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Post-Licensing Education for Florida Real Estate Sales Associates

12th Edition | Edward J. O'Donnell

Dearborn[™]
Real Estate Education

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POST-LICENSING EDUCATION FOR FLORIDA REAL ESTATE SALES
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C O N T E N T S

Introduction v
Acknowledgments vii

SECTION 1 LAYING THE FOUNDATION FOR A SUCCESSFUL CAREER 1

UNIT 1 Legal Issues and Risk Management 3
UNIT 2 Fair Housing and the Americans with Disabilities Act 27
UNIT 3 Business Planning and Time Management 45

SECTION 2 OBTAINING LISTINGS THAT SELL 63

UNIT 4 Prospecting for Listings 65
UNIT 5 Pricing the Property to Sell 89
UNIT 6 Making the Listing Presentation 107
UNIT 7 Listing Contracts 123

SECTION 3 SELLING REAL PROPERTY 145

UNIT 8 Working With Buyers 147
UNIT 9 Sales and Option Contracts 169
UNIT 10 Writing and Presenting the Offer 187

SECTION 4 FINANCING AND CLOSING REAL ESTATE TRANSACTIONS 203

UNIT 11 Exploring Mortgage Alternatives 205
UNIT 12 Acquiring Financing for the Property 221
UNIT 13 Closing Real Estate Transactions 235

SECTION 5 ANALYZING AND MANAGING INVESTMENT PROPERTY 257

UNIT 14 Analyzing and Managing Investment Property 259

Appendix A: Forms to Go 283
Appendix B: Practice Final Exam 331
Answer Key 343
Glossary 373
Index 379

SAMPLE

INTRODUCTION

Florida real estate sales associates must complete a Florida Real Estate Commission–approved 45-hour post-licensing education course before their first license renewal. The Commission has approved the use of this book in the course. Licensees who take the course have an opportunity to build on the principles and practices learned in the pre-licensing course and to obtain new, hands-on training in many important areas.

Because nearly 75% of licensees sell residential real estate, the topics covered in this course focus primarily on that part of the real estate business. Many subjects described in this book also apply to the commercial and investment sectors.

We've included learning objectives at the beginning of each unit to help you focus on important points. We have prepared discussion questions for each unit to help you to better understand the material. We have also included a quiz at the end of each unit for additional review of the material.

The book is divided into five sections arranged in the typical sequence of real estate activities:

- Section I covers the important laws that regulate the licensee's daily activities. The business planning unit helps the new licensee get organized.
- Section II shows how to build a listing portfolio, including prospecting, pricing the property, making the listing presentation, and getting the listing agreement signed.
- Section III describes working with buyers, from the initial contact with a buyer to determining the buyer's needs and ability to purchase to showing the property. A unit on sales and option contracts is included, as well as information on how to write and present an offer.
- Section IV describes how to obtain financing and close the sale. The coverage starts with an evaluation of current lending practices and programs, and it continues with a step-by-step discussion of how a loan is processed after a contract is written. Another unit gives a step-by-step guide to moving the contract to closing. The responsibilities of each cooperating sales associate are described in detail. The section ends with coverage of how to close a transaction.
- Section V describes economic principles and the processes used to analyze real estate investments. The section also describes the important field of property management.

We have attempted to make this text as thorough and practical as possible and included many features that we hope you find helpful in your business activities.

**Forms
To Go**

A Forms To Go section is in Appendix A. Symbols such as the one on the left show you when a form is available there. The section includes Florida Real Estate Commission (FREC) forms, brokerage relationship disclosures, listing and sales contracts, and other forms you might find useful in your daily practice.

WEBLINK

We have included weblinks with an icon like the one shown on the left, so you can use the internet to find more resource material.

While it is challenging to design one book to meet the needs of real estate sales associates with different specialties, we hope to provide a bridge from basic classroom education to deeper understanding and practical hands-on training in real estate.

Edward J. O'Donnell

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SAMPLE

LAYING THE FOUNDATION FOR A SUCCESSFUL CAREER

U N I T 1 LEGAL ISSUES AND RISK MANAGEMENT

U N I T 2 FAIR HOUSING AND THE AMERICANS WITH DISABILITIES ACT

U N I T 3 BUSINESS PLANNING AND TIME MANAGEMENT

Unit 1 will familiarize licensees with the important license laws relating to the broker's relationships with customers. It describes the disclosure forms that licensees must give to their customers and lists the situations when the disclosure requirements do not apply.

Coverage of state and federal laws that affect real estate will help the licensee stay current on important laws such as property condition disclosure, federal income taxes, and lead-based paint disclosures.

Unit 2 describes the important provisions of the Fair Housing Act and the Americans with Disabilities Act.

In Unit 3, the student will learn the basics of developing a business plan, setting goals, and time management.

SAMPLE

1

LEGAL ISSUES AND RISK
MANAGEMENT

LEARNING OBJECTIVES

When you have completed this unit, you will be able to:

- describe the procedures and education required for renewing your real estate license;
- describe the characteristics and duties of each of the authorized brokerage relationships in Florida;
- recognize the laws and regulations that protect consumers in real estate transactions; and
- identify practical steps licensees can take to avoid misrepresentation.

KEY TERMS

| | | |
|-----------------------|------------------------|---------------------|
| agency | designated sales | no brokerage |
| agent | associate | relationship notice |
| buyer brokerage | dual agency | principal |
| agreement | false or misleading | property condition |
| community | statement | disclosure |
| association | fiduciary relationship | radon gas |
| consent to transition | innocent purchaser | single agent |
| to transaction | status | single agent notice |
| broker notice | material fact | transaction broker |
| customer | misrepresentation | |

OVERVIEW

Unit 1 updates licensees on laws and trends in the real estate industry. The first section of this unit describes how to renew your real estate license. You will review the duties and disclosures required in your dealings with customers. We'll also review and update important state and federal laws. The last section will help you avoid charges of misrepresentation.

1 **RENEWING YOUR FLORIDA REAL ESTATE LICENSE**

2 The Department of Business and Professional Regulation (DBPR) will send a renewal
3 notice to a licensee's last known address of the licensee at least 60 days before the license
4 expires.

5 Licensees should send the renewal notice and a check to the DPBR before the renewal
6 date or renew online with a credit card and print their new license. Persons renewing after
7 the expiration date must pay a late renewal fee. The late fee does not apply to the first
8 renewal because the initial license will become void if not renewed by the renewal date.

In Practice

New licensees should establish an online account with DBPR at its myfloridalicense.com website early. Waiting until the last day before renewal may result in long delays because of the heavy website traffic.

Ensure that the myfloridalicense.com site has your current address and license status in its records. If your mailing address is different from the one in DBPR's records, you are subject to a \$500 citation. Be sure to send in a change of address to the DBPR using Form RE-10. You can use the site to renew and print your license.

9 **Required Education for Renewing the Initial License**

10 The initial real estate license expires on the first of two dates after 18 months have
11 elapsed following issue: March 31 or September 30. For example, if a person passed her
12 state exam on April 21 of this year, the license will expire on March 31, not quite two
13 years later. If the expiration date falls on a weekend, the renewal date is extended to mid-
14 night of the next business day.

15 A sales associate must successfully complete a 45-hour sales associate post-licensing
16 course before the associate's first renewal. A broker must complete 60 hours of broker post-
17 license education before the first renewal. A sales associate or broker who has received a
18 four-year degree, or higher, in real estate from an accredited institution of higher educa-
19 tion is exempt from the post-license education requirements.

20 If the licensee does not successfully complete the post-license requirement, the license
21 becomes void. A sales associate wanting to continue in real estate would have to take the
22 prelicense course again and pass the state exam. The license of a broker who does not
23 complete the required post-license course will become void. But the broker may, after the
24 license becomes void, take a 14-hour continuing education course and apply for sales asso-
25 ciate status. The licensee who wishes to become a broker again must successfully complete
26 the broker prelicense course and pass the state exam.

27 The Commission may allow an additional six-month period after the first renewal
28 following initial licensure for completing the post-licensure education courses for sales
29 associates and brokers who cannot, due to individual physical hardship, as defined by rule,
30 complete the courses within the required time. The person claiming a hardship should
31 submit a written request to the Division of Real Estate with supporting documentation.
32 The hardship extension is not available for individuals who do not complete a continuing
33 education or reactivation education course on time.

Students who fail the post-licensing education end-of-course examination have one more chance to pass a different end-of-course examination. The second exam may be taken immediately. The student must pass the exam within one year of the original end-of-course examination. Students who fail the end-of-course examination twice must repeat the course.

Required Education for Subsequent Renewals

After the first renewal, the license will expire on the same date every two years. If a licensee fails to renew the license, the license will become involuntary inactive, and the licensee may not perform real estate services. After the first renewal, a licensee must complete 14-hours of FREC-approved continuing education course. Licensees who are members of The Florida Bar are exempt from the continuing education requirement.

The 14-hour requirement includes 3 hours of core law, 3 hours of ethics and business practices, and 8 hours of specialty education. A licensee who takes the 3-hour core law course in each year of the renewal period will be allowed a total of 6 hours toward the 14-hour requirement. The specialty course hours are reduced to 5 hours.

Course providers must submit the names and license numbers of licensees who completed the post-licensing or continuing education courses within 30 calendar days of the course completion date or before the renewal date, whichever occurs sooner. The DBPR will not renew a license until the required education courses have been posted to the myfloridalicense.com database.

AUTHORIZED BROKERAGE RELATIONSHIPS

A real estate licensee may work with potential buyers and sellers:

- as a transaction broker,
- as a **single agent**,
- with no brokerage relationship, or
- as a designated sales associate in a nonresidential transaction.

Dual agency is not an authorized brokerage relationship. Florida law prohibits dual agency because a licensee cannot fairly represent both parties in a transaction.

Residential Property Disclosures

Except for transaction brokers, a licensee in a residential sales transaction must give a brokerage relationship notice to potential buyers or sellers before or at the time of entering into a listing agreement or before the showing of property, whichever occurs first. A **residential sale** is defined as:

- property with four units or fewer,
- unimproved residential property intended for use of four units or fewer, or
- agricultural property of 10 acres or fewer.

The three types of required residential brokerage notices include the following:

- no brokerage relationship notice
- **single agent notice**
- consent to transition to transaction broker notice

Brokers must keep copies for at least five years of the disclosure notices for all residential transactions that result in a written sales contract.

Property transactions that do not require disclosure notices A licensee need not give a brokerage relationship notice when:

- the licensee is acting as a transaction broker;
- the licensee knows that a single agent or a transaction broker already represents the potential seller or buyer;
- an owner is selling new residential units built by the owner and the circumstances or the setting should reasonably inform the potential buyer that the owner's employee or single agent is acting on behalf of the owner, whether because of the location of the sales office or because of office signage or placards or identification badges worn by the owner's employee or single agent;
- selling nonresidential property;
- renting or leasing real property, unless the buyer has an option to purchase all or a portion of the property improved with four or fewer residential units;
- holding a bona fide open house or model home showing that does not involve eliciting confidential information, executing a contractual offer or an agreement for representation, or negotiating price, terms, or conditions of a potential sale;
- engaging in unanticipated casual conversations with a seller or a 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;
- the 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; or
- auctioning, **appraising**, or disposing of any interest in business enterprises or business opportunities, except for property with four or fewer residential units.

Transaction Broker Relationship

Licensees are presumed to be working as transaction brokers unless they have entered into another brokerage relationship with a **customer**. Because of this presumption, the licensee need not provide a brokerage relationship notice to the customer. A **transaction broker** provides limited representation to a buyer, a seller, or both in a real estate transaction, but does not represent either party in a fiduciary capacity. The customer is not responsible for the acts of the transaction broker. A recent survey by the Florida Realtors® showed that nearly 70% of Realtors® worked exclusively as transaction brokers.

Transaction broker duties A transaction broker owes the following seven duties to the customer:

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.

- 1 5. Presenting all offers and counteroffers in a timely manner, unless a party has
- 2 previously directed the licensee otherwise in writing.
- 3 6. Limited confidentiality, unless waived in writing by a party. The transaction bro-
- 4 ker may not reveal to either party:
- 5 — that the seller might accept a price less than the asking or list price,
- 6 — that the buyer might pay a price greater than the price submitted in a written
- 7 offer,
- 8 — the motivation of any party for selling or buying property,
- 9 — that a seller or a buyer will agree to financing terms other than those offered,
- 10 and
- 11 — any other information requested by a party to remain confidential.
- 12 7. Any additional duties that are entered into by this or a separate agreement.

13 **Single Agency Relationship**

14 A **single agent** represents either the buyer or the seller, but not both, in a transaction.
15 The **principal** relies on the single agent to give skilled and knowledgeable advice and to
16 help negotiate the best terms in dealings with the customer. Because only single agency
17 creates a **fiduciary relationship**, only single agents may call their customers “principals.”
18 The principal is responsible for the acts of his single agent.

19 **Single agent duties** A single agent owes the following nine duties to the principal:

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



Forms To Go

31 **Single agent notice** The single agent notice (see Appendix A) must be given before,
32 or at the time of, entering into a listing agreement or an agreement for representation or
33 before the showing of property, whichever occurs first. It may be a separate and distinct
34 disclosure document or part of another document, but it is most often made part of a list-
35 ing agreement or a **buyer brokerage agreement**.

36 The notice should be signed. If a principal who wants the single agent form of rep-
37 resentation declines to sign a single agent notice, the licensee may still work as a single
38 agent for that person but should note on the licensee’s copy that the principal declined
39 to sign.

40 **Role of sales associates** Sales associates are agents of their registered brokers. If a seller’s
41 broker has a listing, that broker and all the sales associates in that firm represent the seller.

1 **Transitioning from single agent** When a single agent for one party begins working with
 2 a party on the other side of the transaction, the single agent must either have no broker-
 3 age relationship with the other party or become a transaction broker for both parties. The
 4 agent may not disclose to the other party any confidential information learned during the
 5 single agency.

6 **EXAMPLE:** As their single agent, broker James listed the Smiths' house. Sally, a
 7 licensee in James's office, is working as the single agent for a buyer, Mr. Farley. Farley
 8 becomes interested in the Smiths' house. Because he cannot represent both parties
 9 (which would make him a dual agent), the broker must get permission from the principal
 10 to become a transaction broker.

In Practice

When you're taking a listing, how do you answer a seller who wants you to remain a single agent throughout the transaction? Maybe you could explain that if you're not a transaction broker, it's unlikely that a buyer will buy the property through you and may decide to use another licensee for help. Because the other licensee may want to show their listings first, the buyer may be diverted to another house.



**Forms
To Go**

11 **Consent to transition to transaction broker notice** The consent to transition to trans-
 12 action broker notice (see Appendix A) allows single agents to change their brokerage
 13 relationship to that of a transaction broker. The principal must sign this notice before the
 14 single agent can become a transaction broker.

No Brokerage Relationship

16 A buyer or a seller can choose to not be represented by a real estate broker and would
 17 be a "customer" of the broker. Licensees working with no brokerage relationship to the
 18 customer owe the following three duties:

- 19 1. Dealing honestly and fairly
- 20 2. Disclosing all known facts that materially affect the value of the residential real
 21 property that are not readily observable to the buyer
- 22 3. Accounting for all funds entrusted to the licensee

23 A single agent for one party in a transaction may decide to work with the other party
 24 with no brokerage relationship. If a broker does not have a brokerage relationship with a
 25 customer and is a single agent for the other party, the customer is at a disadvantage. It is
 26 the duty of the single agent to work diligently for the principal and to get the best price
 27 and terms for the principal.

28 The duties of a licensee who has no brokerage relationship with a buyer or a seller
 29 must be fully described and disclosed in writing to the buyer or the seller. The **no broker**
 30 **age relationship notice** (see Appendix A) must be given to prospective buyers and sellers
 31 of residential property before showing a property. The notice need not be signed.



**Forms
To Go**

DISCUSSION EXERCISE 1.1

Nonrepresentation Broker Helen lists the Smiths' home as a single agent. Later, Helen shows it to Mr. Jones, a prospective buyer, and gives him a no brokerage relationship notice.

While Helen is writing his offer for the property, Jones says, "I'll pay the asking price of \$200,000 if I have to, but I would like to start the negotiations at \$185,000."

When Helen presents the offer, she must tell the Smiths that Jones has said he will pay up to the listed price. Failure to make this disclosure would expose her to disciplinary action and civil liability for violation of her fiduciary duty of full disclosure.

FIGURE 1.1 Brokerage Relationship Duties

| Duty | No Brokerage | Transaction | Single Agent |
|--|--------------|-------------|--------------|
| Account for all funds | ✓ | ✓ | ✓ |
| Disclose all known facts that affect value of residential property | ✓ | ✓ | ✓ |
| Deal honestly and fairly | ✓ | ✓ | ✓ |
| Use skill, care, and diligence | | ✓ | ✓ |
| Present all offers and counteroffers | | ✓ | ✓ |
| Exercise limited confidentiality | | ✓ | |
| Perform additional duties that are mutually agreed to | | ✓ | |
| Confidentiality | | | ✓ |
| Obedience | | | ✓ |
| Loyalty | | | ✓ |
| Disclosure (full) | | | ✓ |

1 The Designated Sales Associate

2 A broker may legally appoint one sales associate in the firm to act as the agent for the
 3 buyer (or lessee) and another sales associate in the firm to act as the agent for the seller
 4 (or lessor). This status may be used only in a nonresidential transaction. In this status,
 5 each **designated sales associate** is an advocate for the party he or she represents in the
 6 transaction and can actively help in the negotiations. The broker, however, must remain
 7 neutral. To meet the requirements of the law, buyers and sellers must have personal **assets**
 8 of at least \$1 million, must sign disclosures that their assets meet the requirement, and
 9 must request this representation status. The licensees must give the parties a designated
 10 sales associate notice (see Appendix A).



Forms
To Go

DISCUSSION EXERCISE 1.2

Designated Sales Associate FatBurgers, Inc., is searching for five store locations in Pompano. It engages Mary Stevens of Pompano Commerce Realty as single agent because of her knowledge and expertise in the Pompano fast-food field. Jack Wilson, of the same firm, represents the seller of one of the potential sites.

Because FatBurgers, Inc., wants Mary to be its single agent, the broker appoints Mary as a single agent for FatBurgers, Inc., and Jack as single agent for the seller. Mary and Jack are now designated sales associates.

1 Team Advertising

2 One of the important trends in real estate has been the formation of “teams.”
3 A team, or a group, consists of one or more real estate licensees working together
4 to have more impact in the market. These teams are not brokerage firms and may
5 not advertise in ways that would lead consumers to believe the team is a registered
6 brokerage firm.

7 To increase consumer understanding when reading real estate advertising, the
8 Florida Real Estate Commission developed a rule regulating all team advertising
9 (61J2-10.026, FAC). A team must work under the supervision of one brokerage
10 firm. When advertising, the team name or logo may not be in larger print than
11 that of the registered brokerage firm. The name of the team and its logo may
12 include the words “team” or “group” as part of the name, but may not include any
13 of the following words:

- | | | |
|----------------|----------------------------|--|
| (a) Agency | (f) Corporation | (k) Properties |
| (b) Associates | (g) Corp. | (l) Property |
| (c) Brokerage | (h) Inc. | (m) Real Estate |
| (d) Brokers | (i) LLC | (n) Realty |
| (e) Company | (j) LP, LLP or Partnership | (o) or similar words suggesting the team or group is a separate real estate brokerage or company |

14 Each team must file with the broker the name of a licensee who will be respon-
15 sible for ensuring that the advertising complies with Florida law and FREC rules.
16 At least once a month, the broker must compile a written record of the team’s
17 members.

1 **IMPORTANT LAWS REGULATING REAL ESTATE PRACTICE**

2 **Homeowners Association Disclosure (Chapter 720.401, F.S.)**

3 If owners must be members in a **community association**, the developers or owners of
4 the parcel must give to the buyer a homeowners association disclosure, before the buyer
5 signs a purchase contract.

6 The contract for sale must include the disclosure summary shown below, and a state-
7 ment that the buyer should not sign the contract before reading the entire disclosure
8 summary.

HOMEOWNERS ASSOCIATION DISCLOSURE

If the disclosure summary required by section 689.26, Florida Statutes, 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 written notice of the buyer's intention to cancel within 3 days after receipt of the disclosure summary or prior to closing, whichever occurs first. Any purported waiver of this voidability right has no effect. Buyer's right to void this contract shall terminate at closing.

9 This section does not apply to any association regulated as condominiums, coopera-
10 tives, vacation or time-sharing, or mobile home park lots.

11 **Ad Valorem Tax Disclosure (Chapter 689.261, F.S.)**

12 The Save Our Homes Amendment to the Florida Constitution limits increases in the
13 assessed value of a homestead property. The assessment is allowed to increase annually by
14 no more than 3% or the percentage increase in the Consumer Price Index, whichever is
15 less. When the property is sold, it is reassessed at full assessed value. This reassessment
16 caused a hardship to buyers when their first tax bill is much higher than what the former
17 owner paid, so Ad Valorem Tax Disclosure requirement was enacted.

18 Before the buyer signs a contract to purchase, the seller must include the following
19 disclosure in the contract or give a separate property tax disclosure that includes the fol-
20 lowing wording:

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.

21 **Radon Gas Protection Act (Chapter 404.056, F.S.)**

22 **Radon gas** is believed to be the second-most-common source of lung cancer in the
23 United States. Radon results from decaying uranium in the soil. Radon gas is everywhere,
24 but it is rarely a problem because of very low concentrations in the atmosphere. When ura-
25 nium decays under a home, the gas can seep into the home through foundation cracks and
26 plumbing lines. Improved building techniques and insulation intended to provide energy-
27 efficient homes have the unintended side effect of trapping the gas inside the home.

1 Testing is the only way to learn whether radon levels are a health hazard. The Envi-
 2 ronmental Protection Agency (EPA) recommends intervention if testing shows radon
 3 levels at 4 picocuries per liter of air or higher, a concentration approximately 10 times that
 4 of outdoor air. Exposure to radon inside the home can be reduced to acceptable levels by
 5 sealing foundation cracks and other openings.

6 The radon levels in a building can also be reduced by mitigation systems. Polyvinyl
 7 chloride (PVC) pipes are installed through the slab, connected to a fan that draws air from
 8 beneath the house and vents it above the roofline. The system may cost from \$1,000 to
 9 \$3,500, and the electricity cost for running the fan is only about five dollars per month.

10 The following wording must be on every sale contract and on every lease contract if
 11 the lease is for more than 45 days:

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.

WEBLINK



The EPA pamphlet *A Citizen's Guide to Radon* is available at www.epa.gov/radon/pubs/citguide.html.

Federal Residential Lead-Based Paint Hazard Reduction Act

12 Lead poisoning causes permanent neurological damage and is particularly dangerous
 13 to children and pregnant women. The Residential Lead-Based Paint Hazard Reduction
 14 Act was enacted to protect consumers by requiring disclosure of these dangers. Before the
 15 contract is signed, the seller, landlord, or licensee must provide to purchasers of residential
 16 buildings that were built before 1978 the following:

- 17 ■ A lead hazard information pamphlet
- 18 ■ Information about the presence of any known lead-based paint or lead-based
- 19 paint hazard
- 20 ■ A 10-day period to conduct an inspection (does not apply to rentals)
- 21

22 Licensees must attach the Lead-Based Paint Warning Statement (see Appendix A) to
 23 the contract.

24 Because renovations and demolitions of properties built before 1978 can create lead
 25 dust and chips that would be harmful to children and adults, the EPA requires contractors
 26 who disturb paint in these properties to be certified and follow specific work practices. To
 27 become certified, a renovator must successfully complete an eight-hour training course
 28 offered by an accredited training provider.



Forms To Go

WEBLINK



The EPA's lead website is at www2.epa.gov/lead.

HUD's Office of Healthy Homes and Lead Hazard Control (OHHLC) is at http://portal.hud.gov/hudportal/HUD?src=/program_offices/healthy_homes.

1 Comprehensive Environmental Response, Compensation, and Liability Act 2 of 1980

3 The Comprehensive Environmental Response, Compensation, and Liability Act
4 (CERCLA) of 1980 imposes substantial liability on owners of real properties that have
5 been contaminated with toxic or hazardous substances. The liability also extends to other
6 parties in a transaction, such as attorneys, developers, lenders, and real estate brokers. The
7 liability in the act is joint and several, which means that all present or former property
8 owners may be forced to pay (joint) or only one owner may be required to pay (several).

9 A purchaser who wishes to avoid liability under the statute must do intensive research,
10 usually in the form of a Phase I environmental audit. The audit is expensive and time con-
11 suming. The statute allows the purchaser to defend against any later action by claiming
12 **innocent purchaser status**, provided that the purchaser exercised due diligence to inves-
13 tigate the property. Licensees should be particularly careful when listing or selling sites
14 such as former gas stations or dry-cleaning establishments. Residential properties built
15 on former farmland have been contaminated by pesticide use (e.g., Dioxin, DDT, etc.) or
16 old farm gas tanks that have leaked. Other problem areas for residential licensees are old,
17 leaking heating oil tanks buried in the ground.

WEBLINK



The EPA's Superfund site is at www.epa.gov/superfund/.

18 The National Do Not Call Registry

19 The National Do Not Call Registry is a list of phone numbers belonging to persons
20 who do not want to be contacted by commercial telemarketers. It is managed by the Fed-
21 eral Trade Commission (FTC) and enforced by the FTC, the Federal Communications
22 Commission (FCC), and individual states.

23 The registry now includes more than 221 million phone numbers. Numbers placed on
24 the registry remain on the list for five years.

25 The rules of the do-not-call registry cover the sale of goods or services by telephone.

26 Political organizations, charities, telephone surveyors, or companies with which a
27 consumer has an existing business relationship are exempt from the rules of the do-not-
28 call registry. A company that has an existing business relationship with the consumer may
29 place a call, even if that consumer is on the registry, for up to:

- 30 ■ 18 months after that consumer's last purchase, delivery, or payment, even if the
31 consumer's number is on the registry; or
- 32 ■ 3 months after that consumer makes an inquiry or submits an application to the
33 company.

34 If the consumer asks the company not to call again, the company must honor the
35 request.

36 **Accessing the do-not-call registry** Only sellers, telemarketers, and other service provid-
37 ers may have access to the registry. The registry may not be used for any purpose other
38 than preventing telemarketing calls to the telephone numbers on the registry. The only
39 consumer information available from the registry is telephone numbers. The numbers are
40 sorted and available by area code. Companies may access as many area codes as needed
41 (and paid for), by selecting, for example, all area codes within a certain state.

Sellers or telemarketers may not call into any area code before paying for the protected numbers, even if those consumers' telephone numbers are not on the registry. Data for up to five area codes is free. The only exceptions are for telemarketers who call only consumers with whom they have an existing business relationship or written agreement to call and that do not access the do-not-call registry for any other purpose. Real estate licensees can call for sale by owners if they have a bona fide prospect.

A seller or a telemarketer could be liable for placing any telemarketing calls (even to numbers not on the do-not-call registry) unless the telemarketer has paid the required fee for access to the registry. Violators are subject to substantial fines for each call placed. In 2013, a large mortgage refinancing company was fined \$7.5 million for many violations of the law.

Safe harbor rules To successfully avoid penalties for violations of the law, the seller or the telemarketer must demonstrate that it:

- has written procedures to comply with the do-not-call registry requirements,
- trains its personnel in those procedures,
- monitors and enforces compliance with these procedures,
- maintains a company-specific list of telephone numbers that it may not call,
- accesses the National Do Not Call Registry no more than three months before calling any consumer and maintains records documenting this process, and
- erred unintentionally if it did make any call in violation of the do-not-call-registry rules.

The best source of information about complying with do-not-call-registry rules is the FTC's website. It includes business information about the registry.

WEBLINK

Visit the National Do Not Call Registry at <https://donotcall.gov>.

The Florida Do Not Call Registry

Florida has enacted its own Do Not Call Registry. The national registry supersedes portions of the Florida law that are less strict. Sellers and telemarketers must consult both lists to ensure that a consumer is not on either list before placing a sales call. Florida's law allows licensees to contact for sale by owners (FSBOs) to solicit a listing, but this is permissible only if the owner is not in the National Do Not Call Registry.

The national registry allows you to call a FSBO if you have a buyer who wants to purchase the property, but you may not use the call to discuss listing the property. If the FSBO is not on the national registry but is on the Florida list, you may solicit the listing if the property was advertised or has a sign in front.

In Practice

Review the list and check it twice.

Before placing a call, you should be sure that the consumer is not on any of the following lists:

- National Do Not Call Registry
- Florida Do Not Call list
- Your own in-office do-not-call list

WEBLINK

Visit the Florida Do Not Call Program at www.fldnc.com.

1 CAN-SPAM Act

2 The Controlling the Assault of Non-Solicited Pornography and Marketing Act
3 (CAN-SPAM Act) of 2003 establishes requirements for commercial email, spells out pen-
4 alties for spammers, and gives consumers the right to ask emailers to stop spamming them.

5 The law distinguishes between commercial email and transactional (relationship)
6 email. The act covers only commercial electronic mail messages and regulates emailers
7 whose primary purpose is to advertise a commercial product or service.

8 Transactional messages include, for example, emails informing sellers about the prog-
9 ress on marketing a listed property or emails thanking past customers and updating the
10 relationships. As long as these emails don't contain false or misleading routing informa-
11 tion, they are exempt from the act. Informational messages, such as newsletters that don't
12 contain advertisements are also exempt.

13 The law bans false or misleading header information, meaning that the "From," "To,"
14 and routing information must be correct and identify the person who sent the email. It
15 requires that the recipients have a way to opt out from future messages. Commercial email
16 must be identified as advertising and include the sender's physical mailing address.

17 Email is commercial if it is exclusively an advertisement for a commercial product or
18 service, if the subject line suggests that a message is commercial, or a transactional mes-
19 sage does not appear in whole or in part at the beginning of the message's body text.

20 The act is enforced by the FTC and the Department of Justice (DOJ). Each violation
21 is subject to fines up to \$11,000.

WEBLINK

Visit the FTC website on spam at www.onguardonline.gov/articles/0038-spam/.

1 Income Tax Regulations Affecting Residential Real Property

2 Real estate licensees are not income tax experts, but should be knowledgeable about
3 federal taxes related to real estate transactions. Licensees always should advise consumers
4 to seek professional tax advice.

In Practice

Be careful what you tell buyers about tax deductions

Don't tell buyers that they can deduct property taxes and interest to get them to purchase a home. You must be certain that they have enough other deductions (e.g., combined deductions exceeding \$25,950 for a married couple filing jointly in 2022) so they can take full advantage of the real estate–related deductions.

5 Exclusion of Gain From the Sale of a Personal Residence

6 A taxpayer may exclude up to \$250,000 (\$500,000 for a married couple filing jointly)
7 of gain on the sale of a personal residence if the taxpayer owned and occupied the resi-
8 dence for at least two of the previous five years. If the taxpayer held the home less than
9 two years, a prorated portion of the exclusion may apply. The number of times a home-
10 owner may use this exclusion is unlimited, except that the exclusion can be used only
11 once every two years. The law is advantageous to most families because it allows them to
12 earn large profits on their residences tax free.

13 **EXAMPLE:** The Wilsons bought their home in 1992 for \$50,000. In 1992, they
14 added a deck and pool for \$25,000. They lived in the home until they sold it for \$300,000
15 in March of this year. Selling costs were \$20,000. They would calculate their taxes as
16 follows:

| | | |
|----|-------------------------------------|--------------------|
| 17 | Selling price | \$300,000 |
| 18 | Less selling expenses | <u>– \$ 20,000</u> |
| 19 | Equals amount realized | \$280,000 |
| 20 | Basis | |
| 21 | Original cost | \$50,000 |
| 22 | Plus improvements | <u>+ \$25,000</u> |
| 23 | Equals adjusted basis | <u>\$75,000</u> |
| 24 | Gain on sale (\$280,000 – \$75,000) | \$205,000 |
| 25 | Less exclusion on sale of residence | <u>– \$500,000</u> |
| 26 | Taxable capital gain | \$0 |

27 The exclusion is available only once every two years, but there are several exceptions.
28 If the home has been held less than two years and if the move is job-related or health-
29 related or there were other unforeseen circumstances, the taxpayer was allowed a prorated
30 portion of the exclusion. The IRS ruled that unforeseen circumstances could include:

- 31 ■ divorce, legal separation, or death of a spouse;
- 32 ■ becoming eligible for unemployment compensation;
- 33 ■ a change in employment that makes it impossible to pay the mortgage or basic
- 34 living expenses;

- multiple births resulting from the same pregnancy;
- damage to the home from a natural disaster, act of war, or terrorism; and
- condemnation, seizure, or involuntary conversion of the property, such as foreclosure.

Taxation of gain from sale of real estate Short-term capital gains (for property held for one year or less) are taxed at the investor's ordinary income tax rate. Long-term capital gains (property held for more than 12 months) are taxed at different rates, depending on the taxpayer's income.

Taxation of independent contractors Most sales associates are treated as independent contractors for tax purposes. If the broker meets all requirements, this results in substantial savings to the broker, who does not have to pay the employer's share of Social Security taxes, Medicare contributions, workers' compensation insurance, unemployment taxes, and other fringe benefits. Brokers must meet three major requirements in order for their sales associates to qualify for independent contractor status:

- The sales associate must hold a real estate license.
- The sales associate's gross income must be based on production rather than on the number of hours worked.
- The sales associate's work must be done based on a written contract that states, among other things, that the sales associate will not be considered an employee for federal tax purposes.

The broker may not reimburse the sales associate for business costs, such as automobile expenses. If the broker pays for business cards, insurance plans, licensing, or board dues, the IRS may determine that the sales associate is an employee. The broker would then be liable for Social Security and Medicare taxes and income taxes.

Antitrust Laws

Brokers risk their assets and careers by conspiring with other brokers to set a standard commission. Antitrust laws prohibit any action by a party to fix prices or inhibit competition by using unfair practices. Some of the prohibited actions under antitrust laws include:

- conspiracy to set prices,
- splitting up competitive market areas,
- conspiring to boycott cut-rate brokers or otherwise interfering with their business, and
- requiring a minimum commission before allowing listings to be circulated in any service, such as through a multiple listing service (MLS).

Certain of these acts are considered so harmful to competition that they are almost always illegal. These acts are called "per se" violations of the Sherman Antitrust Act so that no defense is allowed.

- 1 Violating the Sherman Antitrust Act carries substantial penalties, both civil and
2 criminal. Criminal penalties may carry fines of up to \$100 million for corporations and \$1
3 million for individuals, and up to 10 years in prison.

DISCUSSION EXERCISE 1.3

Boycotting Gloria, president of Big Tree Realty, Inc., had a luncheon meeting with Samuel, president of Statewide Residential Brokers, Inc. The subject of the meeting was Southern Discount Realty and the increased market share it had achieved since it announced its new discount fee structure. Big Tree and Statewide previously had a 47% market share between them, but their combined share was now 39%.

They agreed to tell their sales associates not to show Southern Discount Realty listings to their buyers. Also, they agreed to call several other brokers in the area to do the same.

"A broker simply cannot give good service by charging that little. It's unprofessional," Gloria said.

If you were a sales associate for Statewide Realty and your sales manager suggested that you boycott Southern Discount listings, what would your response be?

4 AVOIDING MISREPRESENTATION

- 5 While the legal definition is much broader, the common definition of **misrepresentation**
6 is that is the act of a person who, either intentionally or unintentionally, fails to
7 disclose a **material fact** or makes a **false or misleading statement** that is justifiably relied
8 on by another, resulting in damage. Intentional misrepresentation is actionable as fraud.
9 Unintentional misrepresentation is negligence.

- 10 When defects that were not disclosed to the buyers become apparent after the closing,
11 buyers are likely to demand compensation. Brokers and sales associates, regardless of
12 their brokerage relationship, must disclose known facts that materially affect the value of
13 residential property that are not readily observable.

- 14 To win a fraudulent misrepresentation case against a broker, the plaintiff must prove
15 that the:

- 16 ■ broker made an error in giving information, oral or written, to the buyer or failed
17 to disclose a material fact to the buyer;
- 18 ■ broker knew the statement was not accurate or the information should have
19 been disclosed;
- 20 ■ plaintiff reasonably relied on such statement; and
- 21 ■ plaintiff was damaged as a result.

- 22 The buyer is entitled to compensation if the representation was a material inducement
23 to the contract. The broker's duty stems from the seller's duty to disclose material defects.

- 24 In establishing liability, it does not matter whether the misrepresentation was fraudulent
25 (intentional) or negligent (unintentional). The most common remedies available
26 include monetary damages, rescission of the contract, forfeiture of the broker's commission,
27 and disciplinary action by the FREC.

In Practice

Don't make any of the following statements to a buyer:

- “No need to get a title search. I sold this house last year and title was fine.” You must tell buyers to get an attorney's opinion or purchase title insurance.
- “Don't worry, the seller told me by phone that I could sign the contract for her.” A contract for sale of real property is not enforceable unless the person has a power of attorney. A sales associate or broker should avoid using a power of attorney because of representation issues.
- “I won't be able to present your offer until the seller decides what to do about the offer I submitted yesterday.” You must present all offers.
- “That roof is in great condition—I can tell just by looking at it.” If it's not OK, you may get to repair it at your expense.



Forms
To Go

Practical Steps for Sales Associates

Brokers and sales associates should follow these practical steps to decrease the risk of misrepresentation claims:

1. Have the seller complete a **property condition disclosure** form (see Appendix A) and discuss any potential problem areas.
2. Inform the seller of the legal duty to disclose material facts that affect the value of residential property and are not readily observable.
3. Disclose pertinent information in writing, such as in a property condition disclosure form from the sellers. The buyers should sign the disclosure indicating that they have received it. A confirmation letter would confirm earlier discussions in which you pointed out a leaky roof or the need to consult with a soil engineer, and it would affirm that neither you nor the seller makes any warranty as to the condition of the roof or the foundation. Keep copies of these documents in the transaction file.
4. If the seller refuses to disclose material defects, decline the listing. Taking a listing of this nature is not worth damage claims, loss of reputation, and the potential loss of your license.
5. Ask about factors outside the property boundaries that might influence its value and affect a person's decision to buy, such as these:
 - Abutting and nearby uses (present and proposed, such as a rock band venue next door)
 - Highway expansion or rerouting of a bus line
6. Do not make statements when you don't have firsthand knowledge or that are not based on expert opinion or advice. Have a list of government agencies from which you can get information. Suggest that the buyer check things out, too, by providing the telephone numbers and website addresses of the appropriate government agencies. It is best that important technical information come directly to the buyer from the government agency.
7. Avoid exaggeration. If you want to venture a quick opinion about things you are not certain about, make sure the buyer understands that it is only a guess, and does not rely on it in making a decision.

8. When using email for discussing important items, request that the customer reply to the email. Keep the email and reply for documentation.
9. Get information about condominiums, including:
 - House rules regarding children, pets, and waterbeds
 - Location of lockers and parking stalls
 - Existence of special assessments (for what and how much)
 - Maintenance fee(s) (what is included, proposed increases)
 - Planned future capital improvements
 - Existing reserves and purpose of reserves
 - Historical information as to when capital improvements were completed
 - Structural engineering reports and required reserves for structural repairs

Home Inspection

One of the most effective risk-management tools available to licensees is to suggest that the buyer order a home inspection that will disclose defects in a building. It is better to identify problems before the closing so the parties can negotiate a settlement. If a material defect is discovered after closing, the buyer may sue the licensee rather than the seller, who may now live in a distant city.

Home inspectors must be licensed by the DBPR. They must have a high school diploma, be of good character, complete a minimum of 120 hours of prescribed education, and pass a state examination. Home inspectors must also take 14 hours of board-approved continuing education at each renewal cycle before renewing the second time. The first renewal does not require any continuing education credits.

In Practice

Have buyers select their own inspector so there's no question about collusion. Give your buyers a list with names and phone numbers of qualified home inspectors in your area.

WEBLINK



Visit the American Society of Home Inspectors website at www.ashi.org.

Death in a Property (689.25(1)(b), F.S.)

An owner of real property, or a real estate broker or sales associate, is immune from a lawsuit for failing to disclose to a buyer that the property was the site of a homicide, suicide, or death, or that an occupant of that property was infected with human immunodeficiency virus (HIV) or diagnosed with acquired immune deficiency syndrome (AIDS).

QUICK REFERENCE CHART FOR REQUIRED DISCLOSURES

Figure 1.2 shows numerous required disclosures. It is intended to be a quick reference guide to help licensees understand some of the many requirements, but it should not be considered all-inclusive.

FIGURE 1.2 Florida Real Estate Disclosure Chart

| Subject | Disclosure Trigger | To | Disclosure Requirement |
|---|--|-----------------|--|
| Ad valorem tax disclosure | Contract to purchase | Buyer | Disclosure that property taxes may increase after the purchase from reassessments |
| Brokerage relationship disclosures | Entering into a representation agreement or showing a property | Buyer or seller | Review this unit for detailed disclosure requirements |
| Condominium Act—purchase cancellation | Contract to purchase | Buyer | 15-day cancellation privilege when buying from a developer; 3-day cancellation privilege when buying a resale unit |
| Condominium Act—recreation lease | Contract to purchase | Buyer | Whether a recreational lease exists; when membership in a recreation facilities club is required; description of the facilities and the charges |
| Federal Reserve's Regulation Z | When advertising financial terms on real property, a trigger item is included in ad | Readers of ads | Full disclosure of all material factors in financing, including price, down payment, monthly payment, finance costs, and annual percentage rate of interest |
| Florida Building Energy-Efficiency Act | Contract to purchase | Buyer | Energy-efficiency rating system description and how to get the building rated |
| Homeowners association disclosure | Contract to purchase | Buyer | Notification that the owner is required to be a member of an association; there are covenants and restrictions; there is a required assessment; there may be a land-use fee |
| Landlord and Tenant Act | Within 30 days of signing lease AND more than 5 units in complex | Tenant | Where deposit is being held; whether it is in an interest-bearing account and the interest rate, if any |
| Land-use disclaimer—some jurisdictions, but not statewide | Contract to purchase | Buyer | Restrictive covenants for the neighborhood; buyer's responsibility to investigate whether the anticipated land use conforms to comprehensive plan, zoning, building codes, etc.; public or private street and drainage maintenance |
| Lead-based paint | Contracts for purchase or lease | Buyer or tenant | Lead hazard information pamphlet; disclosure of any known hazards; 10-day inspection and cancellation privilege |
| Property condition disclosure | When listing property; at time of showing property | Seller/Buyer | Any material defects that affect the property's value |
| Radon gas | Contracts for purchase or lease | Buyer or tenant | Statement as to the nature of the gas and how to get more information |
| Roof inspection ordinance—some jurisdictions | Closing of a real estate transaction | Buyer | Disclosure of condition of roof covering, decking, and framing, usually made within 30 days before closing |
| Time-Share Act—purchase cancellation | Contract to purchase | Buyer | All material aspects of the property; rights and obligations of buyer and seller; 10-day cancellation privilege; notification that purchase is a leisure time activity, not an appreciating investment |
| Time-Share Act—unit assessments | Contract to purchase | Buyer | Annual assessment for common expenses |
| Wood-destroying organisms report | Closing of a real estate transaction that includes commercial or residential buildings | Buyer | Wood-destroying organisms report signed by a licensed pest inspector, made within 30 days before closing date |

1 SUMMARY

- 2 ■ Before renewing a license for the first time, licensees must complete a post-
3 license course, or the license will be void.
- 4 ■ After the first renewal, a licensee must complete 14 hours of continuing educa-
5 tion before renewing. The 14 hours consist of 3 hours of core law, 3 hours of
6 business ethics and practices, and 8 hours of specialty education.
- 7 ■ Three brokerage relationships are available to licensees who sell residential
8 property:
 - 9 — **Single agent brokers.** Single agent brokers represent either the buyer or the
10 seller, but not both, in a transaction. Only single agent brokers may call their
11 customers “principals.” Principals are responsible for the acts of their single
12 agent. The broker must give a single agent notice before showing property or
13 before entering a representation agreement. The notice should be signed, but
14 if the principal declines to sign the notice, the licensee may note the fact on
15 the form and work with the principal.
 - 16 — **Transaction brokers.** Transaction brokers provide limited representation but
17 do not have a fiduciary relationship with the customer. The customer is not
18 responsible for the acts of the transaction broker. Transaction brokers need
19 not give a brokerage relationship notice to customers. A single agent may
20 enter into a transaction broker relationship by having the principal sign a
21 consent to transition to transaction broker notice.
 - 22 — **No brokerage relationship.** Brokers who will not represent the customer as
23 a single agent or a transaction broker must give the customer a no brokerage
24 relationship notice before showing property. The notice need not be signed.
- 25 ■ **Designated sales associates.** Nonresidential brokers may appoint one sales asso-
26 ciate in the firm to represent the seller and one sales associate to represent the
27 buyer.
 - 28 — As designated sales associates, they act as single agents for their principal.
29 The broker must remain neutral.
 - 30 — The buyer and the seller must each have at least \$1 million in assets and
31 agree to the relationship.
 - 32 — A designated sales associate notice and a single agent notice must be given
33 to each party.
- 34 ■ Brokers in nonresidential transactions may work with a customer in one of the
35 ways shown but need not give a brokerage relationship notice.
- 36 ■ Dual agency is prohibited.
- 37 ■ If a home is in a subdivision that requires membership in a community associa-
38 tion, a written disclosure must be attached to the contract for sale, or the con-
39 tract may be voidable by the buyer.
- 40 ■ Before a buyer signs a contract to purchase a homestead property, owners must
41 give an ad valorem tax disclosure notice to the buyer stating that the property
42 taxes may increase in the year following the sale.
- 43 ■ A radon gas disclosure must be part of every sale and lease contract. The disclo-
44 sure describes the gas but does not require an inspection.

- If a residential property was built before 1978, the seller or the landlord must provide a lead warning statement, a lead hazard information pamphlet, information about the presence of any known lead-based paint, and, for buyers only, a 10-day period to conduct an inspection. Contractors who disturb paint in these properties must be certified and follow specific work procedures.
- The Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA) imposes substantial toxic waste cleanup liability on buyers, sellers, attorneys, and brokers. A buyer who wants to avoid liability must exercise due diligence. Licensees should be careful when listing or selling sites such as former gas stations or dry-cleaning establishments.
- Licensees may not call consumers on federal or state do-not-call lists unless the consumer purchased or leased goods from the licensee no more than 18 months ago or made an inquiry no more than 3 months ago. The registry may not be used for any other purpose than preventing telemarketing calls.
- The CAN-SPAM Act requires that commercial advertising emails allow recipients to opt out of future messages.
- Taxpayers may exclude up to \$250,000 (\$500,000 for married couples filing jointly) of the gain on the sale of a principal residence.
- Short-term capital gains (for property held for one year or less) are taxed at the investor's ordinary income tax rate. Long-term capital gains (property held for more than 12 months) are taxed at different rates, depending on the taxpayer's income.
- Antitrust laws prohibit any action by a party to fix prices or inhibit competition.
- In real estate transactions, licensees must be careful to disclose fully any facts that materially affect the property's value.
- A licensee must avoid making statements that could result in a claim of misrepresentation.
- The licensee should use a property condition disclosure statement and recommend that the buyer have the home inspected by a licensed home inspector to reduce liability.
- The fact that a property was the site of a homicide, or that an occupant of that property was infected with HIV or diagnosed with AIDS, need not be disclosed in a real estate transaction.
- Home inspectors must be licensed by the DBPR. They must have a high school diploma, be of good character, complete a minimum of 120 hours of prescribed education, and pass a state examination.

REVIEW QUESTIONS

1. A principal is represented by
 - a. a transaction broker.
 - b. a single agent.
 - c. a dual agent.
 - d. a nonrepresentative.
2. Which is NOT permitted under the do-not-call rules?
 - a. Calling a customer two weeks after the customer made an inquiry
 - b. Using the registry to find prospects for marketing calls
 - c. A charity making a call to request a donation
 - d. A company that trains its personnel in proper procedures
3. Which statement to a prospective buyer is NOT likely to increase a licensee's liability?
 - a. "You don't need a home inspection because the house is only five years old."
 - b. "I used to be in construction, so I can tell you that the roof is in perfect condition."
 - c. "You should be able to get information from the school board about which school your child can attend if you purchase this home."
 - d. "The title to the property is clear; I checked the courthouse yesterday."
4. A licensee must disclose to a homebuyer that
 - a. the occupant of the property is infected with human immunodeficiency virus.
 - b. the former owner was killed when he fell from the roof.
 - c. the roof occasionally leaks.
 - d. there was a recent murder in the house.
5. A broker may NOT work with a buyer or a seller as
 - a. a single agent.
 - b. a nonrepresentative.
 - c. a dual agent.
 - d. a transaction broker.
6. A principal is responsible for the acts of his
 - a. single agent.
 - b. dual agent.
 - c. nonrepresentative.
 - d. transaction broker.
7. A student failed her 45-hour post-licensing course final exam for the second time. What are her options if she wishes to maintain her license?
 - a. She must retake at least 45 hours of the sales associate prelicense course and pass a course exam.
 - b. She must retake the course and pass a different end-of-course exam.
 - c. She must take the 63-hour prelicense course for sales associates and pass the course exam and the state exam.
 - d. She need only pass a different end-of-course exam.
8. Which is NOT required as part of lead-based paint disclosure to a buyer?
 - a. A lead hazard information pamphlet
 - b. A guarantee by sellers to renovate the property
 - c. Information about the presence of any known lead-based paint or lead-based paint hazard
 - d. A 10-day period for the buyer to conduct an inspection
9. Licensed sales associates working at the seller's single agent brokerage firm
 - a. may have another principal in the transaction.
 - b. are legally bound to represent the seller.
 - c. may represent either the seller or the buyer in a transaction.
 - d. may be transaction brokers for the buyer to ensure limited confidentiality.

10. A licensee who sells commercial property
 - a. must give customers a no brokerage relationship notice or a single agent notice before showing property.
 - b. need not give the customer a no brokerage relationship notice before showing property unless acting as a designated sales associate.
 - c. may be a single agent, have no brokerage relationship, or be a designated sales associate, but may not be a transaction broker in a transaction.
 - d. must act as a designated sales associate with her customers.
11. A person violates the CAN-SPAM Act if that person sends an email that
 - a. reports a broker's progress in marketing a property.
 - b. is a commercial advertisement that does not have an opt-out method.
 - c. is a relationship email.
 - d. is a newsletter without commercial advertising.
12. A sales associate must give a brokerage relationship disclosure to a customer when selling
 - a. a house as a transaction broker.
 - b. a commercial property as a single agent.
 - c. a farm with no brokerage relationship.
 - d. a residential condominium as a single agent.
13. An owner sold commercial property and had a \$100,000 short-term gain. His ordinary tax rate is 25%. How much will he pay in taxes for this gain?
 - a. \$0
 - b. \$15,000
 - c. \$20,000
 - d. \$25,000
14. Two sales associates work for a commercial broker. The broker allows one sales associate to act as a single agent for the buyer and the other sales associate to act as a single agent for the seller. Both the buyer and the seller have assets of more than \$1 million, and each agrees to this form of representation. The situation describes a
 - a. transaction broker relationship.
 - b. designated sales associate.
 - c. single agency.
 - d. dual agency.
15. Which is NOT a requirement to become a Florida home inspector?
 - a. High school diploma
 - b. 120 hours of prescribed education
 - c. At least 100,000 net worth
 - d. Pass a state examination
16. It is a violation of antitrust laws for brokers to
 - a. post the amount cooperating brokers will receive for selling a listed property.
 - b. refuse to boycott discount brokers.
 - c. conspire to set standard commissions with competing brokers.
 - d. use a standard listing contract.
17. A man has a capital gain of \$197,000 on the sale of his principal home, which he owned for three years. What are the capital gains taxes on this sale if his normal tax rate is 25%?
 - a. \$197,000
 - b. \$0
 - c. \$98,500
 - d. \$39,400
18. The increase in radon gas problems in houses is the result of
 - a. more energy-efficient buildings.
 - b. Freon in air-conditioning systems.
 - c. the depletion of the ozone layer.
 - d. faster radioactive soil breakdown.
19. A person who wants to be a certified lead paint renovator must
 - a. work for at least two years under a certified contractor doing lead paint removal.
 - b. pass a 100-question exam administered by the lead foundation.
 - c. take a 60-hour lead paint hazard course and pass a 100-question exam.
 - d. successfully complete an 8-hour training course offered by an accredited training provider.
20. A broker shows a house to a buyer. The broker knows that there was a murder in the house five years earlier. The broker
 - a. need not disclose the incident to buyer.
 - b. must tell the buyer before the buyer signs an offer.
 - c. must give the buyer all pertinent information about the murder.
 - d. should recommend that the buyer find another home if the buyer is superstitious.

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