

Florida Real Estate Commission

SALESPERSON COURSE SYLLABUS

(FREC COURSE I)

January 1, 2001
(effective date)

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SESSION 1

ADMINISTRATIVE MATTERS AND COURSE OVERVIEW: THE REAL ESTATE BUSINESS

Intended Learning Outcomes

- Describe the various activities of real estate brokerage
- Distinguish among the five major sales specialties
- Identify reasons why property management has grown in importance
- Explain the provision under Chapter 475.611 regarding federally related transactions
- Explain the provision under Chapter 475.25 regarding USPAP compliance
- Distinguish between a comparative market analysis and an appraisal
- Understand the licensing requirements of mortgage bankers and mortgage brokers
- Explain the three phases of development and construction
- Distinguish among the three categories of residential construction

Vocabulary List

- | | |
|-------------------------------------|----------------------------|
| ▪ absentee owner | ▪ follow-up |
| ▪ appraisal | ▪ property management |
| ▪ business opportunity | ▪ real estate brokerage |
| ▪ comparative market analysis (CMA) | ▪ special-purpose property |
| ▪ dedication | ▪ subdivision plat map |
| ▪ farm area | ▪ USPAP |

Outline

- I. Introduction to the Real Estate Business
 - A. Overview of the real estate industry
 1. The real estate industry's role in the nation's economy
 2. Many industries are dependent on real estate activity
 - B. Real estate is a business of many specializations
 1. Expert information is the product that a broker or a salesperson must market
 - a. Knowledge of property transfer
 - b. Knowledge of market conditions
 - c. Knowledge of how to market real estate
- II. Real Estate Brokerage
 - A. Sales and Leasing
 1. A business in which real estate license-related activities are performed under the authority of a real estate broker
 2. 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

3. A salesperson works for the broker, providing services to prospective buyers and sellers
 4. Requires expert information that the average layperson does not possess
 5. More efficient to acquire this information through a real estate professional
 6. Real estate brokers and salespersons often specialize in a particular geographic area or property type called "farming"—current farming methods
 7. Five major sales specialties
 - a. Residential
 - b. Commercial
 - c. Industrial
 - d. Agricultural
 - e. Businesses
- B. Property Management
1. Need for property managers
 - a. Absentee ownership
 2. Services typically provided by a property manager
 3. Scope of work detailed in a management agreement
 4. Property manager's charge is to protect the owner's investment and maximize owner's returns
- C. Appraising
1. The process of estimating the value of real estate
 2. Types of real estate activities that require appraisal services
 3. State-certified, licensed and registered appraisers are regulated by the Florida Real Estate Appraisal Board
 4. Real estate licensees may appraise real property provided they do not represent themselves as state-certified, registered or licensed appraisers
 5. Real estate licensees must conform to USPAP when conducting appraisals of real property--define USPAP
 6. Comparative market analysis versus appraisal--define CMA
 - a. CMAs exempt from USPAP
 7. USPAP's Ethics Rule regarding compensation
- D. Financing
1. The business of providing funds for real estate transactions
 2. Sources of funds to finance real estate transactions
 3. Importance of expertise in financing matters and knowledge of how to solve financing problems
 4. Mortgage brokers and mortgage bankers must be licensed as such
- E. Counseling
1. The service of analyzing existing or potential projects and providing advice
 2. Extensive knowledge and expertise is required
- III. Development and Construction
- A. Land acquisition
 - B. Subdividing and development
 - C. Subdivision plat map is recorded
 - D. Developer often dedicates land to a governmental body for public use

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E. Construction

1. Types of residential construction
 - a. Spec homes
 - b. Tract homes
 - c. Custom homes

IV. The Role of Government

- A. Local government
- B. State government
- C. Federal government

V. Professional Organizations

- A. Variety of professional organizations are in existence
- B. National Association of REALTORS® (NAR)
- C. Florida Association of REALTORS® (FAR)
- D. Local Board (Association) of REALTORS®

SESSION 2

REAL ESTATE LICENSE LAW AND QUALIFICATIONS FOR LICENSURE

Intended Learning Outcomes

- Identify the qualifications for a salesperson's license
- Describe the application requirements for licensure including nonresident application requirements
- Understand the importance of responding accurately to question 9 on the license application and understand the background check procedure conducted by the DBPR
- Describe the education requirement for pre- and post-license education and continuing education
- Distinguish among the various license categories
- Identify services of real estate
- Recognize exemptions from real estate licensure
- Distinguish between registration and licensure
- Understand mutual recognition agreements

Vocabulary List

- | | |
|-------------------------|------------------------|
| ▪ adjudication withheld | ▪ license |
| ▪ broker | ▪ nolo contendere |
| ▪ broker-salesperson | ▪ prima facie evidence |
| ▪ caveat emptor | ▪ real estate services |
| ▪ compensation | ▪ registration |
| ▪ Florida resident | ▪ salesperson |

Outline

- I. History and objectives of real estate license laws
 - A. History of Florida's real estate license law
 1. Department of Business and Professional Regulation
 2. Division of Real Estate
 3. Florida Real Estate Commission
 - B. Need for regulation
 1. Caveat emptor
 - C. Purpose of regulation
 1. Consumer protection
 - D. Important real estate statutes and rules

II. License Categories

- A. Broker
- B. Salesperson
- C. Broker-salesperson

III. General Licensure Provisions

- A. Age
- B. High school diploma or its equivalent
- C. Honest, trustworthy
- D. Disclose if convicted of a crime or ever entered a plea of *nolo contendere*
- E. Disclose if ever declared mentally incompetent
- F. Aliases—A/K/A
- G. Disclose if denied, or had a license suspended or revoked in another state
- H. Denied license or registration to practice a regulated profession
- I. Guilty of any conduct or practice that would have been grounds for suspension or revocation under F.S. 475
- J. U.S. citizenship (F.S. 455.10)
- K. Qualification of immigrants for examination (F.S. 455.11)

IV. Application Requirements

- A. Application form
 - 1. Responding to question 9 on the application
- B. Fees
- C. Background check procedure
 - 1. Photographs
 - 2. FBI fingerprint card
- D. 30-day period to check for errors and omissions
- E. 90 days to inform applicant of approval or denial of application
 - 1. Right to a hearing
- F. Application expires two years from date received by DRE
- G. Nonresident application requirements
- H. Regulations pertaining to prelicense courses

V. Salesperson License Requirements

- A. Salesperson pre license course
 - 1. Hours
 - 2. Content
 - 3. End of course exam
- B. Regulations regarding pre license courses
- C. State licensure examination for salespersons
 - 1. Content
 - 2. Computer based testing procedure
 - 3. Pass/Fail notice
 - a. Procedure if failure notice is received
 - 4. Review of most recent exam

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D. Post-license course

1. Hours
2. Content
3. End of course exam
4. Must be completed *prior* to expiration of salesperson's initial license
 - a. Failure to complete post-licensing course

VI. Broker License Requirements

- A. Florida licensed salespersons must first complete the Florida salesperson post-license course
- B. Experience requirement (active license status)
- C. Broker pre license course
 1. Hours
 2. Content
 3. End of course exam
- D. State licensure examination for brokers
 1. Content
 2. Pass/Fail notice
- E. Broker post-license course
 1. Hours
 2. Content
 3. End of course exam
 4. Must be completed *prior* to expiration of broker's initial license
 - a. Failure to complete post-licensing course

VII. Mutual Recognition Agreements with Other States

- A. Florida resident defined

VIII. Information included on the real estate license

- A. Prima facia evidence that holder of a real estate license possesses current and valid licensure

IX. Registration vs Licensure

X. Continuing Education Requirement

XI. Real Estate Services

- A. Individuals who are required to be licensed
 1. Compensation
- B. Individuals who are exempt from licensure

SESSION 3

REAL ESTATE LICENSE LAW AND COMMISSION RULES

Intended Learning Outcomes

- Describe the composition, appointment and member qualifications of the Florida Real Estate Commission
- Understand the powers and duties of the Commission
- Distinguish between active and inactive license status
- Understand the regulations regarding involuntarily inactive status
- Explain the purpose of multiple and group licenses
- Distinguish between void and ineffective licenses
- Identify situations that cause a license to cease to be in force
- Know situations that cause a license to be canceled
- Explain the purpose of the Real Estate Education and Research Foundation

Vocabulary List

- | | |
|------------------------|--------------------------|
| ▪ canceled | ▪ involuntarily inactive |
| ▪ cease to be in force | ▪ multiple licenses |
| ▪ group license | ▪ void |
| ▪ ineffective | ▪ voluntarily inactive |

Outline

- I. Regulation by Department of Business and Professional Regulation
 - A. Organizational structure
 - B. Definitions; F.S. 455.01
 - C. Professions and occupations regulated by the Department of Business and Professional Regulation; legislative intent; requirements; F.S. 455.02
 - D. Department powers and duties; F.S. 455.203
- II. The Florida Real Estate Commission; Rules Governing Internal Organization and Operation; 61J2-20
 - A. Purpose of regulation
 - B. General structure
 1. Composition and qualifications of members
 - a. Chairperson and Vice chairperson
 - b. Members
 2. Compensation
 3. Meetings and minutes
 - C. Duties and powers of the Commission
 1. In general

2. Adopt a seal (F.S. 475.10)
 3. Duty to educate members of profession (F.S. 475.04)
 4. Power to enact rules and regulations, and decide questions of practice (F.S. 475.05)
 5. Power to inspect and audit (F.S. 475.5016)
 6. Power to discipline licensees (F.S. 475.25)
 - a. Must report criminal violations of Chapter 475 to state attorney
 - b. Must inform the Division of Florida Land Sales, Condominiums, and Mobile Homes when disciplinary action is taken by FREC against any of its licensees
- D. Legal counsel provided by state attorney general (Dept. of Legal Affairs)

III. Division of Real Estate

- A. Organizational structure
 1. Funding
 2. Employees
- B. Licensing examinations
- C. Licenses and fees
 1. Obtaining a license by fraud, misrepresentation or concealment
- D. License renewal
 1. Active status
 2. Inactive status
 - a. Voluntarily inactive status
 - b. Involuntarily inactive status
 - (1) Renewal procedure
 - (2) Time period
 3. Members of armed forces (F.S. 455.02)
- E. Meaning of licensing
 1. When license is effective
 2. When license is void
 3. When a license ceases to be in force (F.S. 475.23)
- F. Multiple and group licenses
- G. Registration of proprietary real estate schools
 1. Recruiting
 2. Advertising

IV. Real Estate Education and Research Foundation

- A. Purpose
- B. Organization and operation of the Foundation Advisory Committee; 61J2-25

SESSION 4

AUTHORIZED RELATIONSHIPS, DUTIES AND DISCLOSURE

Intended Learning Outcomes

- Describe which provisions of the Brokerage Relationship Disclosure Act apply only to residential real estate sales and list types of real estate activities that are exempt from the disclosure requirements
- Define residential transaction
- Distinguish among nonrepresentation, single agent and transaction broker
- List and describe the duties owed in the various authorized relationships
- Describe the disclosure procedures for the various authorized relationships
- Describe the required content and format of the various disclosure forms
- 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

Vocabulary List

- agent
- caveat emptor
- consent to transition
- customer
- designated salesperson
- dual agent
- fiduciary
- general agent
- limited representation
- nonrepresentation
- principal
- residential sale
- single agent
- special agent
- subagency
- transaction broker

Outline

- I. Concept of agency
 - A. Historical perspective of agency relationships
 1. Statutory law
 2. Common law
 - B. Types of agents
 1. General agent
 2. Special agent
 - C. Fiduciary relationships
 1. Dealing at arm's length
 2. Caveat emptor
 3. Dual agency
 4. Subagency
 5. Client vs. customer

II. Disclosure Requirements

A. Applies to residential sales only

1. Section 475.278(5)(a) defines residential sales as the sale of improved residential property of four units or fewer, the sale of unimproved residential property intended for use of four units or fewer, or the sale of agricultural property of 10 acres or fewer

B. Disclosure requirements do not apply to:

1. Non residential transactions
2. The rental or leasing of real property, unless an option to purchase all or a portion of the property improved with four or fewer residential units is given
3. Auctions
4. Appraisals
5. Dispositions of any interest in business enterprises or business opportunities, except for property with four or fewer residential units

III. Authorized Brokerage Relationships

A. Nonrepresentation

1. Customer means a member of the public who is or may be a buyer or seller of real property and may or may not be represented by a real estate licensee in an authorized brokerage relationship
2. Duties include:
 - a. Dealing honestly and fairly
 - b. Disclose all known facts that materially affect the value of residential property which are not readily observable to the buyer
 - c. Accounting for all funds entrusted to the licensee

B. Single agent relationship

1. Single agent is a broker who represents, as a fiduciary, either the buyer or seller but not both in the same transaction
2. The party with whom a real estate licensee has entered into a single agent relationship is the principal
3. Duties include:
 - a. Dealing honestly and fairly
 - b. Loyalty
 - c. Confidentiality
 - d. Obedience
 - e. Full disclosure
 - f. Accounting for all funds
 - g. Skill, care and diligence in the transaction
 - h. Presenting all offers and counteroffers in a timely manner
 - i. Disclosing all known facts that materially affect the value of residential real property that are not readily observable
4. Give the single agent disclosure before, or at the time of, entering into a listing agreement or an agreement for representation or before showing the property, whichever occurs first
5. Required information (see Exhibit 4.1)
6. Required format

Exhibit 4.1 Single Agency Disclosure Form

IMPORTANT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO ALL POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

You should not assume that any real estate broker or salesperson represents you unless you agree to engage a real estate licensee in an authorized brokerage relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation.

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 name of 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.

Signature

Date

Signature

Date

C. Transaction broker relationship

1. Transaction broker means 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
2. Transaction brokers provide a limited form of nonfiduciary representation to a buyer, a seller, or both in a real estate transaction

3. Duties include:
 - a. Dealing honestly and fairly
 - b. Accounting for all funds
 - c. Using skill, care, and diligence in the transaction;
 - d. Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer
 - e. Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing
 - f. 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
 - g. Any additional duties that are mutually agreed to with a party
4. Give the transaction broker disclosure before, or at the time of, entering into a listing agreement or an agreement for representation or before showing of property, whichever occurs first
5. Required information (see Exhibit 4.2)
6. Required format
 - a. The disclosure must be in writing either as a separate and distinct disclosure or included as part of another document such as a listing agreement or other agreement for representation
 - b. When incorporated in other documents the required notice must be of the same type, or larger, as other provisions of the document and must be conspicuous in its placement so as to advise customers of the duties of a single agent, except that the first sentence of the disclosure statement must be printed in uppercase and bold type

IV. Transition From Single Agent to Transaction Broker

- A. 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 transition disclosure and the principal consents to the transition before a change in relationship
- B. Procedure
 1. Give the single agent disclosure before, or at the time of, entering into a listing agreement or an agreement for representation or before showing of property, whichever occurs first
 2. Give transition disclosure and secure consent (signature) from party
- C. Required information (see Exhibit 4.3)
- D. Required format
 1. The disclosure must be in writing either as a separate and distinct disclosure or included as part of another document such as a listing agreement or other agreement for representation
 2. When incorporated in other documents the required notice must be of the same type, or larger, as other provisions of the document and must be conspicuous in its

placement so as to advise customers of the duties of a single agent, except that the first sentence of the disclosure statement must be printed in uppercase and bold type

V. Designated Salesperson

- A. Non-residential transaction limitations
- B. Disclosure requirements
- C. Single agent duties (see Exhibit 4.4)

VI. Discipline

- A. The Commission may deny an application for licensure, registration, or permit, or renewal thereof; may place a licensee, registrant, or permittee on probation; may suspend a license, registration, or permit for a period not exceeding 10 years; may revoke a license, registration, or permit; may impose an administrative fine not to exceed \$1,000 for each count or separate offense; and may issue a reprimand, and any or all of the foregoing, if it finds that the licensee, registrant, permittee, or applicant has violated any provision of s. 475.278, F.S., including the duties owed under those sections
- B. Commission will prosecute a licensee for failure to give the agency disclosure form(s) before, or at the time of, entering into a listing agreement or an agreement for representation or before the showing of property, whichever occurs first, when dealing in residential property

VII. Record keeping

- A. Documenting agency disclosure

Exhibit 4.2 Disclosure Form for Operating as a Transaction Broker

IMPORTANT NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES PROVIDE THIS NOTICE TO ALL POTENTIAL SELLERS AND BUYERS OF REAL ESTATE.

You should not assume that any real estate broker or salesperson represents you unless you agree to engage a real estate licensee in an authorized brokerage relationship, either as a single agent or as a transaction broker. You are advised not to disclose any information you want to be held in confidence until you make a decision on representation.

TRANSACTION BROKER NOTICE

FLORIDA LAW REQUIRES THAT REAL ESTATE LICENSEES OPERATING AS TRANSACTION BROKERS DISCLOSE TO BUYERS AND SELLERS THEIR ROLE AND DUTIES IN PROVIDING A LIMITED FORM OF REPRESENTATION.

As a transaction broker, (*insert name of Real Estate Firm 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 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.

Signature

Date

Exhibit 4.3 Transition to Transaction Broker Disclosure

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.

I agree that my agent may assume the role and duties of a transaction broker.

_____ Signature	_____ Date
_____ Signature	_____ Date

Exhibit 4.4 Designated Salesperson Disclosure

FLORIDA LAW PROHIBITS A DESIGNATED SALESPERSON FROM DISCLOSING, EXCEPT TO THE BROKER OR PERSONS SPECIFIED BY THE BROKER, INFORMATION MADE CONFIDENTIAL BY REQUEST OR AT THE INSTRUCTION OF THE CUSTOMER THE DESIGNATED SALESPERSON IS REPRESENTING. HOWEVER, FLORIDA LAW ALLOWS A DESIGNATED SALESPERSON TO DISCLOSE INFORMATION ALLOWED TO BE DISCLOSED OR REQUIRED TO BE DISCLOSED BY LAW AND ALSO ALLOWS A DESIGNATED SALESPERSON TO DISCLOSE TO HIS OR HER BROKER, OR PERSONS SPECIFIED BY THE BROKER, CONFIDENTIAL INFORMATION OF A CUSTOMER FOR THE PURPOSE OF SEEKING ADVICE OR ASSISTANCE FOR THE BENEFIT OF THE CUSTOMER IN REGARD TO A TRANSACTION. FLORIDA LAW REQUIRES THAT THE BROKER MUST HOLD THIS INFORMATION CONFIDENTIAL AND MAY NOT USE SUCH INFORMATION TO THE DETRIMENT OF THE OTHER PARTY.

SESSION 5

REAL ESTATE BROKERAGE ACTIVITIES: GUIDES FOR SALESPERSONS

Intended Learning Outcomes

- Identify the requirements for real estate brokerage office(s) and the types of business entities that may register
- Explain what determines whether a temporary shelter must be registered as a branch office
- List the requirements related to 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
- List the rule requirements for the handling of advance fees
- Explain the rule regarding the advertisement of rental property information or lists or negotiation of rentals
- Describe the obligations placed on a salesperson who changes employers and/or address

Vocabulary List

- | | |
|-----------------------|---------------------------------|
| ▪ advance fee | ▪ good-faith doubt |
| ▪ blind advertisement | ▪ interpleader |
| ▪ commingle | ▪ kickback |
| ▪ conflicting demands | ▪ limited liability company |
| ▪ conversion | ▪ limited liability partnership |
| ▪ corporation | ▪ limited partnership |
| ▪ deposit | ▪ ostensible partnership |
| ▪ earnest money | ▪ point of contact information |
| ▪ escrow account | ▪ sole proprietorship |
| ▪ general partnership | ▪ trade name |

Outline

- I. Brokerage offices
 - A. Salespersons must be registered and work from broker's office or branch office
 - B. Entrance Signs
 1. Salespersons' names on entrance sign
 - C. Temporary shelters

II. Guidelines for advertising

- A. False or misleading advertising is illegal
 - 1. Penalties for false advertising
- B. Any advertising must be worded so that a reasonable person knows that the advertiser is a real estate licensee
- C. "Blind" advertising is prohibited; it must always reveal the licensed name of the brokerage firm
- D. Any person advertising real estate services is interpreted as acting as a broker
- E. Salespersons cannot advertise or conduct business in their own name
- F. It is illegal to post "sold" signs without the seller's consent
- G. Internet advertising
 - 1. Point of contact information

III. Handling of deposits

- A. Requirement to deposit in an escrow account monies received from a client or customer
 - 1. Definition of escrow account
 - 2. Requirement of a salesperson to deliver monies to the broker
 - 3. Meaning of "immediately" for a salesperson
 - 4. Meaning of "immediately" for a broker
- B. Management of escrow accounts
 - 1. If the account is interest bearing, requirement for written authorization for distribution of interest
 - 2. Requirement to inform broker immediately of any conflicting demands concerning disbursement of escrowed funds
 - 3. Good-faith doubt procedure when it is not clear which party should receive the escrowed property
 - a. Situations that are considered good-faith doubt
 - 4. Settlement procedures
- C. Advanced fees
 - 1. Definition of advanced fees
 - 2. Requirement to deposit at least 75 percent of advance fees in an escrow account
 - 3. Requirement to furnish principal with itemized statement of uses before withdrawals of funds
 - 4. Restriction on use of funds to the direct benefit of the principal
 - 5. Exemption for auctioning real property
 - 6. Penalties for illegally collecting advance fees

IV. Rental Lists and Rental Companies

- A. Requirement to provide a receipt when offering rental information for a fee
 - 1. FREC specifications for the required receipt
 - 2. Provision to repay 75 percent of fee (if requested within 30 days) if purchaser does not find a rental
 - 3. Provision to repay full fee (if requested within 30 days) if information is inaccurate
- B. Penalty for advertising obsolete or otherwise inaccurate rental lists: fine of up to \$1,000, or up to one year of imprisonment

- V. Broker/salesperson licensee as an expert in specific aspects of property transfer
 - A. Requirement to avoid offering an opinion of title since it can be relied on as expert opinion.
 - B. Ability to offer a representation of value, avoiding misrepresentation through exaggeration, etc.
 - C. Misrepresentation of value by a licensee as fraud, breach of contract, or breach of trust
 - D. Unauthorized practice of law

- VI. Commissions
 - A. "Fixing" commissions or fees is illegal
 - B. A salesperson cannot contract directly with a principal
 - 1. The salesperson's commission is by agreement with the broker
 - 2. A salesperson cannot sue a principal over a commission
 - C. "Kickbacks" are legal only under limited conditions
 - 1. All parties to the transaction must be fully informed of the kickback
 - 2. It must not be prohibited by other law (such as the Real Estate Settlement Procedures Act)
 - 3. It is unlawful to share a commission with an unlicensed person, except for the seller or buyer of the property
 - 4. It is unlawful for a licensee to pay any unlicensed person for performing real estate services
 - D. The details of commission agreements with salespersons should be part of a broker's policy manual

- VII. Change of Employer
 - A. A salesperson must inform FREC about a change of employer
 - 1. Within ten days
 - 2. On a prescribed form
 - B. A salesperson's obligation of confidentiality with respect to principals or the broker does not end with termination of employment
 - C. Duplication of records from a previous employer constitutes breach of trust, even if the one copying the records originated them, if done for the purpose of taking listings to the new employer
 - D. Removal of records from a previous employer's office constitutes theft

- VIII. Unauthorized display of names or insignia of real estate organizations or associations is prohibited by FREC rules

- IX. Change of address procedure and penalty for failure to notify FREC

- X. Types of Business Entities that may register
 - A. Sole proprietorship
 - B. General Partnership
 - C. Limited partnership
 - 1. Ostensible partnerships are prohibited
 - D. Corporation
 - E. Limited liability company

- F. Limited liability partnership
- G. A salesperson is prohibited from being an officer or director in a real estate brokerage corporation, or a general partner in a brokerage limited partnership

XI. Trade names

- A. No trade name (fictitious name) may be used by a salesperson; salespersons must register under their true name only

XII. Business arrangements and entities that may not register

- A. Corporation sole
- B. Joint venture
- C. Business trust
- D. Cooperative association
- E. Unincorporated associations

SESSION 6

VIOLETIONS OF LICENSE LAW, PENALTIES AND PROCEDURES

Intended Learning Outcomes

- Explain the procedures involved in the reporting of violations, the investigation of complaints and the conduct of hearings
- Describe the elements of a valid complaint
- Describe the composition of the probable-cause panel
- Recognize events that would cause a license application to be denied
- Recognize actions that would cause a license to be subject to suspension or revocation
- Identify individuals who would be eligible and the procedure to seek reimbursement from the Real Estate Recovery Fund
- Identify individuals who are not qualified to make a claim for recovery from the Real Estate Recovery Fund
- Describe the monetary limits imposed by law on the Real Estate Recovery Fund
- Explain the penalty for a first and second degree misdemeanor and what real estate activities are first degree misdemeanors

Vocabulary List

- | | |
|---------------------------|----------------------|
| ▪ citation | ▪ probable cause |
| ▪ complaint | ▪ recommended order |
| ▪ formal complaint | ▪ subpoena |
| ▪ legally sufficient | ▪ summary suspension |
| ▪ notice of noncompliance | |

Outline

- I. Disciplinary Procedure (Chapters 120, F.S.; 455, F.S.; 475, F.S.; 60Q and 61J2 of the Florida Administrative Code)
 - A. The complaint
 1. Filed with DBPR
 2. The complaint must be legally sufficient
 3. Notice of noncompliance for first-time offense of a minor violation
 - B. DBPR conducts investigation
 1. Anonymous complaints
 2. Withdrawal of complaints
 3. When an investigation of a subject is undertaken the DBPR forwards a copy of the complaint to the subject
 4. Investigative report is submitted to the probable-cause panel
 - C. Probable-cause Panel
 1. Composition of probable-cause panel
 2. Purpose is to determine whether probable cause exists

3. Determination made by majority vote
4. Letter of guidance
- D. If probable cause is found, a formal complaint is filed
- E. Licensee is entitled to an informal or a formal hearing
 1. Election of rights form
 2. If no dispute of material fact the case can be presented in an informal hearing during a Commission meeting (probable-cause panel members are excused)
 3. Formal hearings are conducted by administrative law judges who prepare a recommended order
- F. FREC (probable-cause members excused) consider the administrative law judge's report and recommended order and then issues a final order
 1. Summary suspension
- G. Judicial Review (appeal process)
 1. Stay of enforcement
 2. Writ of supersedeas

II. Violations and Penalties

- A. The Florida Real Estate Commission is authorized to:
 1. Deny a license application
 - a. Grounds for denial
 2. Refuse to renew a license
 3. Suspend a license up to 10 years
 4. Revoke a license
 - a. Exceptions to permanent revocation
 - (1) Filed for renewal without complying with the continuing or post-licensing education requirement
 - (2) Filed an application for licensure which contained false or fraudulent information
 - b. Revocation without prejudice
 5. Issue citations
 6. Impose a fine
 - a. Maximum \$5,000 for violation of F.S. 455
 - b. Maximum \$1,000 for violation of F.S. 475
 7. Impose probation
 8. Issue notice of noncompliance
- B. Violations and recommended penalties (see Disciplinary Guidelines, 61J2-24.001, F.A.C.)
- C. Penalties that may be issued by a court of law
 1. Second degree misdemeanor
 2. First degree misdemeanor
 - a. Publishing false or misleading information
 - b. Unlawfully collecting an advance fee for listing real property
 - c. Failing to provide accurate and current rental information for a fee
 3. Civil penalties
 - a. Denial and recovery of compensation

III. Real Estate Recovery Fund

- A. Applies to real estate brokerage transactions:
 - 1. Involving Florida real estate
 - 2. Involving a licensee under F.S. 475
 - 3. Violating any part of F.S. 475
- B. Persons *not* qualified to make a claim
- C. Payment for claims from the fund
- D. Authorized fund limit and fees

SESSION 7

FEDERAL AND STATE LAWS PERTAINING TO REAL ESTATE

Intended Learning Outcomes

- List the real estate included under the different fair housing acts
- List the groups protected under the 1968 Fair Housing Act
- List the property exempt from the 1968 Fair Housing Act
- Describe the types of discriminatory acts that are prohibited under the 1968 Fair Housing Act
- Explain the significance of the Jones vs. Mayer court case
- Describe the HUD process for handling a complaint under the 1968 Fair Housing Act
- Describe the objectives and major provisions of the Americans with Disabilities Act
- Describe the major provisions of the Florida Residential Landlord and Tenant Act
- Describe the major provisions of the Interstate Land Sales Disclosure Act and the Florida Uniform Land Sales Practices Act

Vocabulary List

- blockbusting
- familial status
- handicap status
- property report
- public accommodation
- redlining
- subdivided land
- steering

Outline

I. Federal Laws

- A. Civil Rights Act of 1866
 1. Jones v. Mayer case
- B. Civil Rights Act of 1964
- C. Civil Rights Act of 1968
 1. Fair Housing Act of 1968 and amendments
 - a. Prohibits discrimination in sales, leasing, advertising sales or rentals, financing or brokerage services
 - b. Protection from discrimination based on race, color, religion, sex, national origin, handicap or familial status
 - (1) Familial status defined
 - (2) Handicap defined
 - c. Groups not covered
 - (1) Marital status
 - (2) Age
 - (3) Occupation
 - d. Two categories of housing covered by the 1968 Fair Housing Act:
 - (1) Single-family
 - (2) Multifamily

- e. Real estate transactions exempted under the Act
 - f. Acts prohibited:
 - (1) Refusing to rent
 - (2) Quoting different terms
 - (3) Discriminatory advertising
 - (4) Steering
 - (5) Blockbusting
 - (6) Redlining
 - (7) Denying membership
 - (8) False statements regarding availability
 - g. Housing for older persons
 - h. Equal housing opportunity poster
 - i. Enforcement of the Fair Housing laws
 - (1) Complaints filed with HUD under the 1968 Fair Housing Act
 - (2) Civil suits filed in Federal district court
 - (3) Action taken by the Department of Justice
 - j. Responsibility and liability of real estate licensees
- D. Americans with Disabilities Act of 1990
- 1. Access to public transportation, public accommodation and commercial facilities
 - 2. New construction and renovation of public accommodations and commercial facilities
- E. Interstate Land Sales Full Disclosure Act
- 1. Requires property report given to prospective buyers 3 business days before a sale contract is signed if development exceeds 25 lots
 - 2. Contract to purchase a lot covered by Act may be revoked at purchaser's option until midnight of the seventh day following signing of the contract
 - 3. Action to revoke the contract may be brought by the purchaser for 2 years if property report was not given to purchaser

II. State Laws

- A. Florida Fair Housing Law
- B. Florida Americans with Disabilities Accessibility Implementation Act
- C. Florida Residential Landlord and Tenant Act
 - 1. Overview of the law
 - 2. Deposits and advance rents
 - 3. Landlord's obligation to maintain premises
 - 4. Tenant's obligations
 - 5. Landlord's access to premises
 - 6. Vacating premises
 - 7. Termination of rental agreements by the tenant
 - 8. Termination of rental agreements by the landlord
 - 9. Eviction procedure
- D. Florida Uniform Land Sales Practices Act
 - 1. Provisions of Chapter 498, F.S.
 - 2. Investigate and regulate sale of subdivided land
 - 3. Subdivided lands defined
 - 4. Disclosure requirements

SESSION 8

PROPERTY RIGHTS: ESTATES AND TENANCIES; CONDOMINIUMS, COOPERATIVES, AND TIME-SHARING

Intended Learning Outcomes

- Define *real property* based on the definition in Chapter 475, F.S.
- List and explain the physical components of real property
- Explain the four tests courts use 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 homestead law
- Distinguish between cooperatives, condominiums and time-shares and describe the four main documents associated with condominiums

Vocabulary List

- condominium
- cooperative
- declaration
- elective share
- estate for years
- exempt property
- fee simple estate
- fixture
- freehold estate
- homestead
- joint tenancy
- land
- leasehold estate
- life estate
- personal property
- proprietary lease
- real estate
- real property
- remainderman
- right of survivorship
- separate property
- tenancy at sufferance
- tenancy at will
- tenancy by entireties
- tenancy in common
- time-share

Outline

- I. Land, Real Estate and Real Property
 - A. Definition of real property (Section 475.01, F.S.)
 - B. Physical components of real property
 1. Surface rights
 2. Subsurface rights
 3. Air rights
 - C. Water rights
 1. Riparian rights
 2. Littoral rights
 3. Accretion and erosion

II. Real Versus Personal Property

- A. Real property is basically land and improvements on the land
- B. Personal property usually consists of items having a limited life, which are easily movable from one place to another
 - 1. Personal property (or *chattel*, or *personalty*) includes any property that is not real property
- C. Fixtures
 - 1. A fixture is an item that was once personal property, but is now legally considered to be real property
 - 2. Legal tests of determination:
 - a. Intent of the parties
 - b. Method of attachment
 - c. Agreement of the parties
 - d. Adaptation of the item
 - 3. Listing and sale contracts should clearly specify which items are considered real property in the transaction and any personal property that is to be included
- D. Definition of a trade fixture
 - 1. Fixture versus trade fixture

III. Basic Property Rights

- A. "Bundle of Rights" include the rights of:
 - 1. Possession
 - 2. Enjoyment
 - 3. Disposition
 - 4. Control
 - 5. Exclusion

IV. Freehold Estates

- A. An estate refers to the degree, quantity, nature and extent of interest (ownership rights) a person can have in real property
- B. Estates are divided into two general groups:
 - 1. Freehold estates which are for an indefinite length
 - 2. Leasehold estates (or nonfreehold) which are for a fixed term
- C. Freehold estates include:
 - 1. Fee simple estate
 - a. Fee, fee simple, fee simple absolute. . .defined as the largest bundle of rights we have. All three terms mean the same thing. Most titles are held in fee.
 - 2. Life estate
 - a. Conventional life estates are created by action of the grantor
 - (1) Use during life of holder or whoever's life the interest is based on. Often used by husband for wife with children as *remaindermen*
 - (2) Remainder estate
 - (3) Reversion estate
 - b. Legal life estates are created automatically by law
 - (1) Homestead is a legal life estate
 - (a) Homeowner's principal residence is protected from certain creditors

- (b) Not protected from real estate property taxes or from a mortgage for purchase or cost of improvements
- (c) Signatures of both spouses are needed on contracts and mortgages to release homestead rights

V. How Ownership Can Be Held

- A. Severalty—sole ownership. Only one party is needed to sign deed (Spouse must sign if homesteaded)
- B. Co-ownership
 - 1. Tenancy in common
 - 2. Joint tenancy with right of survivorship
 - a. Creating a joint tenancy
 - 3. Tenancy by the entireties

VI. Leasehold (Nonfreehold) Estates

- A. An interest in real property for a definite period (measured in calendar time)
- B. Types of leasehold estates
 - 1. Estate for years
 - 2. Tenancy at will
 - 3. Tenancy at sufferance

VII. Cooperatives, Condominiums and Time-Sharing

- A. Cooperatives
 - 1. Own stock in a corporation
 - 2. Stock ownership carries right of occupancy
 - 3. Corporation pays property tax; each shareholder pays prorata
 - 4. Transfer is accomplished by sale of stock
 - 5. Disclosures required by The Cooperative Act (F.S. 719)
- B. Condominiums
 - 1. Own individual unit in fee simple
 - 2. Undivided interest in common areas
 - 3. Property tax levied on individual unit
 - 4. Transfer by deed
 - 5. Declaration and bylaws
 - a. Rights and obligations of condominium owners
 - 6. Disclosures required by The Condominium Act (F.S. 718)
- C. Time-Share
 - 1. Share ownership or right of occupancy for a time interval in a unit
 - 2. Legal formats
 - a. Interval ownership
 - b. Right-to-use
 - 3. Disclosures required under Florida Real Estate Time-Sharing Act (F.S. 721)

SESSION 9

TITLE, DEEDS AND OWNERSHIP RESTRICTIONS

Intended Learning Outcomes

- Differentiate between voluntary and involuntary alienation
- Explain the various methods of acquiring title to real property and describe the conditions necessary to acquire real property by adverse possession
- Distinguish between actual notice and constructive notice
- 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 types of statutory 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

Vocabulary List

- | | |
|-------------------------|------------------------|
| ▪ abstract of title | ▪ granting clause |
| ▪ acknowledgment | ▪ grantor |
| ▪ actual notice | ▪ gross lease |
| ▪ adverse possession | ▪ ground lease |
| ▪ assignment | ▪ habendum |
| ▪ chain of title | ▪ intestate |
| ▪ condemnation | ▪ lien |
| ▪ construction lien | ▪ net (net, net) lease |
| ▪ constructive notice | ▪ percentage lease |
| ▪ deed | ▪ police power |
| ▪ deed restriction | ▪ quiet enjoyment |
| ▪ easement | ▪ quitclaim deed |
| ▪ eminent domain | ▪ seisin |
| ▪ encroachment | ▪ sublease |
| ▪ escheat | ▪ testate |
| ▪ further assistance | ▪ title |
| ▪ general warranty deed | ▪ variable lease |
| ▪ grantee | ▪ warranty forever |

Outline

I. Concept of Title

- A. Ownership in a bundle of rights
- B. Transferred voluntarily or involuntarily by operation of law

II. Transfer by Voluntary Alienation

- A. Deed
 - 1. When real property is sold or conveyed by gift
- B. Will
 - 1. Parties to a will
 - a. Deceased person who made the will is called a testator (if a male) or a testatrix (if female)
 - b. Devisee is the person receiving real property, or beneficiary if it is personal property
 - 2. Property conveyed by will
 - a. Devise if its real property
 - b. Bequest if its personal property
 - 3. Requirements for making a will

III. Transfer by Involuntary Alienation

- A. Transfer by descent
 - 1. Person who dies without a will died intestate
 - 2. A form of involuntary alienation because the state (not the deceased) determines the disposition of property
 - 3. Passes to legal descendants known as heirs
- B. Escheat
 - 1. Provides for the property of a person who dies intestate and who has no known heirs to pass to the state
- C. Eminent domain
 - 1. Governmental power to *take* land from an owner through the legal process called condemnation
- D. Adverse possession
 - 1. Conditions for alienation by adverse possession

IV. Notice to Legal Title

- A. Actual notice
- B. Constructive notice
 - 1. Acknowledgment
 - 2. Lis Pendens

V. Protection of Title

- A. Title companies
- B. Chain of title vs. Abstract of title
- C. Title opinion
- D. Title insurance
 - 1. Owner's policy
 - 2. Lender's policy

VI. Deeds

- A. Parties to the deed
 - 1. Grantor
 - 2. Grantee
- B. Parts of a deed
 - 1. Grantor and grantee
 - 2. Consideration
 - 3. Words of conveyance (granting clause)
 - 4. Interest or estate being conveyed (habendum clause)
 - 5. Deed restrictions
 - 6. Exceptions and reservations
 - 7. Appurtenances
 - 8. Legal description of property
 - 9. Voluntary delivery and acceptance
 - 10. Signature of the grantor and two witnesses
- C. Requirements for a valid deed
 - 1. The deed must be in writing (Statute of Frauds)
 - 2. The names of grantor and grantee
 - 3. Grantor must have legal capacity
 - 4. Consideration must be described
 - 5. A granting clause or words of conveyance
 - 6. A habendum clause must define the quality of the ownership interest being conveyed
 - 7. Legal description of the property being transferred
 - 8. Grantor must sign
 - 9. Delivery and acceptance
- D. Types of statutory deeds
 - 1. General warranty deed
 - a. Covenant of seisin
 - b. Covenant against encumbrances
 - c. Covenant of quiet enjoyment
 - d. Covenant of further assurance
 - e. Covenant of warranty forever
 - 2. Special warranty deed
 - 3. Bargain and sale deed
 - 4. Quitclaim deed
- E. Legal requirements

VII. Ownership Limitations and Restrictions

- A. Government restrictions
 - 1. Police power
 - 2. Eminent domain
 - 3. Taxation
- B. Private restrictions
 - 1. Deed restrictions
 - a. Restrictive covenants
 - 2. Easements

Salesperson Course Syllabus (FREC Course I)

- a. By prescription
- b. By necessity
- c. Implied easement
- 3. Leases
 - a. Types of leases
 - (1) Assignment
 - (2) Sublease
- 4. Liens
 - a. Lienor, lienee
 - b. Specific vs. general
 - c. Voluntary vs. involuntary
 - d. Types of liens

SESSION 10

LEGAL DESCRIPTIONS

Intended Learning Outcomes

- Describe the purpose for legal descriptions
- Distinguish among the three types of legal descriptions
- Locate a township by township line 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, and convert to square feet
- Explain the use of assessor's parcel numbers
- Apply the measurements associated with checks, townships and sections
- Describe the process of creating a legal description using the metes-and-bounds method

Vocabulary List

- | | |
|----------------------------|----------------------|
| ▪ base line | ▪ monument |
| ▪ benchmark | ▪ point of beginning |
| ▪ check | ▪ principal meridian |
| ▪ datum | ▪ range |
| ▪ government survey system | ▪ section |
| ▪ legal description | ▪ terminus |
| ▪ lot and block | ▪ township |
| ▪ metes and bounds | ▪ township line |

Outline

I. Purpose of Legal Descriptions

- A. A legal description is a method of describing the location of real estate that will be accepted by a court
 1. Established boundary lines

II. Types of Legal Descriptions

A. Metes-and-Bounds Description

1. Oldest method of land description
2. Metes refers to *distance* (measured in feet) and bounds refers to *direction*
3. Begin with reference point called a point of beginning (POB)
4. Monuments are fixed objects used to establish boundaries
5. Compass bearings are used to describe the direction of the boundary lines
 - a. Circle = 360°
 - b. Directions given in degrees (°), minutes (') and seconds (")
 - c. For example, N 45°25'20"E = North 45 degrees, twenty-five minutes, 20 seconds East

B. Description by Government Survey System

1. Used in all states except original 13 states and Tennessee, Kentucky, West Virginia and Texas
 - a. Based on the logic that you can identify any point on a plane by reference to two axes
2. Primary reference lines running in a north-south direction are called principal meridians and lines running in an east-west direction are called base lines
3. Range lines run north-south every 6 miles. The north-south strip of land formed by two range lines is called a range
4. Township lines run east-west every 6 miles. The east-west strip of land formed by two township lines is called a tier or township
 - a. Numbering system of township lines and ranges
5. Intersection of two range lines and two township lines form a 6-mile square called a township
 - a. There are 36 sections in a township
 - b. Numbering system of sections within townships
6. Correction lines
7. Using the government survey system:
 - a. Locating sections
 - b. Subdividing sections
 - c. Calculating size
 - d. "And" in legal description
8. Fractional sections and government lots

C. Plat of survey method

1. Also called recorded plat method and lot and block method
2. Recorded survey called a plat map
3. Platted subdivision divided into blocks and lots

III. Assessor's Parcel Number

- A. To aid in the assessment of property for tax collection
- B. Tax maps based on recorded plat maps
 - a. Other land in county
- C. Assessment roll
 - a. Every parcel in county listed by parcel number
 - b. Shows owner's name and address of record
 - c. Assessed value of land and structures

IV. Preparation and Use of Surveys

- A. Benchmarks
 1. Measuring elevations

SESSION 11

REAL ESTATE CONTRACTS

Intended Learning Outcomes

- List and describe the essentials of a contract
- Distinguish among formal, parol, bilateral, unilateral, implied, expressed, executory and 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
- Describe the various disclosures required in a real estate contract

Vocabulary List

- | | |
|-----------------------------------|--------------------------|
| ▪ bilateral contract | ▪ open listing |
| ▪ competent | ▪ option |
| ▪ contract | ▪ Statute of Frauds |
| ▪ exclusive-agency listing | ▪ Statute of Limitations |
| ▪ exclusive-right-of-sale listing | ▪ unenforceable |
| ▪ liquidated damages | ▪ unilateral contract |
| ▪ meeting of the minds | ▪ valid |
| ▪ net listing | ▪ void |
| ▪ novation | ▪ voidable |

Outline

- I. Contracts in General
 - A. Definition of a contract
 - B. Preparation of contracts
 - C. Statute of Frauds
 - D. Statute of Limitations
 - E. Void, voidable and unenforceable contracts
- II. Essentials of a Contract
 - A. Contractual capacity of the parties
 - B. Offer and acceptance
 - C. Legality of object
 - D. Consideration

III. Real Estate Contracts

- A. In writing and signed
- B. Earnest money
- C. Equitable vs actual title

IV. Classification of Contracts

- A. Bilateral or unilateral contracts
- B. Expressed or implied contracts
- C. Executory or executed contracts
- D. Formal or informal contracts

V. Contract Negotiation

- A. Parties to offer
 - 1. Offeror
 - 2. Offeree
- B. Ways an offer is terminated

VI. Termination of Contracts

- A. Methods of terminating contracts
- B. Remedies for breach
- C. Assignment of contracts

VII. Contracts Important to Real Estate

- A. Authority of real estate licensees to prepare contracts
- B. Listing contracts
 - 1. Conditions created by listing agreements
 - 2. Information included in listing agreements
 - 3. Types of listings:
 - a. Open listing
 - b. Exclusive-agency listing
 - c. Exclusive-right-of-sale listing
 - d. Multiple listing
 - e. Net listing
 - f. Buyer broker agreement
 - 4. Procuring cause
 - 5. Soliciting listings
 - a. Telephone solicitation laws
- C. Sales contracts
 - 1. Contract negotiation
 - a. Offers and counteroffers
 - b. Acceptance
 - 2. Earnest money deposits
 - 3. Equitable title

4. Information included in sales contracts
 - a. Date, time and place of closing
 - b. Purchase price
 - c. Financing terms
 - d. Quality of title to be conveyed
 - e. Type of deed
 - f. Items of personal property included
 - g. Type of evidence of title to be provided
 - h. Items to be prorated
5. Required disclosures
 - a. Radon gas disclosure
 - b. Energy efficiency disclosure
 - c. Lead-based paint disclosure
 - d. Homeowner association disclosure
 - e. Flood insurance disclosure
 - f. Condominium and cooperative disclosures
 - g. Transaction processing fees and other brokerage charges
 - h. FAR's Comprehensive Disclosure Form
- D. Option contracts
- E. Installment sale contract
- F. Disclosure of defects that materially affect the value of residential property
 1. Johnson vs. Davis
 2. "As is" provision
 3. Duty for licensees to disclose

SESSION 12

REAL ESTATE FINANCE

Intended Learning Outcomes

- 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 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's 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

Vocabulary List

- | | |
|-------------------------------|----------------------------|
| ▪ acceleration clause | ▪ loan-to-value ratio |
| ▪ assumption | ▪ mortgage |
| ▪ contract for deed | ▪ mortgagee |
| ▪ deed in lieu of foreclosure | ▪ mortgagor |
| ▪ discount points | ▪ note |
| ▪ due on sale clause | ▪ novation |
| ▪ equity | ▪ PITI |
| ▪ equity of redemption | ▪ prepayment clause |
| ▪ escrow | ▪ prepayment penalty |
| ▪ estoppel certificate | ▪ right to reinstate |
| ▪ interest | ▪ satisfaction of mortgage |
| ▪ lien theory | ▪ subject to |
| ▪ lis pendens | ▪ subordination agreement |
| ▪ loan origination fee | ▪ title theory |
| ▪ loan servicing | ▪ wrap-around |

Outline

- I. Mortgage debt
 - A. Mortgage law
 1. Title theory
 2. Lien theory

- B. Loan instruments
 - 1. Promissory note
 - a. Essential elements of the note
 - 2. Mortgage instrument
 - a. Parties to a mortgage
 - b. Satisfaction of mortgage
 - C. First mortgages versus junior mortgages
 - 1. Determining what priority a mortgage lien has
 - 2. Subordination agreements
- II. Essential elements of the mortgage
- A. Important mortgage provisions
 - 1. Promise to repay
 - 2. Taxes and insurance
 - 3. Covenant of good repair
 - 4. Covenant against removal
 - B. Other mortgage provisions
 - 1. Prepayment clause
 - a. Prepayment penalty clause
 - 2. Acceleration clause
 - 3. Right to reinstate
 - 4. Due on sale clause
- III. Mortgage features
- A. Down payment
 - B. Loan-to-value-ratio
 - 1. Equity
 - C. Interest
 - D. Loan servicing
 - E. Escrow (impound) account
 - 1. PITI
 - F. Discount points
 - G. Loan origination fee
 - H. Take out commitment
- IV. Assignment of the mortgage
- A. Estoppel certificate
- V. Methods of Purchasing Mortgaged Property
- A. Provisions under subject to the mortgage

- B. Provisions under assumed mortgage
 - 1. Effects of due on sale clause
 - 2. Novation
- C. Wrap-around mortgage
 - 1. Considerations regarding reduction of risk of default for the seller
 - 2. Manageability considerations for the buyer
- D. Contract for deed (land contract)
 - 1. Distinguish a contract from deed from a normal sales contract and a mortgage
 - 2. Advantages and disadvantages of contract for deeds
 - 3. How a contract for deed is typically used

VI. Default

- A. Consequence of default
- B. Judicial versus nonjudicial foreclosure
 - 1. Deed in lieu of foreclosure
 - 2. Lis pendens
- C. Rights of mortgagor in foreclosure
 - 1. Equity of redemption
- D. Rights of mortgagee
 - 1. Surplus money action
- E. Results of foreclosure
 - 1. Effect on mortgagor/owner
 - a. Deficiency judgments
 - b. Effect on creditors or other claimants to title
 - c. Effect on mortgagee
 - d. Effect on title

SESSION 13

TYPES OF MORTGAGES AND SOURCES OF FINANCING

Intended Learning Outcomes

- Describe the mechanics of an adjustable rate mortgage and the components of an ARM
- Describe the features of an amortized mortgage and amortize a level-payment plan mortgage when given the principal amount, the interest rate and the 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
- Explain the process of qualifying for a loan and how to calculate qualifying ratios
- Distinguish among the primary sources of home financing
- Describe the role of the secondary mortgage market and know the features of the major agencies active in the secondary market
- Describe the major provisions of the federal laws regarding fair credit and lending procedures

Vocabulary List

- adjustable rate mortgage (ARM)
- amortized mortgage
- balloon payment
- biweekly mortgage
- conforming loan
- disintermediation
- home equity loan
- index
- intermediation
- land contract
- level payment plan
- lifetime cap
- margin
- MIP
- negative amortization
- nonconforming loan
- package mortgage
- partially amortized mortgage
- payment cap
- periodic cap
- purchase money mortgage
- reverse annuity mortgage
- teaser rate
- UFMIP

Outline

- I. Types of Mortgages
 - A. Amortized mortgage
 1. Monthly payment is constant for term of mortgage

2. As loan is paid off, amount applied to principal increases as amount applied to interest decreases
 3. 30-year and 15-year terms
 4. Amortizing a level-payment plan mortgage
 - B. Partially amortized mortgage
 1. Balloon payment
 - C. Adjustable rate
 1. Mechanics of an adjustable rate mortgage
 2. Components of an ARM
 - a. Index
 - b. Margin
 - c. Adjustment interval
 - d. Interest rate caps
 - (1) Periodic caps
 - (2) Lifetime cap
 - e. Payment caps
 - (1) Negative amortization
 - (2) How negative amortization can result from payment caps
 - f. Teaser rates
 - D. Biweekly mortgage
 - E. Package mortgage
 - F. Home equity loans
 - G. Land Contract
 - H. Purchase money mortgage
 - I. Reverse annuity mortgage
- II. Government Insured FHA Program
- A. Purpose of FHA
 - B. Characteristics of FHA mortgage loans
 1. Loan insurance
 2. Lending source
 3. Discount points
 4. Amount of down payment
 5. Loan limit
 6. Insured commitment
 7. Insurance premium
 - a. UFMIP
 - b. MIP
 8. Qualifying ratios
 9. Interest rate
 10. Appraisal
 11. Closing costs
 12. Assumption
 13. Prepayment

- C. Common FHA loan programs
 - 1. Section 203(b); homeownership; fixed rate
 - a. Loan assumption criteria
 - 2. Section 234(c); condominium units
 - 3. Section 251; homeownership; adjustable rate

III. VA loan guarantee program

- A. The guarantee feature
- B. Characteristics of VA mortgage loans
 - 1. Qualifications
 - 2. Eligibility
 - a. Licensees should rely on the VA lender to determine eligibility
 - 3. Lending source
 - 4. Eligible property
 - 5. Discount points
 - 6. Qualifying ratios
 - 7. Loan limits
 - 8. Loan guarantee
 - 9. Amount of down payment
 - 10. Entitlement
 - 11. Reusing the entitlement
 - 12. Appraisal
 - 13. VA funding fee
 - 14. Loan origination fee
 - 15. Prepayment
 - 16. Assumption
 - 17. Interest rate

IV. Conventional mortgages

- A. Neither government insured nor guaranteed
 - 1. Down payment and LTV ratio
 - 2. PMI
 - 3. Qualifying ratios
 - 4. Interest rate
 - 5. Assumption
 - 6. Prepayment

V. Qualifying for a loan

- A. Qualifying the Buyer
 - 1. The loan application process–Uniform Residential Loan Application
 - 2. Credit evaluation and credit scoring
 - 3. Qualifying ratios
 - a. Housing expense ratio
 - b. Total obligations ratio
 - 4. Qualifying the property
 - 5. Information required by lender

VI. Primary sources of home financing

- A. Savings associations
 - 1. Types of loans offered
 - 2. Federally or state chartered
 - 3. Federal Home Loan Bank System
- B. Commercial banks
 - 1. Types of loans offered
 - 2. Federally or state chartered
 - 3. Federal Deposit Insurance Corporation
- C. Credit unions
- D. Mortgage bankers
 - 1. Their role - how they operate
 - 2. Types of loans they offer are primarily fixed rate loans
- E. Mortgage brokers
- F. Private individuals
 - 1. Seller financing
 - 2. Private investors through mortgage brokers and bankers
 - a. Nonconforming (B&C) loans have filled the gap for borrowers who used to buy using fully assumable loans
 - b. Today it is a large part of the current financial market
- G. Government programs
 - 1. Mortgage bond financing

VII. Secondary Mortgage Market

- A. Effects of the mortgage market
 - 1. Circulate the mortgage money supply
 - a. Intermediation and disintermediation
 - 2. Standardize loan requirements
 - a. Conforming loans
 - b. Portfolio lenders
- B. Fannie Mae
 - 1. Private (not a government agency) corporation that trades on NYSE
 - 2. Secondary market for VA, FHA and conventional loans
 - 3. Issues mortgage-back securities to investors
 - 4. Largest single private mortgage purchaser
- C. Government National Mortgage Association (GNMA)
 - 1. Wholly owned government corporation under HUD
 - 2. Provides a secondary market for VA and FHA loans
 - 3. Mortgage-backed securities program
- D. Freddie Mac
 - 1. Created by Congress in 1970
 - 2. Shares sold publicly
 - 3. Handles conventional loans

VIII. Laws regarding fair credit and lending procedures

A. Equal Credit Opportunity Act (ECOA)

1. Prohibits discrimination in loan underwriting on the basis of sex, marital status, race, religion, age, or national origin. (A lender cannot require an applicant's spouse to join in (sign) a loan application)
2. Prohibits discriminatory treatment of income from alimony, child support, public assistance, or part-time employment
3. Prohibits inquiry about, or consideration of, child bearing plans or potential for child bearing

B. Consumer Credit Protection Act (Truth in Lending Act)

1. Implemented by Federal Reserve Regulation Z
2. Requires disclosure of full credit costs
3. Requires disclosure of annual percentage rate (APR)

C. Real Estate Settlement Procedures Act

1. Applies to virtually any closing involving a "standard" home mortgage loan from a financial institution or mortgage banker
2. Requires that the borrower be provided a booklet of information regarding closing costs
3. Requires advanced estimates of closing costs
4. Requires that the borrower be able to examine the closing statement at least 24 hours in advance
5. Requires that the HUD-1 closing statement form be used for settlement
6. Prohibits kick-backs to a lender from vendors of closing related services

SESSION 14

REAL ESTATE RELATED COMPUTATIONS AND CLOSING OF TRANSACTIONS

Intended Learning Outcomes

- Compute the sales commission
- 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
- List the preliminary steps to a closing
- Prorate the buyer's and seller's expenses using either the 30-day-month method or the 365-day method
- 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 Uniform Settlement Statement

Vocabulary List

- | | |
|-----------|-------------------------|
| ▪ arrears | ▪ preclosing inspection |
| ▪ credit | ▪ profit |
| ▪ debit | ▪ prorate |

Outline

- I. Basic Real Estate Computations
 - A. Review of fractions, decimals and percentages
 - B. Sales commissions
 - C. Calculating selling price, cost and profit

- II. Preliminary steps to a closing
 - A. Sale pending sign on listed property
 1. Sold sign rule
 - B. Notice of "under contract" to MLS
 - C. Earnest money deposited
 - D. Additional deposit, if required
 - E. Loan application
 - F. Contingencies
 - G. Appraisal
 - H. Loan approval
 - I. Title insurance
 - J. Termite inspection
 - K. Required repairs ordered

- L. Survey ordered
- M. Buyer hazard insurance
 - 1. Hazard insurance policy to closing agent
 - 2. Flood insurance
- N. Buyer/seller contact for closing appointment
- O. Preclosing inspection
- P. Closing papers reviewed with buyer or seller one day before closing
- Q. Buyer given amount for certified check for closing
- R. Earnest money check prepared for closing
- S. Closing appointment

III. Prorated Expenses

- A. Period over which item is prorated
- B. Period allocated to buyer and period allocated to seller
- C. Prorating items
 - 1. 30-day-month method
 - 2. 365-day method
- D. Prepaid rent
- E. County and/or city property taxes
- F. Mortgage interest on assumed mortgages

IV. State Transfer Taxes

- A. State documentary stamp tax on deeds
- B. State intangible tax on mortgages
- C. State documentary stamp tax on notes

V. Other Charges

- A. Preparation of document
- B. Recording fees
- C. Broker's commission
- D. Abstract continuation or title insurance

VI. Rules of Thumb

- A. General rule of thumb
 - 1. Items credited to seller
 - 2. Items debited to seller
 - 3. Items credited to buyer
 - 4. Items debited to buyer

VII. Uniform Settlement Statement

- A. Buyer's Transaction Entries
- B. Seller's Transaction Entries
- C. Settlement Charges for both Buyer and Seller
- D. Real Estate settlement example

SESSION 15

REAL ESTATE APPRAISAL

Intended Learning Outcomes

- Describe federal and state regulations pertaining to appraising
- 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
- Calculate value using gross multiplier analysis
- Explain how to prepare a CMA

Vocabulary List

- | | |
|-------------------------------------|-----------------------------|
| ▪ appraisal | ▪ incurable |
| ▪ assemblage | ▪ market value |
| ▪ comparative market analysis (CMA) | ▪ overimprovement |
| ▪ cost-depreciation approach | ▪ plottage |
| ▪ curable | ▪ principle of substitution |
| ▪ depreciation | ▪ progression |
| ▪ economic life | ▪ reconciliation |
| ▪ federally related transaction | ▪ regression |
| ▪ gross rent multiplier (GRM) | ▪ sales comparison approach |
| ▪ highest and best use | ▪ situs |
| ▪ income capitalization approach | ▪ subject property |

Outline

- I. Regulation of Appraising - FIRREA
 - A. State licensed and certified appraisers
 1. Requirements for federally related transactions
 2. Certified appraisal reports
 - B. Appraisal service of real estate
 1. Part I, Chapter 475
 2. Appraisal reports must conform to USPAP
 3. Comparative market analysis (CMA)
 4. Broker price opinion
- II. Concept of Value
 - A. Many types of value apply to real estate
 1. Tax value

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2. Insurance value
 3. Value in use
 4. Liquidation value
 5. Investment value
 - B. Market value
 1. Definition of market value required for federally related transactions
 2. Assumptions associated with market value
 - C. Concepts of market cost/price/value
 - D. Characteristics of value
 1. Demand
 2. Utility
 3. Scarcity
 4. Transferability
- III. Principles of Value
- A. Substitution
 - B. Highest and best use
 1. As if vacant
 2. As improved
 - C. Increasing and decreasing returns
 1. Overimprovement
 - D. Conformity
 - E. Other valuation terminology
 1. Assemblage
 2. Plottage
 3. Progression
 4. Regression
- IV. Introduction to the Three Approaches to Value
- A. Sales comparison approach
 1. Theory of method
 2. Steps in the approach
 - a. Making adjustments
 - b. Adjusted sale price
 3. Types of property best suited for this approach
 - B. Cost-depreciation approach
 1. Theory of method
 2. Steps in the approach
 - a. Reproduction vs replacement cost
 - (1) Cost estimating manuals
 - b. Three types of depreciation
 - c. Calculating accrued depreciation using age-life method
 2. Applications of approach

C. Income approach

1. Theory of method
2. Steps in the approach
 - a. Potential gross income
 - b. Effective gross income
 - c. Net operating income
 - (1) Fixed variable, reserve for replacements
 - d. Cap rates
3. Applications of approach
4. Gross rent multiplier (GRM)
 - a. Steps in the multiplier analysis

V. Preparing a Comparative Market Analysis (CMA)

- A. Gathering appropriate data
- B. Selecting comparables
 1. Sold within the previous 12 months
 2. Currently on the market
 3. Expired during the previous 12 months
- C. Common elements of comparison
- D. Adjusting for differences
- E. Computer generated CMAs

SESSION 16

INTRODUCTION TO RESIDENTIAL PRODUCT KNOWLEDGE

Intended Learning Outcomes

- Explain how building codes regulate building construction
- Distinguish among the various types of lots
- Distinguish among the various roof styles
- Distinguish among the various window styles
- Explain the basic requirements of Florida's Contractor's license law and situations that may require a real estate licensee to use a licensed contractor
- Describe basic residential building components and materials
- Explain the mechanical and electrical systems that go into a home
- Identify the various types of insulation and minimum R-values
- Explain the various environmental hazards associated with real estate

Vocabulary List

- asbestos
- casement
- corner lot
- cul de sac lot
- dormer
- double-hung
- fixed window
- flag lot
- flat roof
- gable
- gambrel
- hip
- horizontal sliding
- insulation
- interior lot
- jalousie
- key lot
- mansard
- R-value
- shed roof
- T lot
- toxic waste
- underground storage tanks
- urea-formaldehyde foam insulation
- zero lot line

Outline

- I. Building Construction Standards
 - A. Federal regulations
 - B. State regulations
 - C. Local regulations
 1. Building codes
 2. Housing codes
 3. Electrical codes
 4. Fire codes
 5. Plumbing and mechanical codes
 - D. Florida's contractor's license law

II. Lot Types

- A. Corner lot
- B. Interior lot
- C. Cul de sac lot
- D. T lot
- E. Key lot
- F. Flag lot
- G. Zero lot line

III. Product Knowledge

A. Basic residential design, materials, and systems

1. Roofs

- a. Styles: gable, hip, gambrel, flat, mansard, dormer
- b. Structure: joist and rafter, truss, sloped joists, other
- c. Materials: types of sheathing, types of shingles, types of fasteners, hurricane anchors, other

2. Walls

- a. Types: siding, stucco, masonry, concrete block, other
- b. Materials: shingles, sheathing, building paper, studs, other

3. Windows

- a. Styles: jalousie, fixed window, double-hung, casement, horizontal sliding
- b. Materials: aluminum, wood, steel, vinyl

4. Insulation

- a. Types
- b. Requirements: ceiling, walls

5. Heating, ventilating, air conditioning

- a. Heating: forced air, heat pump, other
- b. Fuels: natural gas, fuel oil, electric, solar
- c. Air conditioning: room units, central, heat pump
- d. Fans: ceiling, attic

6. Plumbing: septic tank, sewer

7. Water supply

- a. Source: municipal, cistern, well
- b. Hot water: type and size of unit

8. Electric system

- a. Amps vs. Volts
- b. Circuit breakers vs. fuses
- c. Residential capacity

9. Framing and construction: walls, floors, windows

- a. Look for cracks, bulges in walls, irregular roof lines, sloping floors, and to check all windows for proper functioning as clues to structural deficiencies

10. Damage

- a. Wood-destroying organisms
 - 1. Termites
 - 2. Carpenter ants
 - 3. Decay

- B. Environmental hazards
 - 1. Water supply
 - a. Well (adequacy, quality)
 - b. Public (quality)
 - 2. Septic tank
 - 3. Asbestos
 - 4. Radon
 - 5. Toxic waste in soil
 - 6. Underground storage tanks
 - 7. Lead paint
 - 8. Urea-formaldehyde foam insulation

SESSION 17

REAL ESTATE INVESTMENTS AND BUSINESS OPPORTUNITY BROKERAGE

Intended Learning Outcomes

- Identify the advantages and disadvantages of investing in real estate
- Distinguish among the risks associated with general business conditions
- Distinguish among the risks that affect return
- 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
- Describe the steps in the sale of a business

Vocabulary List

- appreciation
- basis
- capital gain (loss)
- cash flow
- equity
- going concern value
- goodwill
- leverage
- liquidation analysis
- liquidity
- personal property
- tax shelter

Outline

- I. Investment Real Estate Terminology
 - A. Cash flow
 - B. Leverage
 - C. Capital gain (loss)
 - D. Basis
 - E. Appreciation
 - F. Equity
 - G. Liquidity
 - H. Risk
 - I. Tax shelter
- II. Advantages of Real Estate Investments
 - A. Good rate of return
 - B. Tax advantages
 - C. Hedge against inflation
 - D. Leverage
 - E. Equity build up

III. Disadvantages of Investing in Real Estate

- A. Illiquidity
- B. Market is local in nature
- C. Need for expert help
- D. Management effort
- E. Risk

IV. Assessment of Risk

- A. Risks associated with general business conditions
 - 1. Business risk
 - 2. Financial risk
 - 3. Purchasing-power risk
 - 4. Interest-rate risk
- B. Risks that affect return
 - 1. Liquidity risk
 - 2. Safety risk
 - a. Market risk
 - b. Risk of default

V. Nature of Business Brokerage

- A. Similarities to real estate brokerage
 - 1. Almost always a sale of real property or an assignment of a long-term lease is involved
 - 2. Must be licensed as a real estate broker or salesperson under Chapter 475, F.S.
- B. Differences from real estate brokerage
 - 1. Usually involve transactions containing assets other than real estate
 - a. Personal property
 - b. Goodwill
 - 2. The value of the business may be less than, equal to, or greater than the value of the real estate. That is, the “going concern” value may be different than the real estate value
 - 3. Markets for business enterprises are typically wider in geographic scope than markets for individual parcels of real estate
- C. Expertise required in business brokerage
 - 1. Corporate finance
 - 2. Business accounting
 - 3. Valuation of businesses
 - a. Methods of appraising businesses
 - (1) Comparable sales analysis
 - (2) Cost approach
 - (3) Incomes capitalization analysis
 - (4) Liquidation analysis
- D. Steps in the sale of a business

SESSION 18

TAXES AFFECTING REAL ESTATE

Intended Learning Outcomes

- 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 and eligible exemptions
- 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
- Explain how to determine taxable income of investment real estate
- Distinguish between installment sales and like-kind exchange

Vocabulary List

- | | |
|--------------------|----------------------|
| ▪ ad valorem | ▪ like-kind exchange |
| ▪ assessed value | ▪ mill |
| ▪ debt service | ▪ special assessment |
| ▪ exempt property | ▪ tax rate |
| ▪ installment sale | ▪ taxable income |
| ▪ immune property | ▪ taxable value |
| ▪ just value | |

Outline

I. Real Property Taxation

A. Local importance

1. Primary source of revenue
2. Other sources of revenue include:
 - a. Sales tax
 - b. Income tax
 - c. Public utility revenues
 - d. User taxes

B. Determining "just value"

1. General procedure
2. Protest procedure
 - a. Property owner contacts property appraiser within legislated time frame
 - b. File an appeal with the Value Adjustment Board
 - c. Litigation in the courts
 - (1) Certiorari proceeding

C. Exemptions from property taxes

1. Immune property
 2. Exempt or partially exempt property
 3. Homestead exemption
 - a. Surviving spouse exemption
 - b. Disability exemption
 - c. Blind persons exemption
 - d. Cumulative homestead tax exemption
 - e. Military service-connected total and permanent disability tax exemption
 - f. Tax exemption for certain totally and permanently disabled persons
 4. Greenbelt law exemption
 - a. Nature
 - b. Purpose
 - c. Provisions
 - D. Overview of establishing the tax rate
 1. Estimate total government expenditures
 2. Estimate additional sources of revenue
 3. Compute the taxable value of property
 4. Calculate the tax rate
 - E. Calculating taxable value
 - F. Calculating property taxes
 - G. Special Assessments
 1. Purpose of special assessments
 2. Limitations on use
 3. Computation of assessment rate
 4. Special assessment liens
 - H. Nonpayment of real property taxes
 - I. Purchasing tax certificates
- II. Federal Income Taxes
- A. Sale of real property
 1. Amount realized
 2. Capital gain (loss)
 - B. Principal residence
 1. Tax advantages
 - a. Mortgage interest deduction on principal residence and second home
 - b. Deduction of property taxes on principal residence and second home
 - c. IRA withdrawal for first time home buyers
 - d. Exclusion of gain from sale of principal residence
 - C. Investment real estate
 1. Types of income and cash flows
 - a. Potential gross income
 - b. Effective gross income
 - c. Net operating income
 - d. Before tax cash flow (cash throwoff)
 - e. After tax cash flow
 2. Determining taxable income

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- a. Reserve for replacements
- b. Interest
- c. Depreciation
3. Tax from operations
 - a. Capital gain (loss)
 - (1) Short-term gain
 - (2) Long-term gain
4. Installment sales
5. Like-kind exchange

SESSION 19

THE REAL ESTATE MARKET

Intended Learning Outcomes

- Describe the physical characteristics of real estate
- Describe the economic characteristics of real estate
- List the factors that influence demand
- List the factors that influence supply
- Distinguish among different ways of interpreting market conditions
- Know the different market indicators

Vocabulary List

- buyer's market
- demand
- household
- seller's market
- situs
- supply
- vacancy rate

Outline

I. Physical Characteristics of Real Estate

- A. Immobility and importance of location in determining value
 1. The value of real estate is heavily influenced by changes in the surrounding area
 2. Highest and best use is fundamentally determined by alternate types of potential users bidding for a site in accordance with the locational and environmental value of the site in each use
 3. If the value of a site in its current highest and best use declines relative to competing uses, highest and best use may change and land use transition will begin
- B. Slow to respond to change in supply and demand
- C. Indestructibility (durability) of land and fixed location
 1. Real estate investment tends to be long term
 2. Land does not depreciate
 3. Property insurance insures improvements only, not land
- D. Nonstandardized; nonhomogeneous
 1. No two parcels are exactly alike
- E. Governmental controls influence the market through zoning, building codes, taxes, etc.

II. Economic Characteristics of Real Estate

- A. Relationship between supply, demand and price
- B. Demand factors:
 - 1. Price of real estate
 - 2. Population and household composition
 - 3. Income of consumers
 - 4. Availability of mortgage credit
 - 5. Consumer tastes or preferences
- C. Supply factors:
 - 1. Availability of skilled labor
 - 2. Availability of construction loans and financing
 - 3. Availability of land
 - 4. Availability of materials
- D. Interpreting market conditions
 - 1. Price levels
 - 2. Vacancy rates
 - 3. Sales volume
 - 4. Area preference—situs
 - 5. Market adjustment
 - a. Buyer's market
 - b. Seller's market

III. Market Indicators

- A. Vacancy rates
- B. Price/sales information
- C. Building permits

SESSION 20

PLANNING AND ZONING

Intended Learning Outcomes

- Describe the composition and authority of the local planning agency
- 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
- Explain the provisions of the national flood insurance program

Vocabulary List

- buffer zone
- building code
- building inspection
- building permit
- certificate of occupancy
- concurrency
- environmental impact statement
- health ordinance
- nonconforming use
- planned unit development
- special exception
- special flood hazard area
- variance
- zoning ordinance

Outline

I. Planning and Zoning

A. City planning

1. Historical

- a. Philosophy of laissez faire
- b. Industrialization and urbanization
- c. Protecting residential property

2. Goals of planning include, for example:

- a. Savings of tax money by preventing sprawl
- b. Adequate provision of services
- c. Providing for road right-of-ways and set backs
- d. Protection against costly drainage, flooding or environmental problems
- e. Reduction in political and equity problems in siting landfills, prisons, etc.

II. Local planning agency

- A. Composition
- B. Authority
 - 1. Subdivision plat approval
 - 2. Site plan approval
 - 3. Sign control
- C. Support staff

III. Florida's comprehensive plan

- A. Chapter 163, F.S. "Growth Management Act of 1985"
- B. Plan must contain certain elements to be coordinated with plans of surrounding areas
 - 1. Future land use
 - 2. Traffic circulation
 - 3. Water, sanitary and storm sewers, and solid waste
 - 4. Conservation of natural resources
 - 5. Recreation
 - 6. Housing
 - 7. Coastal zone protection, where relevant
 - 8. Intergovernmental coordination
 - 9. Utilities
 - a. Plan must be implemented by adopting sufficient land use control ordinances and capital improvement programs (concurrency requirements)
 - b. Optional elements may include: historical, scenic preservation, economic and public buildings
 - c. Concurrency allows new development only after a minimum level of public infrastructure is in place around the development site

IV. Zoning, land use restrictions and building codes

- A. Zoning ordinance and classifications
 - 1. Residential—control of density
 - a. Lot size
 - b. Set backs
 - c. Lot coverage
 - 2. Commercial—control of intensity of use
 - a. Parking requirements
 - b. Height and size limitations
 - 3. Industrial—control of emission and effluents
 - a. Control of by-products such as noise, odor, smoke congestion and chemicals
 - 4. Agricultural
 - 5. Special use
- B. Building codes
 - 1. Building permits
 - 2. Building inspections
 - 3. Certificate of occupancy
- C. Health ordinances

V. Appeals and Exceptions

- A. Zoning Board of Adjustment
 - 1. Variance
 - 2. Special exception
 - 3. Legally nonconforming use
- B. Developments of Regional Impact
 - 1. Planned unit development
 - 2. Environmental impact statement

VI. National Flood Insurance Program

- A. Communities that enact requisite flood plain management and flood plain construction regulations can qualify for a federally subsidized flood insurance program
 - 1. "Special Flood Hazard Areas" are delineated according to NFIP criteria—the probability of flooding is at least one percent in any given year
 - 2. Development within SFHAs must be restricted in a manner so as not to obstruct the natural flow of flood waters
- B. Residential structures in the SFHA must have the first floor above the "Base Flood Elevation"
- C. Non-residential structures must meet the residential requirement, or be water-tight below the Base Flood Elevation
- D. Over 40 percent of purchasers of National Flood Insurance are in Florida