this arrangement. Which statement is correct?**

a. No violation occurred since Julie properly disclosed the nature of the deposit, and the seller allowed the check to be held subject to clearance.
b. Julie is in violation of the law, but the broker was unaware of the arrangement and has not violated the law.
c. Both Julie and the broker are in violation of the law.
d. There is no violation since postdated checks cannot be deposited.

Reference: Ch. 5, Escrow Funds

496. **Sales associate Sandra wants to advertise her home for sale. What may happen if she advertises in her own name only?**

a. She may be charged with acting as a broker.
b. This would be considered a blind ad, and she is subject to disciplinary action by the commission.
c. She may do so but must reveal her licensed status prior to entering into serious negotiations.
d. She may do so but must divulge her identity as a licensee in the ad.

Reference: Ch. 5, Brokerage Office Requirements, Personal Transactions

497. **Broker Tom collected a commission, a portion of which was due to sales associate Dave. Tom did not pay Dave his share of the commission. What could Tom be charged with?**

a. Larceny
b. Commingling
c. Embezzlement
d. Failure to account

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

498. **What is necessary to qualify for the $500,000 exclusion from the capital gains tax realized from the sale of a principal residence?**

a. Be a married couple, filing jointly
b. Neither spouse has previously used the exclusion
c. The replacement residence must be of equal or greater value than the one being sold
d. The home must have served as a principal residence at least three of the last five years

Reference: Ch. 18, Tax Benefits of Homeownership – Sale of a Principal Residence

499. **A broker gave a number of business cards to a hotel registration clerk and asked the clerk to refer customers to him. For each customer the clerk refers, the broker promises to pay a fee of $20. What will happen if this fee is paid?**

a. The broker will be in violation of the law.
b. The hotel clerk will not be in violation of the law.
c. Neither the broker nor the clerk will be in violation of the law.
d. Both the broker and the clerk will be in violation of the law.

Reference: Ch. 2, Activities Requiring a Real Estate License; Ch. 4, Broker’s Right to Compensation, Referral Fees
500. **All of the following statements are correct regarding the Consumer Credit Protection Act, EXCEPT:**

a. The Act was designed to give borrowers the ability to shop wisely for credit.

b. Borrowers must be shown the actual amount paid for credit in a percentage form called the annual percentage rate (APR).

c. Borrowers must be given three working days to rescind a loan.

d. The Act was implemented by the Board of Governors of the Federal Reserve System through Regulation B.

Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Truth-in-Lending Act
501. A broker has a listing on a seller’s house. The seller goes on vacation. During this time, the broker gets an offer for $78,000 and another offer for $80,000. What should the broker do?
   a. Present the $80,000 offer upon seller’s return
   b. Accept the $80,000 offer on behalf of the seller
   c. Reject the $78,000 offer
   d. Present both offers upon the seller’s return

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Presenting Offers

502. In case of a financial hardship due to a zoning requirement, for what should the homeowner apply?
   a. Nonconforming use
   b. Special use exception
   c. Easement
   d. Variance

   Reference: Ch. 19, Zoning Board of Adjustment

503. In Florida, what does the ten-mill cap apply to?
   a. Income taxes
   b. Intangible taxes
   c. City, county, and school tax districts
   d. Sales taxes

   Reference: Ch. 18, Real Property Taxation, The 10 Mill Cap

504. The DBPR may investigate matters it considers a violation of the license law in which of the following situations?
   a. It may investigate only those individuals who are registered with the FREC as sales associates or brokers.
   b. It may investigate only upon court-ordered subpoenas.
   c. It may investigate any person having knowledge of the facts of the case.
   d. It may investigate only if jurisdiction has been established by a proper court of law.

   Reference: Ch. 6, The Disciplinary Process

505. If a licensee fails to renew their license at the end of the prescribed period, what is the status of the license?
   a. It may remain inactive for a maximum of two years.
   b. It may remain inactive for a maximum of ten years.
   c. It is automatically suspended.
   d. It must be renewed as soon as possible.

   Reference: Ch. 3, Licensing Periods, Renewal

506. What is the expected result when the banks stock up their reserves?
   a. A tight money market
   b. An easy money market
   c. Prepayment of loans
   d. Easier financing

   Reference: Ch. 13, Federal Reserve System

507. Frank and Harry own a property. Frank dies, and the property passes to Harry. How was the property held?
   a. Tenancy by the entireties
   b. Joint estate
   c. Tenancy at will
   d. Community property

   Reference: Ch. 8, Estates
508. **What was the major impact of the Jones v. Mayer Supreme Court case in 1968?**
   a. It protected borrowers from fraudulent lending practices.
   b. It added handicap and familial status to the list of protected classes.
   c. It created the USPAP standards for appraisal.
   d. It strictly prohibited discrimination based on race, with no exceptions.

   Reference: Ch. 7, Federal Fair Housing Laws

509. **The defendant must file an answer to an administrative complaint within how many days?**
   a. 15
   b. 21
   c. 30
   d. 14

   Reference: Ch. 6, The Disciplinary Process

510. **A sales associate must do all the following to renew a current and valid license, EXCEPT:**
   a. Complete 14 hours of continuing education, for renewal periods after the first renewal
   b. Complete the proper renewal request form and pay the required fee
   c. Pass a 45-hour post-licensing course, if renewing for the first time
   d. Show Florida residency

   Reference: Ch. 2, Renewing a Florida Real Estate License; Ch. 3, Licensing Periods, Renewal

511. **A broker was convicted of securities fraud also causing FREC to revoke his license. If he is the only broker in a sole proprietorship, what would the license status become of the sales associates registered under him?**
   a. Revoked
   b. Suspended
   c. Cancelled
   d. Placed involuntary inactive

   Reference: Ch. 3, Active and Inactive License Status, Void and Ineffective Licenses; Ch. 5, Sole Proprietorship

512. **All of the following are requirements for obtaining a Florida real estate broker’s license, EXCEPT:**
   a. Complete the required broker’s pre-licensing course
   b. Have a Social Security number
   c. Submit the proper application and fees to the Department
   d. Be employed for at least 12 months in the last five years by an actively licensed broker

   Reference: Ch. 2, Obtaining a Florida Real Estate License - Broker

513. **Florida real estate law requires that the buyer be informed of all of the following, EXCEPT:**
   a. If they are required to join a homeowner’s association
   b. That they have the right to have an energy-efficiency rating performed
   c. That they are allowed to test for radon gas
   d. That the seller is HIV-positive

   Reference: Ch. 7, Florida Fair Housing Act; Ch. 11, Disclosures Required in Real Estate Contracts

514. **Under what condition does the DBPR have the power to investigate complaints against unlicensed individuals?**
   a. Even if it is only indicated that the real estate license law is probably being violated
   b. Only if it involves a dealing with a licensee
   c. Under no circumstances
   d. Only if it has first established that the real estate license law has, in fact, been violated

   Reference: Ch. 6, The Disciplinary Process, Administrative Actions against Unlicensed Individuals
515. **A real estate license is required for all of the following individuals, EXCEPT:**

a. An appraiser on salary with a financial institution
b. A person showing timeshare condo units
c. An out-of-state auctioneer selling Florida farmland
d. A person selling business opportunities

Reference: Ch. 2, Persons Who are Required to be Licensed, Individuals Who are Exempt from Licensure

516. **A listing contract may be terminated in all of the following ways, EXCEPT:**

a. Cancellation of the contract
b. Fulfillment of the contract
c. Mutual abandonment of the contract
d. Acceptance of an offer on the property

Reference: Ch. 11, Termination of a Listing

517. **What is the maximum allowable payment from the Real Estate Recovery Fund as a result of one transaction?**

a. $10,000
b. $50,000
c. $75,000
d. $150,000

Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

518. **Smith owns an orange grove and a warehouse. Smith died intestate, and the court appointed Brown to dispose of Smith’s assets. What can Brown do?**

a. Dispose of these assets only if Brown has a real estate license
b. May not dispose of these assets under any circumstances
c. Take the necessary steps to sell the properties and be compensated for their efforts
d. Take the necessary steps to sell the properties, provided Brown receives no compensation

Reference: Ch. 2, Individuals Who are Exempt from Licensure

519. **For violating F.S. 475, the Commission may discipline with all of the following penalties, EXCEPT:**

a. Sanction or probation
b. Invoke forfeiture
c. Impose a fine
d. Impose a prison sentence

Reference: Ch. 6, License Law Violations

520. **Before Smith dies, Jones is made executor. If Jones wants to actively participate in the sale of Smith’s property and be compensated for the efforts. Which statement is correct?**

a. Jones must become a licensed real estate sales associate.
b. Jones must become a licensed real estate broker.
c. Jones must hire the services of a licensed real estate broker.
d. Jones may sell Smith’s property without a real estate license.

Reference: Ch. 2, Individuals Who are Exempt from Licensure

521. **A broker sells Jayne, a prospective renter, a rental list for $100 on May 1. If Jayne wants a refund, by what date must Jayne request the refund?**

a. May 31
b. June 1
c. May 15
d. June 15

Reference: Ch. 5, Rental Information

522. **Janet has reached the end of her lease. She is unable to reach the landlord but stayed in the property anyway. What type of tenancy does Janet have?**

a. Tenancy at sufferance
b. Tenancy at will
c. Tenancy by the entireties
d. Tenancy in gross

Reference: Ch. 8, Estates, Non-freehold (Leasehold) Estates
523. Sally is a licensed real estate broker in a state that has a mutual recognition agreement with Florida. Sally wishes to obtain a Florida license. Her choices include all of the following, EXCEPT:
   a. Taking a 40-question law exam and be issued a Florida broker license by mutual recognition if she is not a Florida resident
   b. Taking the broker course and state exam if she is a Florida resident
   c. Taking the sales associate course and state exam if she wishes to become a Florida sales associate
   d. Receiving a Florida license by reciprocity if she is not a Florida resident

Reference: Ch. 2, Obtaining a Florida Real Estate License, Obtaining a License by Mutual Recognition

524. What action will occur when the FREC imposes a fine against a licensee, and the individual is unable to pay the fine?
   a. The DBPR/FREC can force bankruptcy
   b. The DBPR/FREC will suspend or revoke the license
   c. They will allow the licensee to pay it when they have the money
   d. A civil action will be brought to recover, and a judgment awarded

Reference: Ch. 6, The Disciplinary Process

525. Sales associate Colleen, who works for broker Coco, was assigned the task of writing real estate advertisements in Coco’s office. Is this a violation of F.S. 475?
   a. Yes, because only brokers can write real estate ads
   b. Yes, because only the listing sales associate under the direct supervision of the broker can write real estate ads
   c. No, because any sales associate may write an ad regardless of whether they took the listing or not, provided it is under the direct supervision of the broker and the broker’s name appears in the ad
   d. No, because any sales associate may write an ad with the permission of the employing broker, provided it is under the direct supervision of the broker and the broker’s name appears in the ad, and provided also that if a sales associate’s name is used in the ad, it is the listing sales associate’s name

Reference: Ch. 2, Activities Requiring a Real Estate License

526. Under which condition may a sales associate be employed by two brokers?
   a. If FREC grants a special exception
   b. If both employers agree
   c. If the public agrees
   d. Under no circumstances

Reference: Ch. 2, Employment; Ch. 5, Sales Associate’s Duties, Compensation

527. Which type of property can be purchased with a VA loan?
   a. An apartment building
   b. An income-producing investment property
   c. A commercial property
   d. Any owner-occupied residence, including condominiums and mobile homes

Reference: Ch. 13, VA Guaranteed Loans
528. **What is an individual referred to as who is fully qualified as a real estate broker, but chooses to work for another employer in the capacity of a sales associate?**
   a. Active broker
   b. Inactive broker
   c. Active sales associate
d. Broker associate

   Reference: Ch. 2, Obtaining a Florida Real Estate License, License Categories – Broker Associate

529. **What is the FREC authorized to do?**
   a. Issue a writ of mandamus
   b. Seek an injunction
c. Revoke a license automatically
d. Issue a summary suspension

   Reference: Ch. 6, The Disciplinary Process

530. **Recommendations regarding changes in educational curriculum come under the powers of which entity?**
   a. FREC
   b. Florida governor
c. Post-license commission committee
d. Secretary of state

   Reference: Ch. 3, Powers of the Commission

531. **An earnest money deposit can be placed in all of the following institutions, EXCEPT:**
   a. A stock association
   b. A commercial bank
c. A savings association
d. A credit union

   Reference: Ch. 5, Escrow Funds, Escrow Account

532. **What would be considered an arm’s-length transaction?**
   a. Mr. Ajax to the Ajax Corporation
   b. Mr. Smith to Mrs. Smith (husband and wife)
c. Mr. Black to Mrs. Jones (not related)
d. Gateway Corporation to ABC investment (Gateway owns 15 shares of ABC)

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Arm’s Length Relationship

533. **A qualified applicant from a mutual recognition state who is requesting a license by mutual recognition is required to do which of the following?**
   a. Provide proof of licensure in a mutual recognition state
   b. Provide a notarized letter stating their intent to become a Florida resident
c. Provide proof of Florida residency for a minimum of the last six months
d. Pass a 100-question law exam

   Reference: Ch. 2, Obtaining a Florida Real Estate License, Obtaining a License by Mutual Recognition

534. **What type of writ contains a command to stay a legal proceeding, as in halting or delaying the suspension or revocation of a real estate licensee’s license?**
   a. Certiorari
   b. Mandamus
c. Possession
d. Supersedeas

   Reference: Ch. 6, The Disciplinary Process – Judicial Review

535. **During the week, a sales associate works for XYZ Real Estate, Inc. On the weekends, the sales associate moonlights for an unconnected development company and is paid on a transactional basis. Which statement is correct?**
   a. This is a violation of the Federal Trade Commission law.
b. The sales associate may work for both companies.
c. This is allowable provided the sales associate obtains a group license.
d. This is illegal under the license law.

   Reference: Ch. 2, Employment; Ch. 5, Sales Associate’s Duties, Compensation
536. Mrs. X appoints Mrs. Y to sell her house in the event that she dies. Which statement applies?
   a. Mrs. X needs a sales associate license.
   b. Mrs. Y needs a sales associate license.
   c. Mrs. Y needs a broker license.
   d. Mrs. Y can sell the estate without a real estate license.

   Reference: Ch. 2, Individuals Who are Exempt from Licensure

537. Which statement is correct regarding a corporation sole?
   a. It can broker real estate deals.
   b. It allows title to go to the heir of the clergy in place.
   c. It allows title to go to the successor to the clergy in place.
   d. It acts like a corporation for profit.

   Reference: Ch. 5, Types of Business Formations, Corporation Sole

538. A tenant orally makes an offer to lease a house for two years at $600 a month. What makes this offer unenforceable?
   a. The statute of frauds
   b. The statute of limitations
   c. No witnesses
   d. No binder deposit

   Reference: Ch. 11, Contracts

539. Broker Bond sold buyer Christina a property and told Christina that, if she were not happy with the property within a period of one year, he would purchase the property back from her at the price she bought it for. Which of the following is correct if ten months later Christina decided she did not want the property?
   a. By purchasing the property as promised, the broker would show good faith and eliminate any charge of false promise.
   b. If the broker had moved out of the state, the broker would not be liable to honor the terms and conditions of the contract.
   c. If the broker was actually a broker associate, and during the one-year period had transferred to another broker’s office, he would have no further liability on the contract.
   d. This is a fraudulent transaction.

   Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Promise to Resell

540. Without specific authorization, it is a violation for a sales associate to accept which of the following as a deposit?
   a. A postdated check
   b. Cash
   c. Specie (coin)
   d. Valuable consideration

   Reference: Ch. 5, Escrow Funds
541. A broker receives conflicting claims on an escrow deposit and requests an escrow disbursement order from the Commission. The Commission orders the money be given to the buyer. The seller obtains a judgment against the broker. What must the broker do?
   a. Borrow the money to pay the seller
   b. Ask the buyer to give the money back to the seller
   c. Have the claim paid by the recovery fund
   d. Require the sales associate to pay it

Reference: Ch. 5, Escrow Funds, Dispute Settlement Procedures – Escrow Disbursement Order; Ch. 6, Administrative Penalties, Florida Real Estate Recovery Fund

542. A broker asks his secretary to attend an open house. The secretary quotes prices and terms to prospective buyers, as per the broker’s instructions. Is this a violation of license law?
   a. No, as long as the secretary doesn’t prepare the contract
   b. Yes, because the secretary is holding an open house
   c. Yes, because the secretary is doing things that require a license
   d. No, as long as the secretary only gives subjective comments

Reference: Ch. 2, Activities Requiring a Real Estate License

543. How long may commissioners sit on the Real Estate Commission?
   a. Only one two-year term
   b. Only one four-year term
   c. Two consecutive two-year terms
   d. Two consecutive four-year terms

Reference: Ch. 3, The Florida Real Estate Commission, Term of Office

544. Under what condition may the FREC revoke a license without prejudice?
   a. An applicant fails the state exam
   b. A license was issued by mistake
   c. A sales associate had a real estate license revoked in another state
   d. An applicant did not correct errors or omissions on their application within 30 days

Reference: Ch. 6, Administrative Penalties, Range of Penalties - Revocation

545. What type of contract is formed when a buyer calls an agent on the phone wanting to buy a certain property?
   a. A unilateral contract
   b. A bilateral contract
   c. A valid contract
   d. An unenforceable contract

Reference: Ch. 11, Contracts, Statute of Frauds

546. What relationship does a transaction broker have with their employer?
   a. Nonrepresentation
   b. Caveat emptor
   c. Full fiduciary
   d. Limited representation

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

547. All of the following are requirements for obtaining continuing education credit by attending a FREC meeting, EXCEPT:
   a. Licensees must obtain prior approval before attending and obtaining credit.
   b. Licensees must attend the entire first day of the meeting to obtain credit.
   c. Licensees may obtain three hours continuing education credit each renewal period.
   d. Licensees may obtain credit by attending any three hours of the meeting.

Reference: Ch. 3, Meetings of the Commission
548. To which entity must the Florida Real Estate Commission report criminal violations of F.S. 475?
   a. State attorney general
   b. Sheriff's office
   c. Local court
   d. DBPR

   Reference: Ch. 6, Criminal Penalties

549. Multiple claims are made against one licensee’s name, all requiring payment from the recovery fund. How is the priority of payment determined?
   a. Smallest first
   b. Largest first
   c. Date of claim
   d. Proration

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

550. A sales associate successfully finds a ready, willing, and able buyer for a listing and is entitled to part of a $5,000 commission. Just prior to the closing, it is necessary for the sales associate to go out of town. Upon returning, it was discovered that the employing broker has had a lot of unexpected expenses, and the money is just not available to pay the sales associate. Which statement is correct?
   a. The sales associate is not entitled to the commission because they missed the closing.
   b. The broker’s priority is keeping the office open; therefore, they have the option of paying the sales associate at a later date.
   c. The broker may be charged with larceny.
   d. The broker may be charged with failure to account and deliver.

   Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

551. A broker is the active broker for ABC Realty, Inc. They wish to open a second office called XYZ Realty, Inc. and be the active broker for that office as well. Under what condition can the broker do this?
   a. Under no circumstances
   b. With a group license
   c. With multiple licenses
   d. After requesting a FREC hearing on the matter

   Reference: Ch. 3, Group License and Multiple Licenses

552. Three members of a family purchase property without the right of survivorship. One family member dies. What type of estate do the two remaining members have?
   a. Joint tenancy
   b. Tenancy in common
   c. Tenancy by the entireties
   d. 100% fee simple ownership together

   Reference: Ch. 8, Estates

553. The Florida Real Estate Commission has the power to impose any of the following penalties, EXCEPT:
   a. Impose a fine of not more than $5,000 per offense for a violation of F.S. 475
   b. Impose a fine of not more than $5,000 per offense for a violation of Chapter 455, F.S.
   c. Impose a prison sentence of not more than one year
   d. Revoke the license

   Reference: Ch. 6, Administrative Penalties
554. George has a residence in Ft. Lauderdale and a summer home near Daytona Beach. He and his family spend every weekend as well as two months each summer in Daytona. On which property does the Florida homestead law allow him to qualify for homestead exemption?
   a. Ft. Lauderdale only
   b. Either property, but he can claim only one exemption
   c. Daytona Beach only
   d. Neither property

   Reference: Ch. 18, Real Estate Tax Exemptions and Limitations, Homestead Tax Exemption

555. What type of advertising would a broker most likely use to sell a duplex?
   a. National
   b. Specific
   c. Institutional
   d. General

   Reference: Ch. 8, Estates

556. What is a closing statement?
   a. Seller’s statement of settlement costs
   b. Buyer’s statement of settlement costs
   c. Statement of settlement costs between the buyer and seller
   d. Statement recorded in the public records evidencing title transfer

   Reference: Ch. 14, Closing Statements

557. To determine the potential use for a vacant lot, which entity would you contact?
   a. Value adjustment board
   b. Health department
   c. Building department
   d. Zoning department

   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes

558. A real estate license is not renewed at the end of the license period. Provided this is not the first renewal, what is the license status?
   a. Involuntary inactive
   b. Voluntary inactive
   c. Revoked
   d. Suspended

   Reference: Ch. 3, Licensing Periods, Renewal

559. Tom, Brian, and Bill purchase an office building in fee simple. Which form of ownership would Tom’s family prefer?
   a. Tenancy by the entireties
   b. Joint tenancy
   c. Tenancy at will
   d. Tenancy in common

   Reference: Ch. 8, Estates

560. Which business structure may NOT act as a real estate broker?
   a. Joint venture
   b. Corporation sole
   c. Corporation for profit
   d. a and b

   Reference: Ch. 5, Types of Business Formations

561. A seller sells an income-producing property for a $42,000 profit. What is the tax implication for the seller?
   a. No capital gains tax is required if the profits are reinvested within 24 months.
   b. Capital gains tax must be paid on the entire profit, less any allowable depreciation.
   c. Capital gains tax must be paid on 20% of the profit.
   d. The alternative minimum tax must be paid.

   Reference: Ch. 17, Impact of Federal Taxation, Capital Gains Tax
562. **A sales associate is selling their own property. What information would be required in the broker’s advertisement?**
   a. Agent and licensed real estate broker
   b. Owner-agent
   c. Name of the brokerage firm
   d. Name of the brokerage firm, owner-agent, and sales associate’s name

   Reference: Ch. 5, Brokerage Office Requirements, Personal Transactions

563. **Paul is a captain in the Air Force. While stationed in Florida, Paul obtained a real estate license. Shortly thereafter, Captain Paul was transferred to Oklahoma. Five years later, he retires and returns to Florida where he wishes to sell real estate. Which statement applies?**
   a. Paul would be required to take the state licensing exam again.
   b. Paul would be required to take the 45-hour post-license course.
   c. Paul would be required to take 28 hours of reactivation education.
   d. Paul can request a reissue of his license within two years of his discharge.

   Reference: Ch. 2, Obtaining a Florida Real Estate License, Members of the Armed Forces

564. **Which covenant in a deed is a warrant by the grantor that they will sign any documents in the future that would be necessary to maintain quiet title?**
   a. Warranty forever
   b. Warrant of seizing
   c. Warrant of quiet enjoyment
   d. Warrant of further assurance

   Reference: Ch. 9, Deeds, Warrants, or Covenants in Deeds

565. **Which business structure holds title to land in its own name?**
   a. Partnership
   b. Corporation sole
   c. Syndicate
   d. Corporation for profit

   Reference: Ch. 5, Types of Business Formations

566. **A new sales associate does not complete the post-license education before the first renewal. What is the sales associate’s license status?**
   a. Suspended
   b. Null and void
   c. Revoked
   d. Cancelled

   Reference: Ch. 2, Renewing a Florida Real Estate License, Post-License (First Renewal) Requirements

567. **The principle of substitution is used in all appraisal approaches for estimating market value but is best illustrated with which valuation approach?**
   a. Comparable sales
   b. Cost-depreciation
   c. Income
   d. 4/3/2/1

   Reference: Ch. 16, Three Approaches to Value

568. **A broker was found guilty of fraud, and the broker’s license was revoked by the Commission. What will the license status become for all sales associates registered with that broker?**
   a. Involuntary inactive
   b. Revoked
   c. Suspended
   d. Reissued

   Reference: Ch. 3, Active and Inactive Licenses, Void and Ineffective Licenses

569. **Which type of deed is the most favorable from the grantor’s point of view?**
   a. Special warranty deed
   b. Warranty deed
   c. Quitclaim deed
   d. Bargain and sale deed

   Reference: Ch. 9, Deeds, Types of Deeds
570. The buyer and seller agree in a contract to postdate the deposit check. Which statement is correct?
   a. The sales associate should hold it until it clears.
   b. The sales associate should immediately give the check to their broker.
   c. The sales associate should refuse the check.
   d. The deposit check should be put in escrow immediately.
   Reference: Ch. 5, Escrow Funds

571. How would a new sidewalk be paid for?
   a. Ad valorem taxes
   b. Income taxes
   c. Special assessment taxes
   d. Property taxes
   Reference: Ch. 18, Calculating a Real Estate Tax Levy

572. What is the name for the legal rights of property owners whose land borders a river?
   a. Civil rights
   b. Riparian rights
   c. Littoral rights
   d. Air rights
   Reference: Ch. 8, Real Property

573. Bob wishes to open a residential real estate corporation, along with a property management corporation. Bob wishes to be the active broker for both corporations. Which statement is correct?
   a. Bob will not be allowed to do this.
   b. Bob must hold multiple licenses.
   c. Bob will be allowed to do this only if he takes the state exam twice.
   d. Bob will have to hire another broker for the second corporation.
   Reference: Ch. 3, Group License and Multiple Licenses

574. How can an easement be extinguished?
   a. By giving the required notice
   b. By installing a driveway over the easement
   c. By an owner no longer using the easement
   d. By court action
   Reference: Ch. 9, Private Limitations on Property Ownership

575. Real estate brokerage commissions are based on which of the following?
   a. MLS rule
   b. Custom
   c. The seller’s equity
   d. The actual sales price
   Reference: Ch. 4, Broker’s Right to Compensation, Payment of Commission

576. The annual percentage rate (APR) includes all of the following, EXCEPT:
   a. Interest
   b. Discount
   c. Real estate taxes
   d. Finance charges
   Reference: Ch. 13, Laws Regarding Fair Credit and Lending Procedures, Truth-in-Lending Act

577. What is a tax shelter?
   a. A legal method of decreasing tax liability
   b. An illegal method for hiding taxable income
   c. An illegal method of hiding funds from the IRS
   d. A legal form of property tax exemption
   Reference: Ch. 17, Real Estate Investment Terminology – Tax Shelter
578. If a broker changes their business address, what change will be made to the license status for all the sales associates employed by that broker?
   a. No change; they remain in force as long as the change is reported to the Department within ten days.
   b. They become cancelled.
   c. They become suspended.
   d. They become revoked.
   
   Reference: Ch. 3, Licensing Periods, Reissue; Ch. 5, Sales Associate's Duties, Change of Employer or Address

579. Which clause in a deed further assures the buyer that the present owner actually owns the property and has the right to sell?
   a. The warrant of seizin
   b. The warrant of further assurance
   c. The warrant of quiet enjoyment
   d. Warranty forever
   
   Reference: Ch. 9, Deeds, Warrants or Covenants in Deeds

580. How does the Sherman Antitrust Act relate to real estate brokerage?
   a. Equal opportunity brokerage
   b. The fixing of commission rates
   c. The fixing of interest rates
   d. Disclosure of the true annual percentage rate
   
   Reference: Ch. 4, Broker's Right to Compensation, Uniform Commission Rates

581. A licensee who has been voluntarily inactive for five years wishes to become active. What must the licensee do?
   a. Complete 14 hours for each year of inactivity
   b. Complete 45 hours of post-licensing
   c. Must take the FREC I course and state exam again because five years is too long
   d. Find an employer and file a change of status form
   
   Reference: Ch. 3, Active and Inactive License Status, Inactive License – Voluntary Inactive

582. What is the name for an individual who passes the state broker examination but continues to operate as a sales associate?
   a. Active broker
   b. Inactive broker
   c. Sales associate
   d. Broker associate
   
   Reference: Ch. 2, Obtaining a Florida Real Estate License, License Categories – Broker Associate

583. Real estate brokers usually represent customers as what type of agent?
   a. Universal agent
   b. General agent
   c. Special agent
   d. Quasi-agent
   
   Reference: Ch. 4, Agency Law

584. Which method might the county use to enforce building codes?
   a. Issuing nonconforming use certificates
   b. Issuing of variances
   c. Issuing of special exception
   d. Issuing certificates of occupancy
   
   Reference: Ch. 19, Building Codes

585. A previous owner, upon selling a property, specifically required the buyer to use the property for only one purpose. What type of restriction is this?
   a. Seller’s lien
   b. Estoppel agreement
   c. Subdivision restrictive covenant
   d. Deed restriction
   
   Reference: Ch. 9, Limitations on Property Ownership, Private Limitations on Property Ownership
586. **All of the following statements related to the role of the sales associate are correct, EXCEPT:**
   a. A sales associate may only be employed by one broker at a time.
   b. A sales associate may only be compensated by their employing broker or owner-developer.
   c. A sales associate can be employed by the general public to perform real estate activities.
   d. A sales associate may only perform real estate activities authorized by their employer.

   Reference: Ch. 5, Sales Associate’s Duties

587. **All of the following are application requirements for obtaining a Florida real estate license, EXCEPT:**
   a. Must be a Florida resident
   b. Must be a high school graduate or its equivalent
   c. Must be at least 18 years of age
   d. Must submit a completed application and fee payment

   Reference: Ch. 2, Obtaining a Florida Real Estate License, General Qualifications for Licensure

588. **What instrument gives the broker authority to represent the seller in a real estate transaction?**
   a. Listing agreement
   b. Buyer broker agreement
   c. Sales contract
   d. Agency disclosure

   Reference: Ch. 11, Listing Contracts

589. **Which of the following provides “quiet enjoyment” on a deed?**
   a. A covenant
   b. A noise restriction
   c. An encumbrance
   d. A noise variance

   Reference: Ch. 9, Deeds

590. **Which type of business relationship must be in writing?**
   a. Corporations
   b. Partnerships
   c. Corporations and limited partnerships
   d. Joint venture

   Reference: Ch. 5, Types of Business Formations

591. A bank gives a mortgage loan for 80% of the sales price at an interest rate of 8%. The interest portion of the first month’s payment is $192. What is the selling price?
   a. $28,800
   b. $32,000
   c. $36,000
   d. $72,000

   Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

592. Calculate the gross income of an apartment building containing five units: three rented at $350 per month, one rented at $300 per month, and one at $75 per week.
   a. $20,100
   b. $19,800
   c. $11,400
   d. $8,700

593. How many acres does a parcel of land measuring 330 feet by 660 feet contain?
   a. Three
   b. Five
   c. Seven
   d. Nine

   Reference: Ch. 10, Common Area Measurements

594. According to the Tax Reform Act of 1986, what is the maximum percentage of depreciation that may be taken annually on an office building purchased in 1994?
   a. 6.67%
   b. 3.60%
   c. 3.17%
   d. 2.56%

   Reference: Ch. 17, Depreciation
595. **Calculate the cost per square foot on a lot 40 feet by 60 yards selling for $21,780 per acre.**
   a. $2.00  
   b. $1.00  
   c. $.58  
   d. $.50
   Reference: Ch. 10, Common Area Measurements

596. **A building that cost $662,000 ten years ago would cost $770,000 to build today. The building is in excellent condition and looks only about five years old. The carpeting needs to be replaced for $20,000. What is the total accrued depreciation based on a 25-year useful life?**
   a. $150,000  
   b. $154,000  
   c. $170,000  
   d. $174,000
   Reference: Ch. 16, Cost-Depreciation Approach

597. **Current tax laws allow owners of investment properties to depreciate a portion of their investment over what period of time for the types of property listed?**
   a. 27.5 years for residential properties and 39 years for non-residential properties  
   b. 27.5 years for non-residential properties and 39 years for residential properties  
   c. 27.5 years for all investment properties  
   d. 39 years for all investment properties
   Reference: Ch. 17, Impact of Federal Taxation, Depreciation

598. **Twenty-five mills means that the tax equals which of the following?**
   a. 25%  
   b. 2.5%  
   c. .25%  
   d. .025%
   Reference: Ch. 18, Real Property Taxation, Tax Rates Expressed in Mills

599. **A developer is building a subdivision on a 20-acre tract. The subdivision will have 40 equal size lots. Ten percent of the total tract will be allowed for a common recreation area. With access roads totaling 20 feet by 600 yards, how many square feet are contained in each lot?**
   a. 18,702 square feet  
   b. 19,602 square feet  
   c. 20,000 square feet  
   d. 21,780 square feet
   Reference: Ch. 10, Common Area Measurements

600. **A property measures 660 feet by 990 feet and sold for $12,000 per acre. The buyer can obtain 80% financing. How much is the intangible tax?**
   a. $460.80  
   b. $360.00  
   c. $288.00  
   d. $270.00
   Reference: Ch. 14, Section 3 - Expenses, State Intangible Tax on Mortgages
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601. All of the following are services of real estate requiring a license, EXCEPT:
   a. Showing
   b. Selling
   c. Counseling
   d. Building

Reference: Ch. 2, Activities Requiring a Real Estate License, Statutory Services of Real Estate

602. What is the most effective method of describing real property?
   a. Monuments method
   b. Metes and bounds method
   c. Government land survey method
   d. Lot and block method

Reference: Ch. 10, Legal Descriptions

603. A real estate broker asks his sales associate to commit an illegal act. What should the sales associate do?
   a. Comply, as the sales associate may lose their job
   b. Refuse to comply and withdraw from the relationship
   c. Notify the Florida real estate commission
   d. Comply, but inform the employer that they are complying under duress

Reference: Ch. 5, Broker’s Liability for Fraudulent Activity

604. What is required for a transfer of title?
   a. Signature, under seal, and two witnesses
   b. Signature, two witnesses, and acknowledged
   c. Two witnesses, signed, and delivered
   d. Two witnesses and acknowledged

Reference: Ch. 9, Deeds, Transferring Title

605. All of the following cause forfeiture of a corporation’s charter, EXCEPT:
   a. Bankruptcy
   b. Failure to pay the annual report fee
   c. Court action
   d. Action of the stockholders

Reference: Ch. 5, Types of Business Formations, Corporation for Profit

606. All of the following are factors of production in a free enterprise system, EXCEPT:
   a. Capital
   b. Growth
   c. Labor
   d. Management risk-taking

Reference: Ch. 15, The Free Enterprise System

607. Where will a metes and bounds description always start and finish?
   a. At the same point
   b. At different points
   c. At two points that are close to each other
   d. At points designated as appropriate by the surveyor

Reference: Ch. 10, Surveyor’s Method

608. A broker is in a full representation relationship with a principal. What is the name for this relationship?
   a. General agency
   b. Transactional brokerage
   c. Dual agency
   d. Single agency

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

609. Which encumbrance might cloud a title?
   a. A judgment
   b. Zoning
   c. A right-of-way
   d. An easement

Reference: Ch. 9, Private Limitations on Property Ownership
610. **Q**: A licensed sales associate receives a cash binder deposit from a buyer on a parcel of land. Before the sales associate can give the deposit to the broker, the sales associate loses the deposit. Who is responsible?

- a. Broker
- b. Sales associate
- c. Broker and sales associate
- d. Buyer

**A**: Reference: Ch. 5, Sales Associate’s Duties, General Duties

611. **Q**: What is opposite of N20°W?

- a. N20°E
- b. S20°E
- c. S20°W
- d. E20°N

**A**: Reference: Ch. 10, Surveyor’s Method

612. **Q**: Which of the following estates involves ownership of real property?

- a. A leasehold estate
- b. A tenancy for years
- c. A tenancy at will
- d. A freehold estate

**A**: Reference: Ch. 8, Estates

613. **Q**: A sales associate represents a buyer in a transaction and is asked to give an opinion about the title. What may the sales associate do?

- a. Tell the buyer he is no longer interested in representing them
- b. Quote an opinion from a competent attorney
- c. Tell the buyer that they don’t need a title opinion because it was just checked six months ago
- d. Tell the buyer that there will be an additional charge for the sales associate to give a title opinion

**A**: Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Rendering an Opinion of Title; Ch. 9, Protecting Title

614. **Q**: How does the Marketable Record Title to Real Property Act (MARTA) relate to curing defects in title?

- a. Requires the title examiner to search back to the original conveyance of title, in order to prove that the title is free and clear of any claims
- b. Limits the period of search required to establish valid and marketable “root of title” to at least 30 years
- c. Requires that if an unrecorded deed is accidentally destroyed, the grantee is recognized as having a marketable record of title
- d. Requires any recorded instrument or court proceeding that affects title to any estate or interest in land and that sufficiently describes the land to identify its location and boundaries

**A**: Reference: Ch. 9, Deeds, Curing Defects in Title

615. **Q**: A broker shows a house to a prospect, making a statement that they are going to love the elementary schools. This is a(an):

- a. Omission statement
- b. Extravagant statement
- c. Violation of the fair housing law
- d. Acceptable statement

**A**: Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

616. **Q**: Which is considered to be an interest in real property?

- a. Deed restriction
- b. Easement
- c. Encroachment
- d. Survey

**A**: Reference: Ch. 9, Private Limitations on Property Ownership

617. **Q**: What are real estate taxes based upon?

- a. Market value
- b. Assessed value
- c. Appraised value
- d. Salvage value

**A**: Reference: Ch. 18, Property Tax Assessments
618. **The Florida Real Estate Commission oversees and enforces which of the following?**
   a. The REALTORS code of ethics
   b. State-licensing laws (F.S. 475)
   c. State condominium laws (F.S. 718)
   d. State mortgage banking laws (F.S. 494)

   Reference: Ch. 3, The Florida Real Estate Commission

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622. **What term is used to refer to a lien imposed on a property for nonpayment of materials or labor to improve a property?**
   a. Vendor’s lien
   b. Construction lien
   c. Tax lien
   d. Judgment lien

   Reference: Ch. 9, Liens

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619. **Hewitt, a wealthy landowner, wishes to donate a large tract of land to his university alma mater. Hewitt does not want to be responsible for any claims. What type of deed will Hewitt probably use?**
   a. Bargain and sale deed
   b. Special warranty deed
   c. General warranty deed
   d. Quitclaim deed

   Reference: Ch. 9, Deeds, Types of Deeds

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620. **A sales associate finds a buyer ready, willing, and able to purchase a home. The seller refuses to sell and will not pay the broker a commission. The broker does not pay the sales associate a commission. What may the sales associate do?**
   a. Sue the seller
   b. Sue the broker
   c. Nothing, the sales associate has no remedy
   d. Sue the buyer and seller

   Reference: Ch. 5, Sales Associate’s Duties, Compensation

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621. **What is an abstract of title?**
   a. A history of all documents concerning a property
   b. A summary of the important documents concerning a property
   c. A history of all recorded documents concerning a property
   d. An estimate of fair market value of a property

   Reference: Ch. 9, Protecting Title, Abstracts

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623. **What must be included in real estate ads and on signs?**
   a. Name of the sales associate
   b. Name of the brokerage firm
   c. Name of the seller
   d. Office phone number

   Reference: Ch. 5, Brokerage Office Requirements, Office Signs; Advertising

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624. **What keeps a landowner in a key locational position from preventing the progress of the entire community?**
   a. Estoppel
   b. Ergonometric policy of the city or county
   c. Eminent domain
   d. Escheat

   Reference: Ch. 9, Methods of Acquiring Title, Transfer by Involuntary Alienation

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625. **In a general partnership, each partner does NOT necessarily have which of the following?**
   a. Power to bind the others by their activity
   b. A share in the management of the business
   c. Liability for the debts of the partnership
   d. Equal shares of the profits of the partnership

   Reference: Ch. 5, Types of Business Formations, General Partnership
626. Mary deeds John a property for John’s lifetime. Upon John’s death, the property will transfer to Fred. What is Fred’s interest in the property?
   a. An estate in reversion
   b. A remainder estate
   c. A tenancy in waiting
   d. A tenancy in entirety

Reference: Ch. 8, Estates

627. A valid real estate sales contract requires all of the following, EXCEPT:
   a. An offer and acceptance communicated to all parties
   b. A substantial earnest money deposit
   c. A written form
   d. The signatures of all parties

Reference: Ch. 11, Contracts, Essentials of a Valid Contract

628. When a buyer withdraws an offer prior to it being accepted by the seller, what should the broker do?
   a. Give the deposit back to the buyer
   b. Give the deposit to the seller
   c. Retain the deposit as a commission
   d. Call the division of real estate for instructions

Reference: Ch. 5, Escrow Funds, Broker’s Rights to Escrowed Funds; Ch. 11, Contract Negotiation, Termination of Offers

629. If the grantor is insolvent, which of the following deeds would be the best from the buyer’s point of view?
   a. Quitclaim deed
   b. General warranty deed
   c. Bargain and sale deed
   d. Any deed

Reference: Ch. 9, Deeds, Types of Deeds

630. Due to possible problems with clear and marketable title, a broker should avoid properties owned by which of type of business?
   a. Partnership
   b. Corporations for profit
   c. Corporation sole
   d. Limited partnership

Reference: Ch. 5, Types of Business Formations

631. Which type of lien may be retroactive to an earlier date, thus taking priority over other liens?
   a. Construction lien
   b. Judgment lien
   c. Vendor lien
   d. IRS lien

Reference: Ch. 9, Liens

632. If you owned one section of land described as S25, T2S, R2W, what section would be two sections to the west of your section?
   a. S27, T2S, R2W
   b. S29, T2S, R1W
   c. S23, T2S, R2W
   d. S23, T2S, R1W

Reference: Ch. 10, Government Survey Method

633. Florida law requires that brokers place escrow deposits into an escrow account. What else is required by the law regarding that account?
   a. The broker be a signer on the account.
   b. The office manager be a signer on the account.
   c. The broker must appoint someone to oversee the escrow account.
   d. FREC must be informed of the location of the escrow account.

Reference: Ch. 5, Escrow Funds

634. Which clause in a deed contains the grantor’s name and the legal description?
   a. Habendum clause
   b. Tenendum clause
   c. Defeasance clause
   d. Granting or premises clause

Reference: Ch. 9, Deeds, Clauses in Deeds
635. **A broker listed five condos for rent on the beach in Florida. Three of the units rented for $1,000 per month, and two of the units rented for $500 per month during the season. The broker placed an ad in a Chicago newspaper, reading “Beachfront condos for rent. $500 per month, call Ocean Front Realty (407) 368-0044.” The two $500 units were not available at the time the ad ran. Is this legal?**

a. No, as the $500 units were not available.

b. Yes, the broker has done nothing wrong.

c. Yes, but would be a violation if the ad was in a Florida paper.

d. No, because Florida brokers are not permitted to run ads in out-of-state newspapers.

Reference: Ch. 5, Brokerage Office Requirements, False Advertising; Ch. 6, Criminal Penalties, Second-Degree Misdemeanors; Exhibit 6.3(d)

636. **What term is used to refer to damages that are specified in a contract?**

a. Liquidated damages

b. Unliquidated damages

c. Punitive damages

d. Compensatory damages

Reference: Ch. 11, Contract Termination, Types of Damages

637. **How can defects or clouds on a title be cleared?**

a. A quitclaim deed

b. Title insurance

c. An abstract

d. A radon gas disclosure

Reference: Ch. 9, Deeds, Curing Defects in Title

638. **Which action by a broker is an example of commingling?**

a. Placing escrow money into their personal account

b. Failing to disclose material facts

c. Failing to give an agency disclosure

d. Steering buyers to an ethnic neighborhood

Reference: Ch. 5, Escrow Funds, Escrow Account

639. **How would an owner show marketable title?**

a. A deed and tax certificate

b. An abstract

c. Title insurance

d. A property tax bill

Reference: Ch. 9, Protecting Title

640. **A broker followed the instructions in a FREC escrow disbursement order, but was the victim of a civil court judgment that resulted in a payment of $10,000 from the Real Estate Recovery Fund. What consequence will the FREC impose?**

a. None, the FREC will take no action against the broker.

b. The FREC will probably suspend the broker’s license.

c. The FREC will probably revoke the broker’s license.

d. The FREC is required by law to suspend the broker’s license.

Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

641. **Under what authority are cities and counties allowed to enact zoning ordinances?**

a. The local planning commission

b. Police power

c. Eminent domain

d. F.S. 475

Reference: Ch. 9, Limitations on Property Ownership

642. **In a lien-theory state, what will the borrower receive after making their final payment?**

a. Title

b. A mortgage

c. A letter of satisfaction

d. A deed of reconveyance

Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Satisfaction of Mortgage
643. Sue Douglas wishes to open a real estate brokerage corporation, Sunshine Realty, Inc. When ordering her sign, she is required to include all of the following items, EXCEPT:
   a. Sunshine Realty, Inc.
   b. Sue Douglas
   c. Licensed real estate broker
   d. The office phone number

Reference: Ch. 5, Brokerage Office Requirements, Office Signs

644. What is a title plant?
   a. Where deeds are printed
   b. A system of records, collected and filed by the names of real property owners
   c. A system of records, collected and filed according to the names of the title insurance holders
   d. A system of records, collected and filed by legal descriptions

Reference: Ch. 9, Protecting Title, Abstracts

645. When should a broker earn commission when employed to find a purchaser?
   a. When a successful closing is completed
   b. When a signed offer from a ready, willing, and able buyer is brought to the seller
   c. When the terms are acceptable to the seller
   d. b and c

Reference: Ch. 11, Listing Contracts, Broker’s Right to Compensation

646. What type of listing allows the seller to list their home with more than one broker?
   a. Open listing
   b. Exclusive listing
   c. Exclusive right to sell listing
   d. Exclusive right of sale listing

Reference: Ch. 11, Listing Contracts, Types of Listing Contracts

647. Complete the sentence. An oral lease, in excess of one year, may also be referred to as:
   a. Invalid
   b. A tenancy at will
   c. A tenancy at sufferance
   d. A freehold estate

Reference: Ch. 8, Estates; Ch. 11, Contracts, Statute of Frauds

648. What is the deadline for a broker to deposit all earnest money funds?
   a. The next business day
   b. The next calendar day
   c. The third calendar day
   d. The close of the third business day following receipt

Reference: Ch. 5, Escrow Funds, Depositing Escrow Funds

649. What happens with negative amortization?
   a. The monthly payment amount increases.
   b. The term of the loan increases.
   c. The loan balance increases.
   d. The term of the loan decreases.

Reference: Ch. 13, Loan Repayment Methods, Amortized Mortgage
650. **An owner employed a broker to sell his property. The broker subsequently negotiated a contract whereby the owner agreed to sell to a buyer. The contract was long and involved. Since the amount of the deposit was equal to the amount of the commission that the broker would receive, in the middle of one of the long paragraphs, the broker inserted the phrase, “in the event the buyer defaults, the deposit will be retained by the broker as his compensation.” At the time the broker presented the contract to the seller and buyer he made no mention of this phrase. However, he did not in any way try to influence them not to read it. The seller and buyer signed the contract without reading it. In their area, a 50/50 split of defaulted deposits is customary between sellers and brokers. The buyer subsequently defaulted, and the seller asked the broker for half of the deposit. The broker refused and showed the seller the phrase in the contract that allowed him to retain the deposit. What should the broker do?**

a. Give the seller an amount equal to his expenses and keep the rest  
b. Share the deposit 50/50 with the buyer  
c. Retain all of the deposit since the buyer and seller signed the contract  
d. Share the deposit 50/50 with the seller

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

651. **Which entity may insure home loans made by approved lenders?**

a. Federal Deposit Insurance Corporation  
b. Federal Housing Administration  
c. Florida Department of Insurance  
d. Department of Veterans Affairs

Reference: Ch. 13, The Primary Mortgage Market, Mortgage Lenders

652. **Which of the following is required in a real estate brokerage partnership?**

a. All general partners must be active brokers.  
b. All officers and directors must be active brokers.  
c. At least one of the partners must be an active broker.  
d. All partners, officers, and directors must be active brokers.

Reference: Ch. 5, Real Estate Brokerage Partnership

653. **If both the buyer and the seller make claims on the escrow money held by the broker, within how many business days is the broker required to notify the FREC if the dispute remains unresolved?**

a. 5  
b. 10  
c. 15  
d. 20

Reference: Ch. 5, Escrow Funds, Escrow Disputes

654. **A Florida real estate licensee is permitted to draw up which of the following items?**

a. Deeds  
b. Purchase money mortgages  
c. Sales contracts and the approved fill-in-the-blank residential lease  
d. Promissory notes

Reference: Ch. 11, Real Estate Sales Contracts, Right to Prepare Contracts

655. **Once an offer is accepted and the escrow deposit is in the broker’s account, the broker holds the deposit on behalf of which party or parties?**

a. Seller  
b. Buyer  
c. Both the buyer and seller  
d. The title company

Reference: Ch. 5, Escrow Funds, Broker’s Rights to Escrowed Funds
656. Which of the following is required in a real estate brokerage limited partnership?
   a. All officers and directors must be registered.
   b. All limited partners must be active licensees.
   c. All general partners must be active licensees.
   d. The partnership must be registered with the Department.

Reference: Ch. 5, Types of Business Formations, Real Estate Brokerage Limited Partnership

657. Bob and Mary have agreed to participate in a limited number of transactions. Bob and Mary have no right to obligate or bind each other. What business relationship have they formed?
   a. Joint venture
   b. Corporation
   c. Partnership
   d. Limited liability company

Reference: Ch. 5, Types of Business Formations

658. Which form of escrow settlement procedure requires the parties to abide by an objective third party’s decision after a hearing?
   a. Escrow disbursement order
   b. Mediation
   c. Arbitration
   d. Attorney’s legal opinion

Reference: Ch. 5, Dispute Settlement Procedures

659. All of the following are essential elements of a real estate contract, EXCEPT:
   a. Consideration
   b. Offer and acceptance
   c. In writing and signed
   d. Witnessed and under seal

Reference: Ch. 11, Contracts, Elements of a Valid Contract

660. Larry, Moe, and Curly form a partnership by oral agreement. Moe and Curly buy a property and sign a contract under the partnership name. Which applies?
   a. Only Moe and Curly are liable.
   b. All three are liable.
   c. The partnership is liable.
   d. No one is liable.

Reference: Ch. 5, Types of Business Formations, General Partnership

661. Which of the following elements must an option contract contain?
   a. Valuable consideration
   b. A competent grantor
   c. A competent mortgager
   d. Good consideration

Reference: Ch. 11, Option Contracts

662. When estimating the value of a business, an appraiser would normally use which approach?
   a. Market approach
   b. Liquidation approach
   c. Income approach
   d. GRM technique

Reference: Ch. 16, Three Approaches to Value

663. A real estate sales associate may accept commissions from which of the following?
   a. A buyer
   b. A seller
   c. A mortgage broker
   d. The sales associate’s employer

Reference: Ch. 5, Sales Associate’s Duties, Compensation

664. Which would never appear in a real estate sales contract?
   a. Remedies for breach
   b. Exculpatory clause
   c. Time for occupancy and closing
   d. Financing provisions

Reference: Ch. 11, Real Estate Sales Contracts, Information Included in a Sales Contract; Ch. 12, Essential Elements of a Mortgage
665. Why can’t a sales associate work for more than one broker or one owner-developer at the same time?
   a. They owe it to the employer to work for at least 40 hours per week.
   b. The DBPR would have a hard time keeping up with where they are working.
   c. A sales associate or broker associate is an agent of the broker or owner that they are working for.
   d. The Federal Trade Commission, under Rule 27-S, prohibits a sales associate or broker associate from working for more than one employer at the same time.

Reference: Ch. 5, Sales Associate’s Duties

666. Under which agreement does a party give up all of their rights under a lease?
   a. Sublease
   b. Assignment
   c. Transfer of entitlement agreement
   d. Release of lien

Reference: Ch. 9, Leases, Assignment, and Sublease

667. What is the most probable price that a property will bring in an open and competitive market?
   a. Market value
   b. Cost
   c. Replacement cost
   d. Reproduction cost

Reference: Ch. 16, Appraisal Concepts and Definitions, Cost, Price, and Value

668. Which business structure incorporates limited as well as unlimited liability?
   a. Sole proprietorship
   b. Corporation for profit
   c. General partnership
   d. Limited partnership

Reference: Ch. 5, Types of Business Formations

669. Complete the sentence. When all terms and conditions have been clearly stated, a contract is said to be:
   a. Expressed
   b. Formal
   c. Parol
   d. Executed

Reference: Ch. 11, Contracts. Classification of Contracts

670. A broker has two apartments listed and gives their unlicensed assistant a 3x5 card with printed information to read to any prospects who call to inquire about the apartments. Which statement is correct?
   a. F.S. 475, exempts unlicensed assistants.
   b. This is a violation of F.S. 475.
   c. As long as the assistant reads the printed information and does not give subjective opinions, there is no violation.
   d. The assistant may act in the same capacity as the broker when dealing with prospects.

Reference: Ch. 2, Activities Requiring a Real Estate License

671. Which type of lease is typically used in commercial real estate where the tenant pays both rent and expenses?
   a. Net lease
   b. Gross lease
   c. Percentage lease
   d. Ground lease

Reference: Ch. 9, Types of Leases

672. Which condition is an example of functional obsolescence?
   a. High unemployment in an area
   b. Damage due to infestation of termites
   c. Plumbing not functioning properly
   d. A five-bedroom house with one bathroom

Reference: Ch. 16, Cost-Depreciation Approach
673. **Two brokers sharing space in a manner whereby the public presumes the brokers are partners may be engaged in what is referred to as a:**
   a. Quasi-partnership
   b. General partnership
   c. Limited partnership
   d. Joint venture

   Reference: Ch. 5, Types of Business Formations

674. **Farmer Jones meets broker Brown at a cocktail party. Jones and Brown agree that if Brown sells Jones’s farm for $650,000 within 30 days, Jones will pay Brown a 6% commission. Which applies?**
   a. A fiduciary relationship has been established.
   b. This is a contract, and Brown is entitled to a commission if the broker performs.
   c. Under the statute of frauds, this listing is not enforceable.
   d. This is an exclusive right of sale listing.

   Reference: Ch. 11, Contracts

675. **A Georgia broker and a Florida broker form a joint venture to sell a Florida property that a friend of the Georgia broker owns. The Georgia broker comes down to assist the Florida broker in the sale of the property. The Florida broker:**
   a. May share the commission with the Georgia broker
   b. Cannot pay the Georgia broker part of the commission
   c. Can pay the Georgia broker only a referral fee
   d. Can pay the Georgia broker only for expenses and travel

   Reference: Ch. 4, Broker’s Right to Compensation, Referral Fees

676. **What is the instrument that is used to pledge real property as security for a debt?**
   a. Promissory note
   b. Sales contract
   c. Mortgage
   d. Security deposit agreement

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans

677. **To whom does a deed of trust convey title?**
   a. A third party
   b. The bank
   c. The mortgager
   d. The beneficiary

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Title Theory of Mortgages

678. **What must a sales associate do when they change employers?**
   a. Notify the Department using a change of status form
   b. Take all of their listings and files with them
   c. Wait 30 days to begin to operate
   d. Nothing, no action is necessary

   Reference: Ch. 5, Sales Associate’s Duties, Change of Employer or Address

679. **A farmer gives a $15,000 listing with a 90-day protection period to a broker for a six-month term, agreeing to a 10% commission. After five months, the broker brings a prospect to see the property. The prospect refuses to pay $15,000. The farmer takes the prospect aside and tells them to come back in 30 days. After the 30 days, the farmer sells the property directly to the prospect for $14,000. Which statement is correct?**
   a. The farmer owes the broker $1,500 as procuring cause.
   b. The farmer and the prospect each owe the broker as a result of the conspiracy to defraud the broker.
   c. The farmer owes the broker $1,400.
   d. The broker can do nothing as the listing has expired.

   Reference: Ch. 11, Listing Contracts, Broker’s Right to Receive Compensation - Protection Period
680. **Sales associate Sally decides to use a post office box for all of her mail even though she has not actually moved out of her house. Which statement applies?**
   a. She need not notify the Department since she is living at the same location.
   b. She need not notify the Department if her e-mail address has not changed.
   c. She must notify the Department of her address change within 30 days.
   d. She must notify the Department of her address change within ten days.

   Reference: Ch. 5, Sales Associate's Duties, Change of Employer or Address

681. **Which statement best describes a quitclaim deed?**
   a. It guarantees that the seller has the right to convey title.
   b. It is the best deed from the grantee's point of view.
   c. It does not warrant the title.
   d. It is the same as a guardian's deed.

   Reference: Ch. 9, Deeds, Types of Deeds – Quitclaim Deed

682. **How would the purchase price be correctly entered on a closing statement?**
   a. Debit seller, credit buyer
   b. Debit seller, disbursement to broker
   c. Debit buyer, credit seller
   d. Debit buyer, disbursement to broker

   Reference: Ch. 14, Section 1 – Total Purchase Price

683. **Which business structure makes all principals personally responsible for any debts incurred in the name of the entity?**
   a. Corporation
   b. Partnership
   c. Limited partnership
   d. Joint venture

   Reference: Ch. 5, Types of Business Formations

684. **An option contract is a right to buy a property during a specified period-of-time at a specified price. How many days do you have to redeem an option once it has expired?**
   a. 30
   b. 15
   c. 10
   d. 0

   Reference: Ch. 11, Option Contracts

685. **A broker receives a deposit check on Monday and deposits it in his escrow account the following Monday. The check subsequently is returned with non-sufficient funds (NSF). What fraud has the broker committed?**
   a. Concealment
   b. Conversion
   c. Culpable negligence by failing to check to make sure the check was good
   d. Culpable negligence by failing to deposit the check “immediately”

   Reference: Ch. 5, Escrow Funds, Depositing Escrow Funds; Ch. 6, Administrative Penalties, Fraudulent Activities

686. **Which of the following is a characteristic of a general partnership?**
   a. The partners agree to share in the profits and debts of the partnership
   b. All partners must be brokers
   c. There must be at least one limited partner
   d. The shareholders agree to share in the profits and debts of the partnership

   Reference: Ch. 5, Types of Business Formations, General Partnership
687. **Brokers Troy and Gail agree to cooperate on the sale of Jackie’s house. The deal is closed and Jackie pays the full commission to Troy, the listing broker. Troy refuses to pay Gail her share. Of what may Troy be guilty?**
   a. Concealment
   b. Poor judgment
   c. Failure to account and deliver
   d. Misrepresentation
   
   Reference: Ch. 4, Broker’s Right to Compensation, Commission Disputes between Competing Brokers; Ch. 6, Administrative Penalties, Fraudulent Activities

688. **Complete the sentence. A joint venture is typically created:**
   a. For a single project
   b. By filing the appropriate paperwork with DBPR
   c. By filing the appropriate paperwork with the secretary of state
   d. To avoid paying taxes
   
   Reference: Ch. 5, Types of Business Formations, Joint Venture

689. **A broker gets a 90-day exclusive right of sale listing on a house for $50,000 and promises to advertise it for two weeks. The owner agrees to pay the broker a 6% commission if the broker is successful in finding a buyer. The broker advertises the property as agreed in the listing contract. Forty-five days into the listing contract, the seller sells the house himself to an old army buddy for $45,000. Which statement applies?**
   a. The owner owes the broker $3,000.
   b. The owner does not have to pay the broker a commission.
   c. The owner owes the broker a $2,700 commission.
   d. The owner will owe the broker the usual and customary commission of the community.
   
   Reference: Ch. 11, Listing Contracts, Types of Listing Contracts – Exclusive Right of Sale Listing

690. **Which of the following terms refers to a purchase money mortgage?**
   a. Seller financing
   b. Chattel mortgage
   c. HELOC
   d. Bank loan
   
   Reference: Ch. 13, Loan Repayment Methods, Purchase Money Mortgage

691. **Three houses recently sold with the following amenities:**
   1. $84,500, three bedrooms, two baths, good location, family room, garage
   2. $76,500, three bedrooms, two baths, fair location, family room, carport
   3. $80,000, three bedrooms, two baths, good location, carport
   If a good location adds $5,000 and a garage adds $3,000, what would be the value of a family room?
   a. $1,000
   b. $1,200
   c. $1,500
   d. $2,000
   
   Reference: Ch. 16, Comparable Sales Approach

692. **A property is purchased based on a $50,000 a year income, with a 15% cap rate (yield). If the new owner can sell the building based on a 12% yield, what would be his profit?**
   a. $83,334
   b. $60,000
   c. $15,000
   d. $6,000
   
   Reference: Ch. 16, Income Approach, Using the IRV Formula to Derive Capitalization Rates

693. **A widow’s property has an assessed value of $60,000 and she qualifies for a homestead exemption. The millage rates are eight mills for the city, six mills for the county, and nine mills for the school board. What is her tax levy?**
   a. $1,380
   b. $443.50
   c. $653.50
   d. $665
   
   Reference: Ch. 18, Calculating a Real Estate Tax Levy
694. Mr. Jones purchased a home for $95,000, with closing costs of $3,500. The loan-to-value ratio was 80%. If the bank charged $2,280.00 for lender fees, how many points did the lender charge?
   a. 2.3 points
   b. 2.4 points
   c. 2.5 points
   d. 3.0 points

Reference: Ch. 12, Common Mortgage Features, Mortgage Loan Fees

695. Michael has a loan on his house for $75,000. After the first year, he has paid $11,936.36 in interest and $124.26 in principal. After the first year, what portion of his loan is paid off?
   a. 16.50%
   b. 2.00%
   c. 1.65%
   d. .17%

Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

696. If 350 feet of fence costs $1,575.00, what is the cost for 500 feet of fence?
   a. $3,150.00
   b. $2,289.29
   c. $2,250.00
   d. $1,686.11

Reference: Ch. 10, Common Area Measurements

697. A buyer purchases a home for $60,000. He obtains an 80% conventional loan at 8.5% interest, with a 2.5% loan origination fee. How much is the origination fee?
   a. $480
   b. $1,200
   c. $1,500
   d. $4,080

Reference: Ch. 12, Common Mortgage Features, Mortgage Loan Fees – Loan Origination Fee

698. Broker Brown and broker Smith split a commission on a 50/50 basis on the sale of the S 1/2 of the NW 1/4 of Section 36, Township 3 North, Range 4 E, with a selling price of $170.45 per acre. The commission is to be calculated as follows: 5% of the first $10,000, 3% of the next $2,500 and 1 1/2% of the balance. If broker Brown must pay his sales associate James 12 1/2% of the commission for listing the property, how much net commission will Brown receive?
   a. $37.00
   b. $129.51
   c. $259.02
   d. $296.02

Reference: Ch. 10, Calculating Acreage in a Parcel from a Legal Description; Ch. 11, Listing Contracts, Calculating a Brokerage Commission

699. Mrs. Brown owns a 100-acre tract in Dade County. She wants to sell 20 lots, with each containing 21,780 square feet. How many acres will she be selling?
   a. 10
   b. 15
   c. 17
   d. 20

Reference: Ch. 10, Common Area Measurements

700. A house rents for $350 per month in an area where the GRM is 134. A similar home next door just sold for $55,000. On this basis, the rent could be:
   a. Decreased by $119
   b. Increased by $119
   c. Decreased by $60
   d. Increased by $60

Reference: Ch. 16, Income Approach, Gross Multiplier Technique
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701. What approach is most often used for the valuation of a business?
   a. Comparable sales approach
   b. Cost-depreciation approach
   c. Market approach
   d. Income approach

   Reference: Ch. 16, Three Approaches to Value

702. A sales associate receives an offer from the buyer along with a postdated check. What action must the sales associate take?
   a. Return it, as postdated checks are illegal in Florida
   b. Immediately turn it over to the broker
   c. Cash the check on the appropriate date, and give the money to the broker
   d. Hold the check until the appropriate date, and deposit into the escrow account

   Reference: Ch. 5, Escrow Funds, Depositing Escrow Funds

703. Which of the following is the best source of protection for consumers who are using the services of a real estate licensee?
   a. Complaint hotlines set up by the state government
   b. State licensing laws
   c. Severe punishment of offenders
   d. Citation authority given to state investigators

   Reference: Ch. 2, Purpose of the Law

704. Which of the following statements pertaining to VA and FHA loans is correct?
   a. The FHA insures loans. VA loans are guaranteed.
   b. Both the FHA and the VA make loans.
   c. FHA loans are guaranteed.
   d. Conventional loans are insured by the government.

   Reference: Ch. 13, FHA Insured Mortgage Loans, VA Guaranteed Loans

705. Carol buys a rental list for $350, looks at over 40 available apartments on the list, but is not satisfied with any of them. After three weeks, she requests a refund of her money. What is she entitled to receive?
   a. $175.00
   b. $262.50
   c. $350.00
   d. Nothing

   Reference: Ch. 5, Rental Information

706. With what would an appraiser utilizing the cost-depreciation approach be most concerned?
   a. Reproduction cost
   b. Market value
   c. Assessed value
   d. The price the seller paid for the property

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

707. Sales associate Aaron sells a home that was listed by broker Bob. Who must pay Aaron’s share of the commission?
   a. Any party as long as the amount is as agreed upon
   b. Aaron’s broker
   c. Either Aaron’s broker or broker Bob
   d. Any party, since Aaron is licensed, and therefore can be compensated by anyone

   Reference: Ch. 6, Sales Associate’s Duties

708. Complete the sentence. The Department (or DBPR) has the authority to issue subpoenas:
   a. To anyone thought to have knowledge of the case at hand
   b. To real estate licensees only
   c. Whenever it deems appropriate
   d. To any DBPR licensee

   Reference: Ch. 6, The Disciplinary Process
709. A broker fails to fulfill the terms and conditions as stated in the listing contract. The listing contract states that the broker will advertise weekly in the Palm Beach Post Times and the Palm Beach Shiny Sheet, which they failed to do. What may the seller legally do?
   a. Terminate the listing contract with the broker since the broker has failed to perform
   b. Not terminate the contract since there has been no breach as far as the law is concerned
   c. Sue the broker in the equity courts for unliquidated damages
   d. Sue the broker in the District Court of Appeals for Interpleader

   Reference: Ch. 11, Listing Contracts

710. Who should hold an escrow deposit?
   a. The broker
   b. A disinterested third party
   c. The attorney
   d. The seller

   Reference: Ch. 5, Escrow Funds

711. Which expense is an example of a fixed operating expense?
   a. Real estate taxes
   b. Maintenance
   c. Management
   d. Utilities

   Reference: Ch. 16, Income Approach, Direct Capitalization Technique

712. If a broker is suspended, who can the broker appeal the final order to?
   a. DBPR
   b. FREC
   c. Circuit court
   d. District Court of Appeals

   Reference: Ch. 6, The Disciplinary Process

713. Complete the statement. Members of the FREC Probable Cause Panel:
   a. Must be real estate licensee members
   b. Must be consumer members
   c. Must be broker members
   d. May be licensed or consumer members

   Reference: Ch. 6, The Disciplinary Process

714. The Florida legislature requires certain disclosures prior to the signing of a real estate sales contract or rental agreement. Which is correct?
   a. Property must be tested to be able to disclose radon gas levels prior to the closing of a sale.
   b. It must be disclosed if any member in the seller’s household has been infected by the human immunodeficiency virus (HIV) or the acquired immune deficiency syndrome (AIDS).
   c. A definition of radon gas must be disclosed.
   d. The ethnic composition of the neighborhood must be disclosed.

   Reference: Ch. 7, Florida Fair housing Act, Discrimination Based on AIDS or HIV; Ch. 11, Disclosures Required in Sales Contracts

715. Complete the sentence. Real estate commissions are usually based on the total sales price:
   a. Including encumbrances
   b. Not including seller’s closing expenses
   c. Not including encumbrances
   d. Including the commission, but not encumbrances or expenses

   Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission

716. All of the following items are typical prorations on a closing statement, EXCEPT:
   a. Real property taxes
   b. Interest on assumed loan
   c. Rent collected
   d. State documentary stamp taxes

   Reference: Ch. 14, Section 2 – Prorations and Prepayments; Section 3 – Expenses
717. Which homeowner's right can keep someone off of their property?
   a. Exclusion
   b. Use
   c. Reduction
   d. Trespass

   Reference: Ch. 8, Real and Personal Property, Legal Rights in Property

718. Where are the rules of the Florida Real Estate Commission found?
   a. F.S. 455
   b. F.S. 475
   c. F.A.C. 61J2
   d. F.A.C. 62Q1

   Reference: Ch. 3, The Department of Business and Professional Regulation – Authorization and Administration

719. Mr. Smith makes an offer to buy a property. The offer is accepted. Two days before the closing, Mr. Smith says, “I am not Mr. Smith, I am Mr. Brown, and I do not want to close.” Which statement applies?
   a. The broker can sue for commission.
   b. The buyer does not have to buy.
   c. The seller can sue for specific performance.
   d. The broker can sue for specific performance.

   Reference: Ch. 11, Contract Termination, Legal Remedies for Breach of Contract

720. What kind of partnership exists when one or more parties cause a third party to believe a partnership exists when no partnership actually does?
   a. Actual
   b. Constructive
   c. Ostensible
   d. General

   Reference: Ch. 5, Types of Business Formations

721. A real estate sales associate obtains an offer to lease from a prospective tenant. The agent calls the owner to inform them of the offer. The owner asks the sales associate, “What race is the tenant?” The sales associate responds, “They are Caucasian.” Which statement is correct?
   a. The sales associate responded in a manner consistent with the law.
   b. The sales associate acted as any licensee should.
   c. Had the tenant been a minority, the sales associate would be in violation, but because the tenant was Caucasian, there is no violation.
   d. The sales associate may be subject to severe administrative and civil penalties.

   Reference: Ch. 7, Federal Fair Housing Laws

722. Mr. and Mrs. Jones, and Mr. Jones’s sister, take title to a duplex together. What type of tenancy have they formed?
   a. Tenancy by the entireties
   b. Tenancy at will
   c. Tenancy at sufferance
   d. Joint tenancy

   Reference: Ch. 8, Estates

723. Who may issue summary suspensions?
   a. FREC chairperson
   b. The court
   c. Secretary of the DBPR or their representative
   d. Probable Cause Panel of the Florida Real Estate Commission

   Reference: Ch. 6, The Disciplinary Process
724. How does a broker determine what the selling price should be on a net listing?
   a. Get the highest possible price
   b. Add the broker’s commission and seller’s closing costs to the amount the seller wants to net
   c. Add 10% to the net amount
   d. Do nothing, since net listings are illegal in Florida

Reference: Ch. 11. Types of Listing Contracts – Net Listings

725. When may a sales associate take a deposit without his broker’s permission?
   a. When the broker is out of town
   b. When the buyer insists
   c. When no lender is involved
   d. Under no circumstances

Reference: Ch. 5, Sales Associate’s Duties, General Duties

726. A sales associate lists a seller’s house and sells it in two days. The seller is very appreciative and wishes to give the sales associate a bonus. Which statement is correct?
   a. The sales associate can receive the bonus if the broker does not object.
   b. The sales associate cannot receive the bonus from the seller.
   c. If the seller places the bonus in escrow, the sales associate can receive it.
   d. The sales associate can receive the deposit only if it is paid in cash.

Reference: Ch. 5, Sales Associate’s Duties, Compensation

727. When an unlicensed person practices real estate, what criminal penalty can be imposed?
   a. First-degree felony
   b. Third-degree felony
   c. First-degree misdemeanor
   d. Second-degree misdemeanor

Reference: Ch. 6, Criminal Penalties

728. After going through the complaint process, the administrative law judge found a broker guilty of two violations of F.S. 475. The Florida Real Estate Commission can impose all of the following penalties, EXCEPT:
   a. A fine of $15,000
   b. A suspension of not more than ten years
   c. A reprimand
   d. Revocation

Reference: Ch. 6, The Disciplinary Process

729. Broker Greer closed down his real estate office and sold his inventory of listings to M and M Realty, Inc., an office down the street. This is:
   a. Legal, since listings are assignable
   b. Not legal without the knowledge and consent of the listing sales associate
   c. Not legal, since listings are not assignable
   d. Legal, since the broker can do anything he wants with the listings because he owns them

Reference: Ch. 11, Listing Contracts

730. Which statement correctly applies to a branch office sign?
   a. It must be easily observed and read by anyone entering the office.
   b. It must contain the words “branch office.”
   c. It must have the names of all active sales associates.
   d. It may have the names of all active and inactive officers and directors.

Reference: Ch. 5, Brokerage Office Requirements, Office Signs
731. **How will a licensee’s license status be affected when payment from the Real Estate Recovery Fund is necessary due to their wrongdoing?**
   a. It will be suspended until repayment is made to the fund.
   b. It will be revoked on the date the payment is made from the fund.
   c. It will be canceled until FREC can determine what to do.
   d. It will be rendered null and void when the claim is made.

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

732. **Which of the following individuals must have a real estate license to perform the action specified?**
   a. An attorney at law when performing their normal duties
   b. An attorney in fact when executing conveyances and contracts
   c. A salaried apartment manager who leases units for more than one year
   d. A mobile home park manager leasing lots in the mobile home park

   Reference: Ch. 2, Individuals Who are Exempt from Licensure

733. **A broker loses $10,000 cash given to them by a customer. The broker is sued, resulting in a judgment of $10,000 against the broker. The Real Estate Recovery Fund paid the judgment on behalf of the broker. Payment from the recovery fund:**
   a. Will result in a mandatory suspension
   b. Will result in mandatory revocation
   c. Will likely result in no penalty
   d. May result in criminal indictments

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

734. **A seller and a broker make an agreement that the broker may receive 100% of the deposit if the buyer defaults. In this locality, a 50/50 split of forfeited deposits is customary. What may the broker do?**
   a. Take only 50%
   b. Take 100%
   c. Take only their customary commission
   d. Nothing, but they may be disciplined for unfair business practice

   Reference: Ch. 4, Broker’s Right to Compensation, Payment of Commission; Ch. 11, Contracts

735. **After a transaction fails to close, the buyer and seller make conflicting demands upon the deposit held in escrow by the broker. The broker properly notifies FREC of the dispute. The parties to the contract refuse to resolve the dispute, and the broker elects to settle the matter in court rather than ask the Commission for an escrow disbursement order. If the broker has no interest in collecting a commission, which legal action should be filed?**
   a. Writ of supersedeas
   b. Bill of declaratory judgment
   c. Suit for specific performance
   d. Bill of interpleader

   Reference: Ch. 5, Escrow Funds, Dispute Settlement Procedures

736. **Title insurance is designed to protect against which of the following?**
   a. All defects in title
   b. Missing documents
   c. Forged documents
   d. Known defects

   Reference: Ch. 9, Title, Title Insurance
737. How many years must a tax certificate holder wait before applying for a tax deed?
   a. One
   b. Two
   c. Seven
   d. Any number of years

   Reference: Ch. 18, Paying the Tax Levy, Delinquent Property Taxes

738. Shelving and racks used in business and installed by the tenant are generally considered to be which of the following?
   a. Real property
   b. Trade fixtures
   c. Ostensible property
   d. Property of the landlord

   Reference: Ch. 8, Real Property

739. Broker Pat shows a home to a prospect. Pat offends the prospect by telling a dirty joke. The prospect advises Pat that they will not deal through them and goes to broker Terry who shows the prospect the very same house and closes the deal. The home was an open listing. Which statement best applies?
   a. Pat can collect a full commission.
   b. Terry must split the commission 50/50 with Pat.
   c. Pat cannot collect a commission.
   d. Neither Pat nor Terry is entitled to a commission.

   Reference: Ch. 4, Broker's Right to Compensation, Procuring Cause of Sale; Ch. 11, Listing Contracts, Types of Listing Contracts - Open Listings

740. A broker receives a deposit on a property, but the seller rejects the offer. What should the broker do?
   a. Retain the deposit until they can talk the seller into accepting
   b. Give the deposit back to the buyer
   c. Keep the deposit while the buyer looks for another property
   d. Notify FREC immediately

   Reference: Ch. 5, Escrow Funds, Broker's Rights to Escrowed Funds

741. Which term refers to the estimated time that an improvement will be profitably useful?
   a. Economic life
   b. Market age
   c. Effective age
   d. Actual age

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

742. In the course of listing the seller’s house, the sales associate noticed that minor repairs were necessary. The sales associate suggested that the sellers use ABC Contractors, Inc., to handle the repairs. ABC forwarded the sales associate a 10% referral fee. Which statement applies?
   a. This is common in the industry and therefore legal.
   b. This is illegal, as the referral fee should have been paid to the broker.
   c. This is unethical, but legal.
   d. This is a violation of real estate license law.

   Reference: Ch. 4, Broker's Right to Compensation, Referral Fees

743. What property right does an individual have who owns a condominium unit?
   a. Tenancy at will
   b. Tenancy at sufferance
   c. Freehold estate
   d. Proprietary lease

   Reference: Ch. 8, Estates
744. An owner of land offers an open listing to three Florida brokers. The brokers decide to cooperate on the sale and hold an auction as a means of selling. They retain a tobacco auctioneer from North Carolina and pay $1,000 plus expenses to auction off the property. The auction is held, but the owner rejects all offers. Which statement best applies?
   a. The auctioneer has violated the real estate license law.
   b. The brokers may have their licenses suspended.
   c. The owner is compelled to sell.
   d. Both a and b are correct.

Reference: Ch. 2, Activities Requiring a Real Estate License; Ch. 17, Auctioning

745. Which of the following is a required characteristic of a broker's office sign?
   a. Be a billboard on the roof which can be seen from I-95
   b. Have letters at least two inches in height, if an interior sign
   c. Contain the names of the sales associates and the words “We Aim to Please”
   d. Contain the name as on the broker's license and the words “Licensed (Lic.) Real Estate Broker”

Reference: Ch. 5, Brokerage Office Requirements, Office Signs

746. While using the cost-depreciation approach, the appraiser may compare the subject property to recently built buildings. What are these new buildings referred to as?
   a. Benchmark structures
   b. Contemporary structures
   c. Comparable structures
   d. Modern structures

Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

747. What would most likely be required to build a church in a residential neighborhood?
   a. A special use exception
   b. A variance
   c. Approval of a regional planning council
   d. An appropriate buffer zone

Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes, Zoning Board of Adjustment

748. Complete the sentence. Trees growing on property are typically considered to be:
   a. Chattels
   b. Personal property
   c. Real property
   d. None of the above

Reference: Ch. 8, Real Property

749. Mr. Black listed his farm “Blackacre” as being 20 acres with broker Bob for sale at $200,000. Bob obtained an offer from Joe to purchase at $10,000 per acre. The survey showed the farm contained only 18 acres, and since Mr. Black had accepted the offer, the transaction was closed at an $180,000 sales price. Mr. Black is:
   a. Liable for a commission on the listed price of $200,000 since the farm was described in the listing as containing 20 acres
   b. Liable for the full and customary percentage on the selling price of $180,000
   c. Not liable for the commission since the amount of the commission was not agreed upon, and broker Bob did not check the acreage
   d. Liable for a commission, but not the full and customary percentage, since the sale was for $20,000 less than the listed price

Reference: Ch. 4, Broker's Right to Compensation
750. A broker sells a property to a buyer. The buyer asks if an attorney is needed to close. The broker tells the buyer that he has sold this same property on several different occasions without a problem, and that the property has never had a title problem. He therefore advises that an attorney is not required. The broker:
   a. Has done nothing wrong
   b. Has violated F.S. 475
   c. Would be guilty only if a cloud shows up on title
   d. Should apologize to the buyer for the poor information

Reference: Ch. 6, Administrative Penalties, Fraudulent Activities – Rendering Opinion of Title

751. Who normally manages a corporation for profit?
   a. The member stockholders working through the executive officers
   b. The executive officers working through the directors
   c. The directors of the corporation working through the executive officers
   d. The stockholders of the corporation working through the directors

Reference: Ch. 5, Types of Business Formations, Corporation for Profit

752. How would intangible taxes typically appear on a closing statement?
   a. Double-entry debit to the buyer and a credit to the seller
   b. Double-entry credit to the buyer and a debit to the seller
   c. Single-entry debit to the buyer
   d. Single-entry debit to the seller

Reference: Ch. 14, Section 3 – Expenses, State Intangible Tax on Mortgages

753. Bob, Brian, and Betty were co-owners of a parcel of real estate. Bob passed away, and according to his will, his interest in the property passed to his wife. What form of tenancy did Bob have?
   a. Tenancy in common
   b. Tenancy by the entireties
   c. Joint tenancy
   d. Life tenancy

Reference: Ch. 8, Estates

754. After negotiating all terms of a contract with a seller, a buyer signs the contract and then makes a minor change in the terms and conditions before it is presented to the seller for signatures. What is the status of the offer?
   a. It is now void.
   b. It is still in effect.
   c. It is now executed.
   d. It is now a counteroffer.

Reference: Ch. 11, Contract Negotiation

755. A broker sells a house to a buyer and recommends a particular title company. The title company forwards a referral fee to the broker. The broker:
   a. Has done nothing wrong as this is considered normal business practice
   b. Is in violation of the law
   c. May accept the fee if they advise the seller
   d. May accept the fee if they advise the buyer

Reference: Ch. 5, Broker’s Right to Compensation, Referral Fees
756. **A broker asks a sales associate to fill out documents in a manner that the sales associate knows is illegal. What should the sales associate do?**
   a. Comply with the broker’s request
   b. Ask FREC for instructions
   c. Refuse to comply
   d. Handle the matter in a way that they deem appropriate

Reference: Ch. 5, Broker’s Liability for Fraudulent Activity; Ch. 6, Administrative Penalties, Fraudulent Activities

757. **Abby purchased a house with her son and daughter-in-law. The deed required that if one of the three partners died, the interest of the deceased would pass to the remaining tenants. Of which type of estate is this an example?**
   a. A tenancy by the entireties
   b. A joint tenancy
   c. An estate in severalty
   d. A tenancy at sufferance

Reference: Ch. 8, Estates

758. **Who are the parties to the contract after a sales contract has been completed, and the money placed into escrow pending closing of the transaction?**
   a. Buyer and seller
   b. Trustee and seller
   c. Buyer, seller, and broker
   d. Vendor, vendee, and broker

Reference: Ch. 11, Real Estate Sales Contract, Parties to a Sales Contract

759. **An office policy manual typically contains all of the following, EXCEPT:**
   a. Commission splits
   b. Office procedures
   c. Telephone usage
   d. Salary ranges for independent contractors

Reference: Ch. 4, Policy and Procedures Manual

760. **Three members of a family purchase an office building without the right of survivorship. One dies. What type of estate do the remaining family members have?**
   a. Tenancy by the entireties
   b. Joint tenancy
   c. Tenancy in common
   d. Tenancy for life

Reference: Ch. 8, Estates

761. **Jack and Jane each purchased 50% interest in the same building, at different times. What are the two owners considered to be?**
   a. Joint tenants
   b. Tenants in common
   c. Tenants at sufferance
   d. Tenants in severalty

Reference: Ch. 8, Estates

762. **What is the status of an option without valuable consideration?**
   a. Void
   b. Voidable only by the optionor
   c. Voidable only by the optionee
   d. Unenforceable

Reference: Ch. 11, Option Contracts

763. **A California broker refers a prospect to a Florida broker. The Florida broker sells the prospect a property in Boca Raton. Even though the California broker did not participate directly in the sale, and in fact was never even in the state, the Florida broker sends half the commission as a referral fee. This is:**
   a. Legal only if the California broker attends the closing
   b. A violation since the California broker had no direct participation
   c. Legal
   d. A violation since the California broker is not licensed in Florida

Reference: Ch. 4, Broker’s Right to Compensation, Referral Fees
764. Complete the sentence. Discount points that are charged by lenders are a percentage of the:
   a. Borrower’s equity
   b. Real estate commission
   c. Sale price
   d. Loan amount

Reference: Ch. 12, Mortgage Loan Fees – Discount Points

765. Which document allows a buyer of a cooperative to occupy a unit?
   a. Lease
   b. Contract for deed
   c. Proprietary lease
   d. Deed

Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares, Cooperative Association

766. A broker had a listing in which part of it was oral and part of it was written and signed above the initials “L.S.” but all parties understood all of the terms and conditions and agreed to them. Which best describes this agreement?
   a. Parol
   b. Formal
   c. Unilateral
   d. Parol and formal

Reference: Ch. 11, Contracts, Classification of Contracts

767. A sales associate agrees to give part of his commission to the seller, provided that the seller agrees to send the sales associate at least one hot buyer prospect. This is:
   a. A violation, because the sales associate did not check with the broker
   b. A violation, because F.S. 475, prohibits compensating unlicensed individuals for referrals
   c. Not a violation as the compensation does not exceed $1,000
   d. Not a violation

Reference: Ch. 4, Broker’s Right to Compensation, Referral Fees

768. Bob, a resident of Kentucky, has been an active broker in Kentucky for ten years. Bob wishes to obtain a Florida real estate license. All of the following statements are correct, EXCEPT:
   a. He can take a Florida law exam and obtain a broker’s license through mutual recognition if Kentucky has a mutual recognition agreement.
   b. He can apply for a broker’s license, take the broker’s course, and take the broker’s state examination.
   c. He must begin again in Florida as a sales associate.
   d. He can apply for a sales associate license, take the sales associate course, pass the sales associate state examination, and be issued a sales associate license.

Reference: Ch. 2, Obtaining a Florida Real Estate License, License Categories - Broker

769. What does the creation of a condominium require?
   a. The recording of a declaration in the public records
   b. Filing articles of incorporation with the secretary of state
   c. A common elements agreement
   d. The approval of the bylaws by the county commission

Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares, Condominiums

770. What may a broker be guilty of if they do NOT perform under the terms and conditions of a listing contract?
   a. Larceny
   b. Bad faith
   c. Abandonment
   d. Renunciation

Reference: Ch. 11, Listing Contracts, Termination of a Listing
771. If a REALTOR has a sign in the office window indicating that the broker is a member of a particular organization, but in fact, the broker was dropped from the organization for failure to pay dues, what should the broker do?
   a. Pay the dues
   b. Remove the sign
   c. Have never had the sign in the window to begin with
   d. Keep the sign up, since he is a former member

   Reference: Ch. 1, Professional Organizations

772. What is the maximum fine that FREC can impose against a licensee found guilty of a first-degree misdemeanor?
   a. FREC can impose a fine of up to $1,500.
   b. FREC can impose a fine of up to $3,000.
   c. FREC imposes only civil fines, not criminal fines.
   d. FREC imposes only administrative fines, not criminal fines.

   Reference: Ch. 6, Criminal Penalties; Administrative Penalties

773. Which of the following estates contains the least rights?
   a. Tenancy by the entireties
   b. Leasehold estate
   c. Joint tenancy
   d. Tenancy at sufferance

   Reference: Ch. 8, Estates

774. Complete the sentence. All listings should be in writing:
   a. To be enforceable
   b. To avoid any misunderstanding
   c. Because F.S. 475, requires it
   d. Because the statute of frauds requires it

   Reference: Ch. 11, Contracts

775. A buyer gives a deposit check on a sale of a house to the sales associate and inadvertently makes the check out to the sales associate. What should the sales associate do?
   a. Cash the check and give the broker the cash
   b. Endorse the check and give it to employing broker
   c. Endorse the check and deposit it in a personal account
   d. Endorse the check and deposit it in their escrow account

   Reference: Ch. 5, Escrow Funds

776. Able, Baker, and Charlie form the ABC partnership to buy real estate. Each partner invests $25,000. The ABC partnership approaches broker Dave, who negotiates a sales contract with Evan. The partnership gives Dave a deposit check for $75,000. Broker Dave took the deposit money to Las Vegas and lost all of it playing blackjack. ABC sued the broker and obtained a judgment against him in the amount of $75,000. Dave could not pay the judgment, and a claim was filed with the Real Estate Recovery Fund. How much will FREC authorize the fund to pay?
   a. $75,000
   b. $50,000
   c. $50,000 each to Able, Baker, and Charlie
   d. $25,000 each to Able, Baker, and Charlie

   Reference: Ch. 6, Administrative Penalties, Florida Real Estate Recovery Fund
777. A daughter deeded a property to her elderly mother, with the stipulation that the property would return to the daughter upon the mother’s death. What type of estate does the daughter possess?
   a. A life estate
   b. A remainder estate
   c. An estate in reversion
   d. No legal estate

Reference: Ch. 8, Estates

778. Which type of loan, also known as a sub-prime loan, is offered to borrowers who do not qualify for loans underwritten using certain criteria and standards established by Fannie Mae and Freddie Mac?
   a. VA guaranteed loan
   b. Conventional loan
   c. Conforming loan
   d. Nonconforming loan

Reference: Ch. 13, The Secondary Mortgage Market

779. All of the following statements are correct regarding a corporation sole, EXCEPT:
   a. Title passes to the successor in office.
   b. It may broker real estate.
   c. It may list real estate with a broker.
   d. It may sell its own real estate.

Reference: Ch. 5, Types of Business Formations, Corporation Sole

780. What is another name for a tenancy for years?
   a. Joint tenancy
   b. Tenancy in common
   c. Tenancy in the entireties
   d. Leasehold estate

Reference: Ch. 8, Estates

781. Which time period applies to an estate for years?
   a. It is for a fixed time period.
   b. It must be for at least one year.
   c. It must be for at least two years.
   d. It cannot be for more than one year.

Reference: Ch. 8, Estates, Non-freehold Estates

782. A mortgagor who purchases under the FHA 203(b) mortgage loan program may have monthly payments that include principal and what else?
   a. Interest
   b. Interest, taxes, and insurance
   c. Interest, taxes, insurance, and mortgage insurance premium
   d. Interest, taxes, insurance, mortgage insurance premium, and life insurance

Reference: Ch. 13, Types of Mortgages, FHA Insured Mortgage Loan Programs

783. Before registration is granted to a “foreign” corporation to do brokerage business in the state of Florida, it must have at least one active Florida broker and:
   a. The corporation must reincorporate in the state of Florida.
   b. The corporation must get approval from the Governor’s Office of Reincorporation.
   c. The corporation must receive a letter from the Florida secretary of state, giving permission to do business in Florida.
   d. Nothing else; a “foreign” corporation may never do brokerage business in Florida.

Reference: Ch. 5, Types of Business Formations, Corporation for Profit
784. A Georgia broker accompanies his prospects to Florida and shows them three homes. After finding a home that the prospects like, the Georgia broker finds a Florida broker to give the deal to. The Georgia broker requests 50% of the commission as a share for assisting in the sale. Which statement applies?
   a. If the Florida broker pays the Georgia broker, both will have violated F.S. 475.
   b. The Georgia broker can be paid, provided it is no more than 50%.
   c. If the Florida broker pays the Georgia broker, no laws will be broken.
   d. Provided that the check is mailed to Georgia, there is no violation.

   Reference: Ch. 4, Broker’s Right to Compensation, Referral Fees

785. How much is provided by the Homestead Act for the basic tax exemption?
   a. $15,000
   b. $20,000
   c. $25,000
   d. $30,000

   Reference: Ch. 18, Real Estate Tax Exemptions and Limitations, Homestead Tax Exemptions

786. When the mortgagor fulfills all his obligations under the note, what clause protects his rights to the property?
   a. Cognovit clause
   b. Defeasance clause
   c. Subordination clause
   d. Condemnation clause

   Reference: Ch. 12, Essential Elements of a Mortgage

787. The Raymonde Corporation acquires 60 acres of ranch land, subsequently subdivides it into five-acre ranchettes, and offers them for sale. The officers and directors of the corporation agree to pay themselves regular salaries. The corporation will pay each officer or director a commission of 15% of the sales price of any ranchette that said officer or director sells. Which is correct?
   a. All officers and directors of the corporation must be registered, licensed brokers with the FREC for this agreement to be legal.
   b. Since the corporation may sell its own land, this agreement is legal.
   c. The officers and directors are engaged in a syndicate.
   d. Civil action may be brought and enforced by the officers and directors if anyone stops this agreement.

   Reference: Ch. 2, Activities Requiring a Real Estate License

788. Which action would be considered a first-degree misdemeanor?
   a. Advertising property in a fraudulent manner
   b. Failure to reconcile an escrow account
   c. Failure to comply with rules regarding rental lists
   d. Failure to give the required agency disclosure

   Reference: Ch. 6, Criminal Penalties
789. A buyer makes an offer that the seller accepts. Before the broker can tell the buyer of the acceptance of his offer, the buyer dies. What is the most likely status of the contract?
   a. Valid because the buyer accepted  
   b. Valid but will be voided at time of closing because the deed cannot be granted  
   c. Void because the buyer did not know the offer was accepted before he died  
   d. Void because the buyer did not initial the seller’s acceptance

   Reference: Ch. 11, Contract Negotiation, Termination of Offers

790. The tax is excluded on the capital gain from the sale of a personal residence if it was the principal residence for at least how long?
   a. 24 months  
   b. 12 months  
   c. 18 months  
   d. 36 months

   Reference: Ch. 18, The Effect of Federal Income Taxes on Homeownership – Sale of Principal Residence

791. You have a $19,500 mortgage at $8.50 per thousand principal and interest (P&I). Which of the following would be the monthly payment?
   a. $140.40  
   b. $150.60  
   c. $165.75  
   d. $180.10

   Reference: Ch. 13, Amortizing Loan Payments

792. A broker offers a tenant 1,450 square feet of office space at $10.50 per square feet. Calculate the monthly rent.
   a. $1,050.25  
   b. $1,268.75  
   c. $1,450.00  
   d. $1,470.50

   Math Concept: Monthly rent = (Office space x price per square foot) ÷ 12

793. A property has a net operating income of $20,000.00, and $15,000 in expenses that includes $2,000.00 in property taxes. If property taxes were to increase by 45%, by what percentage will the expenses increase?
   a. 6.0%  
   b. 5.3%  
   c. 4.5%  
   d. 2.5%

   Reference: Ch. 16, Three Approaches to Value, Income Approach

794. An appraiser appraised three lots for a total of $45,000. Lot B was appraised for $4,000 more than lot A. Lot C was appraised at $7,000 more than lot B. For how much was lot A appraised?
   a. $5,000  
   b. $7,000  
   c. $10,000  
   d. $20,000

   Math Concept: Write the known information as math equations and use substitution to find the value of A.

795. Mr. Miller is going to purchase a property with the following financing: There is an existing first mortgage with a balance of $100,000 with an interest rate of 9%, and a second mortgage of $50,000 with an interest rate of 8%. What is the blended rate?
   a. 8.50%  
   b. 8.67%  
   c. 9.00%  
   d. 17.00%

   Math Concept: Blended rate = Total interest paid + Total loan amount
796. A 20-unit building is rented for $2,000 a month less than the comparable buildings since it is too close to the railroad tracks. If the capitalization rate is 12%, how much is the loss of value?
   a. $333,333.33
   b. $200,000.00
   c. $57,600.00
   d. $16,666.67

Reference: Ch. 16, Three Approaches to Value, Income Approach

797. A property owner told a broker that he would list his home if a net of $120,000 could be received from the sale. If the broker’s commission is 6% and closing costs are estimated to be $2,200, what should the listing price be?
   a. $122,200
   b. $130,000
   c. $127,200
   d. $129,532

Reference: Ch. 11, Listing Contracts, Types of Listing Contracts – Net Listing

798. If the commission on the sale is $4,599, and the broker charged 7%, what was the sales price?
   a. $32,193.00
   b. $42,770.70
   c. $49,451.61
   d. $65,700.00

Reference: Ch. 11, Listing Contracts, Calculating a Brokerage Commission

799. If a family could qualify to buy a home worth 2 ½ times their annual income, what price home could they afford to buy if they earned $550 per week?
   a. $71,500
   b. $66,000
   c. $28,600
   d. $26,400

Math Concept: Affordable price is equal to 2.5 x their current annual income.

800. A broker sold an $85,000 house, charging the seller a 6% commission. Due to extenuating circumstances, the buyer defaulted on the contract and forfeited his 10% deposit. Based on custom, how much commission should the broker receive?
   a. $2,550
   b. $3,400
   c. $4,250
   d. $5,100

Reference: Ch. 4, Broker’s Right to Compensation
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801. **Which deed would be considered a special-purpose deed?**
   a. Warranty deed
   b. Quitclaim deed
   c. Deed of trust
   d. Guardian’s deed

   Reference: Ch. 9, Deeds, Types of Deeds

802. **Complete the sentence. An agreement between two parties for the purchase of real estate must be:**
   a. An oral contract
   b. A parol contract
   c. An informal contract
   d. Any of the above

   Reference: Ch. 11, Contracts

803. **What is the likely result if the federal government starts selling T-bills?**
   a. Intermediation
   b. Disintermediation
   c. Loanable funds to increase
   d. Interest rates to decline

   Reference: Ch. 13, Money in the Marketplace

804. **What term is used to refer to the rate that banks pay to the Federal Reserve?**
   a. Overall capitalization rate
   b. Annuity capitalization rate
   c. Discount rate
   d. Federal Reserve reconciliation rate

   Reference: Ch. 13, Federal Reserve System

805. **How many days does a buyer of a resale condominium have to cancel the agreement?**
   a. 3
   b. 7
   c. 10
   d. 15

   Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares, Condominiums

806. **How many days does the buyer of a new condominium have to cancel the agreement?**
   a. 3
   b. 7
   c. 10
   d. 15

   Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares Condominiums

807. **How many days does the buyer of a new timeshare unit have to cancel the agreement?**
   a. 3
   b. 7
   c. 10
   d. 15

   Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares, Provisions of the Timeshare Act

808. **How many acres are contained in 1/4 of a section?**
   a. 640
   b. 160
   c. 40
   d. 10

   Reference: Ch. 10, Government Survey Method – Townships; Common Area Measurements

809. **An appraiser using the direct capitalization technique would deduct which of the following from PGI to obtain the EGI?**
   a. NOI
   b. DS
   c. V&C
   d. Depreciation

   Reference: Ch. 16, Income Approach, Direct Capitalization Technique

810. **Primary lenders originate loans and include all of the following, EXCEPT:**
   a. Mortgage loan originators
   b. Commercial banks
   c. Savings associations
   d. Life insurance

   Reference: Ch. 13, The Primary Mortgage Market
811. The DBPR will most likely issue a license to all of the following individuals that otherwise qualify, EXCEPT:
   a. A citizen of a foreign country
   b. A resident of Georgia
   c. An individual under investigation for violating F.S. 475
   d. A broker who does not have enough funds to open an office

Reference: Ch. 6, Administrative Penalties, Range of Penalties – Denial of License

812. All of the following are qualifications for a sales associate license, EXCEPT:
   a. Must be at least 18 years of age
   b. Must be a high school graduate or equivalent
   c. Must be a Florida resident for at least the preceding six months
   d. Must be honest, trustworthy and have a reputation for fair dealing

Reference: Ch. 2, Obtaining a Florida Real Estate License, General Qualifications for Licensure

813. A sales associate misplaced their license. What must they do?
   a. Request a new license, but pay no fee
   b. Wait for the license to be renewed at which time they will receive a new copy
   c. Pay the appropriate fee, file the appropriate paperwork, and request a new copy
   d. Ask their broker for a photocopy of the office license

Reference: Ch. 3, Licensing Periods, Reissue

814. A buyer makes an offer, and the deposit is placed into the broker’s escrow account. At this point, to whom does the deposit belong?
   a. Broker
   b. Buyer
   c. Seller
   d. Buyer and seller

Reference: Ch. 5, Escrow Funds, Broker’s Rights to Escrowed Funds

815. A broker has an escrow account for his property management firm. How much of the broker’s own money can be deposited to open and maintain the account?
   a. $5,000
   b. $1,000
   c. $200
   d. $0

Reference: Ch. 5, Escrow Account

816. Printing false information is considered which criminal offense?
   a. Second-degree felony
   b. Second-degree misdemeanor
   c. First-degree felony
   d. First-degree misdemeanor

Reference: Ch. 6, Criminal Penalties

817. To what term does “subleasing” refer?
   a. Changing a lease termination date
   b. Adding an addendum to a lease
   c. Transferring all rights to a property
   d. Transferring less than all rights to a property

Reference: Ch. 9, Leases, Assignment, and Sublease

818. Able, Baker, and Charlie are officers in ABC Realty, Inc. Able and Baker are actively involved in brokerage, while Charlie attends only the quarterly meetings. What are the minimum requirements for Charlie?
   a. Sales associate
   b. Broker
   c. Active broker
   d. Registered

Reference: Ch. 8, Types of Business Formations, Real Estate Brokerage Corporation

819. Adam, Bob, and Chris form a partnership to buy property. What would the ideal form of ownership be from Chris’ family’s point of view?
   a. Tenancy at will
   b. Tenancy in common
   c. Joint tenancy
   d. Life tenancy

Reference: Ch. 8, Estates
820. Which of the following is a characteristic of the real estate market?
   a. Heterogeneous
   b. Reacts very quickly to changes
   c. Mobile
   d. Homogeneous

   Reference: Ch. 15, Characteristics of the Real Estate Market

821. A seller listed a house with a broker. The seller informed the broker that he has had a change of heart and refuses to pay the broker’s commission. The broker immediately files suit and places a lien on the seller’s house. How has the broker acted?
   a. Properly and efficiently
   b. Within the limits imposed under F.S. 475
   c. Legally, if the listing contract with the seller allowed them to do this
   d. Illegally, regardless of what is contained in the listing contract

   Reference: Ch. 11, Listing Contracts

822. Where is the right of the broker to accept earnest money on behalf of the seller created?
   a. Sales contract
   b. Agency disclosure form
   c. Listing agreement
   d. Real estate license law

   Reference: Ch. 11, Contracts

823. A sales associate sells a listing of another broker. The buyer gives a check made payable to the sales associate. What should the sales associate do?
   a. Cash the check, and give the money to the employing broker
   b. Cash the check, and give the money to the listing broker
   c. Return the check to the buyer, and ask that it be reissused to the employing broker
   d. Return the check to the buyer, and ask that it be reissused to the listing broker

   Reference: Ch. 5, Escrow Funds

824. A licensee is suspended for three years. After the three years have passed, their license will be active:
   a. After all penalties and conditions have been fulfilled
   b. After they pass the state exam
   c. After they attend a continuing education course and pass the state exam
   d. And it will automatically be renewed

   Reference: Ch. 3, Licensing Periods, Reissue

825. A court awarded a judgment to Mr. and Mrs. Brown against broker Smith for $30,000 that included $20,000 of actual damages and $10,000 of punitive damages. The bankruptcy court ordered Smith to pay $7,000. How much will the Real Estate Recovery Fund pay?
   a. $13,000
   b. $23,000
   c. $25,000
   d. $30,000

   Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

826. Recording a mortgage is which form of notice?
   a. Actual
   b. Constructive
   c. Legal
   d. Lien

   Reference: Ch. 12, Mortgage Theories and Documents Related to Loans, Recording the Mortgage

827. Which appraisal approach would carry the most weight in the appraiser’s final decision when appraising a vacant lot?
   a. Building residual approach
   b. Income capitalization approach
   c. Cost-depreciation approach
   d. Market or sales comparison approach

   Reference: Ch. 16, Three Approaches to Value
828. A Florida broker has an Alabama license suspended. How will this affect his Florida license?
a. It will be automatically suspended.
b. It will be automatically revoked.
c. It may be suspended or revoked.
d. It will not be affected.

Reference: Ch. 6, The Disciplinary Process

829. A sales associate helps her aunt rent an apartment. To show her gratitude, the aunt gives her niece a $250 commission. What should the sales associate do with the $250?
a. Give it back to her aunt.
b. Give it to her broker.
c. Keep it.
d. Keep it, but only with her aunt’s permission.

Reference: Ch. 4, Broker’s Right to Compensation

830. Concerning the characteristics of real estate, which statement is true?
a. A change in demand for real estate in Oregon affects Florida real estate prices.
b. A change in demand for real estate in Florida affects Oregon real estate prices.
c. It is okay to take advice from an Oregon broker concerning Florida real estate.
d. The markets in Florida and Oregon are unrelated, so prices in one have no effect on prices in the other.

Reference: Ch. 15, Characteristics of the Real Estate Market

831. Sales associate Betty, who works for broker Sam, went on vacation to Key West for two weeks. While there, she ran into three couples from New Jersey, who were interested in buying waterfront condos. Betty sold condos to all three couples. Being that she was from out of town, she approached broker Tony, who ran the deals through his office. In appreciation for Betty’s efforts, broker Tony paid Betty $15,000. Which statement applies?
a. Sales associate Betty should have received more than $15,000.
b. Sales associate Betty and broker Tony have both violated F.S. 475.
c. Sales associate Betty and broker Sam have both violated F.S. 475.
d. There was no violation of F.S. 475.

Reference: Ch. 5, Sales Associate’s Duties, Compensation

832. In the event of a foreclosure of an income producing property, who may collect rents?
a. Marshal 
b. Broker 
c. Receiver 
d. Tenant

Reference: Ch. 12, Essential Elements of a Mortgage – Receivership Clause

833. An involuntarily inactive sales associate sends in a renewal along with the required fee and the change of status form. When will their license be considered active?
a. When the sales associate puts the form and fee in the mail 
b. When the sales associate signs their license 
c. When the check to the DRE clears the bank 
d. When the DBPR receives the form and fee

Reference: Ch. 3, Licensing Periods, Reissue
834. **To be eligible to receive VA mortgage benefits, how long must a veteran who was in the military in 1977 have served?**
   a. Not more than 180 days
   b. At least 181 days
   c. Not more than 160 days
   d. At least 160 days

Reference: Ch. 13, Types of Mortgages, VA Guaranteed Loans

835. **What should a valid mortgage contain?**
   a. Granting clause
   b. Reddendum clause
   c. Promissory note
   d. Legal description

Reference: Ch. 12, Essential Elements of a Mortgage

836. **Which of the following business structures incorporates limited as well as unlimited liability?**
   a. Sole proprietorship
   b. General partnership
   c. Corporation
   d. Limited partnership

Reference: Ch. 5, Types of Business Formations

837. **Sales associate Sally sells a home. When must Sally’s broker pay her commission?**
   a. Within five days of the closing
   b. Within ten days of the closing
   c. At the closing
   d. Within a reasonable period of time

Reference: Ch. 5, Sales Associate’s Duties

838. **What happens if the Real Estate Recovery Fund doesn’t have enough funds to pay claims?**
   a. The claimant(s) will be paid from the state treasury.
   b. The sales associate or broker responsible will have to pay.
   c. Installments will be paid from the recovery fund as funds become available and paid in the order the claims were made.
   d. The claims will not be paid.

Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

839. **From which of the following may a sales associate receive compensation, referral fees, or bonuses?**
   a. Another sales associate
   b. Another broker
   c. The employing broker
   d. An FSBO

Reference: Ch. 5, Sales Associate’s Duties, Compensation

840. **Which survey method should be used when there are recorded subdivisions?**
   a. Metes and bounds method
   b. Plat method
   c. Government land survey method
   d. Monuments method

Reference: Ch. 10, Property Description Methods

841. **A property is described as follows. The point of beginning is described with a cement monument. All of the other points are arrived at by angles and directions until you return to the point of beginning. Which method of legal description has been employed?**
   a. Metes and bounds method
   b. Lot and block method
   c. Government land survey method
   d. Assessor’s method

Reference: Ch. 10, Property Description Methods

842. **What must a broker do in order to open a brokerage firm under a trade name?**
   a. File the name of the corporation
   b. Register all officers, but not directors
   c. File the name with the Department of Commerce
   d. File the name with the Division of Real Estate

Reference: Ch. 5, Types of Business Formations, Fictitious (or Trade) Names Act
843. **What type of mortgage allows for several parcels of land to be placed as collateral for a mortgage?**
   a. Term
   b. Package
   c. Blanket
   d. Purchase money

   **Reference:** Ch. 13, Types of Mortgages

844. **Which description best describes an earnest money deposit?**
   a. Cash, securities, or promissory note
   b. Cash, securities, or personal check
   c. Specie, securities, or personal check
   d. Cash, securities, personal check, or any medium of exchange that can be converted to cash

   **Reference:** Ch. 5, Escrow Funds, Earnest Money Deposits

845. **A sales associate tells a customer that he should sell his home because of in-migration of a certain ethnic group. What is the term used to describe this situation?**
   a. Commingling
   b. Blockbusting
   c. Redlining
   d. Channeling

   **Reference:** Ch. 7, Federal Fair Housing Laws, Federal Fair Housing Act

846. **What is the document entered into by two parties, which replaces a lien on a property?**
   a. Construction lien (mechanic’s lien)
   b. Lease
   c. Mortgage
   d. Option

   **Reference:** Ch. 12, Mortgage Theories, and Documents Related to Loans

847. **If a developer bought a large parcel of land and wanted to develop and sell off small parts of it, it would be advisable to have which clause in his mortgage?**
   a. A subordination clause
   b. A prepayment clause
   c. A release clause
   d. An acceleration clause

   **Reference:** Ch. 13, Loan Repayment Methods, Blanket Mortgage

848. **What term refers to a written contract, often used in conjunction with a mortgage refinance, in which a lender and property owner agree to a change in lien priority?**
   a. Prepayment agreement
   b. Reprioritization contract
   c. Subordination agreement
   d. Escalation agreement

   **Reference:** Ch. 12, Mortgage Theories, and Documents Related to Loans

849. **Why does the mortgagor need to execute a note or bond when a lender is making a loan?**
   a. To ensure that the mortgagor is aware of their obligation
   b. To let the world know that a loan has been given by the lender
   c. To override the default clause in a mortgage
   d. For the lender to be able to assess a lien against the mortgagor’s property if in default

   **Reference:** Ch. 12, Mortgage Theories, and Documents Related to Loans

850. **When a deed of trust is involved, who signs the note?**
   a. Trustee
   b. Trustor
   c. Beneficiary
   d. Mortgages

   **Reference:** Ch. 12, Mortgage Theories, and Documents Related to Loans, Title Theory of Mortgages
851. **Which statement is correct regarding the FHA loan program?**
   a. FHA guarantees loans but does not insure them.
   b. FHA loans are made by HUD.
   c. FHA determines the interest rates for FHA loans, not the market.
   d. FHA insures loans but does not guarantee them.

Reference: Ch. 13, Types of Mortgages

852. **Electronic fingerprints are mandatory for all real estate sales associate and broker applicants. For how long will the fingerprints be retained?**
   a. Indefinitely
   b. Until the application is approved
   c. Two years from the date received
   d. 12 months from the date received

Reference: Ch. 2, Obtaining a Florida Real Estate License, Initial License Application

853. **Which clause in a mortgage benefits the lender?**
   a. Exculpatory
   b. Defeasance
   c. Acceleration
   d. Redemption

Reference: Ch. 12, Essential Elements of a Mortgage

854. **Jack defaulted on his mortgage payments, and the lender instituted foreclosure proceedings. If the foreclosure sale does not bring enough to cover the debt, what is the impact to the lender?**
   a. The lender may seek a cognovits judgment.
   b. The lender may seek a reconveyance judgment.
   c. The lender automatically gets ownership of the property.
   d. The lender may seek a deficiency judgment.

Reference: Ch. 12, Default, The Foreclosure Process

855. **Which term refers to the substitution of a debtor or a creditor for another?**
   a. Novation
   b. Subordination
   c. Defeasance
   d. Equity of redemption

Reference: Ch. 12, Sale of Mortgaged Property

856. **Which of the following applies to the FHA Section 203(b) loan program?**
   a. Guarantees loan approval
   b. Applies only to borrowers that meet certain income limits
   c. Does not require payment of mortgage insurance premiums
   d. Provides mortgage insurance coverage of owner-occupied one-to-four family homes

Reference: Ch. 13, Types of Mortgages, FHA Insured Mortgage Loans

857. **Which of the following acts like an insurance company?**
   a. Federal Reserve System
   b. Federal Housing Administration
   c. National Association of REALTORS
   d. Fannie Mae

Reference: Ch. 13, Types of Mortgages

858. **Which type of mortgage typically requires a higher down payment and interest rate than other common loan types?**
   a. FHA
   b. VA
   c. Conventional mortgage
   d. Home equity line of credit

Reference: Ch. 13, Types of Mortgages

859. **Which clause in a deed states that the seller is in possession of the property and has the legal right to convey the property?**
   a. Granting
   b. Receivership
   c. Further assurance
   d. Seisin

Reference: Ch. 9, Clauses in Deeds
860. **What happens in title-theory states that use deeds of trust?**
   a. The mortgagor gives a deed of trust to the beneficiary.
   b. The trustor gives a promissory note to the beneficiary.
   c. The trustee gives a loan to the borrower.
   d. The beneficiary gives a mortgage to the trustor.

Reference: Ch. 12, Title Theory of Mortgages

861. **All of the following types of estates may be mortgaged, EXCEPT:**
   a. Fee simple estate
   b. Life estate
   c. Estate for years
   d. Estate at sufferance

Reference: Ch. 8, Estates

862. **In a lien-theory state, what is the ownership status of the mortgagee?**
   a. Mortgagee has the right of possession.
   b. Mortgagee has the right to any rents collected.
   c. Mortgagee acquires ownership “automatically” upon default by the mortgagor.
   d. Mortgagee holds a lien on the property.

Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans, Lien Theory of Mortgages

863. **What is it called when investors put their money directly into real estate instead of into financial institutions?**
   a. Estoppel
   b. Leverage
   c. Intermediation
   d. Disintermediation

Reference: Ch. 13, Money in the Marketplace

864. **Fannie Mae is selling an FHA mortgage with an interest rate of 14% at 92% (8 points). What is the approximate yield for the new lender?**
   a. 13%
   b. 14%
   c. 15%
   d. 16%

Reference: Ch. 12, Common Mortgage Features, Mortgage Loan Fees - Effective Yield

865. **To what does blockbusting refer?**
   a. Choosing which properties to show a prospect based on a protected class
   b. Inducing owners to sell because of a migration of ethnic groups into the neighborhood
   c. Avoiding lending mortgage money in certain neighborhoods because of a protected class
   d. Excluding protected classes from living in a particular neighborhood

Reference: Ch. 7, Federal Fair Housing Laws

866. **What instrument must be recorded in order to convey a title back to the mortgagor in a deed of trust?**
   a. Quitclaim deed
   b. Reconveyance deed
   c. Bargain and sale contract
   d. Special warranty deed

Reference: Ch. 12, Mortgage Theories, and Documents Related to Loans, Title Theory of Mortgages

867. **What is produced by applying the loan constant to the loan amount?**
   a. Interest
   b. Interest rate
   c. Mortgage payment
   d. Mortgage payoff

Reference: Ch. 17, Evaluating Investment Properties, Loan Constant
868. A seller sold a home to a buyer for $50,000. The buyer made a cash down payment of $25,000. The balance of the purchase price was secured by a pledge of $25,000 in stock certificates. The buyer defaulted on the balance of the sales price that was pledged as security. Which statement is correct regarding the seller?
   a. The seller has a vendor's lien and may foreclose.
   b. The seller may foreclose provided that they have served constructive notice that they have reserved a primary vendor's lien.
   c. The seller may not foreclose because stock may be pledged only as an authoritative primary security.
   d. The seller may foreclose only because of the tertiary law regarding pledging of stocks as a means for securing chattels.

Reference: Ch. 9, Liens

869. If a real estate licensee is involved in a personal real estate transaction, which of the following is correct?
   a. The licensee must disclose their license status prior to entering into any serious negotiations.
   b. The licensee must disclose their license status in any advertising.
   c. The licensee is not required to disclose their license status in a personal transaction.
   d. The licensee must disclose the license status on any yard sign using terminology, such as "owner agent."

Reference: Ch. 5, Brokerage Office Requirements, Personal Transactions

870. A broker has a friend in Michigan who refers prospects from time to time. The broker reimburses the friend for any expenses but does not pay the friend a commission or referral fee. Which statement applies?
   a. This is an unlawful practice.
   b. This is a lawful practice.
   c. This is lawful so long as the friend does not come to Florida.
   d. This is unlawful unless expenses are supported by receipts.

Reference: Ch. 4, Broker's Right to Compensation, Referral Fees

871. Three active licensed brokers are partners in a real estate brokerage partnership. One of the brokers dies. What happens to the partnership?
   a. Nothing, since there is still at least one active broker to run the business.
   b. The other partners who are brokers have their licenses suspended during the period of reorganization.
   c. The partnership will need to reregister using the proper forms so that the business entity may continue to function.
   d. Once any of the partners die, that business entity may never be reformed.

Reference: Ch. 5, Types of Business Formations, Real Estate Brokerage Partnership

872. A sales associate leaves a broker's office and takes an original copy of a document from the broker's records. What is this action considered to be?
   a. Bad faith
   b. Legal
   c. Extremely stupid
   d. Larceny

Reference: Ch. 5, Sales Associate's Duties, Change of Employer or Address
873. A broker has an office at 250 North Orange Ave., Orlando, in the Citrus Bank Building. The bank must make extensive repairs, and the broker moves to 244 Orange Blossom Trail, Orlando. What should the broker do?
   a. Apply to the Department for an initial issue
   b. Notify the Department by registered mail of this change
   c. Write the new address in ink on his license
   d. Make application on the proper form, attach no fee, make a copy of the current license and forward them to the Department for a reissue

   Reference: Ch. 5, Brokerage Office Requirements, Branch Office Requirements

874. A prospect steps into a broker’s office and tells the broker that they want to buy property in an area called Everglades Estates. The broker informs the prospect that he does not have the property listed, but that he will take the prospect over to meet the owner. The owner tells the broker that he will NOT deal through real estate brokers. The next day, the owner contacts the prospect and a deal results. What may the broker do?
   a. Collect a commission from the seller as the seller cannot make use of the “fruit of the broker’s labor”
   b. Sue the buyer
   c. Bring court action against the seller
   d. Under the circumstances, do nothing

   Reference: Ch. 11, Listing Contracts

875. Regarding limited partnerships as real estate brokers, there must be one or more general and one or more limited partners in order to qualify as a licensed real estate brokerage. What does the real estate license law also require in F.A.C. 61J2-4.007?
   a. That each general partner be registered, at least one of whom is an active broker
   b. Each general and limited partner to be licensed as active brokers
   c. That all of the general partners be licensed as active, but none of the limited partners
   d. That at least one general and at least one limited partner be registered as active

   Reference: Ch. 5, Types of Business Formations, Real Estate Brokerage Limited Partnership

876. A sales associate receives negotiable securities from the purchaser as earnest money. What should the broker do with these securities?
   a. Place them immediately into the office safe until the date of closing, at which point they should convert them into cash.
   b. Immediately give the securities to the seller, who has the right to do anything they want with the money.
   c. Convert the securities into cash at the earliest practical time, and then deposit the proceeds immediately into the escrow account.
   d. Give the securities to the Department of Banking and Finance for their safekeeping, until the title closing.

   Reference: Ch. 5, Escrow Funds
877. A corporation for profit was formed for brokering real estate. “A” held a broker license and became president. “B” and “C” financed 40% of the corporation and each was made a director, who was to assume normal office duties and functions. “D” and “E” held broker associate licenses with prior brokerage corporations and were employed as broker/sales associates. Which applies?
   a. The president must register as an active broker and the directors must register as nonlicensed registered persons.
   b. A corporation for profit cannot be formed to broker real estate.
   c. “D” and “E” cannot be hired as broker associates but could be stockholders.
   d. None of the above

Reference: Ch. 5, Types of Business Formations, Corporation for Profit

878. A customer requested that a broker locate a rental for $500 per month. The broker requested $200 in an upfront fee from the customer to pay for time and effort while locating this type of property. The broker was able only to find a unit renting for $600 per month. What must the broker do?
   a. Keep 75% of the $200
   b. Keep 25% of the $200
   c. Keep the $200
   d. Refund the $200 to the customer

Reference: Ch. 5, Rental Information

879. A sales associate procures a sale. The sales associate’s broker dies before receiving the commission for the sale. What may the sales associate do?
   a. Sue the property owner
   b. Sue the broker’s estate
   c. Place a lien on the seller’s property
   d. Sue the buyer

Reference: Ch. 5, Sales Associate’s Duties, Compensation

880. Six people organize a business to buy and sell real property. The title is to be held in trust by a board of trustees or someone in a position of trust. They have been required to file a declaration of trust with the Secretary of State. What type of business is being formed?
   a. Corporation for profit
   b. Corporation sole
   c. Syndicate
   d. Limited partnership

Reference: Ch. 5, Types of Business Formations

881. A broker has a main office and eight branch offices. One of the sales associates, Maria, works out of several of the offices but spends most of her time working out of branch office number five. From which office must Maria be licensed?
   a. The main office
   b. Any office, to be chosen by Maria
   c. Any office, at the broker’s discretion
   d. Branch office number five

Reference: Ch. 5, Brokerage Office Requirements, Branch Office Requirements

882. Broker Sam sells a list of rental properties to a prospective tenant, Michelle, on March 1. Michelle looks at several properties on the list and then changes her mind about living in that city and decides to move back up north. On March 31, Michelle requests a refund. How much of a refund will Sam have to give back to Michelle?
   a. 0%
   b. 25%
   c. 75%
   d. 100%

Reference: Ch. 5, Rental Information
883. **Broker Bennett is trying to decide whether to operate as a sole proprietorship or charter as a corporation. Which of the following is an advantage of sole proprietorship?**
   a. The broker would have limited liability for the debts of the firm.
   b. There would be less effort to legally create and maintain the ownership form.
   c. The potential exists to easily sell a part of the entity ownership in the business to raise additional capital for the firm.
   d. The ownership is easily transferable.

Reference: Ch. 5, Types of Business Formations, Sole Proprietorship

884. **When can a sales contract that is witnessed, executed, and acknowledged be recorded in the public records of the county in which the property is located?**
   a. When the licensee thinks the seller may back out
   b. When the licensee hears rumor that the seller may accept a contract from someone else
   c. When the seller requests it
   d. When it will not delay the closing

Reference: Ch. 11, Real Estate Contracts

885. **In a civil action, who must be named as defendant if money from the Real Estate Recovery Fund is sought?**
   a. FREC
   b. DBPR
   c. An individual broker or sales associate
   d. Any of the above

Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

886. **What is the annual amount charged to a sales associate, in addition to a renewal fee, if the amount in the recovery fund drops below $500,000?**
   a. $2.00
   b. $1.50
   c. $3.00
   d. $3.50

Reference: Ch. 6, The Disciplinary Process, Florida Real Estate Recovery Fund

887. **Broker Warmington assigns sales associate Smith to work exclusively on Bennett’s development. Which statement applies?**
   a. Broker Warmington can lend Smith to Bennett with no problem.
   b. Smith is no longer accountable to Warmington because she is now working for herself.
   c. Smith is allowed to work for as many employers as she feels she can handle.
   d. Provided Warmington is the listing broker at Bennett’s development, and all commissions paid to Smith come from Warmington, there is no problem.

Reference: Ch. 2, Employment

888. **On behalf of which entity, can the Florida Real Estate Commission intervene?**
   a. The applicant
   b. The Department of Business and Professional Regulation
   c. Either a or b
   d. Neither a nor b

Reference: Ch. 3, The Florida Real Estate Commission
889. Broker Jones was convicted of
embezzlement of funds from an
employer and was sentenced to five
years in the state penitentiary. Since
broker Jones returned all of the
embezzled funds, the sentence was
withdrawn. Which is most correct?
   a. Broker Jones’s license may be
      suspended since the DBPR is really
      not concerned with whether or not
      his sentence was withdrawn.
   b. Broker Jones can continue to work
      as a broker and hasn’t done
      anything that would affect a license.
   c. Broker Jones’s license will be
      automatically revoked.
   d. Since broker Jones’s sentence was
      withdrawn, the DBPR will not feel
      that anything was done wrong and
      will feel no need to suspend his
      license.

Reference: Ch. 6, The Disciplinary Process

890. In order to collect from the Real
Estate Recovery Fund, the claim
must be filed within what period of
time after the act was or should
have been discovered?
   a. 30 days
   b. 90 days
   c. 1 year
   d. 2 years

Reference: Ch. 6, The Disciplinary Process, Florida
Real Estate Recovery Fund

891. Four apartment houses recently
sold with the following statistics:

<table>
<thead>
<tr>
<th>Sales Price</th>
<th>Annual Gross Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,200,000</td>
<td>$171,400</td>
</tr>
<tr>
<td>$1,520,400</td>
<td>$202,720</td>
</tr>
<tr>
<td>$1,244,000</td>
<td>$191,380</td>
</tr>
<tr>
<td>$1,748,800</td>
<td>$218,600</td>
</tr>
</tbody>
</table>

The subject property has a gross
income of $169,000. What is the
subject property worth?
   a. $1,218,000
   b. $1,225,250
   c. $1,428,300
   d. $2,344,900

Reference: Ch. 16, Income Approach, Gross Income
Multiplier

892. A four-unit apartment building is
valued at $150,000, with $30,000 in
expenses and no vacancies. The
owner requires a 20% return. What
is the monthly rent per unit?
   a. $1,000
   b. $1,250
   c. $1,500
   d. $1,750

Reference: Ch. 16, Income Approach

893. An apartment building has
expenses of $700,000, effective
gross income of $1,000,000 and a
cap rate of 8%. What is its value?
   a. $3,750,000
   b. $8,750,000
   c. $12,500,000
   d. $80,000,000

Reference: Ch. 16, Income Approach, Direct
Capitalization Technique

894. A property has a potential income of
$100,000, with vacancies and
expenses of $51,000 and debt
service of $30,000. Based on a 14%
rate, what is the value of the
property?
   a. $140,000
   b. $350,000
   c. $364,286
   d. $686,000

Reference: Ch. 16, Income Approach, Direct
Capitalization Technique

895. Mrs. Smith purchases two adjacent
60-foot by 120-foot lots at a cost of
$2 per square foot. She divides
these lots into three lots and sells
them at $300 per front foot. What
will her percentage of profit be upon
sale of the lots?
   a. 20%
   b. 25%
   c. 30%
   d. 35%

Reference: Ch. 17, Calculating Profit on Investment
896. An investor put $50,000 down on a $200,000 property. The NOI is $30,000 and the mortgage payments are $22,000 per year. What is the capitalization rate?
   a. 26%
   b. 16%
   c. 15%
   d. 11%

Reference: Ch. 16, Income Approach, Direct Capitalization Technique

897. Three-bedroom, two-bath homes in an area rent for $450 per month. In the same area, three-bedroom/one-bath homes rent for $400 per month. If the GRM is 120, what is the estimated value of a bathroom?
   a. $6,000
   b. $5,500
   c. $5,000
   d. $4,167

Reference: Ch. 16, Income Approach, Gross Multiplier Technique

898. A retail store is leased for $1,000 per month plus 2% of gross sales. If the rent for last month was $1,600, how much were the gross sales for the month?
   a. $20,000
   b. $30,000
   c. $32,000
   d. $80,000

Math Concept: $1,600 = $1000 + (2% x Gross Sales)

899. Taxes are $30,000 a year, and gross income is $237,000 a year, with other expenses and reserves of $20,000. If taxes go up 25% and all else remains the same, by what percentage will the net operating income be reduced?
   a. 25%
   b. 15%
   c. 4.2%
   d. 4.0%

Reference: Ch. 16, Income Approach, Direct Capitalization Technique

900. A square piece of property measures 938 feet around the perimeter. What are the dimensions of the property?
   a. 234.5 feet by 234.5 feet
   b. 469 square feet
   c. 234.5 square feet
   d. 269 feet by 200 feet

Math Concept: Perimeter ÷ 4 Sides = Length of each side
Q&A CRAM EXAM 10

901. Complete the sentence. A sales associate cannot:
   a. Change the policies of their employer without consent
   b. Change the terms and conditions of a sales contract without permission
   c. Change the terms and conditions of a listing contract without permission
   d. All of the above

   Reference: Ch. 5, Sales Associate Duties

902. Who may directly receive compensation for performing any of the eight services of real estate?
   a. A broker
   b. A sales associate
   c. An unlicensed person
   d. A broker associate

   Reference: Ch. 2, Activities Requiring a Real Estate License, Ch. 4, Broker's Right to Compensation; Ch. 5, Sales Associate Duties, Compensation

903. With whom can a broker share a commission?
   a. A New Jersey broker who has not violated any Florida laws
   b. A person who gave a referral
   c. An attorney
   d. An auctioneer

   Reference: Ch. 4, Broker's Right to Compensation, Referral Fees

904. When calculating the housing expense ratio, what do expenses include?
   a. Annual mortgage payments and federal taxes
   b. Property taxes and state income taxes
   c. Property taxes and insurance
   d. Annual mortgage payments, property taxes and insurance

   Reference: Ch. 12, Lender Risk, Income Ratios

905. What type of commercial market would exist if there were an excess amount of office space for rent?
   a. A sellers' market
   b. A buyers' market
   c. A suppliers' market
   d. All of the above

   Reference: Ch. 15, Supply and Demand, Competition in the Marketplace

906. Which of the following pairs best describes 640 acres (more or less)?
   a. Tier, section
   b. 1/36 township, section
   c. Range, township
   d. Check, government lot

   Reference: Ch. 10, Government Survey Method

907. What is an abstract of title?
   a. Guarantee of title
   b. Chain of information
   c. Deed of restriction
   d. Warrantee of title

   Reference: Ch. 9, Protecting Title

908. How is the interest rate determined on an FHA insured mortgage loan?
   a. By the market
   b. By the Federal Reserve
   c. By the secretary of the Department of Housing and Urban Development
   d. By the Congress

   Reference: Ch. 13, FHA Insured Mortgage Loan Programs

909. What is the term that is used to refer to the data that an appraiser accumulates and updates, including such things as maps, cost information, and previous appraisals?
   a. Data plant
   b. Database
   c. Data file
   d. Stock

   Reference: Ch. 16, The Appraisal Process
910. Five individuals form a limited partnership with three of them acting as limited partners. The partnership purchases a 100-acre tract and subdivides it into one-, two-, and five-acre tracts. Mr. Ray brings the partnership a prospective purchaser, who offers to buy a two-acre lot for $10,000. The sale is completed, and Mr. Ray receives a 5% commission. Which is correct?
   a. As long as Mr. Ray is a real estate licensee with a current and active license, there is no violation of the law.
   b. All of the partners must be active brokers.
   c. All of the general partners must be either brokers or sales associates.
   d. All of the partners must be brokers, and one of the general partners must be active.

Reference: Ch. 2, Persons Who are Required to beLicensed

911. A broker receives a binder deposit from a buyer who is making an offer on a property. Two days later, the property owner/seller makes a counteroffer, which is accepted by the buyer. The attorneys for buyer and seller disagree over the title to the property. Both buyer and seller make demands on the broker for the deposit. Based on this information, what should the broker do concerning the disputed deposit?
   a. Return it to the buyer
   b. Divide it between himself and the seller according to their agreement
   c. Notify the commission within 15 business days
   d. File for arbitration

Reference: Ch. 5, Escrow Funds, Escrow Disputes

912. How would a second mortgage, that does not involve the seller, be reflected on a closing statement?
   a. Credit to the buyer
   b. Debit to the seller
   c. Credit to the seller
   d. Debit to the buyer

Reference: Ch. 14, Section 1 – Total Purchase Price, First or Second Mortgage

913. The DBPR issued a license in error to an applicant who actually failed the state exam. Which statement applies?
   a. The applicant may keep the license and go active
   b. FREC will immediately revoke the license with prejudice
   c. FREC will immediately revoke the license, but recommend the applicant apply for retesting
   d. FREC will likely suspend the license for one year

Reference: Ch. 6, Administrative Penalties, Range of Penalties

914. Which item would you expect to see on the broker’s closing statement?
   a. Broker’s fee shown as a receipt
   b. Seller’s expenses shown as a disbursement
   c. Buyer’s expenses shown as a receipt
   d. Amount due the seller at closing shown as a receipt

Reference: Ch. 14, Section 5 – Broker’s Statement

915. How would a new mortgage appear on the closing statement?
   a. Credit to the buyer
   b. Debit to the buyer
   c. Credit to the seller
   d. Debit to the seller

Reference: Ch. 14, Section 1 – Total Purchase Price, First or Second Mortgage

916. How is 20 mills written?
   a. .002
   b. .020
   c. .0020
   d. .200

Reference: Ch. 18, Tax Rates Expressed in Mills
917. If a complaint is withdrawn by the complainant to the DBPR, what will the DBPR probably do?
   a. Stop the investigation
   b. Fine the individual who made the complaint up to $1,000 and then drop the complaint
   c. Continue with the investigation
   d. Bring criminal charges against the complainant

Reference: Ch. 6, The Disciplinary Process

918. How long may an unlicensed person be imprisoned if found to be in violation of F.S. 475?
   a. Not at all
   b. For up to five years
   c. For up to six months
   d. For up to one year

Reference: Ch. 6, Criminal Penalties, Third-Degree Felonies

919. Once a final order is issued, within how many days may a petition for review with the District Court of Appeals be filed?
   a. 10
   b. 15
   c. 20
   d. 30

Reference: Ch. 6, The Disciplinary Process

920. What is the term used to refer to a real estate licensee who is specializing in a certain geographic area?
   a. Steering
   b. Farming
   c. Speculating
   d. Following-up

Reference: Ch. 1, Introduction to the Real Estate Market

921. Complete the sentence. Before a FREC rule can be introduced into a court of law, a certificate of the rule must be presented with the signature of:
   a. The secretary of the DBPR
   b. Any member of the FREC
   c. The chairperson of the FREC
   d. The director of the DRE

Reference: Ch. 3, Powers of the Commission

922. What is the term used to refer to the unauthorized use of another's property?
   a. Encroachment
   b. Easement
   c. Reliction
   d. Variance

Reference: Ch. 9, Private Limitations on Property Ownership

923. A real estate sales associate is prohibited from which action?
   a. Suing the principal
   b. Suing their broker
   c. Working for anyone other than a broker
   d. Acquiring properties and listings to sell

Reference: Ch. 5, Sales Associate’s Duties, Compensation

924. Which entity enforces deed restrictions?
   a. The planning commission
   b. The DBPR
   c. Private owners
   d. The FREC

Reference: Ch. 9, Limitations on Property Ownership, Private Limitations on Property Ownership

925. What is the principal of a broker also known as in the agency form of business?
   a. Employer in a single agency
   b. The one paying the commission
   c. Seller
   d. Buyer

Reference: Ch. 4, Single Agent

926. The local planning agency, or planning commission, normally has the authority to approve which of the following?
   a. Comprehensive plans
   b. Site plans
   c. Developments of regional impact (DRIs)
   d. Variances

Reference: Ch. 19, Florida’s Comprehensive Plan, Authority of the Local Planning Agency
927. Which clause in a deed would include the deed restrictions?
   a. Premises
   b. Granting
   c. Habendum
   d. Reddendum

   Reference: Ch. 9, Clauses in Deeds

928. What is the classification for economic activity that brings money into an area?
   a. Basic
   b. Secondary
   c. Service
   d. Dynamic

   Reference: Ch. 19, Florida’s Comprehensive Plan, Preparing the Comprehensive Plan

929. What is the landlord’s first step in the eviction process?
   a. Contact the sheriff
   b. Go to court
   c. Give three days’ notice
   d. Give ten days’ notice

   Reference: Ch. 7, Florida Landlord and Tenant Act, Eviction Process

930. How is an appraiser compensated?
   a. A fee based upon the value of the property
   b. A commission based upon the value of the property
   c. A fee based on the time and difficulty involved
   d. A fee based on the seniority of the appraiser

   Reference: Ch. 1, Real Estate Related Services, Appraising; Ch. 16, Appraisal Concepts and Definitions, Appraiser

931. Who must approve the appointment of the director of the Division of Real Estate by the secretary of the Department of Business and Professional Regulation?
   a. The governor
   b. The secretary of state
   c. The FREC
   d. The attorney general

   Reference: Ch. 3, The Florida Real Estate Commission, Composition of the Commission

932. What could cause a fixture to be converted into personal property?
   a. Attachment
   b. Severalty
   c. Severance
   d. Accretion

   Reference: Ch. 8, Real and Personal Property, Fixtures

933. When two or more people scheme to defraud someone, of what are they guilty?
   a. Concealment
   b. Culpable negligence
   c. Misrepresentation
   d. Conspiracy

   Reference: Ch. 6, Administrative Penalties, Fraudulent Activities

934. Which tenancy would exist for ownership by a husband and wife?
   a. Joint tenancy
   b. Tenancy in common
   c. Tenancy for years
   d. Tenancy by the entireties

   Reference: Ch. 8, Estates

935. To be a member of FREC, a person must have at least how many years of real estate experience?
   a. None
   b. Two
   c. Five
   d. Ten

   Reference: Ch. 3, The Florida Real Estate Commission, Composition of the Commission

936. What is the term used to refer to the process used by the government to exercise its power of eminent domain?
   a. Conversion
   b. Condemnation
   c. Concealment
   d. Estoppel

   Reference: Ch. 9, Limitations on Property Ownership, Government Limitations on Private Property Ownership
937. How would a property be transferred when an owner has been declared mentally incompetent?
   a. Widow’s deed
   b. Referee’s deed
   c. Committee’s deed
   d. Personal representative’s deed

   Reference: Ch. 9, Deeds, Special Purpose Deeds

938. What term is used to refer to the use of borrowed funds to finance the purchase of real estate?
   a. Conspiracy
   b. Conversion
   c. Commingling
   d. Leverage

   Reference: Ch. 17, Real Estate Investment Terminology

939. An administrative complaint is filed against the subject of a FREC investigation. By law, how much notice must the respondent be given before an upcoming formal hearing, unless waived?
   a. Not less than 20 days
   b. Not more than 20 days
   c. Not less than 14 days
   d. Not more than 14 days

   Reference: Ch. 6, The Disciplinary Process

940. Prior to being sold as a timeshare, which type of building must it have been?
   a. A cooperative
   b. A condominium
   c. An estate for years
   d. A fee simple estate

   Reference: Ch. 8, Condominiums, Cooperatives, and Timeshares, Timeshare Ownership

941. What is the term used for the six-mile wide strip of land that is contained between two meridians?
   a. Township
   b. Tier
   c. Range
   d. Check

   Reference: Ch. 10, Government Survey Method, Townships

942. Which process refers to sand deposits that build up on the shoreline as a result of accretion?
   a. Erosion
   b. Alluvion
   c. Addition
   d. Littoral

   Reference: Ch. 8, Real and Personal Property, Real Property

943. What is the term used for the buyer of a mortgage in the secondary mortgage market?
   a. Assignor
   b. Assignee
   c. Vendor
   d. Vendee

   Reference: Ch. 12, Sale of Mortgaged Property, Selling the Mortgage Contract; Ch. 13, The Secondary Mortgage Market

944. How would a father and son own property together with the right of survivorship?
   a. Tenancy by entireties
   b. Tenancy at will
   c. Joint tenancy
   d. Tenancy in common

   Reference: Ch. 8, Estates

945. A broker is confined to a hospital for a temporary mental incapacity. Which is correct?
   a. Their license must be revoked.
   b. Their license may be suspended for the period of incapacity.
   c. Nothing will be done or needs to be done with their license status.
   d. When the broker is discharged from the hospital, they will have to take the FREC I course over again.

   Reference: Ch. 6, Exhibit 6.3 Violations Requiring a Full Disciplinary Hearing

946. An offer can be terminated by all of the following actions EXCEPT:
   a. A counteroffer
   b. Acceptance
   c. Breach
   d. Withdrawal

   Reference: Ch. 11, Termination of Offers
947. Which condition exists when the cost of an improvement exceeds the value?
   a. An over-improvement
   b. Physical deterioration
   c. External obsolescence
   d. Component obsolescence

   Reference: Ch. 16, Three Approaches to Value, Cost-Depreciation Approach

948. Which type of risk is the risk that an investment property cannot be bought or sold quickly enough to prevent loss?
   a. Business risk
   b. Liquidity risk
   c. Financial risk
   d. Static risk

   Reference: Ch. 17, Real Estate Investment Terminology, Risk

949. When do real property taxes become delinquent?
   a. December 31 of the tax year
   b. December 31 of the year following the tax year
   c. April 1 of the year following the tax year
   d. April 1 of the tax year

   Reference: Ch. 18, Paying the Tax Levy, Delinquent Property Taxes

950. Within what timeframe must real estate licensees notify the Department of a change of address?
   a. 5 days
   b. 10 days
   c. 60 days
   d. 30 days

   Reference: Ch. 5, Sales Associate’s Duties, Change of Employer or Address

951. Which condition is most likely to occur when the demand is less than the supply of available housing?
   a. A buyers’ market develops
   b. A sellers’ market develops
   c. Interest rates will rise
   d. Rents will rise

   Reference: Ch. 17, Competition in the Marketplace

952. Which term refers to the rights an owner has because their property is lakefront?
   a. Alluvion rights
   b. Littoral rights
   c. Allodial rights
   d. Accretion rights

   Reference: Ch. 8, Real Property

953. What is the function of Fannie Mae?
   a. To insure FHA loans
   b. To regulate lending terms and policies of member banks
   c. To purchase existing loans
   d. To absorb any losses incurred by the Government National Mortgage Association (GNMA)

   Reference: Ch. 13, The Secondary Mortgage Market

954. A broker’s responsibilities to the principal include securing which of the following?
   a. The highest price
   b. The best price
   c. The lowest price
   d. Any price

   Reference: Ch. 4, Authorized Real Estate Brokerage Relationships, Single Agent

955. Two brokers are working on an exchange. The commission agreement for each property is the same percentage. The properties are of unequal value, and the brokers decide to combine their commissions and split 50/50. What must the brokers do first to make this legal?
   a. Nothing
   b. Tell the owners
   c. Tell the owners and get them to agree
   d. Notify the FREC in writing

   Reference: Ch. 4, Broker’s Right to Compensation
956. A broker sells a prospective tenant a rental list for $200. The prospective tenant decided not to rent in the area and did not use the list. The tenant then demanded a refund within 30 days. What action should the broker take?
   a. Refund $200
   b. Refund $50
   c. Refund $150
   d. No refund needs to be made

Reference: Ch. 5, Rental Information

957. Which term best describes foreclosure?
   a. Voluntary alienation
   b. A redemption action
   c. Enforcement of a mortgage
   d. A procedure taken by the mortgagor

Reference: Ch. 12, Default

958. A broker's legal duty to the principal includes all of the following EXCEPT:
   a. Obeying all instructions
   b. Acting in good faith
   c. Obtaining the best price
   d. Disclosing all material facts

Reference: Ch. 4, Authorized Real Estate Brokerage Relationships

959. A seller listed their home with a broker and obtained a signed contract with a buyer, contingent on financing. The buyer made an earnest money deposit of $10,000, which the broker immediately deposited in an escrow account. The buyer is unable to obtain financing during the contingency period and cannot close on the transaction. What should the broker do?
   a. Hold the deposit until the bookkeeper returns
   b. Return the deposit immediately, provided the seller does not object
   c. Ask the FREC for an escrow disbursement order (EDO)
   d. Return the deposit only after receiving a court judgment

Reference: Ch. 5, Escrow Funds, Escrow Disbursement Exemptions

960. When does disintermediation occur?
   a. When deposits exceed withdrawals
   b. When withdrawals exceed loans
   c. When loans exceed deposits
   d. When withdrawals exceed deposits

Reference: Ch. 13, Money in the Marketplace

961. What is the maximum allowable total obligations ratio for an FHA insured loan?
   a. 28%
   b. 29%
   c. 36%
   d. 43%

Reference: Ch. 12, Lender Risk, Total Obligations Ratio

962. What term refers to the amount of money necessary to duplicate an existing building?
   a. Actual cost
   b. Replacement cost
   c. Reproduction cost
   d. Market cost

Reference: Ch. 16, Cost-Depreciation Approach

963. When the city or county sells a tax certificate, a sale of the property may take place only after the certificate has been outstanding for how many years?
   a. 20
   b. 3
   c. 2
   d. 1

Reference: Ch. 18, Paying the Tax Levy, Delinquent Property Taxes

964. If a seller lists a house with a broker and discriminates against a buyer based on religion, the seller would have violated which regulation?
   a. F.S. 475
   b. The Truth-in-Lending Act
   c. The Civil Rights Act of 1866
   d. The Civil Rights Act of 1968

Reference: Ch. 7, Federal Housing Laws
965. **What does the seller become when a property owner sells a property and immediately leases it back?**
   a. Lessor
   b. Lessee
   c. Vendee
   d. Mortgagor

   Reference: Ch. 9, Leases

966. **Which of the following would be the proper formula for the capitalization rate?**
   a. Purchase price divided by the net operating income
   b. Effective gross income divided by the sales price
   c. Net operating income divided by the original equity investment
   d. Net operating income divided by the total sales price

   Reference: Ch. 16, Income Approach, Direct Capitalization Technique

967. **Which assets found with a business brokerage are NOT usually found with a real estate corporation?**
   a. Goodwill and personal property
   b. Personal property and fixtures
   c. Personal property and timber sales
   d. Personal property and leases

   Reference: Ch. 17, Business Brokerage

968. **With the income approach to value, if the capitalization rate is decreased and the income remains constant, what is the effect on the value?**
   a. Value increases
   b. Value remains constant
   c. Value decreases
   d. Value may increase or decrease

   Reference: Ch. 16, Income Approach

969. **If the comparable property were better than the subject property in size, what adjustment would be appropriate?**
   a. Add to the comparable property
   b. Add to the subject property
   c. Subtract from the comparable property
   d. Subtract from the subject property

   Reference: Ch. 16, Sales Comparison Approach

970. **With which type of mortgage could negative amortization occur due to payment caps?**
   a. Purchase money mortgages
   b. Adjustable rate mortgages
   c. Blanket mortgages
   d. Reverse mortgages

   Reference: Ch. 13, Types of Mortgages

971. **Complete the sentence. Real estate investment analysis is a determination of the extent to which certain real estate investments will fit an investor’s:**
   a. Objectives
   b. Gross income requirements
   c. Experience
   d. Operating expense ratio

   Reference: Ch. 17, Real Estate Investment Analysis

972. **The period of time in which a contract may be legally enforced is governed by which of the following?**
   a. Statute of frauds
   b. Statute of limitations
   c. Florida real estate law
   d. Statute of relition

   Reference: Ch. 11, Statute of Limitations

973. **Which is NOT classified as a private restriction on the ownership of real property?**
   a. Escheat
   b. Leases
   c. Liens
   d. Deed restrictions

   Reference: Ch. 9, Limitations on Property Ownership
974. **Residential zoning restrictions are designed to regulate which of the following?**
   a. Intensity of land use  
   b. Economic development  
   c. Environmental abuse  
   d. Density of structures per acre  

   Reference: Ch. 19, Zoning Classifications – Residential Zoning

975. **All of the following are characteristics of the real estate market EXCEPT:**
   a. Being heterogeneous  
   b. Immobility  
   c. Being inelastic in the short run  
   d. Being a standard product  

   Reference: Ch. 15, Characteristics of the Real Estate Market

976. **Which mortgage clause would allow the mortgagee to call the note due in the event of a default by the mortgagor?**
   a. Acceleration clause  
   b. Prepayment clause  
   c. Defeasance clause  
   d. Subordination clause  

   Reference: Ch. 12, Essential Elements of a Mortgage

977. **How many acres are contained in the NE 1/4 of the SW 1/4 of the SE 1/4 of the NE 1/4 of Section 9, Township 23 S, Range 32 E?**
   a. 2 1/2 acres  
   b. 5 acres  
   c. 10 acres  
   d. 13 acres  

   Reference: Ch. 10, Calculating the Acreage in a Parcel from a Legal Description

978. **Complete the sentence. If a tenant with a lease is in possession of the property, a purchaser or judgment creditor will:**
   a. Be subject to the rights of the tenant for one year only  
   b. Not be subject to the rights of the tenant  
   c. Be subject to the rights of the tenant  
   d. Be subject to the rights of the tenant in eviction proceedings only  

   Reference: Ch. 7, Florida Landlord and Tenant Act

979. **What do the Greenbelt Laws do?**
   a. Encourage people to leave farming to move to the city  
   b. Require agricultural land to be assessed at its current use rather than its highest and best use  
   c. Increase the taxes farmers must pay on their land  
   d. Result in appreciably higher tax revenues for cities adjacent to farmland  

   Reference: Ch. 18, Real Estate Tax Exemptions and Limitations, Greenbelt Laws

980. **Which would be a consideration in underwriting an FHA loan application but NOT considered for a VA loan?**
   a. Borrower’s monthly income  
   b. Borrower’s assets  
   c. Mortgage insurance  
   d. Borrower’s credit history  

   Reference: Ch. 13, Types of Mortgages

981. **Ownership rights are conveyed but not legal title with which type of estate?**
   a. Tenancy at will  
   b. Fee simple estate  
   c. Remainder estate  
   d. Estate for years  

   Reference: Ch. 8, Estates
982. On a closing statement, how would a purchase money second mortgage obtained from the seller be entered?
   a. Credit to seller, debit to buyer
   b. Credit to buyer, debit to seller
   c. Debit to seller, receipt for broker
   d. Credit to seller, disbursement by broker

Reference: Ch. 13, Loan Repayment Methods, Purchase Money Mortgage; Ch. 14, Section 1 – Total Purchase Price

983. What would a broker be guilty of if they took escrow funds and placed them in a personal account?
   a. Concealment
   b. Conversion
   c. Culpable negligence
   d. Nothing; this is a legal act as long as the broker keeps accurate accounting of all funds

Reference: Ch. 5, Escrow Funds, Escrow Account

984. A buyer makes a written offer to purchase. The seller changes the terms or conditions, initials the changes, signs the contract, and sends it back to the offeror. In contract law, what is the seller’s changed contract?
   a. An offer
   b. A counteroffer
   c. A binding offer
   d. Illegal

Reference: Ch. 11, Contract Negotiation

985. Jones sold his principal residence after living in it for the statutory period. He realized a capital gain of $125,000 on the sale. Which of the following applies?
   a. The capital gain is not taxable.
   b. The gain is taxable in the year of sale.
   c. Jones may defer the capital gain, but only if the sale is an installment sale.
   d. Forty percent of the gain is excluded from taxation.

Reference: Ch. 18, The Effect of Federal Income Taxes on Home Ownership

986. What is the real estate market experiencing when the demand for available housing exceeds current supply?
   a. Buyers’ market
   b. Sellers’ market
   c. Recessionary cycle
   d. Hypothecation

Reference: Ch. 15, Competition in the Marketplace

987. A sales associate has a disagreement with the broker over a commission. The sales associate quits. What can the sales associate do to attempt to collect the commission?
   a. File a lawsuit against the owner of the property
   b. Ask FREC to settle the matter
   c. File a lawsuit against the former broker in civil court
   d. Collect from the Florida Real Estate Recovery Fund

Reference: Ch. 5, Sales Associate’s Duties, Compensation

988. A broker has an office using the trade name ABC Realty and Associates. The broker now wishes to use another trade name for a new office: Easy as ABC. Which statement applies?
   a. This is legal, but the broker would need multiple licensure.
   b. This is illegal since a broker may only use one trade name.
   c. This is illegal since Easy as ABC does not indicate it is a real estate office.
   d. This is legal, but the broker would need a group license.

Reference: Ch. 5, Brokerage Office Requirements; Fictitious (or Trade Names)
989. A home has a poor interior traffic pattern. What type of adjustment might be applied when valuing the property?
   a. Physical deterioration
   b. External obsolescence
   c. Locational obsolescence
   d. Functional obsolescence
   Reference: Ch. 16, Cost-Depreciation Approach

990. Complete the sentence. A convenience store located in an area that has now been zoned for residential use only would be:
   a. Made to move
   b. A nonconforming use
   c. A variance
   d. A special use exception
   Reference: Ch. 19, Zoning, Land Use Restrictions, and Building Codes, Zoning Board of Adjustment

991. A commercial building is 15% vacant but still has 85,000 square feet rented out. The municipality has taxed the owner of the property at a rate $.20 per square foot under the roof. What are the annual taxes on the property?
   a. $20,000
   b. $17,000
   c. $3,000
   d. $2,550
   Math Concept: Find the total square feet and multiply by the tax rate.

992. An investor developed a PUD. He spent $20,000 per acre for the land, which is divided into the following three uses:
   - 3/8 of the tract for condominiums
   - 5/16 of the tract for townhouses
   - The rest of the tract for single-family homes
   If the portion of the tract used for single-family homes consists of 120 acres, what was the sales price of the entire tract?
   a. $3,490,909
   b. $4,189,091
   c. $5,280,000
   d. $7,680,000
   Math Concept: Use the fractions (in 16ths) for condos and townhomes to find the fraction for single-family. Then, use the known number of single-family acres to find the number of acres in each 1/16th. Find the total number of acres and multiply by the price per acre.

993. Mr. McDonald found a farm that was for sale under distress conditions. He bought the farm for 80% of market value and later resold the property for full market value. What percentage of profit did Mr. McDonald make on the transaction?
   a. 20%
   b. 25%
   c. 33%
   d. 50%
   Reference: Ch. 17, Calculating Profit on Investment

994. If you borrowed $40,000 for 30 years at a 10% rate of interest, and would pay a total of $86,370.80 in interest if the loan were held to maturity, what is the monthly payment?
   a. $239.92
   b. $333.33
   c. $346.22
   d. $351.03
   Reference: Ch. 13, Amortizing Loan Payments
995. A comparable property sold two years ago for $80,000. Since then, properties have been appreciating at 5% annually. How much would the comparable property be worth today?
   a. $88,200
   b. $88,000
   c. $86,000
   d. $84,000

Reference: Ch. 16, Sales Comparison Approach

996. Brown owns an apartment complex with 24 units that produce a net monthly rent of $8,500. This $8,500 per month represents a 9.5% annual return to the owner. What did Brown pay for the building?
   a. $1,073,684
   b. $1,048,325
   c. $89,474
   d. $9,690

Reference: Ch. 15, Income Approach

997. A tenant pays $1,400 a month for a 1,400-square-foot office. How much a square foot does the tenant pay annually?
   a. $10.00
   b. $11.00
   c. $12.00
   d. $14.00

Math Concept: Monthly payment ÷ Square feet x 12 months = annual amount paid

998. A one-year term loan for $300 at 7.5%, with simple interest paid at the end of the term, has been repaid 11 months at $22.25 per month. What would the amount of the last payment be?
   a. $75.00
   b. $77.75
   c. $55.00
   d. $100.00

Reference: Ch. 13, Loan Repayment Methods, Amortizing Loan Payments

999. A man wanted to buy a $39,000 house. He was told the sale price couldn't exceed 2.5 times his income. How much must he earn per week?
   a. $250
   b. $300
   c. $350
   d. $375

Math Concept: 2.5 x Annual income = $39,000; Annual income ÷ 52 weeks = earnings needed per week

1000. An investor realizes a net income of $925 per month on a $111,000 investment. What is his yield (return on investment)?
   a. 9%
   b. 10%
   c. 11%
   d. 12%

Reference, Ch. 17, Evaluating Investment Properties

1001. After I pass my state exam, I need to:
   a. Celebrate!
   b. Pat myself on the back; I've worked hard.
   c. Sign up to take my post-license course immediately.
   d. All of the above, in this order.

Reference: Ch. 2, Post-License (First Renewal) Requirements
Chapter Review Questions and Practice Exam Answer Keys

Chapter 1

Review Questions
1. spec (or speculation)
2. four
3. REALTOR®
4. residential
5. absentee ownership
6. Title XI
7. comparative market analysis (CMA)
8. Florida Department of Financial Services (FDFS)
9. custom building
10. dedication
11. opinion
12. balance sheets, financial statements
13. property transfer, valuation, marketing
14. going concern value
15. brokerage, broker, broker

Practice Exam
1. b
2. c
3. a
4. d
5. a
6. c
7. b
8. d
9. b
10. c
11. d
12. d
13. c
14. d
15. b
16. d
17. d
18. c
19. b
20. c

Chapter 2

Review Questions
1. void
2. sales associate, six months
3. sales associate
4. four months
5. 1923
6. inactive
7. mutual recognition
8. 45
9. 14
10. two years
11. two years
12. registered
13. $50
14. Post-license
15. power of attorney
16. by-bidders
17. two years

Practice Exam
1. b
2. a
3. b
4. d
5. b
6. d
7. c
8. d
9. b
10. c
11. d
12. d
13. c
14. b
15. a
16. d
17. d
18. c
19. b
20. a

Chapter 3

Review Questions
1. four
2. quasi-judicial
3. quasi-legislative
4. seven
5. secretary of state
6. two
7. executive
8. ten
9. five years
10. Orlando
11. Tallahassee
12. appointed, secretary, DBPR or Department, FREC or Commission
13. involuntary inactive
14. reissue

Practice Exam
1. c
2. d
3. b
4. d
5. d
6. b
7. c
8. b
9. a
10. b
11. d
12. d
13. b
14. a
15. a
16. d
17. d
18. c
19. b
20. c

Chapter 4

Review Questions
1. special
2. general
3. subagent
4. accidentally, inadvertently
5. single agency, no brokerage
6. transaction broker, single agency, nonrepresentation
7. $1 million
8. initialed, signed
9. single agent
10. five
11. single agency
12. designated sales associate
13. written disclosures
14. implied agency
15. trust, confidence
16. service, license, advised

Practice Exam
1. a
2. b
3. d
4. c
5. a
6. d
7. b
8. a
9. a
10. b
11. d
12. d
13. d
14. d
15. d
16. b
17. d
18. d
19. c
20. c

Chapter 5

Review Questions
1. Division of Corporations
2. officer, director
3. one, officer
4. limited partner
5. ostensible partners
6. sole titleholder
7. 10
8. 15
9. declaratory decree
10. commingling
11. Department, DBPR
12. inadvertently, accidentally
13. 100%, 30
14. partners, employees

Practice Exam
1. b
2. a
3. b
4. c
5. c
6. a
7. b
8. b
9. c
10. d
11. c
12. d
13. b
14. a
15. b
16. c
17. a
18. d
Chapter 6

Review Questions
1. file an appeal, 30, District Court of Appeals
2. $150,000
3. administrative law judge, DOAH
4. personal opinions
5. fines, fees
6. $500, 60 days
7. $1,000, 1 year
8. $500, 60 days
9. executive powers
10. complaint
11. grand jury
12. investigators, 30
13. 15
14. assignment
15. suspended, repaid, interest
16. culpable negligence

Practice Exam
1. d
2. a
3. c
4. a
5. b
6. d
7. b
8. b
9. a
10. d
11. b
12. c
13. d
14. a
15. c

Chapter 7

Review Questions
1. race
2. exempt
3. redlining
4. economically feasible
5. complainant, Housing and Urban Development (or HUD)
6. F.S. 475, Commission (or FREC)

Chapter 8

Review Questions
1. disposition, use, exclusion
2. Riparian
3. ownership
4. possession, interest, time, title
5. husband, wife
6. survivorship
7. Seven
8. ending date
9. in common
10. remainderman
11. proprietary lease
12. declaration
13. shares of stock
14. vacation lease, right to use
15. 160

Practice Exam
1. a
2. c
3. b

Chapter 9

Review Questions
1. ownership
2. general warranty
3. guardian's
4. habendum
5. no
6. delivered, accepted
7. seven
8. constructive
9. grantor, two
10. physical possession
11. mortgagee (or lender’s), mortgagor (or owner’s)
12. opinion of title
13. quitclaim
14. police power, eminent domain, taxation, escheat
15. real estate taxes, special assessments, federal estate taxes

Chapter 10

Exercise 1
1. 2, 5, 2, 5
2. 3, 6, 3, 6
3. 5, 2, 5, 2
4. 1, 1, 1, 1

Exercise 2
1. F
2. B
3. C
4. D
5. E
6. A
7. G

Math Problems
1. 1,320 ft.
2. 5 acres
3. 7.5 acres
4. 12,000 sq. ft.

Review Questions
1. metes and bounds
2. Legal descriptions
3. monument, point of beginning
4. closing
5. tier
6. 6, 36
7. 1, 1
8. 43,560
9. 5,280
10. 640
11. range
12. Tallahassee
13. plat
14. south
15. south

Practice Exam
1. c
2. d
3. b
4. a
5. c
6. d
7. a
8. b
9. c
10. a
11. b
12. a
13. a
14. c
15. b

Chapter 11

Review Questions
1. exclusive
2. 24
3. exclusive right of sale
4. construction
5. liquidated
6. executory
7. 5, statute of limitations
8. valid, enforceable
9. real, personal, enforceable promises
10. vendor, vendee
11. not required
12. definite valuable consideration
13. optionor, optionee
14. void
15. equitable title

**Practice Exam**
1. c
2. d
3. a
4. a
5. c
6. a
7. b
8. a
9. b
10. b
11. c
12. b
13. c
14. c
15. d

**Chapter 12**

**Math Problems**
1. a. \( \frac{1}{2} \) or 50%
2. b. \( \frac{1}{4} \) or 25%
3. c. \( \frac{1}{8} \) or 12.5%
4. d. \( \frac{1}{16} \) or 6.25%
5. e. \( \frac{1}{32} \) or 3.125%
6. f. \( \frac{1}{64} \) or 1.5625%
7. g. \( \frac{1}{128} \) or 0.78125%

**Review Questions**
1. promissory note
2. pledge of security
3. defeasance
4. release
5. subordination agreement
6. acceleration
7. subject to the mortgage
8. assumption with novation
9. estoppel letter
10. APR
11. deficiency judgment

**Chapter 13**

**Math Problems**
1. $180
2. $5,000
3. .09 or 9%
4. .25 or 3 months
5. a. $14.31
   b. $499.86
   c. $49,956.64
6. FHA
7. Government National Mortgage Association, Ginnie Mae
8. portfolio
9. liquidity
10. home equity loan, HELOC
11. intermediation
12. arrange, originate (or make)
13. originated
14. willingness, ability
15. business trust, mutual fund

**Review Questions**
1. underwriting
2. non-residential
3. discount rate
4. open market operations
5. increase, decrease
6. FHA
7. Government National Mortgage Association, Ginnie Mae
8. portfolio
9. liquidity
10. home equity loan, HELOC
11. intermediation
12. arrange, originate (or make)
13. originated
14. willingness, ability
15. business trust, mutual fund

**Practice Exam**
1. a
2. b
3. c
4. d
5. e
6. f
7. g
8. h
9. i
10. j
11. k
12. l
13. m
14. n
15. o

**Chapter 14**

**Math Problems**
1. $719.60
2. $291.55
3. $688.80
4. $147.10
5. seller, buyer, $300.28
6. seller, buyer, $754.84
7. seller, buyer, $314.77

**Review Questions**
1. credit, buyer
2. seller
3. debits
4. double
5. buyer
6. rent, taxes, interest
7. debits, credits
8. credits, debits
9. grand totals, grand totals
10. prepaid interest
11. receipts, disbursements
12. debit, credit
13. subject to

**Practice Exam**
1. a
2. b
3. c
4. d
5. e
6. f
7. g
8. h
9. i
10. j
11. k
12. l
13. m
14. n
15. o

**Chapter 15**

**Review Questions**
1. 5%
2. entrepreneurial ability
3. inefficient, unorganized
4. situs
5. plottage
6. highest, best
7. supply
8. demand
9. slow
10. decline
11. social
12. contraction, trough, expansion
13. seller’s
14. increase, increase
15. externalities
16. indestructible, immobile, heterogeneous

**Practice Exam**
1. a
2. b
3. c
4. d
5. e
6. f
7. g
8. h
9. i
10. j
11. k
12. l
13. m
14. n
15. o

**Chapter 16**

**Math Problems**
Sales comparison: $122,000
Cost depreciation:
1. $110,580
2. $99,522
Income capitalization:
1. $25,000
2. $36,000
3. 12.5%
4. 108
5. $92,500

**Review Questions**
1. opinion
2. market
3. purpose
4. intended use

**Answer Keys**
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5. regression
6. anticipation
7. functional
8. incurable
9. comparable, upward
10. quantity survey, unit-in-place, unit-of-comparison
11. price
12. market value
13. reproduction
14. demand, utility, scarcity, transferability
15. quantity survey

**Practice Exam**
1. b
2. a
3. d
4. c
5. a
6. c
7. a
8. d
9. c
10. c

**Chapter 17**

**Math Problems**
1. 75%
2. 47%
3. $13,452
4. 83%
5. About 56%

**Review Questions**
1. opportunity
2. personal property
3. Long term
4. owner equity
5. intangible
6. negative
7. bill of sale
8. security agreement
9. unprofitable
10. accounting, corporate finance
11. operating statements, balance sheets
12. operating expense
13. static
14. return
15. d

**Chapter 18**

**Math Problems**
1. $25,000; $20,000
2. $845
3. $851
4. $25,000
5. $5,000
6. exempt
7. immune
8. $26,000
9. greenbelt laws
10. .001
11. 18%
12. two, tax deed
13. two, five, $500,000
14. $250,000
15. real estate taxes, mortgage interest

**Review Questions**
1. ad valorem
2. assessed, just
3. value adjustment board
4. $25,000
5. $5,000
6. exempt
7. immune
8. $26,000
9. greenbelt laws
10. .001
11. 18%
12. two, tax deed
13. two, five, $500,000
14. $250,000
15. real estate taxes, mortgage interest

**Practice Exam**
1. c
2. a
3. b
4. b
5. d
6. b
7. b
8. c
9. d
10. a
11. b
12. a
13. c
14. b
15. d

**Chapter 19**

**Review Questions**
1. laissez-faire
2. Density, Intensity
3. “superfund”
4. zoning
5. density
6. Zone V
7. variance
8. police power
9. concurrency rules
10. grandfathering
11. Basic
12. cluster zoning
13. special exception
14. building permit, certificate of occupancy
15. Real estate taxes, mortgage interest

**Practice Exam**
1. c
2. a
3. b
4. b
5. d
6. b
7. b
8. c
9. d
10. a
11. b
12. a
13. c
14. b
15. d
Practice Math Exam Answer Key

1. b Month 1: Interest = $40,000 x .08 ÷ 12 = $266.67; New balance = $40,000 – ($334.58 - $266.67) = $39,932.09
   Month 2: Interest = $39,932.09 x .08 ÷ 12 = $266.21; New balance = $39,932.09 – ($334.58 - $266.21) = $39,863.72
2. b $27,000 = $9 x # of square feet, so # of square feet = $27,000 ÷ $9 = 3,000
3. d 11 mills = .011; Tax levy = $36,000 x .011 = $396
4. d # seller days = 365 – (31 Dec + 30 Nov + 19 Oct) buyer days = 365 – 80 = 285 days;
   Tax owed by seller = ($450 ÷ 365) x 285 days = $351.37
5. b Sally’s commission = $72,000 Sales price x .07 Brokerage share x 0.60 Sally’s share = $3,024
6. c Loan amount = $65,000 x 0.80 = $52,000; Each point = 1% of loan amount, so Discount = $52,000 x .04 = $2,080
7. d Loan amount = $90,000 x 0.85 = $76,500; Intangible tax = $76,500 x 0.002 = $153; Tax on note = ($76,500 ÷ 100) x 0.35 = $267.75; Total tax = $153 + $267.75 = $420.75
8. b LTV = $200,000 Loan amount + $350,000 Value = 0.5714, or 57.14%
9. c Operating Expense Ratio = $25,000 OE $67,000 EGI = 0.3731, or 37.31%
10. d Tract 1: 640 ÷ 4 ÷ 4 ÷ 4 = 10 acres; Tract 2 : 640 ÷ 4 ÷ 2 ÷ 2 = 40 acres; Total acres = 10 + 40 = 50 acres
11. c Area = 500 ft. x 640 ft. = 320,000 sq. ft.; Convert to acres: 320,000 sq. ft. ÷ 43,560 sq. ft. per acre = 7.35 acres
12. b Total tax liability = $65,000 x 0.022 = $1,430; 1st exemption = $25,000 x .022 = $550; 2nd exemption = $15,000 (amount above $50,000) x .013 (city and county only) = $195; Annual taxes = ($1,430 - $550) - $195 = $685
13. a Cap rate = $30,000 Income + $240,000 Value = 0.125, or 12.5%
14. c # buyer days in month of closing = 31 – 12 seller days = 19 days; Seller owes buyer = ($450 ÷ 31 days in March) Daily rent x 19 buyer days = $275.81
15. d Value = $20,000 Income + 0.10 Rate = $200,000

Practice Final Exam Answer Key

1. c 26. a 51. b 76. d
2. b 27. a 52. c 77. d
3. b 28. b 53. b 78. a
4. d 29. d 54. a 79. c
5. b 30. d 55. d 80. d
6. b 31. c 56. b 81. c
7. b 32. d 57. d 82. a
8. c 33. d 58. d 83. a
9. a 34. d 59. d 84. c
10. d 35. b 60. a 85. b
11. c 36. d 61. b 86. c
12. d 37. c 62. b 87. d
13. c 38. c 63. d 88. d
14. d 39. d 64. a 89. c
15. d 40. a 65. d 90. c
16. d 41. b 66. b 91. c
17. b 42. a 67. a 92. b
18. a 43. b 68. b 93. d
19. d 44. a 69. c 94. c
20. d 45. d 70. b 95. b
21. a 46. b 71. d 96. a
22. b 47. a 72. d 97. d
23. d 48. a 73. c 98. c
24. c 49. b 74. a 99. b
25. d 50. b 75. a 100. b
91. Total commission due = $64,000 x .07 = $4,480; Sales associate share = $4,480 x .60 = $2,688
92. Total taxes without any exemptions = $110,000 x .021 = $2,310; 1st (Basic) Exemption = $25,000 x .021 = $525; 2nd Exemption = $25,000 x .014 = $350; Tax Levy = ($2,310 - $525) - $350 = $1,435
93. Interest = Principal x Rate x Time; so, Principal = Interest ÷ (Rate x Time); P = $135 ÷ (.12 x 3/12) = $135 ÷ .03 = $4,500
94. # Days of seller ownership = 31 (Jan) + 28 (Feb) + 17 (Mar) = 76; Tax owed by seller = ($12,800 ÷ 365) x 76 days = $2,665.21
95. Month 1: Interest = $50,000 x .12 ÷ 12 = $500; Principal part of the payment = $514.31 - $500 = $14.31; New balance after month 1 = $50,000 - $14.31 = $49,985.69; Month 2: Interest = $49,985.69 x .12 ÷ 12 = $499.86; Principal part = $514.31 - $499.86 = $14.45; New balance after Month 2 payment = $49,985.69 - $14.45 = $49,971.24
96. Total square feet = 120 ft. x 300 ft. = 36,000 sq. ft.; Price per square foot = $38,500 ÷ 36,000 sq. ft. = $1.07
97. Amount made = Selling price – Purchase price; Made = ($50,000 x 3 lots) - $100,000 = $50,000; Profit = Made ÷ Paid = $50,000 ÷ $100,000 = .50 or 50%
98. Effective gross income (EGI) – Operating expenses (OE) = Net operating income (NOI); NOI = $44,000 - $26,000 = $18,000; Using the IRV formula, where Value = NOI ÷ Capitalization rate (R), Value = $18,000 ÷ .10 = $180,000
99. Capitalization rate (R) = NOI ÷ Value, so R = $15,000 ÷ $120,000 = 0.125 or 12.5%
100. Rule of thumb: Every point = 1/8%; so 4 points would increase by 4 x 1/8 = 4/8 or .5%; 11% + 0.5% = 11.5%
### 1001 Q&A Cram Review Answer Key

#### Q&A Cram

#### Exam 1

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>d</td>
</tr>
<tr>
<td>2.</td>
<td>b</td>
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<tr>
<td>3.</td>
<td>d</td>
</tr>
<tr>
<td>4.</td>
<td>d</td>
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<td>5.</td>
<td>a</td>
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<td>6.</td>
<td>a</td>
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<td>c</td>
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<td>13.</td>
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#### Q&A Cram

#### Exam 2

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#### Q&A Cram

#### Exam 3

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Q&A Cram

Exam 5
(301 - 500)

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403. b
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410. b
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412. c
413. b
414. b
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416. c
417. d
418. d
419. d
420. a
421. a
422. d
423. d
424. b
425. a
426. c
427. b
428. b
429. b
Q&A Cram
Exam 6
(#501 - 600)

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503. c
504. c
505. a
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514. a
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548. a
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552. b
553. c
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556. c
557. d
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561. b
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563. d
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596. c
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600. c

Q&A Cram
Exam 7
(#601 - 700)

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692. a  745. d  855. a
693. c  746. a  856. d
694. d  747. a
695. d  748. c
696. c  749. b
697. b  750. b
698. c  751. c
699. a  752. c
700. d
701. d
702. b

**Q&A Cram**
**Exam 8**
**(#701 – 800)**

**Q&A Cram**
**Exam 9**
**(#801 – 900)**

801. d
802. d
803. b
804. c
805. a
806. d
807. c
808. b
809. c
810. a
811. c
812. c
Q&A Cram Exam 1 Math Solutions

84. Tract 1: \(640 \div 4 = 160; \ 160 \div 4 = 40; \ 40 \div 2 = 20\) acres. Tract 2: \(640 \div 4 = 160; \ 160 \div 4 = 40; \ 40 \div 2 = 20\) acres; Total = 20 (Tract 1) + 20 (Tract 2) = 40 acres

85. Each township is 6 miles wide, so the west-most edge of “Range 3 West” is 18 miles (6 mi. x 3 West) from Tallahassee. But the SE corner of Section 31 is one additional mile east, so the distance is 18 - 1 = 17 miles.

Q&A Cram Exam 2 Math Solutions

152. Total x 12.5% = 2,500, so Total = 2,500 ÷ .125
153. Basic exemption = $25,000 x .024 = $600; 2nd exemption = $25,000 x .015 = $375; Tax savings = $600 + $375 = $975.
154. Rule of thumb \rightarrow each point charged adds 1/8%; Amount added was .5% or ½%, which is the same as 4/8% = 4 x 1/8, or 4 points.
155. Rule of thumb \rightarrow 2 points adds 2 x 1/8%, or 2/8%, which is the same as ¼% or an additional .25%. 5% + .25% = 5.25%
156. Housing expense ratio = $3,400 \div ($85,000 + $75,000) \div 12 = .255 or 26%
157. Month 1: I = $180,000 x .065 ÷ 12 = $975; Principal reduction = $1,137.72 - $975 = $162.72; New balance = $180,000 - $162.72 = $179,837.28. Month 2: I = $179,837.28 x .065 ÷ 12 = $974.12; Principal reduction = $1,137.72 - $974.12 = $163.60.

158. LTV = ($570,000 - $114,000) Loan amount ÷ $570,000 Value = 0.8 or 80%

159. Down payment = $200,000 x .15 = $30,000; Additional cash = ($30,000 - $8,500) + $6,000 = $27,500

160. Selling price = $400,000 x .93 = $372,000; Total commission = $372,000 x .05 = $18,600; Listing office share = $18,600 x .50 (50/50 split) = $9,300; Listing broker share = $9,300 x .60 = $5,580

161. Profit% = Made ÷ Paid; Paid = $35,000 x 2 lots = $70,000; Made = ($225 x 400 front feet) – (Paid) = $90,000 - $70,000 = $20,000; Profit % = $20,000 (Made) ÷ $70,000 (Paid) = 0.2857 or 29%

162. # Buyer days = 30 – 6 = 24 days; Buyer’s portion = $1,300 ÷ 30 days (Daily rent) x 24 (# Buyer days) x 2 units = $2,080

163. # Seller days = 31 + 28 + 31 + 30 + 31 + 7 = 158 days; Seller owes: $2,730 ÷ 365 (Daily tax) x 158 days = $1,181.75

164. Buyer days: 31 – 14 = 17 days; Debit = $1,375 ÷ 365 (Daily tax) x 17 days = $64.04 debited to buyer since the seller already paid the property tax

165. Cost = (3,680 x $70) Living area + (420 x $35) Garage = $257,600 (Living area) + $14,700 (Garage) = $272,300

166. Total taxes = S + I + N; (S) Seller’s tax on deed: $249,480/100 = $2,494.80, which rounds up to $2,495; (I) Intangible tax = $25,000 new loan x .002 = $50; (N) Note tax = ($190,000 + $25,000)/100 x $.035 = $752.50; Total = $1746.50 (S) + $50 (I) + $752.50 (N) = $2,549

167. Value = Income/Rate, where Income is the NOI. NOI = $85,000 (EGI) – $30,000 (OE) = $55,000; Rate is the cap rate of 11%. Value = $55,000 (NOI) ÷ .11 (Rate) = $500,000

168. V&C ($300,000 x 5%) = $15,000; NOI = $300,000 (PGI) – $15,000 (V&C) - $140,000 (OE) = $145,000.

169. GRM = $269,500 (Sales price) ÷ $2,000 (Monthly rent) = 134.75 GRM

170. GIM = $4,125,000 (Price) ÷ $550,000 (Gross annual income) = 7.5 GIM

171. First number in lot dimensions is always the length along the street (125 ft.). Assessment = 125 (Front feet) x $100 (Cost) x .70 (Owner’s share) ÷ 2 (Owners on each side of the street) = $4,375

172. Depreciation rate = $400,500 (Reproduction cost) x 3 (Effective age) ÷ 45 (Total economic life) = $26,700; Total acquisition cost = $655,000 + $42,300 = $697,300; Basis for depreciation = $697,300 (Total acquisition cost) x .80 = $557,840; Annual depreciation allowance = $557,840 (Basis for depreciation) ÷ 39 years (Nonresidential investment property) = $14,303.59

173. Adjust the comparable property by subtracting its superior features and adding its inferior features. Adjusted price = ($429,000 - $25,000) + $35,000 = $439,000

174. Adjusted basis = $395,500 (Cost basis) + $12,600 (Improvements) = $408,100

Q&A Cram Exam 5 Math Solutions

407. 208.71 feet x 208.71 feet = 43,560 square feet

409. Tract 1: 640 ÷ 4 ÷ 4 ÷ 4 ÷ 4 = 2.5 acres; Tract 2: 640 ÷ 4 ÷ 4 ÷ 4 ÷ 4 = 2.5 acres. Total = 2.5 acres (Tract 1) + 2.5 acres (Tract 2) = 5 acres

411. 640 x 2 ÷ 4 ÷ 4 ÷ 4 = 5 acres

432. Sale Price x 2/5 = $28,000; 2/5 is 0.4; Sale Price = $28,000 ÷ 0.4 = $70,000

433. Sales associate share is 40%. $4,800 = Total commission x 40%, so the Total commission = $4,800 ÷ 0.40 = $12,000, which is 10% of the Sales price. $12,000 Commission = Sales price x 0.10; Sales price = $12,000 ÷ 0.10 = $120,000; Acreage = 640 ÷ 4 ÷ 4 ÷ 4 = 10 acres; Cost per acre = $120,000 ÷ 10 acres = $12,000.

434. # Spaces = 85 ÷ 2 = 42.5, or 43 spaces (rounded up); Parking area = 6 ft. x 12 ft. x 43 spaces = 3,096 sq. ft., which is 90% of the total paved area; 3,096 sq. ft. = 90% x Total paved area, so Total paved area = 3,096 sq. ft. ÷ 0.90 = 3,440 sq. ft.; Total area needed = 3,440 Total parking area + 15,000 Building = 18,440 sq. ft.; Lot A size = 100 x 200 = 20,000 sq. ft.; Lot B size = 90 x 210 = 18,900 sq. ft.; Both lots are bigger than the area needed.

435. Sales price per lot = $20 x 60 ft. x 100 ft. = $120,000; Lot 1 (20% profit): $120,000 = Paid x (100% + 20%); Paid = $120,000 ÷ 120% = $100,000, which is a gain of $20,000; Lot 2 (20% loss): $120,000 = Paid x (100% - 20%); Paid = $120,000 ÷ 80% = $150,000, which is a loss of $30,000; Net loss = $30,000 (Lot 2 loss) - $20,000 (Lot 1 gain) = $10,000

436. Value x 3% = $7,400 (Total received) - $500 (Salary), so Value = $6,900 (Received for properties sold) + $300,000;
437. Total paid = $565.74 x 30 years x 12 months = $203,666.40; Total interest paid = $203,666.40 (Total paid) - $55,000 (amount borrowed) = $148,666.40

438. Loan amount = $38,000 x 90% = $34,200; Loan payment = $34,200 x .011849 = $405.24; Month 1: I = $34,200 x .14 ÷ 12 = $399.00; Month 2: Principal = $34,200 – ($405.24 - $399) = $34,193.76; I = $34,193.76 x .14 ÷ 12 = $398.93; Month 3: Principal = $34,193.76 – ($405.24 - $398) = $34,187.45; I = $34,187.45 x .14 ÷ 12 = $398.85

439. $5 ÷ 1.5 = Increased rent ÷ 1.8, so Increased rent = ($5 ÷ 1.5) x 1.8 = $6

440. $48,000 (Purchase Price) x .965 (Maximum LTV Ratio) = $46,320 Round down to $46,300 (Next lowest $50 increment); $48,000 (Purchase Price) - $46,300 (Maximum Loan Amount) = $1,700 (Down Payment Required)

441. One acre = 43,560 sq. ft.; Area of road = 60 ft. x 246 ft. = 14,760 sq. ft.; Area remaining = 43,560 (Total area) - 14,760 (Road) = 28,800 sq. ft.; Each lot = 80 ft. x 90 ft. = 7,200 sq. ft.; # of lots = 28,800 ÷ 7,200 = 4

442. (100 ft. – 10 ft.) x (100 ft. – 10 ft.) = 90 ft. x 90 ft. = 8,100 sq. ft.

443. ¼ = .25, so Additional acres = 10,000 x 0.25 acres = 2,500 acres

444. Adjust the comparable properties for appreciation and differences in amenities. No. 1: ($81,000 - $5,000) + ($81,000 x 10%) = $84,100; No. 2: ($91,000 - $12,000) + ($91,000 x 5%) = $83,550; No. 3: $72,500 + $12,000 = $84,500; Take the average: ($84,100 + $83,550 + $84,500) ÷ 3 = $84,050, which is closest to $84,000.

445. Total depreciation rate = Effective age ÷ Total economic life = 7 ÷ 35 = 0.2; Reproduction costs = $3,000 x $55 = $165,000; Total accrued depreciation over life = Reproduction cost x Total depreciation rate = $165,000 x 0.2 = $33,000; Value of building = Reproduction cost – Total accrued depreciation over life = $165,000 - $33,000 = $132,000; Value of land and improvements = $4,000 + (100 x 120 x $3.10) = $41,200; Value of property = $132,000 + $41,200 = $173,200

446. Total depreciation rate = 5 ÷ 25 = 0.2; Total accrued depreciation over life = ($100,000 - $4,000) x 0.2 = $19,200; $19,200 + $4,000 (Roof) = $23,200

447. V&C = ($566,000 ÷ 60) x 3 = $28,300; Reserves = $566,000 x 3% = $16,980; NOI = ($566,000 – $28,300) – ($20,000 x 12 months) - $16,980 = $280,720

448. I = R x V; Income = 12% x $300,000 = $36,000; Additional earnings = $36,000 - $30,000 = $6,000

449. Loan amount = $200,000 (Sales price) – $30,000 (Down payment) = $170,000; LTV = $170,000 (Loan amount) ÷ $200,000 (Sales price) = 0.85 or 85%

450. V&C = $50,000 x 5% = $2,500; NOI = ($50,000 – $2,500) - $25,500 = $22,000; Cap rate = $22,000 ÷ $200,000 = 0.11 or 11%

451. Total usable space per floor = 150’ x 200’ x 80% = 24,000; Bin size = 10’ x 20’ each = 200; Total number of bins = 24,000 + 200 x 4 floors = 480; Annual income = 480 x $6 x 12 months = $34,560

452. Sales associate share = $62,300 x .07 x .95 x .65 = $2,692.92

453. Listing price = $55,000 ÷ .93 = $59,139.78, rounded to $59,140

454. GRM = Price ÷ Gross monthly rent = $65,000 ÷ $500 = 130

455. Value = Gross monthly rent x GRM; Gross monthly rent = (3 x $600) + (6 x $400) + (6 x $300) = $6,000; Value = $6,000 x 85 = $510,000

456. Market value = GIM x Annual gross rent; Annual gross rent = 12,000 x $.075 x 12 = $10,800; Value = 7.5 x $10,800 = $81,000

457. Work backwards. (Sales price +100) x 0.70 = $520.10, so Sales price = $520.10 ÷ 0.70 x 100 = $74,300; Note amount: (PMM + 100) x 0.35 = $227.50, so PMM = ($227.50 ÷ 0.35 x 100) = $65,000; Tax on deed: ($175,000 + $100) x 0.70 = $1,225; Tax on notes: $21,500 x .002 = $43; Total doc stamp tax = $1,225 + $462.35 + $43 = $1,730.35

458. Total mills = 8.75 + 9.5 + 7.75 = 26; Total tax liability = $50,000 x .026 = $1,300; Deduction for basic exemption = $25,000 x .026 = $650; Taxes = $1,300 Total tax liability - $650 Deduction = $650

459. Basic exemption = $25,000 x .027 = $675; 2nd exemption = $25,000 x .01425 = $357.25; Total exemptions = $675 + $425 = $1,100

460. Assessment = 100 front-feet x $20 x 70% Owner’s share + 2 Sides of the street = $700
464. 1st mortgage = $190,000 x 80% = $152,000; 2nd mortgage = ($190,000 - $152,000) x 46% = $17,480; Total loans = $152,000 + $17,480 = $169,480; Origination fee on 2nd mortgage = $17,480 x 2.5% = $437; Down payment = ($190,000 - $169,480) + $437 = $20,957

465. Rule of thumb each point charged adds 1/8%; Amount added = 13 – 12.5 = .5 or 1/2; 1/2 = 4/8, or (4 x 1/8) or 4 points

467. 1. Daily rent = $235 ÷ 30; # Buyer days = 20; Rent proration = 8 units x ($235 ÷ 30) x 20 = $1,253.33

468. # Seller days = 17; Prorated amount = ($74,260 x .085 ÷ 12) ÷ 31 x 17 days = $288.46

471. # Buyer days = 31 (Dec) + 30 (Nov) + 16 (Oct) = 77; # Seller days = 365 – 77 = 288; Tax owed by seller = ($4,800 ÷ 365) x 288 = $3,787.40

474. # Buyer days = 31 + 28 + 30 + 31 + 4 = 155; Tax owed by seller = ($730 ÷ 365) x 155 = $310

Q&A Cram Exam 6 Math Solutions

591. I = P x R x T, so $192 = Principal x .08 ÷ 12; Principal = $192 ÷ .08 x 12 = $28,800; Loan amount = Selling price x 80%, so $28,800 = Selling price x .80; Selling price = $28,800 ÷ .8 = $36,000

592. Gross income = (3 x $350 x 12 months) + ($300 x 12 months) + ($75 x 52 weeks) = $20,100

593. 330 ft. x 660 ft. = 217,800 sq. ft.; Since one acre = 43,560 square feet, 217,800 sq. ft. ÷ 43,560 sq. ft. per acre = 5 acres

594. Office building may be depreciated over 39 years; Maximum percentage of depreciation per year is 100 ÷ 39 = .0256 or 2.56% annually

595. Convert selling price per acre to price per sq. ft.: $21,780 ÷ 43,560 = $0.50 per sq. ft.

596. Depreciation rate = 5 (effective age) ÷ 25 (total economic life) = 0.2 or 2%; Reproduction cost = $770,000 - $20,000 = $750,000; Depreciation = Reproduction cost x Depreciation rate, so Total accrued depreciation = ($750,000 x 0.2) + $20,000 carpet = $170,000;

599. Concert acres to sq. ft.: 20 acres x 43,560 sq. ft. per acre = 871,200 sq. ft.; Recreation area = 871,200 x 0.10 = 87,120 sq. ft.; Access roads = 20 ft. x (600 yds. X 3 ft. per yd.) = 36,000 sq. ft.; Total for lots = (871,200 – 87,120) – 36,000 = 748,080 sq. ft.; Each lot = 748,080 ÷ 40 lots = 18,702 sq. ft.

600. Lot size (in acres) = (660 ft. x 990 ft.) ÷ 43,560 = 15 acres; Selling price = $12,000 per acre x 15 acres = $180,000; Loan amount = $180,000 x 0.80 = $144,000; Intangible tax = $144,000 x .002 = $288

Q&A Cram Exam 7 Math Solutions

699. Total square feet = 20 lots x 21,780 sq. ft. = 435,600 sq. ft.; Convert to acres: 435,600 sq. ft. ÷ 43,560 sq. ft. per acre = 10 acres

700. Gross monthly rent x 134 (GRM) = $55,000 (Value), so Gross monthly rent = $55,000 ÷ 134 = $410.45, which is higher than current rent; $410.45 - $350 = $60.45, which is about $60.
Q&A Cram Exam 8 Math Solutions

791. Payment = ($19,500 ÷ 1,000) x $8.50 = $165.75
792. Monthly rent = 1,450 sq. ft. x $10.50 ÷ 12 = $1,268.75
793. Increased taxes = $2,000 x 1.45 = $2,900, which is an increase of $900. Percentage increase in expenses = $900 ÷ $15,000 = 0.06, or 6%.
794. B = A + $4,000; C = B + $7,000; Substitute for B to get C = (A + $4,000) + $7,000; A + B + C = $45,000; 3 x A = $45,000 - $15,000 = $30,000; A = $30,000 ÷ 3 = $10,000
795. 1st mortgage interest = $100,000 x .09 = $9,000; 2nd mortgage interest = $50,000 x .08 = $4,000; Total interest = $9,000 + $4,000 = $13,000; Blended rate = $13,000 (Total interest paid) ÷ $150,000 (Total loan amount) = 0.08666, or 8.67%
796. Annual rent income loss = $2,000 x 12 months = $24,000; Lost value = $24,000 (I) ÷ 0.12 (R) = $200,000
797. Total costs without commission = $120,000 (Owner’s net price) + $2,200 (Estimated closing costs) = $122,000; Listing price = $122,200 ÷ 0.94 = $130,000
798. Sale price x 0.07 = $4,599 (Commission), so Sale price = $4,599 ÷ 0.07 = $65,700
799. Annual income = $550 x 52 weeks = $28,600; Affordable price = $28,600 (Annual income) x 2.5 = $71,500
800. Full commission = $85,000 x 0.10 = $8,500; Customary commission (50/50 split) = $8,500 ÷ 2 = $4,250

Q&A Cram Exam 9 Math Solutions

808. One section = 640 acres, so ¼ of a section contains 640 ÷ 4 = 160 acres
864. Loan fee = 8 points x 1/8% per point = 8/8 or 1%; 14% +1% Fee = 15% approximate yield
891. GIM = Comparable sales price ÷ Annual gross income; GIM (1) = $1,200,000 ÷ $171,400 = 7; GIM (2) = $1,520,400 ÷ $202,720 = 7.5; GIM (3) = $1,244,000 ÷ $191,380 = 6.5; GIM (4) = $1,748,800 ÷ $218,600 = 8; Average GIM = (7 + 7.5 + 6.5 + 8) ÷ 4 = 7.25; Estimated value of subject property = 7.25 (GIM) x $169,000 (Income) = $1,225,250
892. Net operating income (NOI) = $150,000 x 0.20 = $30,000; We know that NOI = (PGI – V&C) – OE, so PGI = $30,000 (NOI) + $30,000 (OE) = $60,000; Monthly rent = $60,000 (PGI) ÷ 4 units ÷ 12 months = $1,250
893. NOI = $1,000,000 (EGI) - $700,000 (OE) = $300,000; Value = $300,000 (NOI) ÷ 0.08 (Cap rate) = $3,750,000
894. NOI = $100,000 (PGI) - $51,000 (V&C and OE) = $49,000; Value = $49,000 (NOI) ÷ 0.14 (cap rate) = $350,000
895. Purchase price = 60 ft. x 120 ft. x $2 per sq. ft. x 2 lots = $28,800; Sale price of each lot = 60 front feet x 2 lots x $300 per front ft. = $36,000; Amount made = $36,000 - $28,800 = $7,200; % Profit = $7,200 (Made) + $28,800 (Paid) = 0.25 or 25%
896. Cap rate = $30,000 (NOI) ÷ $200,000 (Value) = 0.15 or 15%
897. Price (3-2) = $450 (Gross monthly rent) x 120 (GRM) = $54,000; Price (3-1) = $400 (Gross monthly rent) x 120 (GRM) = $48,000; Bathroom = $54,000 - $48,000 = $6,000
898. $1,600 = $1000 + (2% x Gross Sales), so ($1,600 - $1,000) = 2% x Gross sales; $600 = .02 x Gross sales; Gross sales = $600 ÷ 0.02 = $30,000
899. Current NOI = $237,000 (PGI) - $50,000 (Taxes + OE + R) = $187,000; Increased tax amount = $30,000 x 1.25 = $37,500; Future NOI = $237,000 (PGI) – $57,500 (Increased taxes + OE + R) = $179,500; Decrease in NOI = $187,000 - $179,500 = $7,500; % reduction = $7,500 ÷ $187,000 = 0.04 or 4%
900. 938 ft. ÷ 4 sides = 234.5 ft. per side; Dimensions = 234.5 ft. by 234.5 ft., which is 54.990.25 sq. ft. (234.5 x 234.5)
Q&A Cram Exam 10 Math Solutions

977. 640 acres ÷ 4 ÷ 4 ÷ 4 ÷ 4 = 2.5 acres

991. Total square feet x .85 = 85,000 square feet; so Total sq. ft. = 85,000 ÷ 0.85 = 100,000 sq. ft.; Tax = 100,000 sq. ft. x $.20 = $20,000

992. 3/8 = 6/16; 6/16 condo + 5/16 townhouse + 5/16 single-family = 16/16 (total); Single-family: 5/16 = 120 acres; So each 1/16 part is 120 ÷ 5 = 24 acres; Total acres = 24 acres x 16 parts = 384 total acres; Sales price = 384 total acres x $20,000 per acre = $7,680,000

993. Paid 80% of value, but sold it for 100%. So, 20% made upon sale. % Profit = 20% Made ÷ 80% Paid = 25%

994. # monthly payments = 30 years x 12 months = 360; Total paid = $40,000 Principal + $86,370.80 Interest = $126,370.80; Monthly payment = $126,370.80 ÷ 360 payments = $351.03

995. 1st year: $80,000 + ($80,000 x 0.05) = $84,000; 2nd year: $84,000 + ($84,000 x 0.05) = $88,200

996. Annual income = $8,500 monthly rent x 12 months = $102,000; Value = $102,000 Income ÷ 0.095 Rate = $1,073,684

997. Annual rent = $1,400 per month x 12 months = $16,800; Price per sq. ft. = $16,800 ÷ 1,400 sq. ft. = $12 per sq. ft.

998. Since the interest is annual, borrower would repay $300 x 7.5% = $22.50 interest at the end of year one; $300 + $22.50 = $322.50 due at end of year one; $22.25 x 11 months = $244.75 already paid; After one year, the total amount due is $322.50 - $244.75 = $77.75.

999. Annual income = $39,000 ÷ 2.5 = $15,600; Earnings needed = $15,600 Annual income ÷ 52 weeks = $300 per week

1000. Annual income = $925 x 12 months = $11,100; Return = $11,100 Annual income ÷ $111,000 Investment = 0.10 or 10
# REAL ESTATE FORMS

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APPLICATION CHECKLIST - IMPORTANT - Submit all items on the checklist below with your application to ensure faster processing.

ALL License Applicants must submit:
- Fee: $83.75. 
  - Make check payable to the Florida Department of Business and Professional Regulation.
- Electronic fingerprints. See Section (e) of Requirements.
- Supporting legal documentation, if necessary. See Section 2)(d)(i-iv) of Instructions.

Sales Associate License Applicants must:
- Present their pre-licensure course certificate to the exam vendor at the time of examination.
- Applicants wishing to claim the pre-licensure course exemption through a four year real estate degree must submit official certified transcripts.

Mutual Recognition Applicants must submit:
- Submit a certification of license history from the state you are claiming mutual recognition from.

Please mail your completed application, documentation and required fee(s) to:
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-0783
State of Florida
Department of Business and Professional Regulation
Florida Real Estate Commission
Application for Sales Associate License
Form # DBPR RE 1

If you have any questions or need assistance in completing this application, please contact the Department of Business and Professional Regulation, Customer Contact Center, at 850.487.1395. For additional information see Instructions at the end of this application.

Section I – Application Type

CHECK ONE OF THE APPLICATION TYPES

Sales Associate License:

☐ Initial Sales Associate (Complete All Sections) [2501/1010]
☐ Mutual Recognition (Complete All Sections) [2501/1011]
* From what state are you requesting?

Section II – Applicant Personal Information

Note: Applicants must provide at least one physical address

PERSONAL INFORMATION

Social Security Number*

FULL LEGAL NAME

Last/Surname

First

Middle

Suffix

Birth Date (MM/DD/YYYY)

Gender

☐ Male  ☐ Female

MAILING ADDRESS

Street Address or P.O. Box

City

State

Zip Code (+4 optional)

County (if Florida address)

Country

CONTACT INFORMATION

Primary Phone Number

Primary E-Mail Address

RESIDENCE ADDRESS (IF DIFFERENT THAN MAILING ADDRESS)

Street Address

City

State

Zip Code (+4 optional)

County (if Florida address)

Country

ADDITIONAL CONTACT INFORMATION (OPTIONAL)

Alternate Phone Number

Fax Number

Alternate Email Address

*Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless specifically required by federal statute. In this instance, Social Security numbers are mandatory pursuant to Title 42 United States Code, Sections 653, 654, and 666(a); and Sections 455.203(9), 409.2577, and 409.2598, Florida Statutes. Social Security numbers must be recorded on all professional and occupational license applications and will be used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations.
Section II – Applicant Personal Information - continued

CURRENT/PRIOR LICENSE INFORMATION
If you currently hold or have previously held a business or professional license/registration in Florida or elsewhere, please list them below (attach additional copies if necessary):

1. License/Registration Type | State | Date (From) | Date (To) | License Number | Name Used
2. License/Registration Type | State | Date (From) | Date (To) | License Number | Name Used
3. License/Registration Type | State | Date (From) | Date (To) | License Number | Name Used

PRIOR NAME INFORMATION
Have you used, been known as, or been called by another name (e.g., maiden name or nickname) or alias other than the name signed to the application? ☐ Yes ☐ No
If your answer is yes, state name or names used below:

Last/Surname | First | Middle | Suffix
Last/Surname | First | Middle | Suffix
Last/Surname | First | Middle | Suffix

Section III – Important Testing Considerations and Accommodations

TESTING CONSIDERATIONS
Are you a high school graduate or the holder of an equivalency certificate? ☐ Yes ☐ No
Do you hold a four year degree in Real Estate from an accredited institution of higher education? ☐ Yes ☐ No
If so, you are exempt from taking the pre-licensure course. Official certified transcripts must be submitted to meet this exemption.
Are you an active member in good standing with the Florida Bar? ☐ Yes ☐ No FL Bar No.: __________
If so, you are exempt from taking the pre-licensure course.

SPECIAL ACCOMMODATIONS FOR TESTING
If you wish to take your examination in Spanish you must make this request when scheduling your exam with the Computer Testing Vendor.
Americans with Disabilities Act (ADA) and Disability Accommodation. In accordance with Chapter 61-11.006, Florida Administrative Code, if you have a disability and you need special assistance with the examination process please call the Bureau of Education and Testing at (850)487-9755 immediately.
## Section IV (a) – Background Questions

| 1. | ☐ Yes (If yes, please complete Section IV (b)) | ☐ No | Have you ever been convicted or found guilty of, or entered a plea of nolo contendere or guilty to, regardless of adjudication, a crime in any jurisdiction, or are you currently under criminal investigation? This question applies to any criminal violation of the laws of any municipality, county, state or nation, including felony, misdemeanor and traffic offenses (but not parking, speeding, inspection, or traffic signal violations), without regard to whether you were placed on probation, had adjudication withheld, were paroled, or pardoned. If you intend to answer "NO" because you believe those records have been expunged or sealed by court order pursuant to Section 943.0585 or 943.059 Florida Statutes, or applicable law of another state, you are responsible for verifying the expungement or sealing prior to answering "NO." YOUR ANSWER TO THIS QUESTION MAY BE CHECKED AGAINST LOCAL, STATE AND FEDERAL RECORDS. FAILURE TO ANSWER THIS QUESTION ACCURATELY MAY RESULT IN THE DENIAL OR REVOCATION OF YOUR LICENSE. IF YOU DO NOT FULLY UNDERSTAND THIS QUESTION, CONSULT WITH AN ATTORNEY OR CONTACT THE DEPARTMENT. |
| 2. | ☐ Yes (If yes, please complete Section IV (c)) | ☐ No | Has any judgment or decree of a court been entered against you in this or any other state, province, district, territory, possession or nation, related to the practice or profession for which you are applying, or is there any such case or investigation pending? |
| 3. | ☐ Yes (If yes, please complete Section IV (c)) | ☐ No | Have you ever had an application for registration, certification, or licensure in Florida or in any other jurisdiction denied, or is there now pending a proceeding or investigation to deny such an application? |
| 4. | ☐ Yes (If yes, please complete Section IV (c)) | ☐ No | Has any license, registration, or permit to practice any regulated profession, occupation, vocation, or business been revoked, annulled, suspended, relinquished, surrendered, or otherwise disciplined in Florida or in any other jurisdiction, or is any such proceeding or investigation now pending? |

If you answered "YES" to any question in questions 1 – 4 above, please refer to Section IV of Instructions for detailed instructions on providing complete explanations, including requirements for submitting supporting legal documents. Please complete Section IV (b) for your response to question 1, and complete Section IV (c) for your response to questions 2, 3 and 4. If you have more offenses to document in Section IV (b), attach additional pages as necessary.

## Section IV (b) – Explanation(s) for Background Question 1

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DBPR RE 1 Sales Associate Application Effective: June 2015 Incorporated by Rule: 61-35.027
## Section IV (b) – Explanation(s) for Background Question 1 – continued

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## Section IV (c) – Explanation(s) for Background Questions 2, 3 and 4

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Reicon Publishing, LLC

Florida Real Estate Sales Associate Pre-License Course
### Section IV (c) – Explanation(s) for Background Questions 2, 3 and 4– continued

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</tbody>
</table>

### Section V – Affirmation by Written Declaration

<table>
<thead>
<tr>
<th>AFFIRMATION BY WRITTEN DECLARATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>I certify that I am empowered to execute this application as required by Section 559.79, Florida Statutes. I understand that my signature on this written declaration has the same legal effect as an oath or affirmation. Under penalties of perjury, I declare that I have read the foregoing application and the facts stated in it are true. I understand that falsification of any material information on this application may result in criminal penalty or administrative action, including a fine, suspension or revocation of the license.</td>
</tr>
<tr>
<td>Signature:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Print Name:</td>
</tr>
</tbody>
</table>
## Closing Disclosure

This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.

### Closing Information

<table>
<thead>
<tr>
<th>Date Issued</th>
<th>Transaction Information</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Borrower</td>
</tr>
<tr>
<td></td>
<td>Seller</td>
</tr>
<tr>
<td></td>
<td>Lender</td>
</tr>
</tbody>
</table>

### Loan Information

<table>
<thead>
<tr>
<th>Loan Term</th>
<th>Purpose</th>
<th>Product</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Loan Type</th>
<th>Conventional</th>
<th>FHA</th>
<th>VA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Loan ID #</th>
<th>MIC #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Loan Terms

<table>
<thead>
<tr>
<th>Can this amount increase after closing?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Monthly Principal &amp; Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>See Projected Payments below for your Estimated Total Monthly Payment</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Does the loan have these features?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Prepayment Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Balloon Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

### Projected Payments

<table>
<thead>
<tr>
<th>Payment Calculation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Principal &amp; Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Mortgage Insurance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Estimated Escrow</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount can increase over time</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Estimated Total Monthly Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>This estimate includes</td>
</tr>
</tbody>
</table>

- Property Taxes
- Homeowner’s Insurance
- Other:
  See Escrow Account on page 4 for details. You must pay for other property costs separately.

<table>
<thead>
<tr>
<th>In escrow?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

### Costs at Closing

<table>
<thead>
<tr>
<th>Closing Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes</td>
</tr>
</tbody>
</table>

- in Loan Costs +
- in Lender Credits. See page 2 for details.

<table>
<thead>
<tr>
<th>Cash to Close</th>
</tr>
</thead>
<tbody>
<tr>
<td>Includes Closing Costs. See Calculating Cash to Close on page 3 for details.</td>
</tr>
</tbody>
</table>
# Closing Cost Details

<table>
<thead>
<tr>
<th>Loan Costs</th>
<th>Borrower-Paid</th>
<th>Seller-Paid</th>
<th>Paid by Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Origination Charges</td>
<td>At Closing</td>
<td>Before Closing</td>
<td>At Closing</td>
</tr>
<tr>
<td>01 % of Loan Amount (Points)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>02</td>
<td></td>
<td></td>
<td></td>
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<td>03</td>
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<tr>
<td>08</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>B. Services Borrower Did Not Shop For</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>02</td>
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<td></td>
<td></td>
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<tr>
<td>08</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>C. Services Borrower Did Shop For</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>01</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>02</td>
<td></td>
<td></td>
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<td>03</td>
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<tr>
<td>08</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>D. TOTAL LOAN COSTS (Borrower-Paid)</td>
<td>Loan Costs Subtotals (A + B + C)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Other Costs

| E. Taxes and Other Government Fees | | | |
| 01 Recording Fees | Deed: Mortgage: | | |
| 02 | | | |
| F. Prepaid | | | |
| 01 Homeowner’s Insurance Premium (mo.) | | | |
| 02 Mortgage Insurance Premium (mo.) | | | |
| 03 Prepaid Interest (per day from to) | | | |
| 04 Property Taxes (mo.) | | | |
| 05 | | | |
| G. Initial Escrow Payment at Closing | | | |
| 01 Homeowner’s Insurance per month for mo. | | | |
| 02 Mortgage Insurance per month for mo. | | | |
| 03 Property Taxes per month for mo. | | | |
| 04 | | | |
| 05 | | | |
| 06 | | | |
| 07 | | | |
| 08 Aggregate Adjustment | | | |
| H. Other | | | |
| 01 | | | |
| 02 | | | |
| 03 | | | |
| 04 | | | |
| 05 | | | |
| 06 | | | |
| 07 | | | |
| 08 | | | |
| I. TOTAL OTHER COSTS (Borrower-Paid) | Other Costs Subtotals (E + F + G + H) | | | |

## J. TOTAL CLOSING COSTS (Borrower-Paid)

| Closing Costs Subtotals (D + I) | Lender Credits | | |

CLOSING DISCLOSURE

PAGE 2 OF 5 - LOAN ID #
### Calculating Cash to Close

Use this table to see what has changed from your Loan Estimate.

<table>
<thead>
<tr>
<th>Loan Estimate</th>
<th>Final</th>
<th>Did this change?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Closing Costs (J)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closing Costs Paid Before Closing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Closing Costs Financed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Paid from your Loan Amount)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Down Payment/Funds from Borrower</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deposit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Funds for Borrower</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Seller Credits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjustments and Other Credits</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Cash to Close</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Summaries of Transactions

Use this table to see a summary of your transaction.

#### BORROWER'S TRANSACTION

<table>
<thead>
<tr>
<th>K. Due from Borrower at Closing</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Sale Price of Property</td>
</tr>
<tr>
<td>02 Sale Price of Any Personal Property Included in Sale</td>
</tr>
<tr>
<td>03 Closing Costs Paid at Closing (J)</td>
</tr>
<tr>
<td>04 Adjustments</td>
</tr>
<tr>
<td>05</td>
</tr>
<tr>
<td>06</td>
</tr>
<tr>
<td>07</td>
</tr>
<tr>
<td>Adjustments for Items Paid by Seller in Advance</td>
</tr>
<tr>
<td>08 City/Town Taxes</td>
</tr>
<tr>
<td>09 County Taxes</td>
</tr>
<tr>
<td>10 Assessments</td>
</tr>
<tr>
<td>11</td>
</tr>
<tr>
<td>12</td>
</tr>
<tr>
<td>13</td>
</tr>
<tr>
<td>14</td>
</tr>
<tr>
<td>15</td>
</tr>
</tbody>
</table>

#### SELLER'S TRANSACTION

<table>
<thead>
<tr>
<th>M. Due to Seller at Closing</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 Sale Price of Property</td>
</tr>
<tr>
<td>02 Sale Price of Any Personal Property Included in Sale</td>
</tr>
<tr>
<td>03 Closing Costs Paid at Closing (J)</td>
</tr>
<tr>
<td>04 Adjustments for Items Paid by Seller in Advance</td>
</tr>
<tr>
<td>09 City/Town Taxes</td>
</tr>
<tr>
<td>10 County Taxes</td>
</tr>
<tr>
<td>11 Assessments</td>
</tr>
<tr>
<td>12</td>
</tr>
<tr>
<td>13</td>
</tr>
<tr>
<td>14</td>
</tr>
<tr>
<td>15</td>
</tr>
<tr>
<td>16</td>
</tr>
</tbody>
</table>

#### L. Paid Already by or on Behalf of Borrower at Closing

| 01 Deposit |           |
| 02 Loan Amount |           |
| 03 Existing Loan(s) Assumed or Taken Subject to |           |
| 04 |           |
| 05 Seller Credit |           |
| Other Credits |           |
| 06 |           |
| 07 |           |
| Adjustments |           |
| 08 |           |
| 09 |           |
| 10 |           |

#### N. Due from Seller at Closing

| 01 Excess Deposit |           |
| 02 Closing Costs Paid at Closing (J) |           |
| 03 Payoff of First Mortgage Loan |           |
| 04 Payoff of Second Mortgage Loan |           |
| 05 |           |
| 07 |           |
| 08 Seller Credit |           |
| 09 |           |
| 10 |           |
| 11 |           |
| 12 |           |
| 13 |           |
| Adjustments for Items Unpaid by Seller |
| 14 City/Town Taxes | to |
| 15 County Taxes | to |
| 16 Assessments | to |
| 17 |           |
| 18 |           |
| 19 |           |

#### CASH TO CLOSE

| 04 City/Town Taxes | to |
| 05 County Taxes | to |
| 06 Assessments | to |
| 07 |           |
| 08 |           |
| 09 |           |
| 10 |           |
| 11 |           |
| 12 |           |
| 13 |           |
| 14 |           |
| 15 |           |
| 16 |           |
| 17 |           |

| 01 From to Borrower |           |
| 02 To Seller |           |

**CALCULATION**

Total Due from Borrower at Closing (K)

Total Paid Already by or on Behalf of Borrower at Closing (L)

**Cash** From **To** Borrower

**Cash** From **To** Seller
Additional Information About This Loan

**Loan Disclosures**

**Assumption**
If you sell or transfer this property to another person, your lender
- will allow, under certain conditions, this person to assume this loan on the original terms.
- will not allow assumption of this loan on the original terms.

**Demand Feature**
Your loan
- has a demand feature, which permits your lender to require early repayment of the loan. You should review your note for details.
- does not have a demand feature.

**Late Payment**
If your payment is more than ___ days late, your lender will charge a late fee of ________.

**Negative Amortization** (Increase in Loan Amount)
Under your loan terms, you
- are scheduled to make monthly payments that do not pay all of the interest due that month. As a result, your loan amount will increase (negatively amortize), and your loan amount will likely become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- may have monthly payments that do not pay all of the interest due that month. If you do, your loan amount will increase (negatively amortize), and, as a result, your loan amount may become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- do not have a negative amortization feature.

**Partial Payments**
Your lender
- may accept payments that are less than the full amount due (partial payments) and apply them to your loan.
- may hold them in a separate account until you pay the rest of the payment, and then apply the full payment to your loan.
- does not accept any partial payments.

If this loan is sold, your new lender may have a different policy.

**Security Interest**
You are granting a security interest in

You may lose the property if you do not make your payments or satisfy other obligations for this loan.

**Escrow Account**

For now, your loan
- will have an escrow account (also called an "impound" or "trust" account) to pay the property costs listed below. Without an escrow account, you would pay them directly, possibly in one or two large payments a year. Your lender may be liable for penalties and interest for failing to make a payment.

<table>
<thead>
<tr>
<th>Escrow Account</th>
<th>Estimated total amount over year 1 for your escrowed property costs:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Escrowed Property Costs over Year 1</td>
<td>Estimated total amount over year 1 for your escrowed property costs:</td>
</tr>
<tr>
<td>Non-Escrowed Property Costs over Year 1</td>
<td>Estimated total amount over year 1 for your non-escrowed property costs:</td>
</tr>
<tr>
<td>Initial Escrow Payment</td>
<td>A cushion for the escrow account you pay at closing. See Section G on page 2.</td>
</tr>
<tr>
<td>Monthly Escrow Payment</td>
<td>The amount included in your total monthly payment.</td>
</tr>
</tbody>
</table>

- will not have an escrow account because you declined it. Your lender does not offer one. You must directly pay your property costs, such as taxes and homeowner's insurance. Contact your lender to ask if your loan can have an escrow account.

**No Escrow**

<table>
<thead>
<tr>
<th>Estimated Property Costs over Year 1</th>
<th>Estimated total amount over year 1. You must pay these costs directly, possibly in one or two large payments a year.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Escrow Waiver Fee</td>
<td>Estimated total amount over year 1. You must pay these costs directly, possibly in one or two large payments a year.</td>
</tr>
</tbody>
</table>

**In the future,**
Your property costs may change and, as a result, your escrow payment may change. You may be able to cancel your escrow account, but if you do, you must pay your property costs directly. If you fail to pay your property taxes, your state or local government may (1) impose fines and penalties or (2) place a tax lien on this property. If you fail to pay any of your property costs, your lender may (1) add the amounts to your loan balance, (2) add an escrow account to your loan, or (3) require you to pay for property insurance that the lender buys on your behalf, which likely would cost more and provide fewer benefits than what you could buy on your own.
Loan Calculations

Total of Payments. Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.

Finance Charge. The dollar amount the loan will cost you.

Amount Financed. The loan amount available after paying your upfront finance charge.

Annual Percentage Rate (APR). Your costs over the loan term expressed as a rate. This is not your interest rate.

Total Interest Percentage (TIP). The total amount of interest that you will pay over the loan term as a percentage of your loan amount.

Questions? If you have questions about the loan terms or costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at www.consumerfinance.gov/mortgage-closing

Other Disclosures

Appraisal
If the property was appraised for your loan, your lender is required to give you a copy at no additional cost at least 3 days before closing. If you have not yet received it, please contact your lender at the information listed below.

Contract Details
See your note and security instrument for information about:
- what happens if you fail to make your payments,
- what is a default on the loan,
- situations in which your lender can require early repayment of the loan, and
- the rules for making payments before they are due.

Liability after Foreclosure
If your lender forecloses on this property and the foreclosure does not cover the amount of unpaid balance on this loan,

☐ state law may protect you from liability for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.

☐ state law does not protect you from liability for the unpaid balance.

Refinancing
Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.

Tax Deductions
If you borrow more than this property is worth, the interest on the loan amount above this property's fair market value is not deductible from your federal income taxes. You should consult a tax advisor for more information.

Contact Information

<table>
<thead>
<tr>
<th>Name</th>
<th>Lender</th>
<th>Mortgage Broker</th>
<th>Real Estate Broker (B)</th>
<th>Real Estate Broker (S)</th>
<th>Settlement Agent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Address</td>
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<tr>
<td>NMLS ID</td>
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<tr>
<td>License ID</td>
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<tr>
<td>Contact</td>
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<tr>
<td>Contact NMLS ID</td>
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<tr>
<td>Contact License ID</td>
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<tr>
<td>Email</td>
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<tr>
<td>Phone</td>
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</tr>
</tbody>
</table>

Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature Date Co-Applicant Signature Date

CLOSING DISCLOSURE

PAGE 5 OF 5 • LOAN ID #
Exclusive Buyer Brokerage Agreement

1. PARTIES: ___________________________________________ ("Buyer") grants Real Estate Broker _________________________________ / _________________________________ Office _________________________________ ("Broker") the exclusive right to work with and assist Buyer in locating and negotiating the acquisition of suitable real property as described below. The term “acquire” or “acquisition” includes any purchase, option, exchange, lease or other acquisition of an ownership or equity interest in real property.

2. TERM: This Agreement will begin on the ______ day of ______, _______ and will terminate at 11:59 p.m. on the ______ day of ______, _______ ("Termination Date"). However, if Buyer enters into an agreement to acquire property that is pending on the Termination Date, this Agreement will continue in effect until that transaction has closed or otherwise terminated.

3. PROPERTY: Buyer is interested in acquiring real property as follows or as otherwise acceptable to Buyer ("Property"):  
   (a) Type of property: ____________________________________________
   (b) Location: ____________________________________________
   (c) Price range: $ ______ to $ ______
      □ Buyer has been □ pre-qualified □ pre-approved by _________________________________ for (amount and terms, if any) _________________________________
   (d) Preferred terms and conditions: _________________________________

4. BROKER’S OBLIGATIONS:  
   (a) Broker Assistance. Broker will
      * use Broker’s professional knowledge and skills;
      * assist Buyer in determining Buyer’s financial capability and financing options;
      * discuss property requirements and assist Buyer in locating and viewing suitable properties;
      * assist Buyer to contract for property, monitor deadlines and close any resulting transaction;
      * cooperate with real estate licensees working with the seller, if any, to affect a transaction. Buyer understands that even if Broker is compensated by a seller or a real estate licensee who is working with a seller, such compensation does not compromise Broker’s duties to Buyer.
   
   (b) Other Buyers. Buyer understands that Broker may work with other prospective buyers who want to acquire the same property as Buyer. If Broker submits offers by competing buyers, Broker will notify Buyer that a competing offer has been made, but will not disclose any of the offer’s material terms or conditions. Buyer agrees that Broker may make competing buyers aware of the existence of any offer Buyer makes, so long as Broker does not reveal any material terms or conditions of the offer without Buyer’s prior written consent.
   
   (c) Fair Housing. Broker adheres to the principles expressed in the Fair Housing Act and will not participate in any act that unlawfully discriminates on the basis of race, color, religion, sex, handicap, familial status, country of national origin or any other category protected under federal, state or local law.
   
   (d) Service Providers. Broker does not warrant or guarantee products or services provided by any third party whom Broker, at Buyer’s request, refers or recommends to Buyer in connection with property acquisition.

Buyer (______) (______) and Broker/Sales Associate (______) (______) acknowledge receipt of a copy of this page, which is Page 1 of 4 Pages.
5. **BUYER’S OBLIGATIONS:** Buyer agrees to cooperate with Broker in accomplishing the objectives of this Agreement, including:

(a) Conducting all negotiations and efforts to locate suitable property only through Broker and referring to Broker all inquiries of any kind from real estate licensees, property owners or any other source. If Buyer contacts or is contacted by a seller or a real estate licensee who is working with a seller or views a property unaccompanied by Broker, Buyer, will, at first opportunity, advise the seller or real estate licensee that Buyer is working with and represented exclusively by Broker.

(b) Providing Broker with accurate personal and financial information requested by Broker in connection with ensuring Buyer’s ability to acquire property. Buyer authorizes Broker to run a credit check to verify Buyer’s credit information.

(c) Being available to meet with Broker at reasonable times for consultations and to view properties.

(d) Indemnifying and holding Broker harmless from and against all losses, damages, costs and expenses of any kind, including attorney’s fees, and from liability to any person, that Broker incurs because of acting on Buyer’s behalf.

(e) Not asking or expecting to restrict the acquisition of a property according to race, color, religion, sex, handicap, familial status, or national origin by any other category protected under federal, state or local law.

(f) Consulting an appropriate professional for legal, tax, environmental, engineering, foreign reporting requirements and other specialized advice.

6. **RETAILER:** Upon final execution of this Agreement, Buyer will pay to Broker a non-refundable retainer fee of $__________ for Broker’s services (“Retainer”). This fee is not refundable and will not be credited to Buyer if compensation is earned by Broker as specified in this Agreement.

7. **COMPENSATION:** Broker’s compensation is earned when, during the term of this Agreement or any renewal or extension, Buyer or any person acting for or on behalf of Buyer contracts to acquire real property as specified in this Agreement. Buyer will be responsible for paying Broker the amount specified below plus any applicable taxes but will be credited with any amount which Broker receives from a seller or a real estate licensee who is working with a seller.

   (a) Purchase or exchange: $__________ or _______% (select only one); or $__________ or _______% plus $__________ (select only one) of the total purchase price or other consideration for the acquired property, to be paid at closing.

   (b) Lease: $__________ or _______% (select only one); or $__________ or _______% plus $__________ (select only one) of the gross lease value, to be paid when Buyer enters into the lease. If Buyer enters into a lease-purchase agreement, the amount of the lease fee which Broker receives will be credited toward the amount due Broker for the purchase.

   (c) Option: Broker will be paid $__________ or _______% of the option amount (select only one), to be paid when Buyer enters into the option agreement. If Buyer enters into a lease with option to purchase, Broker will be compensated for both the lease and the option. If Buyer subsequently exercises the option, the amounts received by Broker for the lease and option will be credited toward the amount due Broker for the purchase.

   (d) Other: Broker will be compensated for all other types of acquisitions as if such acquisition were a purchase or exchange.

   (e) Buyer Default: Buyer will pay Broker’s compensation immediately upon Buyer’s default on any contract to acquire property.

8. **PROTECTION PERIOD:** Buyer will pay Broker’s compensation if, within _______ days after Termination Date, Buyer contracts to acquire any property which was called to Buyer’s attention by Broker or any other person or found by Buyer during the term of this Agreement. Buyer’s obligation to pay Broker’s fee ceases upon Buyer entering into a good faith exclusive buyer brokerage agreement with another broker after Termination Date.

9. **EARLY TERMINATION:** Buyer may terminate this Agreement at any time by written notice to Broker but will remain responsible for paying Broker’s compensation if, from the early termination date to Termination Date plus Protection Period, if applicable, Buyer contracts to acquire any property which, prior to the early termination date, was found by Buyer or called to Buyer’s attention by Broker or any other person. Broker may terminate this Agreement at any time by written notice to Buyer, in which event Buyer will be released from all further obligations under this Agreement.

10. **DISPUTE RESOLUTION:** Any unresolved dispute between Buyer and Broker will be mediated. If a settlement is not reached in mediation, the matter will be submitted to binding arbitration in accordance with the rules of the American Arbitration Association or other mutually agreeable arbitrator.

11. **ASSIGNMENT; PERSONS BOUND:** Broker may assign this Agreement to another broker. This Agreement will bind and inure to Broker’s and Buyer’s heirs, personal representatives, successors and assigns.

Buyer (_____) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 2 of 4 Pages.
12. BROKERAGE RELATIONSHIP:

SINGLE AGENT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS SINGLE AGENTS DISCLOSE TO BUYERS AND SELLERS THEIR DUTIES.

As a single agent, __________________________ and its associates owe to you the following duties:

1. Dealing honestly and fairly;
2. Loyalty;
3. Confidentiality;
4. Obedience;
5. Full Disclosure;
6. Accounting for all funds;
7. Skill, care, and diligence in the transaction;
8. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing; and
9. Disclosing all known facts that materially affect the value of the residential real property and are not readily observable.

__________________________
Signature

__________________________
Date

Signature

Date

CONSENT TO TRANSITION TO TRANSACTION BROKER

FLORIDA LAW ALLOWS REAL ESTATE LICENSEES WHO REPRESENT A BUYER OR SELLER AS A SINGLE AGENT TO CHANGE FROM SINGLE AGENT RELATIONSHIP TO A TRANSACTION BROKERAGE RELATIONSHIP IN ORDER FOR THE LICENSEE TO ASSIST BOTH PARTIES IN A REAL ESTATE TRANSACTION BY PROVIDING A LIMITED FORM OF REPRESENTATION TO BOTH THE BUYER AND THE SELLER. THIS CHANGE IN RELATIONSHIP CANNOT OCCUR WITHOUT YOUR PRIOR WRITTEN CONSENT.

As a transaction broker, __________________________ and its associates, provides to you a limited form of representation that includes the following duties:

1. Dealing honestly and fairly;
2. Accounting for all funds;
3. Using skill, care, and diligence in the transaction;
4. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer;
5. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing;
6. Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or any other information requested by a party to remain confidential; and
7. Any additional duties that are entered into by this or by separate agreement

Limited representation means that a buyer or seller is not responsible for the acts of the licensee. Additionally, parties are giving up their rights to the undivided loyalty of the licensee. This aspect of limited representation allows a licensee to facilitate a real estate transaction by assisting both the buyer and the seller, but a licensee will not work to represent one party to the detriment of the other party when acting as a transaction broker to both parties.

Buyer (_____) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 3 of 4 Pages.
I agree that my agent may assume the role and duties of a transaction broker.

Signature ___________________________ Date ____________

Signature ___________________________ Date ____________

13. SPECIAL CLAUSES: ____________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________
_______________________________________________________________________________

14. ACKNOWLEDGMENT; MODIFICATIONS: Buyer has read this Agreement and understands its contents. This Agreement cannot be changed except by written agreement signed by both parties.

Date: ____________ Buyer: ___________________________ Tax ID No: _______________________
Address: __________________________________ Phone: _____________________________
Zip: ____________ Telephone: ______________________ Facsimile: _______________________

Date: ____________ Buyer: ___________________________ Tax ID No: _______________________
Address: __________________________________ Phone: _____________________________
Zip: ____________ Telephone: ______________________ Facsimile: _______________________

Date: ____________ Real Estate Associate: ______________________

Date: ____________ Real Estate Broker: ______________________
Exclusive Right of Sale Listing Agreement

This Exclusive Right of Sale Listing Agreement ("Agreement") is between

______________________________ ("Seller")

and ____________________________ ("Broker").

1. Authority to Sell Property: Seller gives Broker the EXCLUSIVE RIGHT TO SELL the real and personal property (collectively "Property") described below, at the price and terms described below, beginning and terminating at 11:59 p.m. on ____________________ ("Termination Date"). Upon full execution of a contract for sale and purchase of the Property, all rights and obligations of this Agreement will automatically extend through the date of the actual closing of the sales contract. Seller and Broker acknowledge that this Agreement does not guarantee a sale. This Property will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national origin, or any other factor protected by federal, state, or local law. Seller certifies and represents that she/he/it is legally entitled to convey the Property and all improvements.

2. Description of Property:
   (a) Street Address: ____________________________
   (b) Personal Property, including appliances: ____________________________ See Attachment __________________
   (c) Occupancy: Property is ____________________________ is not currently occupied by a tenant. If occupied, the lease term expires ____________________

3. Price and Terms: The property is offered for sale on the following terms or on other terms acceptable to Seller:
   (a) Price: $___________________________
   (b) Financing Terms: ____________________________
   (c) Seller Expenses: __________________

4. Broker Obligations: Broker agrees to make diligent and continued efforts to sell the Property in accordance with this Agreement until a sales contract is pending on the Property.

5. Multiple Listing Service: Placing the Property in a multiple listing service (the "MLS") is beneficial to Seller because the Property will be exposed to a large number of potential buyers. As a MLS participant, Broker is obligated to enter the Property into the MLS within one (1) business day of marketing the Property to the public (see Paragraph 6(a)) or as necessary to comply with local MLS rule(s). This listing will be published accordingly in the MLS unless Seller directs Broker otherwise in writing. (See paragraph 6(b)(i)). Seller authorizes Broker to report to the MLS this listing information and price, terms, and financing information on any resulting sale for use by authorized Board / Association members and MLS participants and subscribers unless Seller directs Broker otherwise in writing.

Seller (______) (______) and Broker/Sales Associate (______) (______) acknowledge receipt of a copy of this page, which is Page 1 of 4.
6. Broker Authority: **Seller** authorizes **Broker** to:

(a) Market the Property to the Public (unless limited in Paragraph 6(b)(i) below):

(i) Public marketing includes, but is not limited to, flyers, yard signs, digital marketing on public facing websites, brokerage website displays (i.e. IDX or VOW), email blasts, multi-brokerage listing sharing networks and applications available to the general public.

(ii) Public marketing also includes marketing the Property to real estate agents outside **Broker's** office.

(iii) Place appropriate transaction signs on the Property, except if Paragraph 6(b)(i) is checked below.

(iv) Use **Seller's** name in connection with marketing or advertising the Property.

(b) Not Publicly Market to the Public/Seller Opt-Out:

(i) ☐ **Seller** does not authorize **Broker** to display the Property on the MLS.

(ii) **Seller** understands and acknowledges that if **Seller** checks option 6(b)(i), a For Sale sign will not be placed upon the Property and

(iii) **Seller** understands and acknowledges that if **Seller** checks option 6(b)(i), **Broker will be limited to** marketing the Property only to agents within **Broker's** office.

(c) Obtain information relating to the present mortgage(s) on the Property.

(d) Provide objective comparative market analysis information to potential buyers.

(e) (Check if applicable) ☐ Use a lock box system to show and access the Property. A lock box does not ensure the Property's security. **Seller** is advised to secure or remove valuables. **Seller** agrees that the lock box is for **Seller's** benefit and releases **Broker**, persons working through **Broker**, and **Broker's** local Realtor Board / Association from all liability and responsibility in connection with any damage or loss that occurs.

(f) Withhold verbal offers. Withhold all offers once **Broker** orally presents an acceptable offer of purchase.

(g) Virtual Office Websites: Some real estate brokerages offer real estate brokerage services online. These websites are referred to as Virtual Office Websites ("VOWs"). An automated estimate of market value or reviews and comments about a property may be displayed in conjunction with a property on some VOWs. Anyone who registers on a VOW may gain access to such automated valuations or comments and reviews about any property displayed on a VOW. Unless limited below, a VOW may display automated valuations or comments and reviews about this Property.

(☐) **Seller** does not authorize an automated estimate of the market value of the listing (or a hyperlink to such estimate) to be displayed in immediate conjunction with the listing of this Property.

(☐) **Seller** does not authorize third parties to write comments or reviews about the listing of the Property (or display a hyperlink to such comments or reviews) in immediate conjunction with the listing of this Property.

7. Seller Obligations: In consideration of **Broker's** obligations, **Seller** agrees to:

(a) Cooperate with **Broker** in carrying out the purpose of this Agreement, including referring immediately to **Broker** all inquiries regarding the Property's transfer, whether by purchase or any other means of transfer.

(b) Recognize **Broker** may be subject to additional MLS obligations and potential penalties for failure to comply with them.

(c) Provide **Broker** with keys to the Property and make the Property available for **Broker** to show during reasonable times.

(d) Inform **Broker** before leasing, mortgaging, or otherwise encumbering the Property.

(e) Indemnify **Broker** and hold **Broker** harmless from losses, damages, costs, and expenses of any nature, including attorney’s fees, and from liability to any person, that **Broker** incurs because of (1) **Seller’s** negligence, representations, misrepresentations, actions, or inactions; (2) the use of a lock box; (3) the existence of undiscovered material facts about the Property; or (4) a court or arbitration decision that a broker who was not compensated in connection with a transaction is entitled to compensation from **Broker**. This clause will survive **Broker’s** performance and the transfer of title.

(f) Perform any act reasonably necessary to comply with FIRPTA (Section 1445 of the Internal Revenue Code).

(g) Make all legally required disclosures, including all facts that materially affect the Property's value and are not readily observable or known by the buyer. **Seller** certifies and represents that **Seller** knows of no such material facts (local government building code violations, unobservable defects, etc.) other than the following:

(h) Consult appropriate professionals for related legal, tax, property condition, environmental, foreign reporting requirements, and other specialized advice.
8. **Compensation:** Seller will compensate Broker as specified below for procuring a buyer who is ready, willing, and able to purchase the Property or any interest in the Property on the terms acceptable to Seller. Seller will pay Broker as follows (plus applicable sales tax):

(a) __________% of the total purchase price plus $___________ OR $___________, no later than the date of closing specified in the sales contract. However, closing is not a prerequisite for Broker's fee being earned.

(b) __________ ($ or %) of the consideration paid for an option, at the time an option is created. If the option is exercised, Seller will pay Broker the Paragraph 8(a) fee, less the amount Broker received under this subparagraph.

(c) __________ ($ or %) of gross lease value as a leasing fee, on the date Seller enters into a lease or agreement to lease, whichever is earlier. This fee is due if the Property is or becomes the subject of a contract granting an exclusive right to lease the Property.

(d) Broker's fee is due in the following circumstances: (1) If any interest in the Property is transferred, whether by sale, lease, exchange, governmental action, bankruptcy, or any other means of transfer, regardless of whether the buyer is secured by Seller, Broker, or any other person. (2) If Seller refuses or fails to sign an offer at the price and terms stated in this Agreement, defaults on an executed sales contract, or agrees with a buyer to cancel an executed sales contract. (3) If, within _____ days after Termination Date ("Protection Period"), Seller transfers or contracts to transfer the Property or any interest in the Property to any prospects with whom Seller, Broker, or any real estate licensee communicated regarding the Property before Termination Date.

However, no fee will be due Broker if the Property is relisted after Termination Date and sold through another broker.

(e) **Retained Deposits:** As consideration for Broker's services, Broker is entitled to receive __________% (%50% if left blank) of all deposits that Seller retains as liquidated damages for a buyer's default in a transaction, not to exceed the Paragraph 8(a) fee.

9. **Cooperation with and Compensation to Other Brokers: Notice to Seller:** The buyer's broker, even if compensated by Seller or Broker, may represent the interests of the buyer. Broker's office policy is to cooperate with all other brokers except when not in Seller's best interest and to offer compensation in the amount of:

- [ ] __________% of the purchase price or $___________ to a single agent for the buyer; or
- [ ] __________% of the purchase price or $___________ to a transaction broker for the buyer; and
- [ ] __________% of the purchase price or $___________ to a broker who has no brokerage relationship with the buyer.

None of the above. (If this is checked, the Property cannot be placed in the MLS.)

10. **Brokerage Relationship:** Broker will act as a transaction broker. Broker will deal honestly and fairly; will account for all funds; will use skill, care, and diligence in the transaction; will disclose all known facts that materially affect the value of the residential property which are not readily observable to the buyer; will present all offers and counteroffers in a timely manner unless directed otherwise in writing; and will have limited confidentiality with Seller unless waived in writing.

11. **Conditional Termination:** At Seller's request, Broker may agree to conditionally terminate this Agreement. If Broker agrees to conditional termination, Seller must sign a withdrawal agreement, reimburse Broker for all direct expenses incurred in marketing the Property, and pay a cancellation fee of $___________, plus applicable sales tax. Broker may void the conditional termination, and Seller will pay the fee stated in Paragraph 8(a) less the cancellation fee if Seller transfers or contracts to transfer the Property or any interest in the Property during the time period from the date of conditional termination to Termination Date and Protection Period, if applicable.

12. **Dispute Resolution:** This Agreement will be construed under Florida law. All controversies, claims, and other matters in question between the parties arising out of or relating to this Agreement or the breach thereof will be settled by first attempting mediation under the rules of the American Mediation Association or other mediator agreed upon by the parties. If litigation arises out of this Agreement, the prevailing party will be entitled to recover reasonable attorney's fees and costs, unless the parties agree that disputes will be settled by arbitration as follows:

- **Arbitration:** By initialing in the space provided, Seller (____) (___), Sales Associate (____), and Broker (____) agree that disputes not resolved by mediation will be settled by neutral binding arbitration in the county in which the Property is located in accordance with the rules of the American Arbitration Association or other arbitrator agreed upon by the parties. Each party to any arbitration (or litigation to enforce the arbitration provision of this Agreement or an arbitration award) will pay its own fees, costs, and expenses, including attorney's fees, and will equally split the arbitrator's fees and administrative fees of arbitration.

13. **Miscellaneous:** This Agreement is binding on Seller's and Broker's heirs, personal representatives, administrators, successors, and assigns. Broker may assign this Agreement to another listing office. This
Agreement is the entire agreement between Seller and Broker. No prior or present agreements or representations will be binding on Seller or Broker unless included in this Agreement. Electronic signatures are acceptable and will be binding. Signatures, initials, and modifications communicated by facsimile will be considered as originals. The term "buyer" as used in this Agreement includes buyers, tenants, exchangors, optionees, and other categories of potential or actual transferees.

14. Additional Terms: ____________________________________________________________

Seller's Signature: ___________________________ Date: ___________________________

Home Telephone: ___________________________ Work Telephone: ___________________________ Facsimile: ___________________________

Address: ____________________________________________________________

Email Address: ___________________________

Seller's Signature: ___________________________ Date: ___________________________

Home Telephone: ___________________________ Work Telephone: ___________________________ Facsimile: ___________________________

Address: ____________________________________________________________

Email Address: ___________________________

Authorized Sales Associate or Broker: ___________________________ Date: ___________________________

Brokerage Firm Name: ___________________________ Telephone: ___________________________

Address: ____________________________________________________________

Copy returned to Seller on ___________________________ by ☐ email ☐ facsimile ☐ mail ☐ personal delivery.

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Seller (______) (______) and Broker/Sales Associate (______) (______) acknowledge receipt of a copy of this page, which is Page 4 of 4.
After Recording Return To:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

[Space Above This Line For Recording Data]

MORTGAGE

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) “Security Instrument” means this document, which is dated _________________________ together with all Riders to this document.

(B) “Borrower” is _________________________ Borrower is the mortgagor under this Security Instrument.

(C) “Lender” is _________________________ Lender is a rehabilitated housing lender organized and existing under the laws of _________________________.

Lender is the mortgagee under this Security Instrument.

(D) “Note” means the promissory note signed by Borrower and dated _________________________.

The Note states that Borrower owes Lender _________________________ Dollars (U.S. $____________________) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than ________________________.

(E) “Property” means the property that is described below under the heading “Transfer of Rights in the Property.”

(F) “Loan” means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(G) “Riders” means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Condominium Rider
- Biweekly Payment Rider
- Balloon Rider
- Planned Unit Development Rider
- 1-4 Family Rider
- Other(s) [specify] _______________

(H) “Applicable Law” means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(I) “Community Association Dues, Fees, and Assessments” means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(J) “Electronic Funds Transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(K) “Escrow Items” means those items that are described in Section 3.

(L) “Miscellaneous Proceeds” means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(M) “Mortgage Insurance” means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(N) “Periodic Payment” means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) “RESPA” means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, “RESPA” refers to all requirements and restrictions that are imposed in regard to a “federally related mortgage loan” even if the Loan does not qualify as a “federally related mortgage loan” under RESPA.

(P) “Successor in Interest of Borrower” means any party that has taken title to the Property, whether or not that party has assumed Borrower’s obligations under the Note and/or this Security Instrument.
TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of
the Note; and (ii) the performance of Borrower’s covenants and agreements under this Security Instrument and the Note. For
this purpose, Borrower does hereby mortgage, grant, and convey to Lender, the following described property located in the
of

[Type of Recording Jurisdiction]  [Name of Recording Jurisdiction]

which currently has the address of __________________________, Florida, ______________________ ("Property Address"): __________________________, Florida, ______________________

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and
fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security
Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to mortgage,
grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants
and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited
variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges. Borrower shall pay
when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due
under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this
Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as
payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all
subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as
selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer’s check or cashier’s check, provided
any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d)
Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other
location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any
payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept
any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its
rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time
such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay
interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current.
If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower.
If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to
foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from
making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by
this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and
applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the
Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this
Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to
pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one
Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic
Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is
applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary
prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall
not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until
the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other
items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments
or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called “Escrow Items.” At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower’s obligation to pay to Lender Funds for any or all Escrow Items. Lender may waive Borrower’s obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower’s obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase “covenant and agreement” is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 4.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due from the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds.

Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA. If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender’s opinion operate to prevent the enforcement of the lien while such proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term “extended coverage,” and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender’s right to disapprove Borrower’s choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification, and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender’s option and Borrower’s expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower. Borrower’s equity in the
Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Lender obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Borrower otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's action(s) can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument.
Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender’s requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower’s obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of the agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or may be characterized as) a portion of Borrower’s payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer’s risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer’s risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed “captive reinsurance.” Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender’s security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender’s satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender’s security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and
Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. “Opposing Party” means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, has begun that, in Lender’s judgment, could result in forfeiture of the Property or other material impairment of Lender’s interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender’s judgment, precludes forfeiture of the Property or other material impairment of Lender’s interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender’s interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender’s acceptance of payments from third persons, entities or Successors in interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower’s obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a “co-signer”): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer’s interest in the Property under the terms of this Security Instrument, (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer’s consent. Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower’s obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower’s rights and benefits under this Security Instrument. Borrower shall not be released from Borrower’s obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 2) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower’s default, for the purpose of protecting Lender’s interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys’ fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces the principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower’s acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower’s notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower’s change of address. If Lender specifies a procedure for reporting Borrower’s change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender’s address stated herein unless Lender has designated another address by notice to Borrower.
Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender’s prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay those sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstatement After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument.

Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys’ fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender’s interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower’s obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer’s check or cashier’s check; provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and pays those sums to the holder of the Loan or the holder of the Loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer or servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party’s actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) “Hazardous Substances” are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos.
or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower’s breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys’ fees and costs of title evidence.

23. Release. Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

24. Attorneys’ Fees. As used in this Security Instrument and the Note, attorneys’ fees shall include those awarded by an appellate court and any attorneys’ fees incurred in a bankruptcy proceeding.

25. Jury Trial Waiver. The Borrower hereby waives any right to a trial by jury in any action, proceeding, claim, or counterclaim, whether in contract or tort, at law or in equity, arising out of or in any way related to this Security Instrument or the Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Signed, sealed, and delivered in the presence of:

_________________________________ ___________________________________ (Seal)
- Borrower

_________________________________ [Space Below This Line For Acknowledgment](Seal)
- Borrower

____________________
- Borrower

Signed, sealed, and delivered in the presence of:
NOTE

[Date] [City] [State]

[Property Address]

1. **BORROWER’S PROMISE TO PAY**

In return for a loan that I have received, I promise to pay U.S. $____________________________ (this amount is called “Principal”), plus interest, to the order of the Lender. The Lender is _______________________________. I will make all payments under this Note in the form of cash, check, or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the “Note Holder.”

2. **INTEREST**

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of %. The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. **PAYMENTS**

(A) **Time and Place of Payments**

I will pay principal and interest by making a payment every month. I will make my monthly payment on the __________ day of each month beginning on __________ or at a different place if required by the Note Holder.

(B) **Amount of Monthly Payments**

My monthly payment will be in the amount of U.S. $________________________.

4. **BORROWER’S RIGHT TO PREPAY**

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a “Prepayment.” When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

I may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due date or in the amount of my monthly payment unless the Note Holder agrees in writing to those changes.

5. **LOAN CHARGES**

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

6. **BORROWER’S FAILURE TO PAY AS REQUIRED**

(A) **Late Charge for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of __________ calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be __________% of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) **Default**

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.
(C) Notice of Default
If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder
Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses
If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES
Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE
If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety, or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS
I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. UNIFORM SECURED NOTE
This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

11. DOCUMENTARY TAX
The state documentary tax due on this Note has been paid on the mortgage securing this indebtedness.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

________________________________________ (Seal)
- Borrower

________________________________________ (Seal)
- Borrower

[Sign Original Only]
QUITCLAIM DEED

THIS QUITCLAIM DEED, Executed this ____ day of ______________, 20____, by first party_________________________________________________ whose post office address is______________________________________________ to second party,_______________________________________________________ whose post office address is______________________________________________.

WITNESSETH, That the said first party, for good consideration and for the sum of $_______________ paid by the said party, the receipt whereof is hereby acknowledged, does hereby remise, release and quitclaim unto the said second party forever, all the right, title, interest and claim which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of_____________________, State of_______________, to wit:

IN WITNESS WHEREOF, The said first party has signed and sealed these presents the day and year first above written.

Signed, sealed, and delivered in presence of:

Witness   First Party
Witness   Second Party

STATE OF ___________________
COUNTY OF _________________

On __________________________ before me, __________________________, personally appeared, __________________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature_______________________

Affiant _____Known _____Unknown

ID Produced______________________

(Seal)
Residential Contract For Sale And Purchase

1. PARTIES:
   - ____________________________ (“Seller”),
   - ____________________________ (“Buyer”),

agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property (collectively "Property") pursuant to the terms and conditions of this Residential Contract For Sale And Purchase and any riders and addenda ("Contract"):  

2. PROPERTY DESCRIPTION:
   - (a) Street address, city, zip: 
   - (b) Located in: __________ County, Florida. Property Tax ID #: 
   - (c) Real Property: The legal description is
     __________________________________________________________________________________________________
     together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded in Paragraph 1(e) or by other terms of this Contract.
   - (d) Personal Property: Unless excluded in Paragraph 1(e) or by other terms of this Contract, the following items which are owned by Seller and existing on the Property as of the date of the initial offer are included in the purchase: range(s)/oven(s), refrigerator(s), dishwasher(s), disposal, ceiling fan(s) interroom, light fixture(s), drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), security gate and other access devices, and storm shutters/panels ("Personal Property").
   - (e) The following items are included in the Purchase Price, has no contributory value, and shall be left for the Buyer.
     __________________________________________________________________________________________________

3. PURCHASE PRICE AND CLOSING
   - (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) ...... $
     The initial deposit made payable and delivered to "Escrow Agent" named below
     (CHECK ONE): (i) accompanics offer or (ii) is to be made within _____ (if left blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN OPTION (ii) SHALL BE DEEMED SELECTED.
     - Escrow Agent Information: Name: ______________________________________________
     - Address: ____________________________________________ Phone: ______________________
     - E-mail: ____________________________________________ Fax: ______________________
     - (b) Additional deposit to be delivered to Escrow Agent within ______ days after Effective Date (if left blank, then 10)
     (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")
     - (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8 ......
     - (d) Other: ____________________________________________
     - (e) Balance to close (not including Buyer’s closing costs, prepaids and prorations) by wire transfer or other COLECTED funds ........................................................................................................................................ $

   NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.

4. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:
   - (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before
     _________________, this offer shall be deemed withdrawn and the Deposit, if any, shall be returned to Buyer. Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day the counter-offer is delivered.
   - (b) The effective date of this Contract shall be the date when the last one of the Buyer and Seller has signed or initiated and delivered this offer or final counter-offer ("Effective Date").

5. CLOSING DATE: Unless modified by other provisions of this Contract, the closing of this transaction shall occur and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered ("Closing") on _________________ ("Closing Date"), at the time established by the Closing Agent.
5. EXTENSION OF CLOSING DATE:
(a) If Paragraph 8(b) is checked and Closing funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements ("CFPB Requirements"), then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such period shall not exceed 10 days.
(b) If an event constituting "Force Majeure" causes services essential for Closing to be unavailable, including the unavailability of utilities or issuance of hazard, wind, flood or homeowners' insurance, Closing Date shall be extended as provided in STANDARD G.

6. OCCUPANCY AND POSSESSION:
(a) Unless the box in Paragraph 6(b) is checked, Seller shall, at Closing, deliver occupancy and possession of the Property to Buyer free of tenants, occupants and future tenancies. Also, at Closing, Seller shall have removed all personal items and trash from the Property and shall deliver all keys, garage door openers, access devices and codes, as applicable, to Buyer. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to the Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted the Property in its existing condition as of time of taking occupancy, except with respect to any items identified by Buyer pursuant to Paragraph 12, prior to taking occupancy, which require repair, replacement, treatment or remedy.
(b) □ CHECK IF PROPERTY IS SUBJECT TO LEASE(S) OR OCCUPANCY AFTER CLOSING. If Property is subject to a lease(s) after Closing or is intended to be rented or occupied by third parties beyond Closing, the facts and terms thereof shall be disclosed in writing by Seller to Buyer and copies of the written lease(s) shall be delivered to Buyer, all within 5 days after Effective Date. If Buyer determines, in Buyer's sole discretion, that the lease(s) or terms of occupancy are not acceptable to Buyer, Buyer may terminate this Contract by delivery of written notice of such election to Seller within 5 days after receipt of the above items from Seller, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

7. ASSIGNABILITY: (CHECK ONE): Buyer □ may assign and thereby be released from any further liability under this Contract; □ may assign but not be released from liability under this Contract; or □ may not assign this Contract.

FINANCING

8. FINANCING:
(a) □ Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to Buyer's obligation to close. If Buyer obtains a loan for any part of the Purchase Price of the Property, Buyer acknowledges that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not affect or extend the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.
(b) □ This Contract is contingent upon Buyer obtaining approval of a □ conventional □ FHA □ VA or □ other _______________________ (describe loan within) (if left blank, then 30 days after Effective Date ("Loan Approval Period") for (CHECK ONE): □ fixed, □ adjustable, □ fixed or adjustable rate in the Loan Amount (See Paragraph 2(c)), at an initial interest rate not to exceed ________ % (if left blank, then prevailing rate based upon Buyer's creditworthiness), and for a term of ________ yearsube (if left blank, then 30) years ("Financing").

(i) Buyer shall make mortgage loan application for the Financing within ________ days after Effective Date and use good faith and diligent effort to obtain approval of a loan meeting the Financing terms ("Loan Approval") and thereafter to close this Contract. Loan Approval which requires a condition related to the sale by Buyer of other property shall not be deemed Loan Approval for purposes of this subparagraph.
(ii) Buyer shall keep Seller and Broker fully informed about the status of Buyer's mortgage loan application, Loan Approval, and loan processing and authorizes Buyer's mortgage broker, lender, and Closing Agent to disclose such status and progress, and release preliminary and finally executed closing disclosures and settlement statements, to Seller and Broker.
(iii) Upon Buyer obtaining Loan Approval, Buyer shall promptly deliver written notice of such approval to Seller.
(iv) If Buyer is unable to obtain Loan Approval after the exercise of diligent effort, then at any time prior to expiration of the Loan Approval Period, Buyer may provide written notice to Seller stating that Buyer has been unable to obtain Loan Approval and has elected to either:

(1) waive Loan Approval, in which event this Contract will continue as if Loan Approval had been obtained; or

(2) terminate this Contract.

(v) If Buyer fails to timely deliver either notice provided in Paragraph 8(b)(iii) or (iv), above, to Seller prior to expiration of the Loan Approval Period, then Loan Approval shall be deemed waived, in which event this Contract will continue as if Loan Approval had been obtained, provided however, Seller may elect to terminate this Contract by delivering written notice to Buyer within 3 days after expiration of the Loan Approval Period.

(vi) If this Contract is timely terminated as provided by Paragraph 8(b)(iv)(2) or (v), above, and Buyer is not in default under the terms of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

(vii) If Loan Approval has been obtained, or deemed to have been obtained, as provided above, and Buyer fails to close this Contract, then the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default or inability to satisfy other contingencies of this Contract; (2) Property related conditions of the Loan Approval obtained by Buyer's lender is insufficient to meet terms of the Loan Approval, in which event(s) the Buyer shall be refunded the Deposit; thereby releasing Buyer and Seller from all further obligations under this Contract.

CLOSING COSTS, FEES AND CHARGES

9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

(a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- Owner's Policy and Charges (if Paragraph 9(c)(i) is checked)
- Title search charges (if Paragraph 9(c)(ii) is checked)
- Municipal lien search (if Paragraph 9(c)(i) or (iii) is checked)
- Seller's attorneys' fees
- HOA/Condominium Association estoppel fees
- Owners Policy and Charges (if Paragraph 9(c)(i) is checked)
- Recording and other fees needed to cure title
- Repair, and Permit Limits set forth above, if any) shall be escrowed at Closing. If actual costs of required repairs,

(b) COSTS TO BE PAID BY BUYER:

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey and elevation certification, if required
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Municipal lien search (if Paragraph 9(c)(ii) is checked)

(c) TITLE EVIDENCE AND INSURANCE: At least 14 days prior to Closing Date ("Title Evidence Deadline"), a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be
obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium, title search and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below. The title insurance premium charges for the owner's policy and any lender's policy will be calculated and allocated in accordance with Florida law, but may be reported differently on certain federally mandated closing disclosures and other closing documents. For purposes of this Contract "municipal lien search" means a search of records necessary for the owner's policy of title insurance to be issued without exception for unrecorded liens imposed pursuant to Chapters 159 or 170, F.S., in favor of any governmental body, authority or agency.

(CHECK ONE):

☐ (i) Seller shall designate Closing Agent and pay for Owner's Policy and Charges, and Buyer shall pay the premium for Buyer's lender's policy and charges for closing services related to the lender's policy, endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select; or

☐ (ii) Buyer shall designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements and loan closing; or

☐ (iii) [MIAMI-DADE/BROWARD REGIONAL PROVISION]: Seller shall furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than $__________ (if left blank, then $200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) SURVEY: On or before Title Evidence Deadline, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) HOME WARRANTY: At Closing, ☐ Buyer ☐ Seller ☐ N/A shall pay for a home warranty plan issued by _______ at a cost not to exceed $__________. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) SPECIAL ASSESSMENTS: At Closing, Seller shall pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer shall pay all other assessments. If special assessments may be paid in installments (CHECK ONE):

☐ (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.

☐ (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190, F.S., which lien shall be prorated pursuant to STANDARD K.

10. DISCLOSURES:

(a) RADON GAS: Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

(b) PERMITS DISCLOSURE: Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed. If Seller identifies permits which have not been properly closed or improvements which were not permitted, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open permits or unpermitted improvements.

(c) MOLD: Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.

(d) FLOOD ZONE; ELEVATION CERTIFICATION: Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to
improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal Barrier Resources Act" designated area or otherwise protected area identified by the U.S. Fish and Wildlife Service under the Coastal Barrier Resources Act and the lowest floor elevation for the building(s) and/or flood insurance rating purposes is below minimum flood elevation or is ineligible for flood insurance coverage through the National Flood Insurance Program or private flood insurance as defined in 42 U.S.C. §4012a, Buyer may terminate this Contract by delivering written notice to Seller within _____ (if left blank, then 20) days after Effective Date, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property. The National Flood Insurance Program may assess additional fees or adjust premiums for pre-Flood Insurance Rate Map (pre-FIRM) non-primary structures (residential structures in which the insured or spouse does not reside for at least 50% of the year) and an elevation certificate may be required for actuarial rating.

(e) ENERGY BROCHURE: Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.

(f) LEAD-BASED PAINT: If Property includes pre-1978 residential housing, a lead-based paint disclosure is mandatory.

(g) HOMEOWNERS’ ASSOCIATION/COMMUNITY DISCLOSURE: BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS’ ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.

(h) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER’S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER’S OFFICE FOR INFORMATION.

(i) FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"): Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.

(j) SELLER DISCLOSURE: Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as otherwise disclosed in writing Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation.

PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

11. PROPERTY MAINTENANCE: Except for ordinary wear and tear and Casualty Loss, and those repairs, replacements or treatments required to be made by this Contract, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("Maintenance Requirement").

12. PROPERTY INSPECTION AND REPAIR:

(a) INSPECTION PERIOD: Buyer shall have ________ (if left blank, then 15) days after Effective Date ("Inspection Period"), within which Buyer may, at Buyer’s expense, conduct "General", "WDO", and "Permit" Inspections described below. If Buyer fails to timely deliver to Seller a written notice or report required by (b), (c), or (d) below, then, except for Seller’s continuing Maintenance Requirement, Buyer shall have waived Seller’s obligation to repair, replace, treat or remedy the matters not inspected and timely reported. If this Contract does not close, Buyer shall repair all damage to Property resulting from Buyer’s inspections, return Property to its pre-inspection condition and provide Seller with paid receipts for all work done on Property upon its completion.

(b) GENERAL PROPERTY INSPECTION AND REPAIR:

(i) General Inspection: Those items specified in Paragraph 12(b) (ii) below, which Seller is obligated to repair or replace ("General Repair Items") may be inspected ("General Inspection") by a person who specializes in and holds an occupational license (if required by law) to conduct home inspections or who holds a Florida license to repair and maintain the items inspected ("Professional Inspector"). Buyer shall, within the Inspection Period, inform Seller of any General Repair Items that are not in the condition required by (b)(ii) below by
delivering to Seller a written notice and upon written request by Seller a copy of the portion of Professional Inspector's report dealing with such items.

(ii) **Property Condition:** The following items shall be free of leaks, water damage or structural damage: ceiling, roof (including fascia and soffits), exterior and interior walls, doors, windows, and foundation. The above items together with pool, pool equipment, non-leased major appliances, heating, cooling, mechanical, electrical, security, sprinkler, septic and plumbing systems and machinery, seawalls, and dockage, are, and shall be maintained until Closing, in "Working Condition" (defined below). Torn screens (including pool and patio screens), fogged windows, and missing roof tiles or shingles shall be repaired or replaced by Seller prior to Closing. Seller is not required to repair or replace "Cosmetic Conditions" (defined below), unless the Cosmetic Conditions resulted from a defect in an item Seller is obligated to repair or replace. "Working Condition" means operating in the manner in which the item was designed to operate. "Cosmetic Conditions" means aesthetic imperfections that do not affect Working Condition of the item, including, but not limited to: pitted marlce; tears, worn spots and discoloration of floor coverings, wallpapers, or window treatments; nail holes, scrapes, scratches, dents, chips or caulking in ceilings, walls, flooring, tile, fixtures, or mirrors; and minor cracks in walls, floor tiles, windows, driveways, sidewalks, pool decks, and garage and patio floors. Cracked roof tiles, curling or worn shingles, or limited roof life shall not be considered defects Seller must repair or replace, so long as there is no evidence of actual leaks, leakage or structural damage.

(iii) **General Property Repairs:** Seller is only obligated to make such general repairs as are necessary to bring items into the condition specified in Paragraph 12(b) (ii) above. Seller shall within 10 days after receipt of Buyer's written notice or General Inspection report, either have the reported repairs to General Repair Items estimated by an appropriately licensed person and a copy delivered to Buyer, or have a second inspection made by a Professional Inspector and provide a copy of such report and estimates of repairs to Buyer. If Buyer's and Seller's inspection reports differ and the parties cannot resolve the differences, Buyer and Seller together shall choose, and equally split the cost of, a third Professional Inspector, whose written report shall be binding on the parties.

If cost to repair General Repair Items equals or is less than the General Repair Limit, Seller shall have repairs made in accordance with Paragraph 12(f). If cost to repair General Repair Items exceeds the General Repair Limit, then within 5 days after a party's receipt of the last estimate: (A) Seller may elect to pay the excess by delivering written notice to Buyer, or (B) Buyer may deliver written notice to Seller designating which repairs of General Repair Items Seller shall make (at a total cost to Seller not exceeding the General Repair Limit) and agreeing to accept the balance of General Repair Items in their "as is" condition, subject to Seller's continuing Maintenance Requirement. If neither party delivers such written notice to the other, then either party may terminate this Contract and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

(c) **WOOD DESTROYING ORGANISM ("WDO") INSPECTION AND REPAIR:**

(i) **WDO Inspection:** The Property may be inspected by a Florida-licensed pest control business ("WDO Inspector") to determine the existence of past or present WDO infestation and damage caused by infestation ("WDO Inspection"). Buyer shall, within the Inspection Period, deliver a copy of the WDO Inspector's written report to Seller if any evidence of WDO infestation or damage is found. "Wood Destroying Organism" ("WDO") means arthropod or plant life, including termites, powder-post beetles, oldhouse borers and wood-decaying fungi, that damages or infests seasoned wood in a structure, excluding fences.

(ii) **WDO Repairs:** If Seller previously treated the Property for the type of WDO found by Buyer's WDO Inspection, Seller does not have to retreat the Property if there is no visible live infestation, and Seller, at Seller's cost, transfers to Buyer at Closing a current full treatment warranty for the type of WDO found. Seller shall within 10 days after receipt of Buyer's WDO Inspector's report, have reported WDO damage estimated by an appropriately licensed person, necessary corrective treatment, if any, estimated by a WDO Inspector, and a copy delivered to Buyer. Seller shall have treatments and repairs made in accordance with Paragraph 12(f) below up to the WDO Repair Limit. If cost to treat and repair the WDO infestations and damage to Property exceeds the WDO Repair Limit, then within 5 days after receipt of Seller's estimate, Buyer may deliver written notice to Seller agreeing to pay the excess, or designating which WDO repairs Seller shall make (at a total cost to Seller not exceeding the WDO Repair Limit), and accepting the balance of the Property in its "as is" condition with regard to WDO infestation and damage, subject to Seller's continuing Maintenance Requirement. If Buyer does not deliver such written notice to Seller, then either party may terminate this Contract by written notice to the other, and Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.
13. ESCROW AGENT: Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of Florida and, subject to COLLECTION, disburse them in accordance with terms and conditions of this Contract. Failure of funds to become COLLECTED shall not excuse Buyer's performance. When conflicting demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disposition or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.

In any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable
14. PROFESSIONAL ADVICE; BROKER LIABILITY: Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER. Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 shall survive Closing or termination of this Contract.

15. DEFAULT:

(a) BUYER DEFAULT: If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however, Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay to Cooperating Broker. If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific performance. This Paragraph 15 shall survive Closing or termination of this Contract.

(b) SELLER DEFAULT: If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific performance. This Paragraph 15 shall survive Closing or termination of this Contract.

16. DISPUTE RESOLUTION: Unresolved controversies, claims and other matters in question between Buyer and Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled as follows:

(a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph 16(b).

(b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules"). The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16 shall survive Closing or termination of this Contract.

17. ATTORNEY'S FEES; COSTS: The parties will split equally any mediation fee incurred in any mediation permitted by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover
STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")

18. STANDARDS:

A. TITLE:
   (i) TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS: Within the time period provided in
   Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall
   be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at
   or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance
   in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property,
   subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions,
   prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the
   Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of
   entry; (d) unplatted public utility easements of record (located contiguous to real property lines and not more than
   10 feet in width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and
   subsequent years; and (f) assumed mortgages and purchase money mortgages, if any (if additional items, attach
   addendum); provided, that, unless waived by Paragraph 12 (a), there exists at Closing no violation of the foregoing
   and none prevent use of the Property for RESIDENTIAL PURPOSES. If there exists a violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall be determined
   according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law.
   (ii) TITLE EXAMINATION: Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller
   in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is
   delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of
   receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period") after
   receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller, Buyer
   shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will deliver
   written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will close this
   Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's notice). If
   Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of Cure Period,
   deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days within which
   Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or
   (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has
   passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c)
   electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all
   further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects, and
   Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit,
   thereby releasing Buyer and Seller from all further obligations under this Contract.

B. SURVEY: If Survey discloses encroachments on the Real Property or that improvements located thereon
   encroach on setback lines, easements, or lands of others, or violate any restrictions, covenants, or applicable
   governmental regulations described in STANDARD A ((a), (b) or (d) above), Buyer shall deliver written notice of
   such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later
   than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and
   Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a
   prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the
   preparation of such prior survey, to the extent the affirmations therein are true and correct.

C. INGRESS AND EGRESS: Seller represents that there is ingress and egress to the Real Property and title to
   the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

D. LEASE INFORMATION: Seller shall, at least 10 days prior to Closing, furnish to Buyer estoppel letters from
   tenant(s)/occupant(s) specifying nature and duration of occupancy, rental rates, advanced rent and security
   deposits paid by tenant(s) or occupant(s) ("Estoppel Letter(s)"). If Seller is unable to obtain such Estoppel Letter(s),
   the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit
   and Buyer may thereafter contact tenant(s) or occupant(s) to confirm such information. If Estoppel Letter(s) or
   Seller's affidavit, if any, differ materially from Seller's representations and lease(s) provided pursuant to Paragraph
   6, or if tenant(s)/occupant(s) fail or refuse to confirm Seller's affidavit, Buyer may deliver written notice to Seller
   within 5 days after receipt of such information, but no later than 5 days prior to Closing Date, terminating this
STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract. Seller shall, at Closing, deliver and assign all leases to Buyer who shall assume Seller’s obligations thereunder.

E. LIENS: Seller shall furnish to Buyer at Closing an affidavit attesting (i) to the absence of any financing statement, claims of lien or potential liens known to Seller and (ii) that there have been no improvements or repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller’s lien affidavit setting forth names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been paid or will be paid at Closing.

F. TIME: Calendar days shall be used in computing time periods. Time of the essence in this Contract. Other than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m. (where the Property is located) of the next business day.

G. FORCE MAJEURE: Buyer or Seller shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, insurance or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure no longer prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all further obligations under this Contract.

H. CONVEYANCE: Seller shall convey marketable title to the Real Property by statutory warranty, trustee’s, personal representative’s, or guardian’s deed, as appropriate to the status of Seller, subject only to matters described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:

(i) LOCATION: Closing will be conducted by the attorney or other closing agent ("Closing Agent") designated by the party paying for the owner’s policy of title insurance and will take place in the county where the Real Property is located at the office of the Closing Agent, or at such other location agreed to by the parties. If there is no title insurance, Seller will designate Closing Agent. Closing may be conducted by mail, overnight courier, or electronic means.

(ii) CLOSING DOCUMENTS: Seller shall, at or prior to Closing, execute and deliver, as applicable, deed, bill of sale, certificate(s) of title or other documents necessary to transfer title to the Property, construction lien affidavit(s), owner’s possession and no lien affidavit(s), and assignment(s) of leases. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable, the survey, flood elevation certification, and documents required by Buyer’s lender.

(iii) FinCEN GTO NOTICE. If Closing Agent is required to comply with the U.S. Department of Treasury’s Financial Crimes Enforcement Network (“FinCEN”) Geographic Targeting Orders (“GTOs”), then Buyer shall provide Closing Agent with the information related to Buyer and the transaction contemplated by this Contract that is required to complete IRS Form 8300, and Buyer consents to Closing Agent’s collection and report of said information to IRS.

(iv) PROCEDURE: The deed shall be recorded upon COLLECTION of all closing funds. If the Title Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by STANDARD J shall be waived, and Closing Agent shall, subject to COLLECTION of all closing funds, disburse at Closing the brokerage fees to Broker and the net sale proceeds to Seller.

J. E Recap CLOSING PROCEDURE: If Title Commitment issued pursuant to Paragraph 9(c) does not provide for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after Closing; (2) if Seller’s title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from...
date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all
Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and,
simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-
convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand
for refund of the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect
except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

K. PRORATIONS; CREDITS: The following recurring items will be made current (if applicable) and prorated as of
the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes
(including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents
and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable,
in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required
by prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited
to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on
current year's tax. If Closing occurs on a date when current year's millage is not fixed but current year's assessment
is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's
assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements
on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st
of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be
agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an
informal assessment taking into account available exemptions. In all cases, due allowance shall be made for the
maximum allowable discounts and applicable homestead and other exemptions. A tax proration based on an
estimate shall, at either party's request, be readjusted upon receipt of current year's tax bill. This STANDARD K
shall survive Closing.

L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH: Seller
shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections,
including a walk-through (or follow-up walk-through if necessary) prior to Closing.

M. RISK OF LOSS: If, after Effective Date, but before Closing, Property is damaged by fire or other casualty
("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does not
exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed
pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated
cost to complete restoration (not to exceed 1.5% of Purchase Price) will be escrowed at Closing. If actual cost of
restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase
Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of
Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the
Deposit thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation
with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.

N. 1031 EXCHANGE: If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with
Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate
in all reasonable respects to effectuate the Exchange, including execution of documents; provided, however,
cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be contingent
upon, nor extended or delayed by, such Exchange.

O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; DELIVERY; COPIES; CONTRACT
EXECUTION: Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall
be binding on, and inure to the benefit of, the parties and their respective heirs or successors in interest. Whenever
the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to
the attorney or broker (including such broker's real estate licensee) representing any party shall be as effective as
if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic
(including "pdf") media. A facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon
shall be considered for all purposes as an original. This Contract may be executed by use of electronic signatures,
as determined by Florida's Electronic Signature Act and other applicable laws.

P. INTEGRATION; MODIFICATION: This Contract contains the full and complete understanding and agreement
of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior agreements or
representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change
in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the parties intended
to be bound by it.
STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

Q. WAIVER: Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other provisions or rights.

R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS: Riders, addenda, and typewritten or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

S. COLLECTION or COLLECTED: "COLLECTION" or "COLLECTED" means any checks tendered or received, including Deposits, have become actually and finally collected and deposited in the account of Escrow Agent or Closing Agent. Closing and disbursement of funds and delivery of closing documents may be delayed by Closing Agent until such amounts have been COLLECTED in Closing Agent's accounts.

T. RESERVED.

U. APPLICABLE LAW AND VENUE: This Contract shall be construed in accordance with the laws of the State of Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county where the Real Property is located.

V. FIRPTA TAX WITHHOLDING: If a seller of U.S. real property is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code ("Code") requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding.

(i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

ADDITIONAL TERMS

19. ADDENDA: The following additional terms are included in the attached addenda or riders and incorporated into this Contract (Check if applicable):

A. Condominium Rider
B. Homeowners’ Assn.
C. Seller Financing
D. Mortgage Assumption
E. FHA/VA Financing
F. Appraisal Contingency
G. Short Sale
H. Homeowners’/Flood Ins
I. RESERVED
J. Interest-Bearing Acct.
K. "As Is"
L. Right to Inspect/ Cancel
M. Defective Drywall
N. Coastal Construction Control
O. Insulation Disclosure
P. Lead Paint Disclosure (Pre-1978)
Q. Housing for Older Persons
R. Rezoning
S. Lease Purchase/ Lease Option
T. Pre-Closing Occupancy
U. Post-Closing Occupancy
V. Sale of Buyer’s Property
W. Back-up Contract
X. Kick-out Clause
Y. Seller’s Attorney Approval
Z. Buyer’s Attorney Approval
AA. Licensee Property Interest
BB. Binding Arbitration
CC. Miami-Dade County
DD. Special Taxing District
EE. Disclosure

Other: ________________________________

______________________________
Buyer’s Initials

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Form Simplicity
20. ADDITIONAL TERMS:

COUNTER-OFFER/REJECTION

☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).

☐ Seller rejects Buyer's offer.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT, IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

AN ASTERISK (*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

Buyer: ___________________________ ___________________________ Date: ______________

Buyer: ___________________________ ___________________________ Date: ______________

Seller: ___________________________ ___________________________ Date: ______________

Seller: ___________________________ ___________________________ Date: ______________

Buyer's address for purposes of notice ___________________________ Seller's address for purposes of notice ___________________________

BROKER: Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

Cooperating Sales Associate, if any ___________________________ Listing Sales Associate ___________________________

Cooperating Broker, if any ___________________________ Listing Broker ___________________________
Showing Agreement

1. PARTIES: _______________________________, (“Buyer”) agrees that if, between ____________, ___________ and 11:59 p.m. on ________________, ___________, Buyer becomes interested in negotiating the purchase, option, exchange, lease or other acquisition of any of the properties listed below, Buyer will utilize the professional services of _______________________________, (“Broker”).

2. PROPERTY: Broker introduced Buyer to the following properties:


3. BROKER’S OBLIGATIONS:

   (a) Broker Assistance. If Buyer wants to negotiate on any of the above properties, Broker will:
       • use Broker’s professional knowledge and skills;
       • help Buyer determine Buyer’s financial capability and financing options;
       • assist Buyer in monitoring deadlines and closing any resulting transaction; and
       • cooperate with real estate licensees working with the seller, if any, to effect a transaction.

   (b) Other Buyers. Buyer understands that Broker may work with other prospective buyers who want to acquire the same property as Buyer. If Broker submits offers by competing buyers, Broker will notify Buyer that a competing offer has been made, but will not disclose any of the offer’s material terms or conditions. Buyer agrees that Broker may make competing buyers aware of the existence of any offer Buyer makes, so long as Broker does not reveal any material terms or conditions of the offer without Buyer’s prior written consent.

   (c) Fair Housing. Broker adheres to the principles expressed in the Fair Housing Act and will not participate in any act that unlawfully discriminates on the basis of race, color, religion, sex, handicap, familial status, country of national origin or any other category protected under federal, state or local law.

   (d) Service Providers. Broker does not warrant or guarantee products or services provided by any third party whom Broker, at Buyer’s request, refers or recommends to Buyer in connection with property acquisition.

4. BUYER’S OBLIGATIONS: Buyer agrees to cooperate with Broker in accomplishing the objectives of this Agreement, including:
   • immediately contacting Broker upon deciding to negotiate for the acquisition of one or more of the above-listed properties;
   • informing any other real estate licensees with whom Buyer has contact that Buyer is working exclusively with Broker with regard to the properties listed above;
   • providing Broker with accurate personal and financial information requested by Broker in connection with ensuring Buyer’s ability to acquire property;
   • paying Broker’s compensation and, if Broker is held responsible for Buyer’s wrongful acts or default on any agreement, then paying all of Broker’s expenses; and
   • consulting appropriate professionals for legal, tax, environmental, engineering, foreign reporting requirements and other specialized advice.

   Buyer authorizes Broker to run a credit check to verify Buyer’s credit information.

5. COMPENSATION: Broker’s compensation of ________% of the purchase price or $______________ is earned when, during the term of this agreement, Buyer or any person acting for or on behalf of Buyer contracts to acquire an interest in any of the properties listed above. Broker will seek compensation from the listing office; however, if there is no listing office or no compensation is offered, Buyer will ask the seller, as part of the offer, to pay Broker’s compensation. If the seller and listing office, if any, refuse to pay Broker’s compensation, Buyer will pay Broker’s compensation upon Broker’s demand.

6. DISPUTE RESOLUTION: Any unresolvable dispute between Buyer and Broker will be mediated. If a settlement is not reached in mediation, the matter will be submitted to binding arbitration in accordance with the rules of the American Arbitration Association or other mutually agreeable arbitrator.

7. ACKNOWLEDGMENT; MODIFICATIONS: Buyer has read this Agreement and understands its contents. This Agreement cannot be changed except by written agreement signed by both parties.

Buyer (_____) (_____) and Broker/Sales Associate (_____) (_____) acknowledge receipt of a copy of this page, which is Page 1 of 2 Pages.
<table>
<thead>
<tr>
<th>Date:</th>
<th>Buyer:</th>
<th>Tax ID No: _ _ _ _ _ _ _ _ _ _</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Telephone:</td>
<td>Facsimile:</td>
</tr>
<tr>
<td>Zip:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date:</th>
<th>Buyer:</th>
<th>Tax ID No: _ _ _ _ _ _ _ _ _ _</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Telephone:</td>
<td>Facsimile:</td>
</tr>
<tr>
<td>Zip:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date:</th>
<th>Real Estate Sales Associate:</th>
<th></th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Date:</th>
<th>Real Estate Broker:</th>
<th></th>
</tr>
</thead>
</table>

Copy returned to Buyer on the ___ day of ___________, ______ by: [ ] personal delivery  [ ] mail  [ ] facsimile.

The Florida Association of REALTORS® and local Board/Association of REALTORS® make no representation as to the legal validity or adequacy of any provision of this form in any specific transaction. This form is available for use by the entire real estate industry and is not intended to identify the user as a REALTOR®. REALTOR® is a registered collective membership mark that may be used only by real estate licensees who are members of the National Association of REALTORS® and who subscribe to its Code of Ethics. The copyright laws of the United States (17 U.S. Code) forbid the unauthorized reproduction of this form by any means including facsimile or computerized forms.

Buyer (____) (____) and Broker/Sales Associate (____) (____) acknowledge receipt of a copy of this page, which is Page 2 of 2 Pages.
Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the Lender’s assistance. Applicants should complete this form as “Borrower” or “Co-Borrower,” as applicable. Co-Borrower information should also be provided (and the appropriate box checked) when the income of assets of a person other than the Borrower (including the Borrower’s spouse) will be used as a basis for loan qualification or the income or assets of the Borrower’s spouse or other person who has community property rights pursuant to state law will not be used as a basis for loan qualification, but his or her liabilities must be considered because the spouse or other person has community property rights pursuant to applicable law and Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.

If this is an application for joint credit, Borrower and Co-Borrower each agree that they intend to apply for joint credit (sign below).

<table>
<thead>
<tr>
<th>Borrower</th>
<th>Co-Borrower</th>
</tr>
</thead>
</table>

I. TYPE OF MORTGAGE AND TERMS OF LOAN

<table>
<thead>
<tr>
<th>Mortgage Applied for:</th>
<th>Residential</th>
<th>VA</th>
<th>Conventional</th>
<th>FHA</th>
<th>Other (explain)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Service</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Amount</th>
<th>$</th>
<th>Interest Rate</th>
<th>%</th>
<th>No. of Months</th>
<th>Amortization Type</th>
<th>Fixed Rate</th>
<th>Other (explain)</th>
</tr>
</thead>
</table>

II. PROPERTY INFORMATION AND PURPOSE OF LOAN

<table>
<thead>
<tr>
<th>Purpose of Loan</th>
<th>Purchase</th>
<th>Construction</th>
<th>Other (explain)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property will be</td>
<td>Primary Residence</td>
<td>Secondary Residence</td>
<td>Investment</td>
</tr>
</tbody>
</table>

Complete this line if this is a construction loan.

<table>
<thead>
<tr>
<th>Year</th>
<th>Original Cost</th>
<th>Amount Existing Liens</th>
<th>(a) Present Value of Lot</th>
<th>(b) Cost of Improvements</th>
<th>Total (a + b)</th>
</tr>
</thead>
</table>

Complete this line if this is a refinance loan.

<table>
<thead>
<tr>
<th>Year</th>
<th>Original Cost</th>
<th>Amount Existing Liens</th>
<th>Purpose of Refinance</th>
<th>Describe Improvements</th>
<th>Cost: $</th>
</tr>
</thead>
</table>

Title will be held in what Name(s) |

Source of Down Payment, Settlement Charges, and/or Subordinate Financing (explain)

Borrower

<table>
<thead>
<tr>
<th>Borrower’s Name (include Jr. or Sr. if applicable)</th>
<th>Co-Borrower’s Name (include Jr. or Sr. if applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security Number</td>
<td>Social Security Number</td>
</tr>
<tr>
<td>House Phone (incl. area code)</td>
<td>House Phone (incl. area code)</td>
</tr>
<tr>
<td>DOB (mm/dd/yyyy)</td>
<td>DOB (mm/dd/yyyy)</td>
</tr>
<tr>
<td>Yrs. of School</td>
<td>Yrs. of School</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Married</th>
<th>Not Married</th>
<th>Separated</th>
<th>Single, Divorced, Widowed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dependent (not listed by Co-Borrower) no.</td>
<td>age</td>
<td>Dependent (not listed by Co-Borrower) no.</td>
<td>age</td>
</tr>
</tbody>
</table>

Present Address (street, city, state, ZIP) |

Mailing Address, if different from Present Address |

<table>
<thead>
<tr>
<th>Former Address (street, city, state, ZIP)</th>
<th>Mailing Address, if different from Present Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Former Address (street, city, state, ZIP)</td>
<td>Mailing Address, if different from Present Address</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If residing at present address for less than two years, complete the following:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Former Address (street, city, state, ZIP)</td>
<td>Mailing Address, if different from Present Address</td>
</tr>
<tr>
<td>Former Address (street, city, state, ZIP)</td>
<td>Mailing Address, if different from Present Address</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Borrower</th>
<th>Co-Borrower</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Position/Title/Type of Business</th>
<th>Business Phone (incl. area code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Yrs. on this job</td>
<td>Yrs. employed in this line of work/profession</td>
</tr>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Yrs. on this job</td>
<td>Yrs. employed in this line of work/profession</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>If employed in current position for less than two years or if currently employed in more than one position, complete the following:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Position/Title/Type of Business</td>
<td>Business Phone (incl. area code)</td>
</tr>
<tr>
<td>---------------------------------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Yrs. on this job</td>
<td>Yrs. employed in this line of work/profession</td>
</tr>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Yrs. on this job</td>
<td>Yrs. employed in this line of work/profession</td>
</tr>
</tbody>
</table>
**IV. EMPLOYMENT INFORMATION (cont'd)**

<table>
<thead>
<tr>
<th>Borrower</th>
<th>Co-Borrower</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Name &amp; Address of Employer</td>
</tr>
<tr>
<td>Self Employed</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Dates (from – to)</td>
<td>Dates (from – to)</td>
</tr>
<tr>
<td>Monthly Income</td>
<td>Monthly Income</td>
</tr>
<tr>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Position/Title/Type of Business</td>
<td>Business Phone</td>
</tr>
<tr>
<td>(incl. area code)</td>
<td>Position/Title/Type of Business</td>
</tr>
<tr>
<td>(incl. area code)</td>
<td>Business Phone</td>
</tr>
<tr>
<td>Name &amp; Address of Employer</td>
<td>Name &amp; Address of Employer</td>
</tr>
<tr>
<td>Self Employed</td>
<td>Self Employed</td>
</tr>
<tr>
<td>Dates (from – to)</td>
<td>Dates (from – to)</td>
</tr>
<tr>
<td>Monthly Income</td>
<td>Monthly Income</td>
</tr>
<tr>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Position/Title/Type of Business</td>
<td>Business Phone</td>
</tr>
<tr>
<td>(incl. area code)</td>
<td>Position/Title/Type of Business</td>
</tr>
<tr>
<td>(incl. area code)</td>
<td>Business Phone</td>
</tr>
</tbody>
</table>

**V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION**

<table>
<thead>
<tr>
<th>Gross</th>
<th>Borrower</th>
<th>Co-Borrower</th>
<th>Total</th>
<th>Combined Monthly Housing Expense</th>
<th>Present</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Emp. Income*</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Overtime</td>
<td>First Mortgage (P&amp;I)</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bonuses</td>
<td>Other Financing (P&amp;I)</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commissions</td>
<td>Hazard Insurance</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dividends/Interest</td>
<td>Real Estate Taxes</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Rental Income</td>
<td>Mortgage Insurance</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other (before completing, see the notice in “describe other income” below)</td>
<td>Homeowner Assn. Dues</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Other:</td>
<td>$</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td></td>
</tr>
</tbody>
</table>

* Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.

Describe Other Income

Notice: Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.

<table>
<thead>
<tr>
<th>B/C</th>
<th>Monthly Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$</td>
</tr>
</tbody>
</table>

**VI. ASSETS AND LIABILITIES**

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise, separate Statements and Schedules are required. If the Co-Borrower section was completed about a non-applicant spouse or other person, this Statement and supporting schedules must be completed about that spouse or other person also.

List checking and savings accounts below

<table>
<thead>
<tr>
<th>Name and address of Bank, S&amp;L, or Credit Union</th>
<th>Name and address of Company</th>
<th>$ Payment/Months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. no.</td>
<td>$</td>
<td>Acct. no.</td>
</tr>
<tr>
<td>Name and address of Bank, S&amp;L, or Credit Union</td>
<td>Name and address of Company</td>
<td>$ Payment/Months</td>
</tr>
<tr>
<td>Acct. no.</td>
<td>$</td>
<td>Acct. no.</td>
</tr>
</tbody>
</table>

VI. ASSETS AND LIABILITIES

List the creditor's name, address, and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities, which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.

<table>
<thead>
<tr>
<th>Cash</th>
<th>Liabilities and Pledged Assets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Market Value</td>
<td>Description</td>
</tr>
<tr>
<td>Cash deposit toward purchase paid by:</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Reicon Publishing, LLC**

Florida Real Estate Sales Associate Pre-License Course
## VI. ASSETS AND LIABILITIES (cont’d)

<table>
<thead>
<tr>
<th>Name and address of Bank, S&amp;L, or Credit Union</th>
<th>Name and address of Company</th>
<th>$ Payment/Months</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acct. no.</td>
<td>Acct. no.</td>
<td>$</td>
</tr>
<tr>
<td>Stocks &amp; Bonds (Company name/number &amp; description)</td>
<td>Name and address of Company</td>
<td>$ Payment/Months</td>
</tr>
<tr>
<td>Acct. no.</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Life insurance net cash value</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Face amount:</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Subtotal Liquid Assets</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Real estate owned (enter market value from schedule of real estate owned)</td>
<td>Name and address of Company</td>
<td>$ Payment/Months</td>
</tr>
<tr>
<td>Vested interest in retirement fund</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Net worth of business(es) owned</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>(attach financial statement)</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Automobiles owned (make and year)</td>
<td></td>
<td>$</td>
</tr>
<tr>
<td>Alimony/Child Support/Separate Maintenance Payments Owed to:</td>
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<td>$</td>
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<tr>
<td>Other Assets (itemize)</td>
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<td>$</td>
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<tr>
<td>Job-Related Expense (child care, union dues, etc.)</td>
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<tr>
<td>Total Monthly Payments</td>
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<td>$</td>
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### Total Assets a. $________

<table>
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<tr>
<th>Net Worth</th>
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<tr>
<td>(a minus b)</td>
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</table>

### Total Liabilities b. $________

List any additional names under which credit has previously been received and indicate appropriate creditor name(s) and account number(s):

<table>
<thead>
<tr>
<th>Alternate Name</th>
<th>Creditor Name</th>
<th>Account Number</th>
</tr>
</thead>
</table>

### VII. DETAILS OF TRANSACTION

a. Purchase price $________

b. Alterations, improvements, repairs

c. Land (if acquired separately)

d. Refinance (incl. debt to be paid off)

e. Estimated prepaid items

f. Estimated closing costs

g. PMI, MIP, Funding Fee

b. Discount (if Borrower will pay)

i. Total costs (add items a through h)

If you answer “Yes” to any questions a through i, please use continuation sheet for explanation.

### VIII. DECLARATIONS

<table>
<thead>
<tr>
<th>Borrower</th>
<th>Co-Borrower</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
VII. DETAIL OF TRANSACTION

| j. | Subordinate financing | Yes | No |
| k. | Borrower’s closing costs paid by Seller | Yes | No |
| l. | Other Credits (explain) | Yes | No |
| m. | Loan amount (exclude PMI, MIP, Funding Fee financed) | Yes | No |
| n. | PMI, MIP, Funding Fee financed | Yes | No |
| o. | Loan amount (add m & n) | Yes | No |
| p. | Cash from/to Borrower (subtract j, k, l & o from i) | Yes | No |

VIII. DECLARATIONS

<table>
<thead>
<tr>
<th>Borrower</th>
<th>Co-Borrower</th>
</tr>
</thead>
<tbody>
<tr>
<td>f.</td>
<td>Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee?</td>
</tr>
<tr>
<td>g.</td>
<td>Are you obligated to pay alimony, child support, or separate maintenance?</td>
</tr>
<tr>
<td>h.</td>
<td>Is any part of the down payment borrowed?</td>
</tr>
<tr>
<td>i.</td>
<td>Are you a co-maker or endorser on a note?</td>
</tr>
<tr>
<td>m.</td>
<td>Have you had an ownership interest in a property in the last three years?</td>
</tr>
<tr>
<td>n.</td>
<td>Are you a U.S. citizen?</td>
</tr>
<tr>
<td>o.</td>
<td>Are you a permanent resident alien?</td>
</tr>
</tbody>
</table>

IX. ACKNOWLEDGEMENT AND AGREEMENT

Each of the undersigned specifically represents to Lender and to Lender’s actual or potential agents, brokers, processors, attorneys, insurers, servicers, successors and assigns and agrees and acknowledges that:
1. The information provided in this application is true and correct as of the date set forth opposite my signature and that any intention or negligent misrepresentation of this information contained in this application may result in civil liability, including monetary damages, to any person who may suffer any loss due to reliance upon any misrepresentation that I have made on this application, and/or in criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.; (2) the loan requested pursuant to this application (the “Loan”) will be secured by a mortgage or deed of trust on the property described in this application; (3) the property will not be used for any illegal or prohibited purpose or use; (4) all statements made in this application are made for the purpose of obtaining a residential mortgage loan; (5) the property will be occupied as a primary residence; (6) the Lender, its servicers, successors or assigns may retain the original and/or an electronic record of this application, whether or not the Loan is approved; (7) the lender and its agents, brokers, insurers, servicers, successors, and assigns may continuously rely on the information contained in the application, and I am obligated to amend and/or supplement the information provided in this application if any of the material facts that I have represented herein should change prior to closing of the Loan; (8) in the event that my payments on the Loan become delinquent, the Lender, its servicers, successors or assigns may, in addition to any other rights and remedies that it may have relating to such delinquency, report my name and account information to one or more consumer reporting agencies; (9) ownership of the Loan and/or administration of the Loan account may be transferred with such notice as may be required by law; (10) neither Lender nor its agents, brokers, insurers, servicers, successors or assigns has made any representation or warranty, express or implied, to me regarding the property or the condition or value of the property; and (11) my transmission of this application as an “electronic record” containing my “electronic signature,” as those terms are defined in applicable federal and/or state laws (including statutes and video recordings, or any facsimile transmission of this application containing facsimile of my signature), shall be as effective, enforceable and valid as if a paper version of this application were prepared containing my original written signature.

Aknowledgement. Each of the undersigned hereby acknowledges that any owner of the Loan, its servicers, successors and assigns, may verify or reverify any information contained in this application, obtain any information or data relating to the Loan, for any legitimate business purpose through any source, including a source named in this application or a consumer reporting agency.

Borrower’s Signature: ____________________________ Date: ____________ Co-Borrower’s Signature: ____________________________ Date: ____________

X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender’s compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are not encouraged to do so. The law provides that a lender may not discriminate on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For a race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, under fair housing regulations, the lender is required to note the information on the basis of visual observation and surname if you have made this application in person. If you do not wish to furnish the information, please check the box below. The lender must review the above information to ensure that the disclosures satisfy all requirements to which the lender is subject under applicable state law for the particular type of loan applied for.

BORROWER: I do not wish to furnish this information
CO-BORROWER: I do not wish to furnish this information

Ethnicity: Hispanic or Latino Not Hispanic or Latino

Race: American Indian or Alaska Native Asian Black or African American
Native Hawaiian or Other Pacific Islander

Sex: Female Male

Loan Originator’s Signature: ____________________________ Date: ____________

Loan Originator’s Name: ____________________________ Loan Originator’s Phone Number (including area code): ____________

Loan Originator Company’s Name: ____________________________ Loan Originator Company’s Address: ____________________________
<table>
<thead>
<tr>
<th>CONTINUATION SHEET/RESIDENTIAL LOAN APPLICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark B for Borrower or C for Co-Borrower.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Borrower:</th>
<th>Agency Case Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Co-Borrower:</th>
<th>Lender Case Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

<table>
<thead>
<tr>
<th>Borrower’s Signature</th>
<th>Date</th>
<th>Co-Borrower’s Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

 Florida Real Estate Sales Associate Pre-License Course
Reicon Publishing, LLC
WARRANTY DEED

For good consideration, we (I) ____________________________________________ of
_______________________________________________________________________ of
hereby bargain, deed, and convey to __________________________________________ of
_______________________________________________________________________ of
the following described land in ____________________________ county, free, and clear with WARRANTY COVENANTS; to wit:

Grantor, for itself and its heirs, hereby covenants with Grantee, its heirs, and assigns, that Grantor is lawfully seized in fee
simple of the above-described premises; that it has a good right to convey; that the premises are free from all encumbrances;
that Grantor and its heirs, and all persons acquiring any interest in the property granted, through or for Grantor, will, on
demand of Grantee, or its heirs or assigns, and at the expense of Grantee, its heirs or assigns, execute and instrument
necessary for the further assurance of the title to the premises that may be reasonably required; and that Grantor and its heirs
will forever warrant and defend all of the property so granted to Grantee, its heirs, against every person lawfully claiming the
same or any part thereof.

Being the same property conveyed to the Grantors by deed of ________________________________ dated ____________, 20____.

WITNESS the hands and seal of said Grantors this ______ day of _________, 20____.

_______________________________________
Grantor

_______________________________________
Grantee

STATE OF ___________________
COUNTY OF _________________

On __________________________ before me, __________________________, personally appeared,
personally known to me (or proved to me on the basis of satisfactory evidence)
to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature______________________________

Affiant _____Known _____Unknown

ID Produced______________________

(Seal)
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