

MINIMUM COURSE CONTENT OUTLINE FOR A 30 HOUR REAL ESTATE FUNDAMENTALS COURSE: RATIONALE AND COURSE OBJECTIVE

RATIONALE:

This document is intended to be utilized by education providers in developing content that the Real Estate Commission requires to be included in the 30 hour course Real Estate Fundamentals which is one of the courses a candidate is required to complete in order to qualify for a license exam in Pennsylvania. The outline is a guide that provides a framework for developing a course with identified. Specific learning objectives which will accomplish the primary course objective. Course content may be presented in any order and may be supplemented in any way the education provider deems appropriate to achieve the stated course objective consistent with prevailing laws and contemporary business practices.

COURSE OBJECTIVE;

The primary objective of the course REAL ESTATE FUNDAMENTALS is to enable students to develop an understanding of the complex legal issues involved in the study of real estate and provide them with a solid, technical, legal foundation upon which a successful career can be built. This core objective will be achieved by addressing the following specific instructional objectives:

1. Identifying and understanding the role of government and laws that impact rights and interests in real property.
2. Developing an understanding of private rights and interests in land; how those rights and interests are held and how they are transferred.
3. Identifying and being able to explain basic principles of contract law, and financing principles.
4. Developing an understanding of license law and rules and regulations that impact real estate licensees.

OUTLINE: FINAL DRAFT: JANUARY 28, 2019

COURSE TITLE: REAL ESTATE FUNDAMENTALS

**PART ONE: OWNERSHIP OF PROPERTY; RIGHTS OF OWNERSHIP AND
LIMITATIONS ON THOSE RIGHTS; HOW OWNERSHIP RIGHTS (TITLE)
ARE HELD; HOW OWNERSHIP RIGHTS (TITLE) ARE TRANSFERRED;
TITLE RECORDS**

- I) LAND, REAL ESTATE, AND PROPERTY: UNDERSTANDING THE DIFFERENCE**
 - A) Basic definitions**
 - 1) Land
 - 2) Real Estate
 - 3) Real Property
 - 4) Personal Property
 - B) Real Property vs. Personal Property: Implications for licensees**
 - 1) Change in classification
 - (a) Annexation
 - (b) Severance
 - (c) Manufactured housing issues
 - 2) Fixtures
 - (a) Definition
 - (b) Tests used to determine classification as fixtures.
 - 3) Trade fixtures
 - (a) Definition
 - 4) Addressing property issues in the sales and lease transactions
- C) Ownership of Real Property**
 - 1) The bundle of rights concept
 - 2) Ownership rights within a parcel of real estate
 - (a) Surface

(b) Sub surface

(c) Air rights

D) General types of laws affecting real estate and real estate transactions.

II) PUBLIC AND PRIVATE LAND USE CONTROLS

A) Public Controls

1) Local, State, and Federal ownership

2) Legal considerations /sources of public controls

(a) Statutory law

(b) Administrative law

(c) Case law

(d) Common law

(e) Obligations of real estate professionals

3) Local government and land use controls

(a) Comprehensive plans

(b) Zoning ordinances

(c) Subdivision regulations

(d) Building codes

4) Interstate land sales full disclosure act

B) Private Controls

1) Deed restrictions

2) Subdivision restrictive covenants

3) Deed conditions

4) Home owner associations (HOA) issues

III) ENVIRONMENTAL ISSUES

A) Environmental protection legislation

1) Applicable federal, state, and local laws

B) Types of environmental hazards/issues

1) Asbestos

2) Electromagnetic fields

3) Ground water contamination

4) Lead poisoning

- 5) Radon
- 6) Underground storage tanks
- 7) UREA formaldehyde foam insulation
- 8) Waste disposal sites
- 9) Current environmental issues
 - (a) Mold
 - (b) Carbon monoxide
 - (c) Fracking related issues
 - (d) Air quality issues
 - (e) Moisture penetration issues

IV) LEGAL DESCRIPTIONS

A) Methods used to create legal descriptions

- 1) Metes and bounds
- 2) Lot and block
- 3) Rectangular (government) survey

B) Legal description of a condominium

C) Preparation and use of a survey

V) INTERESTS IN REAL ESTATE

A) Government Rights/Powers

- 1) Police power
- 2) Eminent domain
- 3) Taxation
- 4) Escheat

B) Freehold Estates

- 1) Characteristics
- 2) Types
 - (a) Fee simple
 - (b) Defeasible fee
 - (c) Life estate

- ◆ Creation
- ◆ In reversion vs. in remainder

◆ Pur autre vie

C) Leasehold estates

1) Characteristics

2) Types

(a) Estate for years

(b) Periodic estate

(c) Estate at will

(d) Estate at sufferance

3) Legal principles of leases

(a) Possession

(b) Improvements

(c) Maintenance

(d) Assignment/subleasing

(e) Use of premises

(f) Term of lease

(g) Security deposit

(h) Confession of judgement

(i) Destruction of premises

(j) Termination/Breach of lease

(k) Actual vs. Constructive eviction

(l) Fair housing/ADA issues

(m) PA landlord/tenant law

4) Types of leases

(a) Gross lease

(b) Net lease

(c) Percentage lease

(d) Variable lease

(e) Ground lease

(f) Oil and gas leases

D) Other interests in land\

1) Encumbrances

(a) Liens

- ◆ Classification/Creation
- ◆ Effect on title
- ◆ Common types

(b) Deed restrictions/Restrictive covenants

(c) Easements

- ◆ Classification/creation
- ◆ Common types

(d) Encroachments

(e) License

2) Water Rights

(a) Riparian

(b) Littoral

VI) FORMS OF OWNERSHIP

A) Severalty

B) Concurrent (co-ownership)

1) Joint tenancy

2) Tenancy in common

3) Tenancy by entireties

C) Trust ownership

1) Living and testamentary trusts

2) Land trusts

D) Ownership by business entities

1) Partnership

2) Corporation

3) Limited liability company (LLC's)

E) Condominiums and Cooperatives

F) Timeshare interests

G) Campground interests

VII) TRANSFER OF TITLE

A) Voluntary alienation (by deed)

- 1) Types of deeds
 - (a) General warranty
 - (b) Special warranty
 - (c) Bargain and sale
 - (d) Quit claim
 - (e) Court ordered
 - (f) Deed of trust
 - (g) Trustee's deed
- 2) Elements of a deed
 - (a) Grantor with legal capacity
 - (b) Grantee sufficiently identified
 - (c) Recital of consideration
 - (d) Granting clause (words of conveyance)
 - (e) Habendum clause
 - (f) Adequate legal description
 - (g) Exceptions and reservations
 - (h) Restrictions, covenants, and limitations
 - (i) Grantor signature
- 3) Delivery and acceptance
- 4) Acknowledgement of grantor signature
- 5) Transfer taxes
- 6) Recording
- B) Involuntary alienation (transfer)
 - 1) Eminent domain
 - 2) Foreclosure
 - 3) Adverse Possession
 - 4) Escheat
- C) Transfer of a deceased owner's property
 - 1) Probate proceedings
 - 2) Transfer by last will and testament
 - (a) Parties involved

3) Transfer by laws of descent and distribution

(a) Parties involved

4) Estate and inheritance taxes

VIII) TITLE RECORDS

A) Public records and recording

1) Necessity for recording documents

2) Recording acts

3) Concept of Notice

(a) Actual Notice

(b) Constructive notice

4) Priority of recorded documents

B) The title search process

1) Establishing the chain of title

2) Creating the abstract of title

3) The attorney's opinion of title

C) The concept of marketable title

D) Certificate of title

E) Title insurance issues

1) Types of

(a) Lender's policy

(b) Owner's policy

2) Premiums and coverage

(a) Basic vs. Enhanced policies

F) Common title problems and methods to remedy them

1) Quit claim deeds

2) Suit to quiet title

G) The Uniform Commercial Code

PART TWO: CONTRACTS, FINANCE, AND LICENSE LAW

I) PRINCIPLES OF CONTRACT LAW

A) Definition of a contract

B) Classification of contracts

1) Express vs. Implied

2) Bilateral vs. Unilateral

3) Executory vs. Executed

C) Validity of contracts

1) Valid

2) Void

3) Voidable

4) Unenforceable

D) Essentials necessary to form a contract

1) Offer and acceptance

2) Consideration

3) Competent parties

4) Reality of consent

5) Legality of object

E) Statutory issues applicable to contracts

1) Statute of frauds/parol evidence

2) Statute of limitations

F) Performance of obligations

1) Time is of the essence– applicability to contracts

G) Assignment and/or novation

H) Discharge/termination

1) Performance as agreed

2) Termination by mutual agreement

3) Breach of contract

(a) Remedies available to parties

◆ Liquidated damages

◆ Lawsuit for specific performance

II) PRINCIPLES OF FINANCING

A) Understanding the flow of money for mortgage loans

- 1) The primary market
 - 2) The secondary market
 - 3) The federal reserve
- B) Secured vs. unsecured loans
- 1) Mortgage loans are secured – requiring a pledge of something of value (the property) in order to secure the loan. Requires the use of two documents:
 - (a) The promissory note – which obligates the borrower to repay the money
 - (b) The security instrument (mortgage) – by which the borrower gives the lender an interest in or claim against the property as security for the debt
- C) Parties involved
- 1) As to the note: Obligor (borrower) and Obligee (lender)
 - 2) As to the mortgage: Mortgagor (borrower) and Mortgagee (lender)
- D) Documents involved
- 1) The Note (financing instrument)
 - (a) Provision for interest
 - (b) Provisions for repayment: methods
 - ◆ Fully amortized
 - ◆ Partially amortized
 - ◆ Straight or term loans
 - (c) Prepayment clause
 - (d) Acceleration clause
 - (e) Borrower obligations
 - (f) Default
 - 2) The Mortgage
 - (a) Rights/obligations of the parties
 - (b) Provisions for default
 - (c) Assignment by mortgagee
 - (d) Alienation clause/assumption clause
 - (e) Reserves for taxes and insurance
 - (f) Assignment of rents
 - (g) Satisfaction and release of mortgage lien

E) Recording and priority

1) Establishing priority

(a) "First in time is first in line"

(b) Exception for tax liens

(c) Senior (first) mortgage vs. second mortgage

(d) Subordination agreements

F) Foreclosure

1) Judicial foreclosure

2) Nonjudicial foreclosure

3) Strict foreclosure

4) "Friendly foreclosure" (deed in lieu of foreclosure)

5) Deficiency judgements

G) Mortgagor's redemption right

1) Equitable right of redemption

2) Statutory right of redemption

III) REAL ESTATE LICENSE LAW/RULES AND REGULATIONS

A) General provisions and definitions

1) Definitions

(a) RELRA Section 201

(b) Rules and regulations section 35.201

2) Application of the act/penalties/and exclusions

(a) RELRA chapter three

(b) Rules and regulations section 35.202

B) The Real Estate Commission: composition and duties

1) RELRA section 202

2) RELRA chapter four

C) Qualifications and application for licenses

1) RELRA Chapter five

(a) Subchapters A through J

(b) Rules and regulations 35.22-35.229

2) Status of license

- (a) Renewal requirements
 - (b) Inactive license (escrow)
 - (c) Out of state/reciprocal licenses (RELRA 602)
 - (d) Revocation/suspension (RELRA 501 and 604(A))
 - (e) Change of employment (RELRA 603)
 - (f) Termination of sole proprietorship due to death; replacement of broker of record (35.25-35.255)
- D) Operation of a real estate business
- 1) Duty to maintain office (RELRA 601)
 - 2) Duty to exercise adequate supervision (RELRA sec 604(A)27)
 - 3) Rules and regulations section 35.241 through 35.246
- E) General duties/ethical responsibilities of licensees (Rules and regulations; subchapter E)
- 1) Relationships between brokers and Consumers (RELRA 606) and rules and regulations sec 35.311
 - 2) Duties of licensees generally (RELRA 606.1) and rules and regulations (Sec 35.281 through 35.292)
 - 3) Required disclosure
 - (a) Conflicts of interest
 - (b) When licensee sells or buys real estate
- F) Escrow requirements
- 1) RELRA 608.5
 - 2) Rules and regulations sec 35.321-35.328
- G) Prohibited activities/grounds for disciplinary action
- 1) RELRA 301-304
 - 2) Act 48 provisions (which replace RELRA 305)
 - 3) RELRA 406
 - 4) RELRA 604(a) 1-31
- H) Disciplinary actions/proceedings before the commission
- 1) Role of the Department of State (DOS); the Bureau of Professional and Occupational Affairs (BPOA); and the Real Estate Commission
 - 2) RELRA chapter seven

- (a) Hearings
 - (b) Imputed knowledge/limitations
- 3) Reporting of crimes/disciplinary procedures
 - (a) Rules and regulations sec 35.290
- 4) Posting of suspension notice Rules and regulations sec 35.290
- I) Real estate recovery fund
 - 1) RELRA chapter eight
 - (a) Procedures
 - (b) Payment
 - (c) Effect on license