

MINIMUM COURSE CONTENT OUTLINE FOR A 45 HOUR REAL ESTATE PRACTICE 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 45 hour Real Estate Practice course candidates must complete in order to qualify for a salesperson license. The outline is a guide that provides a framework for developing a course with specific learning objectives that achieve the primary course objective. Course content may be presented in any order and may be supplemented, in any way an education provider deems appropriate, to achieve the stated course objective consistent with contemporary business practices and prevailing laws.

COURSE OBJECTIVE;

The primary objective of the course REAL ESTATE PRACTICE is to provide students with essential information regarding laws, business practices, ethics and technologies which will enable them to conduct themselves as professionals in ways that ultimately protect the consumers to whom they provide services. This core objective will be met by achieving three specific instructional objectives:

1. Introducing and familiarizing the student with the scope of the real estate business and market, and the role of licensees (brokers and salespersons) in it.
2. Developing an in depth understanding of the laws, regulations and ethical standards that impact and govern the conduct of licensees.
3. Providing an understanding of the activities involved in constructing a residential sales transaction, and the role and obligations of a licensee involved in the transaction.

PART ONE: AN INTRODUCTION TO THE REAL ESTATE INDUSTRY

- I) THE REAL ESTATE BUSINESS
 - A) Types of activities real estate professionals engage in
 - B) Real property classifications
 - C) Factors impacting the real estate industry
 - D) Industry trends
 - E) Broker/Salesperson issues
 - 1) Broker/Salesperson definitions
 - (a) RELRA section 201
 - (b) Rules section 35.201
 - (c) Compensation agreements
 - 2) Broker/Salesperson compensation
 - (a) RELRA 604(a) 12, 12.1
 - (b) Rules section 35.281
 - 3) Independent contractor vs. Employee status
 - 4) Income tax considerations
 - 5) Record keeping requirements
 - F) Brokerage math
 - 1) Broker Compensation
 - (a) Cooperating broker fee splitting
 - (b) Net to owner after costs
 - 2) Salesperson compensation
 - (a) Commission splits
 - (b) Desk cost/fees charged

**PART TWO: LAWS, REGULATIONS, AND ETHICS AFFECTING REAL
ESTATE PRACTICE**

- I) THE ROLE OF PROFESSIONAL ETHICS; THE RELATIONSHIP BETWEEN ETHICS AND LAW
- II) LICENSE LAW (RELRA) AND RULES AND REGULATIONS OF THE REAL ESTATE COMMISSION
- III) ANTI-TRUST
 - A) Applicable federal and state laws
 - B) Price fixing
 - C) Group Boycotting
 - D) Tying agreements
 - E) Territorial assignments
 - F) Compliance / penalties
- IV) FAIR HOUSING LAWS
 - A) Legal, ethical, and social responsibilities of licensees
 - B) Relationship, and distinction between federal, states, local laws, RELRA.
 - C) Protected classes
 - D) Prohibited conduct
 - E) Fair Housing advertising and marketing issues for licensees
 - F) The complaint process and remedies available
- V) AGENCY LAW
 - A) Agency relationships/parties involved
 - B) Creation of agency relationships
 - 1) Express, implied, ostensible
 - 2) Misconceptions regarding creation of agency relationships
 - C) Effect of the creation of an agency relationship
 - 1) Legal liability
 - 2) Constructive and imputed notice
 - D) Fiduciary obligations of an agent
 - 1) Loyalty

- 2) Confidentiality
 - 3) Disclosure
 - 4) Obedience
 - 5) Accountability
 - 6) Skill and Care
- E) Types of agency relationships
- 1) Single agency
 - (a) Seller/Landlord
 - (b) Buyer/Tenant
 - 2) Subagency
 - 3) Dual agency
 - (a) Disclosed
 - (b) Undisclosed
 - 4) Designated agency
 - 5) Transaction licensee
- F) Compensation vs agency
- G) Pennsylvania license law/rules and regulations concerning agency
- 1) Relationships with consumers
 - (a) RELRA section 606 and 606.1
 - (b) Rules section 35.292
 - 2) Disclosure of business relationship
 - (a) Rules 35.284
 - (b) Rules 35.336 (consumer notice)
 - 3) Duties of seller agent
 - (a) RELRA 606.2
 - (b) Rules 35.312
 - 4) Duties of buyer agent
 - (a) RELRA 606.3
 - (b) Rules 35.313
 - 5) Duties of Dual Agent
 - (a) RELRA 606.3

- (b) Rules 35.314
- 6) Duties of designated agent
 - (a) RELRA 606.5
 - (b) Rules 35.315
- 7) Duties of transaction licensee
 - (a) RELRA 606.6
 - (b) Rules 35.316

PART THREE: AN INTRODUCTION TO RESIDENTIAL SALES TRANSACTIONS

A residential sales transaction is used as a model for this part of the course. Although residential transactions (and the documents involved in them) are not “standard”, they tend to be less complicated than non-residential transactions, and are therefore easier to understand in an introductory level course.

I) HOME OWNERSHIP

- A) Types of housing accommodations
- B) Factors affecting home ownership
- C) Income tax and investment considerations
- D) Future trends
- E) Insurance issues affecting homeownership
 - 1) Homeowner’s insurance/current issues
 - 2) Flood insurance
 - 3) Mine subsidence insurance

II) LISTING PROPERTY: THE SELLER/BROKER RELATIONSHIP

- A) Establishing the relationship
 - 1) Consumer notice
- B) Types of listing contracts
 - 1) Open
 - 2) Exclusive agency
 - 3) Exclusive right to sell

- 4) Net
- C) RELRA and commission rules and regulations regarding licensee duties when listing property
 - 1) RELRA
 - (a) Section 604(a), (2) (7) (8) (9) (10) (11) (13) (20) (22)
 - (b) Section 606; 606.1; 606.4; 606.5
 - (c) Section 608; 608.1
 - 2) Rules/Regulations
 - (a) 35.281 (a); 35.281 (b) contracts in writing
 - (b) 35.282 – Misleading advice, assurances
 - (c) 35.283 – Disclosure of interest
 - (d) 35.284 – Disclosure of relationships
 - (e) 35.292 – Duties of licensees
 - (f) 35.312 – Duties of seller’s agent
 - (g) 35.314 – Duties of dual agent
 - (h) 35.315 – Duties of designated agent
 - (i) 35.332 – Exclusive listing agreements
 - (j) 35.334 – Statements of cost/return
- D) Disclosure of property condition
 - 1) RELRA
 - (a) Section 604 (a) (15.1); 606.1 (i)
 - 2) Rules/Regulations
 - (a) 35.284 (a) seller disclosure law
 - (b) 35.335 (a) seller property condition disclosure statement
- E) Pricing the property
 - 1) Comparative Market Analysis (CMA) vs appraisal
 - (a) RELRA section 201 –CMA definition
 - (b) Rules section 35.340 –CMA
 - 2) Net listing
- F) Listing agreement Provisions
 - 1) Obligations of the parties

- 2) Broker compensation issues
 - 3) Listing broker cooperation with other brokers (including sharing fees) and multiple listing service (MLS) issues
 - 4) Termination of listings
- G) Marketing the property
- 1) RELRA section 604 (A)(8) and (22)
 - 2) Rules and regulations concerning advertising and solicitation: sections 35.301 - 35.307
 - 3) Legal and ethical considerations concerning use of technology and social media in marketing property
 - 4) Future trends and issues in advertising and marketing.

III) SELLING THE PROPERTY: THE BUYER/BROKER RELATIONSHIP

A) Establishing the relationship

- 1) Proper use of/purpose of the consumer notice and the oral consumer notice
- 2) RELRA and Commission rules and regulations regarding relationships with buyers

(a) RELRA

- ◆ 606 – Relationships between brokers and consumers
- ◆ 606.1 – Duties of licensees generally
- ◆ 606.3 – Duties of buyers broker
- ◆ 606.4 – Duties of dual agent
- ◆ 606.5 – Duties of designated agent
- ◆ 606.6 – Duties of transaction licensee
- ◆ 608 – Information at initial interview
- ◆ 608.1 – Written agreement with broker

(b) Rules/Regulations

- ◆ 35.281 – Putting contracts, commitments in writing
- ◆ 35.292 – Duties of licensees generally
- ◆ 35.311 – Permitted relationships
- ◆ 35.313 – Duties of buyer's agent
- ◆ 35.314 – Duties of dual agent
- ◆ 35.315 – Duties of designated agent

- ◆ 35.316 – Duties of transaction licensee
 - ◆ 35.336 – Disclosure summary: consumer notice
 - ◆ 35.339 – Oral disclosure
- 3) Importance of brokerage company policy regarding relationships with buyers.
 - (a) Client vs. Customer level service
 - (b) The issue of subagency
 - (c) Dual/Designated agency for in house transactions
- B) Types of buyer agency
- 1) Open (nonexclusive) buyer agency
 - 2) Exclusive agency buyer agency
 - 3) Exclusive buyer agency
- C) The broker compensation issue in buyer agency
- D) Buyer agency in practice
- 1) Cooperating broker transactions
 - (a) Buyer is client of cooperating broker; seller is client of listing broker.
 - 2) For sale by owner transactions
 - (a) Buyer is client of broker, seller is unrepresented
 - 3) In house transactions (company also represents seller as client)
 - (a) Dual agency: both buyer and seller are clients; requires fully informed consent and modification of fiduciary duties
 - (b) Designated agency: broker is dual agent, buyer receives full representation from the licensee "designated" as their sole and exclusive agent.
 - (c) Danger of "undisclosed" dual agency

IV) LEGAL LIABILITY AND RISK REDUCTION ISSUES FOR LICENSEES

- A) Key areas of potential liability
- 1) Puffing
 - 2) Negligence
 - 3) Negligent representation
 - 4) Fraud
 - (a) Active fraud (intentional misrepresentation)
 - (b) Passive fraud (failure to disclose known defects)

B) Steps to limit liability

- 1) Document statements, events, and conversations
- 2) Be alert for “red flags” regarding property condition
- 3) Encourage careful review of seller’s property condition disclosure forms
- 4) Encourage the use of qualified professionals – such as home inspectors
- 5) Answer specific questions carefully- avoid generalizations and opinions which could be construed as fact statements
- 6) Avoid making statements regarding the future concerning the property or its components.

V) THE AGREEMENT OF SALE

A) Role of the licensee

- 1) Unauthorized practice of law
- 2) Preparation of contracts
- 3) Use of pre-printed forms
 - (a) Addressing issues that may not apply or that need to be included in preprinted forms
- 4) Negotiation of terms of the agreement
 - (a) The issue of representation- who is my client?
 - (b) Communication of offers/counteroffers
 - (c) Licensee duties regarding statements of cost and return (rules 35.334)

B) Necessity for agreements in writing

- 1) Statute of frauds
- 2) Parol evidence
- 3) Rules and Regulations
 - (a) 35.281 – Written agreements
 - (b) 35.333 – Agreements of sale
- 4) The Uniform Transaction Act (UETA) and its application to sales agreements.

- C) Earnest Money Deposits: Duties of licensees
 - 1) RELRA - 608.5 Handling deposits and other escrows
 - 2) Rules:
 - (a) 35.321 - Duty to deposit
 - (b) 35.322 - Non waiver of duty
 - (c) 35.323 - Co-brokerage transactions
 - (d) 35.324 - Deadline for deposits
 - (e) 35.325 - Escrow accounts
 - (f) 35.326 - Commingling and misappropriation
 - (g) 35.327 - Entitlements / Disputes

- D) Elements of the Sales Agreement
 - 1) Basic legal requirements to establish validity
 - 2) Rules and regulations: - 35.333
 - 3) Common provisions
 - 4) Common contingencies
 - (a) Financing
 - (b) Home inspection
 - (c) Sale of buyer's property
 - (d) Insurance
 - 5) Common addenda to an agreement
 - 6) Review of sample agreement of sale.

- E) Performance, discharge and termination
 - 1) Partial performance
 - 2) Impossibility of performance
 - 3) Termination by mutual agreement
 - 4) Termination by operation of law

- F) Default / Breach of contract
 - 1) Seller remedies
 - 2) Buyer remedies

VI) FINANCING THE SINGLE FAMILY RESIDENCE

- A) Lender considerations

- 1) Yield - Interest rates, origination fees. Discount points
 - 2) Risk - Loan to value (LVR) considerations, borrower risk factors
- B) Loan repayment
- 1) Amortized loans
 - 2) Straight term loans
 - 3) Adjustable rate mortgage loans
 - 4) Buy downs
 - 5) Balloon payments
- C) Sources of loans: Primary market lenders
- 1) Mortgage bankers and brokers
 - (a) The Mortgage Bankers and Brokers Consumer Equity Protection Act
 - 2) Internet lenders
 - 3) Commercial banks
 - 4) Savings Association
 - 5) Credit Union
 - 6) Pennsylvania Housing Finance Agency (PHFA)
- D) Types of loans
- 1) Conventional
 - (a) Uninsured
 - (b) Insured (requiring PMI)
 - 2) FHA insured loans
 - 3) VA guaranteed loans
 - 4) Seller financing
 - (a) Purchase money mortgage
 - (b) Installment land sales contract
 - (c) Lease / purchase, lease / option agreements
 - (d) Seller second mortgage
- E) Financing steps
- 1) Qualifying the buyer
 - (a) Role of the licensee
 - (b) Ratios, standards used, credit scores

- 2) The loan application
 - (a) CFPB considerations and the Loan Estimate (LE)
 - 3) Application of Secondary Market investor standards – conforming vs non-conforming
 - 4) Loan processing and underwriting
 - (a) Verification of funds
 - (b) Seller assist issues
 - (c) Verification of income / employment
 - 5) Closing the loan
 - (a) CFPB considerations and the Closing Disclosure (CD)
- F) Legislation affecting residential financing
- 1) Truth in lending / Regulation Z
 - 2) Equal Credit Opportunity Act (ECOA)
 - 3) Real Estate Settlement Procedures Act (RESPA applicability to mortgage lending)
 - 4) Federal and state fair housing laws applicability to mortgage lending
 - 5) Fair and Accurate Credit Transactions Act (FACTA)
 - 6) Dodd – Frank Wall Street Reform and Consumer Protection Act
- G) Finance math
- 1) Application of qualifying ratios
 - 2) Initial loan charges
 - (a) Origination fees
 - (b) Discount points
 - (c) MIP and PMI initial charges
 - 3) Interest charged
 - (a) Straight term loans
 - (b) Partially amortized loans
 - (c) Fully amortized loans
- VII) VALUATION / APPRAISAL
- A) Terminology regarding valuation
- 1) Comparative Market Analysis (CMA)
 - (a) RELRA: section 201 and 608.3
 - (b) Rules: section 35.202 and 35.340

- (c) Qualifications to perform
- 2) Broker Price Opinion (BPO)
 - (a) RELRA: section 201, 608.3, 608.6
 - (b) Rules: section 35.401 – 35.404
 - (c) Qualifications to perform
- 3) Appraisal
 - (a) Definition from Uniform Standards of Professional Appraisal Practice (USPAP)
 - (b) Certifications / qualifications to perform
 - 1. Broker appraiser
 - 2. Residential appraiser
 - 3. General appraiser
- B) The concept of value
 - 1) Types of value
 - 2) Factors that influence value
 - 3) Principles of value
- C) Approaches to estimating value
 - 1) The direct sales comparison approach
 - 2) The cost approach
 - 3) The income / capitalization approach
 - (a) Gross rent / Gross income multipliers
- D) Reconciliation and reporting
- E) Valuation math
 - 1) The cost approach
 - (a) Calculating replacement / reproduction cost of the improvement
 - (b) Depreciation
 - 1. Economic life / rate of depreciation
 - (c) Improvement vs Land valuation
 - 2) The capitalization / income approach
 - (a) Calculating potential gross income (PGI), effective gross income (EGI) and net operating income (NOI)
 - (b) Applicable property charges

- (c) Capitalization rates and net operating income related to value estimate
- (d) Gross rent / Gross income multipliers

VIII) CLOSING THE RESIDENTIAL TRANSACTION

A) Purpose and parties involved

1) Purpose

- (a) To close the loan (when financing is involved)
- (b) To close the transaction (transferring title from seller to buyer)

2) Parties / their roles

- (a) Seller
- (b) Buyer
- (c) Settlement officer
- (d) Lender
- (e) Attorneys for the parties involved
- (f) Broker / salesperson

B) Closing the loan

1) Impact of the Consumer Financial Protection Bureau (CFPB) on closings

(a) The Loan Estimate (LE)

1. Requirements for delivery
2. Information contained on the (LE)
3. Understanding loan costs and cash to close on the (LE)
4. Impact of changes to the (LE) prior to closing

(b) The Closing Disclosure (CD)

1. Requirements for delivery
2. Information contained on the (CD)
3. Comparison of costs: The (LE) and (CD)

(c) RESPA issues

C) Closing the property transfer

1) Title procedures

- (a) Marketable title
- (b) Chain / abstract / cloud on title issues
- (c) Evidence of title

1. Attorney's certificate
 2. Title Insurance
- 2) Transfer of title by deed
 - (a) Parties (grantor / grantee)
 - (b) Types of deeds
 - (c) Delivery and acceptance
 - (d) Recording
- D) Settlement statements
- 1) Accounting for debits and credits
 - 2) Proration of expenses
 - (a) Prepaid vs accrued expenses
- E) IRS reporting requirements
- 1) Foreign Investment in Real Property Tax Act (FIRPTA)
- F) Cyber security issues impacting real estate transfers
- 1) Source of funds issues
 - 2) Identity theft issues
- G) Settlement math
- 1) Calculating debits and credits
 - 2) Proration issues
 - (a) Prepaid vs accrued expenses
 - (b) Accounting for time frames covered
 - 3) Calculating seller net proceeds