

Texas Real Estate License Exam Prep for Sales Agents

Study Guide and Full-length Practice Exams

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<u>Table of Contents</u>	<u>Page #</u>
Content Outlines	4
National Exam Study Guide	
I. REAL PROPERTY CHARACTERISTICS, LEGAL DESCRIPTIONS, AND PROPERTY USE	12
II. FORMS OF OWNERSHIP, TRANSFER, AND RECORDING OF TITLE	18
III. PROPERTY VALUE AND APPRAISAL	26
IV. REAL ESTATE CONTRACTS AND AGENCY	32
V. REAL ESTATE PRACTICE	39
VI. PROPERTY DISCLOSURES AND ENVIRONMENTAL ISSUES	52
VII. FINANCING AND SETTLEMENT	58
VIII. REAL ESTATE MATH CALCULATIONS	79
Texas Exam Study Guide	
I. COMMISSION DUTIES AND POWERS	88
II. LICENSING	92
III. STANDARDS OF CONDUCT	97
IV. AGENCY/BROKERAGE	101
V. CONTRACTS	104
VI. SPECIAL TOPICS	105
Practice Exam 1	109
Practice Exam 2	145
Practice Exam 3	177
Solutions	211
Answer Key	284

National Exam Content Outline for Sales Agents

I. REAL PROPERTY CHARACTERISTICS, LEGAL DESCRIPTIONS, AND PROPERTY USE (9)

- A. Real property vs. personal property
 - 1. Fixtures, trade fixtures, emblements
 - 2. Attachment, severance, and bill of sale
- B. Characteristics of real property
 - 1. Economic characteristics
 - 2. Physical characteristics
- C. Legal descriptions
 - 1. Methods used to describe real property
 - 2. Survey
- D. Public and private land use controls – encumbrances
 - 1. Public controls – governmental powers
 - a. Police power, eminent domain, taxation, escheat
 - b. Zoning ordinances
 - 2. Private controls, restrictions, and encroachments
 - a. Covenants, conditions, and restrictions (CC&Rs), HOAs
 - b. Easements
 - c. Licenses and encroachments

II. FORMS OF OWNERSHIP, TRANSFER, AND RECORDING OF TITLE (8)

- A. Ownership, estates, rights, and interests
 - 1. Forms of ownership
 - 2. Freehold estate
 - a. Fee simple absolute
 - b. Fee simple defeasible, determinable, and condition subsequent
 - c. Life estate
 - d. Bundle of rights
 - 3. Leasehold estates and types of leases
 - a. Estate for years and from period to period (periodic estate)
 - b. Estate at will and estate at sufferance
 - c. Gross, net, and percentage leases
 - 4. Liens and lien priority
 - 5. Surface and sub-surface rights
- B. Deed, title, transfer of title, and recording of title
 - 1. Elements of a valid deed
 - 2. Types of deeds
 - 3. Title transfer

- a. Voluntary alienation
- b. Involuntary alienation
- 4. Recording the title
 - a. Constructive and actual notice
 - b. Title abstract and chain of title
 - c. Marketable title and cloud on title
 - d. Attorney title opinion, quiet title lawsuit, and title insurance

III. PROPERTY VALUE AND APPRAISAL (11)

- A. Concept of value
 - 1. Market value vs. market price
 - 2. Characteristics of value
 - 3. Principles of value
- B. Appraisal process
 - 1. Purpose and steps to an appraisal
 - 2. Federal oversight of the appraisal process
- C. Methods of estimating value and Broker Price Opinions (BPO)
 - 1. Sales comparison approach (market data)
 - 2. Cost approach
 - a. Improvements and depreciation
 - b. Physical deterioration, functional, and economic obsolescence
 - c. Reproduction or replacement costs
 - 3. Income approach
 - 4. Gross rent and gross income multipliers
 - 5. Comparative Market Analysis (CMA)
 - 6. Broker Price Opinion (BPO)
 - 7. Assessed value and tax implications

IV. REAL ESTATE CONTRACTS AND AGENCY (16)

- A. Types of contracts
 - 1. Express vs. implied
 - 2. Unilateral vs. bilateral
- B. Required elements of a valid contract
- C. Contract performance
 - 1. Executed vs. executory
 - 2. Valid vs. void
 - 3. Voidable vs. unenforceable
 - 4. Breach of contract, rescission, and termination
 - 5. Liquidated, punitive, or compensatory damages
 - 6. Statute of Frauds

7. Time is of the essence
- D. Sales contract
 1. Offer and counteroffer
 2. Earnest money and liquidated damages
 3. Equitable title
 4. Contingencies
 5. Disputes and breach of contract
 6. Option contract and installment sales contract
- E. Types of agency and licensee-client relationships
- F. Creation and termination of agency
- G. Licensee obligations to parties of a transaction

V. REAL ESTATE PRACTICE (14)

- A. Responsibilities of broker
 1. Practicing within scope of expertise
 2. Unauthorized practice of law
- B. Brokerage agreements between the broker and principal (seller, buyer, landlord, or tenant)
 1. Seller representation – Types of listing agreements
 - a. Exclusive right-to-sell and exclusive agency listing
 - b. Non-exclusive or open listing
 - c. Net listing (conflict of interest)
 - d. Multiple listing service (MLS)
 2. Buyer representation
 3. Property management agreement
 - a. Accounting for funds
 - b. Property maintenance
 - c. Leasing property
 - d. Collecting rents and security deposits
 4. Termination of agreements
 5. Services, fees, and compensation
- C. Fair Housing
 1. Equal opportunity in housing
 2. Protected classes
 3. Fair housing laws
 4. Illegal practices, enforcement, and penalties
 5. Prohibited advertising
 6. Housing and Urban Development (HUD)
 7. Americans with Disabilities Act (ADA)
- D. Risk management
 1. Supervision
 2. Compliance with federal regulations; including Privacy and Do Not Contact

3. Vicarious liability
4. Antitrust laws
5. Fraud and misrepresentation
6. Types of insurance
 - a. Errors and Omissions
 - b. General Liability

VI. PROPERTY DISCLOSURES AND ENVIRONMENTAL ISSUES (8)

- A. Property conditions and environmental issues
 1. Hazardous substances
 - a. Lead-based paint
 - b. Asbestos, radon, and mold
 - c. Groundwater contamination and underground storage tanks
 - d. Waste disposal sites and brownfields
 - e. Flood plains, flood zones, and flood insurance
 2. Clean Air and Water Acts
 3. Environmental Protection Agency (EPA)
 - a. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
 - b. Superfund Amendment and Reauthorization Act (SARA)
 - c. Environmental site assessments (including Phase I and II studies) and impact statements
 - d. Wetlands protection
- B. Disclosure obligations and liability

VII. FINANCING AND SETTLEMENT (7)

- A. Financing concepts and components
 1. Methods of financing
 - a. Mortgage financing – conventional and non-conventional loans
 - b. Seller financing – land contract/contract for deed
 2. Lien theory vs. title theory and deed of trust
 3. Sources of financing (primary and secondary mortgage markets, and seller financing)
 4. Types of loans and loan programs
 5. Mortgage clauses
- B. Lender Requirements
 1. FHA requirements
 2. VA requirements
 3. Buyer qualification and Loan to Value (LTV)
 4. Hazard and flood insurance

5. Private mortgage insurance (PMI) and mortgage insurance premium (MIP)
- C. Federal Financing Regulations and Regulatory Bodies
1. Truth-in-Lending and Regulation Z
 2. TILA-RESPA Integrated Disclosures (TRID)
 - a. Consumer Financial Protection Bureau (CFPB)
 - b. Loan Estimate (LE)
 - c. Closing Disclosure (CD)
 3. Real Estate Settlement Procedures Act (RESPA)
 - a. Referrals
 - b. Rebates
 4. Equal Credit Opportunity Act (ECOA)
 5. Mortgage fraud and predatory lending
- D. Settlement and closing the transaction

VIII. REAL ESTATE MATH CALCULATIONS (7)

- A. Property area calculations
1. Square footage
 2. Acreage total
- B. Property valuation
1. Comparative Market Analysis (CMA)
 2. Net Operating Income (NOI)
 3. Capitalization rate
 4. Equity in property
 5. Establishing a listing price
 6. Assessed value and property taxes
- C. Commission/compensation
- D. Loan financing costs
1. Interest
 2. Loan to Value (LTV)
 3. Fees
 4. Amortization, discount points, and prepayment penalties
- E. Settlement and closing costs
1. Purchase price and down payment
 2. Monthly mortgage calculations- principal, interest, taxes, and insurance (PITI)
 3. Net to the seller
 4. Cost to the buyer
 5. Prorated items
 6. Debits and credits
 7. Transfer tax and recording fee
- F. Investment
1. Return on investment

- 2. Appreciation
- 3. Depreciation
- 4. Tax implications on investment

G. Property management calculations

- 1. Property management and budget calculations
- 2. Tenancy and rental calculations

Texas Sales Agent State Law Content Outline Examinations

I. COMMISSION DUTIES AND POWERS (2 ITEMS)

- A. General Powers
 - 1. Composition, Duties, and Powers
 - 2. Real Estate Advisory Committees
- B. Handling of Complaints
 - 1. Investigations
 - 2. Hearings and Appeals
- C. Penalties for Violation
 - 1. Unlicensed Activity
 - 2. Authority for Disciplinary Actions
 - 3. Recovery Trust Account

II. LICENSING (2 ITEMS)

- A. Activities Requiring License
 - 1. Scope of Practice
 - 2. Exemptions
 - 3. Business Entities
- B. Licensing Process
 - 1. General Requirements (fitness sponsor, etc.)
 - 2. Education
 - 3. Examination
 - 4. Grounds to Deny an Application
 - 5. Appeals of Denial
- C. License Maintenance and Renewal
 - 1. Continuing Education
 - 2. Change of Sales Agent Sponsorship
 - 3. Inactive Status
 - 4. Assumed Names

III. STANDARDS OF CONDUCT (7 ITEMS)

- A. Professional Ethics and Conduct
- B. Grounds for Discipline
- C. Unauthorized Practice of Law
- D. Trust Accounts
- E. Splitting Fees
- F. Rebates
- G. Advertising

IV. AGENCY/BROKERAGE (8 ITEMS)

- A. Disclosure
- B. Intermediary Practice
- C. Broker-Sales Agent Relationships
- D. Broker's Responsibility for Acts of Sales Agent
- E. Appropriate Use of Unlicensed Assistants

V. CONTRACTS (7 ITEMS)

- A. Promulgated Contracts, Forms, and Addenda
- B. Statute of Frauds
- C. Seller Disclosure Requirements

VI. SPECIAL TOPICS (4 ITEMS)

- A. Community Property
- B. Homestead Protections and Tax Exemptions
- C. Deceptive Trade Practices Act
- D. Wills and Estates
- E. Landlord-Tenant Issues
- F. Foreclosure and Short Sales
- G. Recording Statutes
- H. Mechanic's and Materialman's Liens
- I. Veterans Land Board
- J. Home Owners Associations
- K. Equitable Interest

National Exam Study Guide

I. REAL PROPERTY CHARACTERISTICS, LEGAL DESCRIPTIONS, AND PROPERTY USE (9)

Real estate is defined as an identified piece of land along with any permeant improvements attached to the land either man-made or natural. Properties can be classified as one of the following:

- **Residential real estate:** A property used for residential purposes.
- **Commercial real estate:** A property used exclusively for business purposes.
- **Industrial real estate:** A property used for the purposes of any of the following:
 - Manufacturing
 - Production
 - Distribution
 - Storage
 - R&D
- **Land:** Undeveloped property which may include crops
- **Special purpose:** Property used by and for the public. Some examples are
 - Cemeteries
 - Government buildings
 - Libraries
 - Public parks and recreation areas
 - Churches
 - Schools

A. Real property vs. personal property

All property can be either real or personal. To determine which category a piece of property falls under depends on whether an individual can physically move it.

Real property is land or things attached to land which cannot be moved. Trees or plants that grow on land can also be considered real property unless they require routine cultivation or labor, such as crops.

There are two categories of personal property: chattels and intangibles. Chattels refer to all types of tangible property such as furniture or clothing. Some chattels are attached to the land and can become a part of real property, which are known as fixtures. Intangibles are forms of personal property that are not tangible. This means that the property cannot be touched or seen. This includes intellectual property, licenses, insurance policies, and investments such as stocks or bonds.

1. Fixtures, trade fixtures, emblems

In real estate, any item that is fastened or attached to the property is considered a fixture. Fixtures are part of the property and should be included as a part of the sale of the property. A fixture that a seller wants to keep should be removed before the showing of the property. For example, if a microwave is removed by the seller after a buyer has seen it, it should be replaced with another microwave that is of equal value.

There are several criteria that can be used to classify whether a property is a fixture or not. These include:

- **How is the item attached:** A permanent attachment that may include adhesives or mechanical anchoring is likely a fixture. Examples include lights, TV mounts, shelves, etc.
- **Inclusion of the item with the construction of the property.** If an item was included in the construction of the home, it shall be considered a fixture. Examples include carpeting, floor planks, and built-in cabinets.
- **Agreement between the buyer and seller.** The safest way to determine what shall be considered a fixture is to include all items in the purchase agreement. This will remove any discrepancy and confusion between the buyer and seller.

Trade fixtures are pieces of property that a tenant affixes to a leased building or land for the purpose of conducting business. This may include a display counter, a bar, or equipment for the purposes of moving products. The trade fixtures shall still be removable otherwise it becomes the property of the owner.

Emblems are crops grown on a piece of property leased to a tenant. The crops are the property of the person who provided labor to grow them, regardless of who owns the property.

2. Attachment, severance, and bill of sale

Attachments are anything attached to the property. They can be classified as either natural or man-made:

Natural attachments are items that are part of the land and occur naturally. This includes things like trees, shrubs, streams, and plants that are meant to be permanent. These are part of the real property and belong to the land.

Man-made attachments are items that were added to the land and meant to be permanent or long-term. This includes the home itself and any additional attachments such as fences, sidewalks, wells, or swimming pools.

Severance is the opposite of attachment. Severance is removing an object that is attached to the land. Once it is removed, it can now be classified as personal property.

A Bill of Sale is proof of purchase when buying or selling an item. This is more common with larger or higher-priced items such as vehicles or animals, but can also be obtained with other items which can be simply saving the receipt from purchase. The elements of a bill of sale include:

- Purchase date
- Name and address of individuals involved in the sale
- Price
- Identifying description of the item
- Guarantee that the item is free from all claims and offsets
- Any agreed upon warranties

B. Characteristics of real property

1. Economic characteristics

Land has some distinct economic characteristics that influence its value as an investment:

- **Scarcity:** The relative availability of property in relation to demand.
- **Improvements:** Any work done to alter the land or building on the land that may change the value.
- **Permanence of investment:** Once work is performed on the land, there is a portion of the work that is considered to have permanent value. Some improvements that have permanence include items such as drainage, electricity, water, and sewer systems.
- **Location or area preference:** Location is fixed for a property. However, the location may become more or less desirable based on external factors.

2. Physical characteristics

Land has three distinct physical characteristics:

1. **Immobility:** While the land can be manipulated such as excavation or adding fill, the property in question cannot be moved.
2. **Indestructibility:** Similarly, to immobility, while the land can be manipulated, it cannot be completely destroyed.
3. **Uniqueness:** No two parcels of land can be exactly the same.

C. Legal descriptions

1. Methods used to describe real property

There are 3 common methods that can be used to survey a parcel:

1. Metes-and-bounds

2. Rectangular survey
3. Lot and block

Metes-and-bounds descriptions have been used for a long time. This method establishes a point of beginning (POB). Then metes are determined which are boundary lines that enclose an area. This area is called bounds. Starting at the POB, the length and angle of each mete are described from the previous boundary. This description and process are continued until the mete reaches the point of end (POE), which is the same as the point of beginning to create a closed shape. The location of the POB must be established by a monument or landmark, and it can be an artificial or natural object.

The rectangular survey system determines locations by using a rectangular coordinate system that consists of principal meridians or longitude lines that are north and south and baselines or latitude lines that run east and west. Meridians and baselines divide the land into sections or quadrangles, where each side is 24 miles long. The quadrangles are further broken down into 16 townships where each side is 6 miles long. Townships are then divided again into 36 1-square mile sections. After this, the smaller portions are determined by a mete-and-bounds system.

The lot-and-block system is where land is identified by a lot number or letter and the block, or subdivision plat, in which the lot is located. The block itself is located by using either the metes-and-bounds system or the rectangular survey system.

2. Survey

A property survey confirms or determines a property's boundary lines and the specifics of any other restrictions or easements for the property. Different states have different laws and some may require a property line survey for the purchase of real estate. Property surveys can be used to establish the following items:

- Legal boundaries: Determines the exact boundaries of the property. Also can identify an encroachment which is when a neighbor builds something that intrudes on property they do not own.
- Easements: A property survey will reveal any easements on the property that may allow access to others on a specific property.
- Elevation: Determining elevations on a property may help in understanding the need for flood insurance or the extent of modifications to the property if needed or desired.
- Hazard Areas: A survey can identify any areas which may not be able to be built on such as wetlands or that may have identified hazards such as unstable conditions.

D. Public and private land use controls – encumbrances

1. Public controls – governmental powers

a. Police power, eminent domain, taxation, escheat

Police power gives the government the right to enact regulations for the health, safety, and welfare of the public. It is important to note that police power can be enforced without the need for any compensation. Some examples of areas of violation that would warrant the use of police power include:

- Building codes
- Zoning laws
- Safety regulations
- Rights of tenants and landlords
- Environmental regulations and control
- Right to damage property for the best public interest

Eminent domain is the right of the government to take or use private property for public use. This must include what is determined to be fair compensation. This applies to airspace, land, and contract rights to intellectual property. The legal debate surrounding the unfair invoking of eminent domain is called inverse condemnation. Private landowners who lose their home or land due to eminent domain must be paid just compensation. This can be debated but this is generally based on how much the landowner might expect to get in fair market value. The planners of a project who exercise eminent domain will provide an offer to the landowner. If the offer is not accepted, the dispute will go to a condemnation process. In this, the property owner will offer their own property valuation and a determination will be made.

Property Taxation: Property taxes are imposed on the owner by the state to pay for local governmental functions just as any other taxes. Not all states have property taxes but those who do are most often determined by an assessed value and a millage rate.

Escheat: The right of the government to take ownership of estate assets or unclaimed property. This is common when an individual dies with no will and no heirs. The escheatment process is revocable if a legitimate heir is discovered or revealed but individual states may have a statute of limitations on the amount of time that allows for a reversal of government ownership.

b. Zoning ordinances

Zoning ordinances define how property in specific geographic zones can be used. For example, they may regulate lot size, placement, density, and the height of structures. For example, a municipality may restrict the minimum lot size for a home to be built on to maintain a specific character of a neighborhood.

2. Private controls, restrictions, and encroachments

a. Covenants, conditions, and restrictions (CC&Rs), HOAs

Homes purchased that are a part of a homeowners' association (HOA) are subject to rules of the HOA community. These rules are described in a Declaration of Covenants, Conditions, and Restrictions (CC&Rs). The CC&Rs describe the requirements and limitations of what an individual can do with the property. Some common CC&R restrictions and requirements include but are not limited to:

- Property maintenance.
- Restrictions on changes to the look or decoration of a home
- Pet restrictions
- Parking restrictions

Penalties for Violating the CC&Rs may include:

- Fines
- Suspension of your privileges such as common areas
- Forced compliance
- Legal action

b. Easements

An easement is the granting of rights to use or access land by someone other than the owner. Easements are important to be made aware of during a purchase transaction as there can be a misrepresentation of the acceptable use of a piece of land by other parties. Easements can be both permanent or temporary.

c. Licenses and encroachments

An encroachment is when a property owner violates the established property rights agreed to with the neighbors. This is often done by building on or extending a structure to the neighbor's property. This may be done intentionally or not. Encroachments may require a survey to be performed to determine the exact location of property boundaries. An agreed upon easement may be a solution to allow a property owner specific rights to another property in exchange for some compensation.

II. FORMS OF OWNERSHIP, TRANSFER, AND RECORDING OF TITLE (8)

A. Ownership, estates, rights, and interests

1. Forms of ownership

Real estate ownership can take several forms. The most common ways of title holding are:

- **Sole ownership:** Property owned by an individual or entity legally capable of holding the title. Includes property owned by a single person or married people who hold property separate. Additionally this applies to businesses that invest in or use real estate.
- **Joint tenancy:** Two or more people owning real estate jointly. Each owner has equal rights. If one becomes deceased, their rights of ownership pass to the surviving owner or owners through right of survivorship.
- **Tenancy in common:** Two or more owners hold the title to real estate jointly. The percentages of ownership may be equal or unequal. The owners all have equal rights to the property but the division in interest percentage determines the financial ownership of the property. A key difference from joint tenancy is the tenants in common hold the title individually for their respective portion of the property and have the ability to sell or relinquish if they desire.
- **Tenants by entirety:** Ownership for legally married couples only. The couple is legally viewed as one. Transfer occurs automatically in the event of death
- **Community property:** Equal ownership by spouses regardless of who earned or spent the money. This is not available in all states.

2. Freehold estate

a. Fee simple absolute

Fee simple absolute is an interest in property obtained through purchase or gift. The interest is absolute because the interest will not end based on the occurrence of an event or condition.

b. Fee simple defeasible, determinable, and condition subsequent

Fee Simple Defeasible: A fee simple that is not entirely absolute and can end with the violation of a condition. If the identified condition is never violated, the property will be owned indefinitely and a future interest will never occur. A fee simple defeasible can be one of the following types:

- **Fee Simple Determinable:** A fee simple interest in property that is terminated automatically upon the occurrence or non-occurrence of an event or condition. If the condition is violated, the property will automatically shift back to the grantor without having to take any further action.

- **Fee Simple Subject to a Condition Subsequent:** A fee simple interest that can be terminated at the will of a future interest holder upon the occurrence or non-occurrence of an event or condition. In other words, if the condition is violated, the grantor has the choice of action.
- **Fee Simple Subject to Executory Limitation:** A fee simple defeasible which confers a future property interest in a third party, and not the original owner.

Fee Tail: An interest in land that is inheritable by and transferable to only lineal descendants of the original grantee.

c. Life estate

A life estate is property that an individual owns only through the duration of their lifetime. It is also referred to as a tenant for life and life tenant. It also prevents the beneficiary from selling the property that produces the income before the beneficiary's death. But the estate cannot continue beyond the life of the beneficiary.

d. Bundle of rights

Bundle of rights is a term for the set of legal privileges that is generally afforded to a real estate buyer with the transfer of the title. The bundle includes the following:

The right of possession: Only the identified title holder is the legal owner of the property.

The right of control: The title holder has full rights to use the property as seen fit in any way as long as it is not illegal.

The right of exclusion: Gives the titleholder the right to deny access to any they choose. This does not apply to situations in which a warrant is obtained.

The right of enjoyment: Right to enjoy legal activities on the property.

The right of disposition: Right to transfer ownership in a permanent or temporary term to another party.

3. Leasehold estates and types of leases

a. Estate for years and from period to period (periodic estate)

An estate for years is a lease with an established beginning and end date. At the end of the established time period, the tenant is expected to vacate the property, and notice is not required.

A periodic estate has no determined ending date for a lease, but there is a stipulated term. This can sometimes also be called a periodic tenancy or estate from period to period. Proper notice must be given as per the agreement for termination of the agreement.

b. Estate at will and estate at sufferance

Estate at will is where a tenant occupies a property with the consent of the owner but without a formal written contract or lease. The amount of time is not predetermined and provides both the landlord and the tenant with flexibility in the agreement. This is a common arrangement between individuals who are friends or family. The agreement is covered under state law and legal protections exist despite the lack of a written contract. For instance:

- The landlord must provide a safe environment.
- The landlord must provide notice before entering the property.

The tenant also has to meet certain requirements by law such as:

- On time rent payments
- Any rules they have agreed to with the landlord orally or previously.
- The tenant is responsible for any damages beyond normal wear and tear

Estate at sufferance is where the tenant is legally permitted to live on a property after a lease term has expired but before the landlord has provided notice to vacate. If an estate at sufferance occurs, the original lease conditions still apply.

c. Gross, net, and percentage leases

A gross lease is one that includes all costs a tenant might incur during their stay. In addition to rent, this includes taxes, insurance, utilities, and any others. Gross leases are undesirable to the landlord and not as common since there is an uncertainty in the total use of utilities.

In a net lease, the tenant is responsible for some or all costs associated such as utilities, maintenance, insurance, and others. There are three types of net leases all determined by what the tenant pays:

- Single: Rent + property taxes.
- Double: Rent + property taxes and insurance.
- Triple: Rent + property taxes, insurance, and maintenance.

A percentage lease is an agreement with commercial tenants in which there is a requirement to pay the landlord a fixed percentage of gross revenue earned from business conducted at the property. This is in addition to the base rent. Typically, the base will be reduced in comparison to a comparable residential-only property.

4. Liens and lien priority

Liens are claims against a property to ensure an existing debt is paid. If money is owed, the creditor is able to impose the debt on the property and that debt is now tied to the value of the property as collateral. If the debt is not paid, the creditor has a claim to the value of the property to satisfy the debt. Some common instances of liens include:

- Home equity loans
- Delinquent tax payments

The title insurance covers both the lender and the borrower from loss or damages resulting from the property title. This may be existing liens or encumbrances that will result in financial attention. Unlike typical insurance, this insurance covers past events that have not yet been uncovered.

Priority in the case of multiple mortgages is determined by a subordination agreement to establish the hierarchy of loans. Junior liens are established and are only paid after the primary loans have been paid in the case of default.

A lien is a financial stake in an asset. Junior liens are loans that use an existing asset as collateral that already has an existing loan. For mortgages, this is often a home equity loan with a first mortgage that has yet to be fully paid off. There is a hierarchy of liens that must be paid off in order of seniority. The original mortgage must be paid off first and then any junior liens thereafter in order of the oldest being paid off first.

Subordinate loans, sometimes referred to as subordinated debts, are similar to the concept of junior liens. A subordinate loan ranks below the primary loan and will not be paid off in the event of default until the loans higher in ranking are paid first. Due to this, there is a significant amount more risk if a loan is subordinate and terms may be unfavorable.

5. Surface and sub-surface rights

Surface rights include ownership to the owner for use of everything above the ground within the property boundaries. This includes structures, buildings, fences, trees, and water access rights.

Subsurface rights refer to the ownership of the land below a property's surface. The property owner will typically have exclusive rights to the soil, minerals, and any other materials found underneath the land. If there are any deviations to this, it must be disclosed in the title deed at the time of purchase. If no limitations are present, it can be assumed the buyer full subsurface rights to the property unless this is not stipulated under state law. There are scenarios where land ownership may be separated. Subsurface rights can be valuable if there is the presence of oil, natural gas, or minerals.

B. Deed, title, transfer of title, and recording of title

1. Elements of a valid deed

The minimum requirements for a deed to be enforceable includes:

- The deed must be in writing.
- The deed must convey title to real property.
- Notarized Signature by the grantor.
- There must be an identified grantor and grantee.
- It must be determined that the grantor is willing and competent to enter into the agreement.
- The deed must describe the property in writing
- Acceptance of the deed

2. Types of deeds

Types of deeds include:

General Warranty Deed: A common deed that contains three guarantees:

- Title is free and clear of any defects during the time the grantor has owned the property.
- No additional liens or encumbrances exist that are not stated in the deed.
- Third-party claims will be defended by the grantor.

Grant Deed: Similar to warranty deeds but only contains the following two guarantees:

- There are no additional sales of the property to anyone else.
- There are no additional encumbrances if not identified by the seller

Quitclaim Deed: Conveys an interest in a property to another party. There are no guarantees that the title is free from liens or encumbrances. Common for transfer of property between spouses.

Special or Limited Warranty Deed: The timeline for any title defects is only from the beginning of possession by the grantor.

Fiduciary Deed: Includes the transfer of property when a guardianship or conservatorship is present.

Release Deed: Releases the property from the original lien.

Tax Deed: Issued by municipalities when a property is sold for back taxes.

Bargain and Sale Deed: Guarantees ownership of the title, but not that the title is free of defects.

Gift Deed: Transfer of property between relatives where no exchange of money has taken place.

Deed in Lieu of Foreclosure: A borrower who is late on payments for their mortgage loan. The deed is transferred to the lender.

3. Title transfer

a. Voluntary alienation

Voluntary alienation is the willful transfer of the rights or deed of a property to another party. This avoids additional legal measures and is typically a more seamless process.

b. Involuntary alienation

Involuntary alienation is the acquisition of property against the wishes of the owner. This can occur in a number of different ways:

Adverse possession: An individual other than the owner uses a piece of property openly, publicly, and without the owner's consent for a specified period of time. If an individual wishes to successfully claim adverse possession they must exhibit the following:

- **Continuous use:** The claimant must have proof of continuous possession of the property or portion of the property.
- **Hostile takeover:** There must be no existing agreement between the parties. This may include a lease or easement.
- **Open and notorious possession:** The claim on the property is clear and obvious.
- **Actual possession:** The property is treated as if it is owned by the claimant. This may include maintenance or paying taxes.
- **Exclusive use:** Only the claimant uses the property.

Avulsion: The sudden loss of land by natural processes. This may occur by powerful natural events such as hurricanes, landslides, earthquakes, erosion, and others. Accretion is the opposite of avulsion which is the gaining of land by natural forces. These events may change the outline of property limits and therefore altering the ownership of property.

Eminent domain: The taking of land against an individual wishes by the government or other public agency for public purposes for fair compensation. This is covered in greater detail later.

Foreclosure: Loss of property due to a failure to meet the debt obligations of a mortgage. The lender can seize the property and force eviction which removes the property owner.

Short Sale: Loss of property due to failure to meet payment obligations but the lender agrees to have the house sold for a price that is less than the amount still owed on the mortgage. An agreement is made as to the responsibilities of any money owed after the sale of the home.

Forfeiture: Loss of property due to failure to meet obligations as stipulated on the deed.

Partitioning: The legal subdivision of a property between joint landowners who do not have an agreement on the use of the land.

4. Recording the title

a. Constructive and actual notice

The receipt of information is important for real estate transactions to ensure the buyer and the seller are fully aware of all information that is necessary to be disclosed. Information that is provided directly is called actual notice. There are two types of actual notice express and implied:

- **Express actual notice** is when an individual has been given notice about a property without the need to make any inference. This can be a direct statement written or orally.
- **Implied actual notice** is when an individual witnesses something that provided them with information about the property. No one has told the individual directly but it is reasonable to assume that the information or event provided the necessary notice.

Constructive notice is a legal assumption that an individual should have knowledge of an event or transaction that is printed in the public record. It can be assumed that if the information is available to the public, then the individual should be aware regardless of formal acknowledgment. This generally can apply to documents and guidelines released by organizations or announcements made in news outlets.

b. Title abstract and chain of title

Abstract of title is a record of the title history of a property. This documents the transactions for the property including transfers, liens, and legal actions that are connected to the property. This document ensures a clear title.

The **chain of title** is a record of the historical transfer of ownership dating back to the original owner. The chain of title is much more detailed in the specifics of ownership than the abstract of title.

c. Marketable title and cloud on title

A **marketable title** is one that is free and clear of any defects. It can be safely assumed that a reasonable buyer would continue with the transfer of property. There is no guarantee that the title is free and clear but that a court will likely legally force its acceptance by a buyer.

A **cloud on title** is anything that may invalidate a title to real property. Clouds are found during a title search. A quitclaim deed initiates the process to remove clouds.

d. Attorney title opinion, quiet title lawsuit, and title insurance

An **opinion of title** is an attorney's legal opinion on the validity of the title. A closing protection letter is also often included which is insurance that the attorney will take responsibility for any legal recourse that could arise due to erroneous reporting.

A **quiet title lawsuit** is a legal action that is intended to clarify ownership of a given property. The action is defined as quiet to avoid attempts from outside entities to acquire the property in question.

Title insurance protects lenders and buyers from financial loss due to defects in a title to a property. The claims may include back taxes, liens, and conflicting wills. A title insurance fee is often required as a part of closing costs for the buyer.

III. PROPERTY VALUE AND APPRAISAL (11)

A. Concept of value

1. Market value vs. market price

The market price of a home is the amount a willing and qualified buyer in the market will pay for the home if the seller is willing to accept it. In other words, it is the amount a home will sell for in an actual transaction or the sales price. This will be used as a benchmark for future valuations. The market price can be influenced by characteristics of individual preference that may drive the price up or down. For example, a buyer may put increased emphasis on a location to be near family and therefore willing to pay more than most buyers.

The market value is an opinion of what a property would sell for in a competitive market based on the characteristics of the property, the current local real estate market, and comparable properties. This is akin to the appraised value of the property.

2. Characteristics of value

Value is subjective but is determined by a number of characteristics that can influence the perception of an asset's value. These include:

Demand: The demand for a piece of real estate is determined by the amount of interest in that particular property. This may be influenced by an individual's specific desire to be in a specific location or the influx of many people who find the subject property desirable.

Utility: Utility is a measure of the usefulness of a property. Usefulness fills a need and therefore creates a desire for ownership. Each individual buyer has a minimum level of utility such as no less than three bedrooms, be near the ocean, or other specific features.

Scarcity: Scarcity is a measure of the availability of a specific product relative to the amount of demand. If too many houses are for sale, it is easier for buyers to find what they want and sellers will be more willing to compromise for their home to be chosen. Conversely, few available homes create more demand for the home giving the buyer less options.

Purchasing Power: Purchasing power is the ability of a buyer to afford the home. The more people that can afford the property, the more available buyers.

Transferability: Transferability in an asset can make it more desirable. For example, some portions of a home may have a transferable warranty such as a roof or other major aspects of a home. This feature makes it a more desirable purchase since the full value of the asset can be transferred.

3. Principles of value

- 1. Principle of Anticipation:** Purchase of property for the anticipation of future benefits.
- 2. Principle of Demand, Supply, and Desire:** The availability of assets and the desire for it affects the value.
- 3. Principle of Substitution:** The value of a property can be properly estimated by an equally desirable substitute property. This is the basis of using comparable properties to determine value.
- 4. Principle of Balance:** Principle of value invested having some increase in value. This applies to improvements such as a new bathroom increasing the value of a home.
- 5. Principle of Progression:** The price of a property increases with an increased perceived value of a location.
- 6. Principle of Regression:** This is the opposite of the progression principle. The price of a property decreases with a reduced perceived value of a site

B. Appraisal process

1. Purpose and steps to an appraisal

Appraisals are a third-party, independent evaluation of a home. They are always involved in a purchase transaction and are likely included in refinancing or other non-purchase transactions. The appraisal is necessary to ensure that the lender is not providing more money to the borrower for the loan than the asset is worth. This way in case of default, the asset can account for the remaining balance. If an appraisal comes in at less than the proposed transaction loan amount, then the transaction will not be processed unless the borrower provides a greater down payment. There are three types of appraisals which will be discussed in the following sections.

The ordering of an appraisal may come from the lender to ensure the value of the loan is acceptable in comparison to the fair market value. The borrower may choose the specific appraiser, but the appraisal must be approved by the lender.

Other scenarios for ordering an appraisal may include a seller for the purposes of setting a price before putting the home on the market or a homeowner looking to evaluate existing equity for a refinance loan. If these appraisals are to be used in a transaction, however, they must be approved by the lender.

2. Federal oversight of the appraisal process

An applicant must be given a copy of all appraisals and valuations developed for an application. They are to be provided immediately after completion as available.

The Equal Credit Opportunity Act (ECOA) Valuations Rule provides requirements for a borrower's right to receive an appraisal. The borrower must be provided with a disclosure that includes the following:

- Notice of the right to receive a copy of an appraisal report.
- Requirement that the applicant's request must be in writing.
- The lender's mailing address.
- The requirement that the lender is required to send a copy of the appraisal report only if the applicant's request is received no more than 90 days after the lender has provided notice of action taken on the application under section 1002.9 of Regulation B or 90 days after the application is withdrawn.

The lender is required to send the right to receive a copy of the appraisal disclosure no more than 3 days from the date of application.

C. Methods of estimating value and Broker Price Opinions (BPO)

1. Sales comparison approach (market data)

The market approach is the most common of the appraisal types and is used for most purchase loans. The value of the home is determined by comparison to other properties with similar characteristics that have been sold in as recent of a timeframe as possible. The comparisons (referred to as "comps") are then evaluated by identifying the differences in certain characteristics such as square footage, age, lot size, home type, street type, and many others. Typically, a minimum of three comps are required and the most similar and most recent homes are chosen. At times, homes that are currently on the market are also used as a basis for comparison but will not hold as much weight as the sales. If possible, homes no more than a 1-mile radius away from the home shall be chosen and as well as no more than 1 year prior to the transaction.

Once the comps are evaluated in comparison to the home to be purchased, the prices of the sales are adjusted to represent a price of equal value. These values are then averaged and evaluated using some appraiser judgment to determine a fair market value of the home.

Choosing comparable properties does not have exact requirements but should be as close as possible in size, location, age, and other characteristics. The comparable homes should also be sold as recently as possible. Homes shall also not be sold longer than a year from the proposed transaction. In rural areas, a lower volume of sales may lead to an expansion of the requirements for the chosen comparable properties. The appraiser shall use sound judgment based on the market to choose the most appropriate homes.

2. Cost approach

For a building that is not frequently sold, the cost approach determines what the value of the property may be by assuming that a reasonable buyer would not pay more than for a comparable building on a comparable lot. Often this is most appropriate for buildings such as schools, hospitals, or government buildings that are not bought and sold frequently. To determine value as per the cost approach, the property's value is determined by the cost of land, plus total costs of construction, less depreciation:

$$\text{Property Value} = \text{Cost of Construction} + \text{Cost of Land} - \text{Depreciation}$$

a. Improvements and depreciation

Depreciation can be claimed from the home itself and any improvements to the home which have a lifespan. The home itself is spread out over a standard amount of time of 27.5 years. Any work performed on the home must be classified as either improvements or repairs. Improvements extend the useful life of the property. Examples are additions, remodeling, or replacements. For example, a roof classifies as an improvement and is to be depreciated over its lifespan of 20 years. The repairs are not depreciated over a lifespan.

b. Physical deterioration, functional, and economic obsolescence

Functional obsolescence is the reduction of a home's value due to outdated features that cannot be easily changed. For example, an old house with one bathroom in a neighborhood entirely with new homes that have multiple bathrooms. Functional obsolescence is often difficult to identify quantitatively because the impact on a buyer may be too great causing a greatly reduced level of interest.

Economic obsolescence is a loss of value of a property due to factors that are beyond to the property. The catalyst is outside of the control of the owner of the property and therefore the issue can most likely not be corrected. Some common examples include changing community dynamics, construction nearby, increase in crime, etc.

c. Reproduction or replacement costs

There are two methods for determining the cost of construction used in the determination of the cost approach:

- **Reproduction method:** Cost determined from an exact replica of the property including original materials.
- **Replacement method:** Cost of a new structure with newer materials, current construction methods and design.

3. Income approach

The income approach is a way of evaluating investment properties that will generate income. This is common for condo or apartment complexes where renters will reside. The approach involves calculating the Net Operating Income (NOI) which is the income generated divided by the capitalization rate:

$$NOI = \frac{Income}{Capitalization\ Rate}$$

The capitalization rate is a percentage representation of the expected income that can be generated from a property on a yearly basis if it is bought with a cash investment.

4. Gross rent and gross income multipliers

Gross rent is the total amount of rent that a tenant must pay as per an agreed upon lease. The gross rent is the cumulation of all monthly payments.

A gross income multiplier is an estimate of the value of an investment property. It is typically calculated by dividing the property's sale price by its estimated or provided gross annual rental income. It does not include the property's operating costs.

$$Gross\ Income\ Multiplier = \frac{Sale\ Price}{Gross\ Annual\ Rental\ Income}$$

5. Comparative Market Analysis (CMA)

A comparative market analysis (CMA) determines an estimate of a property's value by comparing characteristics of the home in the transaction to other recently sold and similar properties in the immediate area. Real estate agents often use CMA reports to assist sellers in determining listing prices for the properties they intend to sell or to determine what they may expect to make from a sale. Some of the identified comparable characteristics include location, age, size, construction, style, condition, and lot size.

Choosing comparable properties does not have exact requirements but should be as close as possible in identified characteristics. The comparable homes should also be sold as recently as possible. Homes shall also not be sold longer than a year from the proposed transaction. In rural areas, a lower volume of sales may lead to an expansion of the requirements for the chosen comparable properties. The appraiser shall use sound judgment based on the market to choose the most appropriate homes.

After comparable properties are selected, a dollar value needs to be assigned to each of the differences in characteristics. For instance, a difference in the number of bedrooms may account for \$1000 per bedroom. Then the value of each home is adjusted accordingly due to

the change in characteristics. After all adjustments are made, divide the adjusted price of each comparable property by its square footage to determine the sold price per square foot. Then get the average of the adjusted prices per square foot and multiply this average by the square feet of the subject property to find its CMA value.

6. Broker Price Opinion (BPO)

A broker price opinion (BPO) is an unofficial assessment of a property's potential market value based on expert judgment. A BPO uses qualitative and subjective factors such as location, general home characteristics, and current market trends. A BPO is common to be performed for a potential client to get an estimate of what they may expect without having to initiate an official appraisal. A broker price opinion costs much less and can be done more quickly than an official appraisal of the property.

7. Assessed value and tax implications

The assessed value of a home is the amount assigned to a property to determine the local property taxes. It uses comparable home sales and inspections for its determination. Typically, the assessed value will be lower than the sales price or appraised value of the property. Tax assessors may do on-site value assessments to make adjustments as necessary to the value. The assessed value is a percentage of the fair market value and incorporates the condition of the property, square footage, special features, and market conditions.

To calculate property tax, many states will use the millage rate equation:

$$\text{Property Tax} = \frac{\text{Market Value of Property} \times \text{Assessment Ratio} \times \text{Millage Rate}}{1000}$$

The millage rate is the tax rate applied to the assessed value. Millage rates are typically expressed per \$1,000 with one mill representing \$1 in tax for every \$1,000.

IV. REAL ESTATE CONTRACTS AND AGENCY (16)

A. Types of contracts

1. Express vs. implied

An **express contract** is one in which the terms and conditions are clearly provided in the contract. This may be either verbally or in writing. Once an express contract has been established and agreed upon, an identical implied contract cannot exist.

An **implied contract** is still a legally-binding obligation but its terms are derived from actions, conduct, or circumstances of one or more parties in an agreement. It is still a legally binding agreement and as enforceable as an express contract. The implied contract requires no written or verbal confirmation.

2. Unilateral vs. bilateral

Unilateral contract: A contract where one party makes an obligation to perform without receiving anything from the other party.

Bilateral contract: A contract in which each party promises to perform an act in exchange for the other party's promise to perform. This is much more common for a real estate sales contract. If one party refuses to honor the obligations they are in default.

B. Required elements of a valid contract

For a contract to be valid it must contain the following elements:

Offer and Acceptance: There must be a clear offer of some form whether it be goods, services, or property. Additionally, this offer must be clearly accepted by the receiving party.

Intention: Both parties must have exhibited the intention to enter into a legally binding contract. It can be generally assumed that the parties intended to enter into a contract. If a contract is discussed socially, the intention must be made clear.

Consideration: Some level of value must be exchanged for a contract to be binding. Consideration does not have to be at some minimum level of adequacy for the contract to be executed but some value must be present. For example, a home cannot be sold for nothing.

Legal capacity of the parties to act: Both parties must understand and be fully aware of what they are doing. Individuals with disabilities must not be taken advantage of.

Legality of the agreement: The purpose of the agreement cannot be in violation of the law.

C. Contract performance

1. Executed vs. executory

A contract is considered executed when all parties have met all the required obligations on the contract. The contract is considered complete at this point. This is not necessarily the act of signing the documents as there could be obligations beyond that point that must be met.

A contract is considered executory when there are obligations still outstanding on a contract. This may include any part of the contract including financing, agreed upon stipulations, title transfer, or any others.

2. Valid vs. void

A valid contract is one that can be met by all parties involved and executed without any illegal means. Valid contracts, once agreed to, are legally binding and enforceable by law.

A void contract is a formal agreement that is illegitimate and unenforceable from the moment it is created since it is not enforceable as it was originally written. This may be due to one of the involved parties being incapable of fully comprehending the stipulations of the contract. Additionally, this may be due to mental incapacity, minors entering into contracts, the presence of alcohol or drugs, or other instances. A contract that can be executed but includes illegal means is also considered a void contract.

3. Voidable vs. unenforceable

A contract can be considered voidable if it is actionable, but the conditions stipulated are dubious in nature. This may include the withholding of information or intentional misrepresentation.

An unenforceable contract will not hold up in a court of law and eliminates any obligations imposed on parties in the contract. A contract can be considered unenforceable if the elements of a valid contract are not met. Some common means of a contract becoming unenforceable may include:

- Party under duress
- Undue influence
- Lack of capacity
- False disclosure or information
- Mistakes or errors in the contract
- Events out of the control of the parties making the contract impossible to meet

4. Breach of contract, rescission, and termination

A breach of contract is where one side fails to meet the stipulations of the contract. The parties may choose to try to resolve the issue among themselves, or it may escalate to be decided in a court of law. The different types of contract breaches include:

- Minor breach: the deliverable of the contract was ultimately received by the other party, but the party in breach failed to fulfill some part of their obligation.
- Material breach: An obligation is different from what was agreed to in the contract.
- Anticipatory: A party becomes aware that the other party will not fulfill the obligations of the contract.

Rescission is the legal removal of obligations from parties in a contract. The court determines that the parties shall be returned to the point of obligation as if the contract was never executed. Essentially the contract is treated as if it never existed.

Termination is the ending of a contract before all obligations are met to fully execute the contract. There are two ways in which a contract may be terminated:

- Termination for cause: Used when a material breach of contract occurs
- Termination for convenience: Right to terminate as identified in the contract

5. Liquidated, punitive, or compensatory damages

Liquidated damages may be included in a contract to cover losses by one party which do not have a direct monetary correlation. If the other party becomes in breach of contract, they may be liable to pay an agreed upon sum for a stipulated duration. For example, if a contractor does not finish a job in time, they may be held liable for a daily penalty for every day they do not finish the work as specified in the contract.

Punitive damages are legal payments that are imposed on a defendant found guilty. These damages are in addition to compensatory damages. They should be viewed as a punishment to defendants whose conduct is considered grossly negligent or intentional.

Compensatory damages are money awarded to a plaintiff to compensate for damages, injury, or another incurred loss. The loss may be due to negligence or unlawful conduct of another party. Compensatory damages are awarded in a civil court case.

6. Statute of Frauds

The **statute of frauds** is a state law that mandates that for a contract to be enforceable must be in writing and be signed by the person against whom enforcement of the contract will be sought. This applies to most purchases of real estate transactions. Therefore, a handshake or oral agreement is not sufficient to hold a party to a transaction. Additionally, this applies to

leases in which the term of the lease is greater than one year. The agreement of the term must be in writing to be enforceable.

7. Time is of the essence

Time is of the essence is a legal phrase that when used in a contract enforces parties to act in a reasonable or specified timeframe. If they fail to meet the time requirements, they may be in breach of the contract.

D. Sales contract

1. Offer and counteroffer

An offer may be made to a property owner willing to sell for less than the asking price. Once an offer is received, a counteroffer may be made. This is an offer in response to the original offer and does indicate that the original offer was rejected. There are three options upon receipt of a counteroffer: accept it, reject it, or another counteroffer and continue negotiations. There is no obligation by contract until there is acceptance. Closing costs covered by the seller may be negotiated as a part of an offer but are limited based on the down payment and loan type.

For conventional loans, seller concessions are limited by:

- Primary residence or second home:
 - Less than 10% down: 3% Maximum
 - 10%-25% down: 6% Maximum
 - 25% or more: 9% Maximum
- Investment property:
 - 2% Maximum regardless of down payment

2. Earnest money and liquidated damages

Earnest money is a deposit made from a buyer to a seller as an act of good faith to follow through on the purchase of the home. Earnest money is typically provided once an offer is accepted and typically ranges from 1% to 10% of the sales price. The contract doesn't require the buyer to follow through on the purchase of the home but does require the seller to remove the home from the market while it's inspected and appraised for the buyer to obtain the necessary information to agree to the purchase. The buyer can reclaim the earnest money deposit for just cause. For example, this would apply if the home doesn't appraise as expected or the inspection reveals a concern that was unforeseen. If the buyer chooses to simply not go through with the purchase for no clear reason, they will forfeit the earnest money. The earnest money deposit is often applied to the down payment if the contract is executed.

3. Equitable title

Equitable title refers to a person's right to obtain full ownership of a property. This includes full financial rights to the property.

4. Contingencies

A contingency clause in a real estate contract defines a condition or action that must be met for the contract to become binding. Some of the most common contingency clauses include:

Appraisal Contingency: Stipulates a minimum value the property must appraise for to move forward with the contract. If the property does not appraise for at least the specified amount the contract can be terminated and earnest money returned.

Financing Contingency: Allows the buyer to look for and obtain proper financing to complete the purchase of a property. If they are unable to, the contract can be terminated and earnest money returned.

Home Sale Contingency: Provides a buyer or seller to complete a transaction with their previous or next home before completion of the subject transaction. This allows individuals to avoid unfavorable situations such as owning two homes at once or not having one for a period of time.

Inspection Contingency: Allows the buyer the ability to inspect the home and to decide to back out of the contract if there is a significant concern due to information provided from the inspection. A cost-of-repair contingency is sometimes included along with the inspection contingency. This specifies a maximum dollar amount for necessary repairs resulting from the inspection. This is often based on a certain percentage of the sales price, such as 1% or 2%.

Kick-Out Clause: Allows the seller to keep the property on the market. If another qualified buyer makes an offer, the original buyer has certain amount of time to match the qualifications of the new buyer. Otherwise, the seller can back out of the contract and sell to the new buyer.

5. Disputes and breach of contract

If a breach of contract occurs but one party does not agree with the determination, a contract dispute takes place. This is when one party is in disagreement with the terms contained within the contract. An individual may seek legal review of the dispute to reverse any financial loss or damages. Some of the common types of disputes are as follows:

- Closing costs
- Loan fraud
- Good faith estimates
- Inspection issues

- Financing

6. Option contract and installment sales contract

An **options contract** is an agreement between two parties to facilitate a potential transaction involving an asset at a preset price and date. In real estate, an option contract can allow a buyer to get the exclusive right to buy the property but is not obligated to do so upon the time the option is available. The buyer pays for this right despite the fact that they may not ultimately make the purchase but it restricts the seller from entering into an agreement with anyone else until the option is decided.

An **installment sales contract** is an agreement where a buyer of real estate agrees to pay the seller the full amount of the purchase price broken up in installments over time. The buyer still takes immediate possession of the property. As leverage, the seller remains in possession of the legal title until the buyer pays in full. This is often attractive to a buyer if they are not eligible for traditional loan products for poor qualifications while also potentially avoiding fees imposed by lenders or banks. These are typically only used in specific situations where the seller has a specific purpose to sell to a particular buyer. Additionally, the seller may be able to reduce capital gains taxes by spreading out the gain over a period of time.

E. Types of agency and licensee-client relationships

An agent is defined as someone who represents a client, also referred to as a principal, to third parties in their best interest. Agency is the agreement of representation between the agent and the client. The following are types of agency:

- **General Agent:** Representation of the client for a range of activities under a specific purpose.
- **Special Agent:** The representation of an individual for a specific singular task or transaction.
- **Universal Agent:** Representation of the client in any and all matters related to their expertise.

F. Creation and termination of agency

For agency to occur, there needs to be an established purpose for the transaction and both parties must have the capacity to make the decision of their free will. Agency can be created in one of the following ways:

- **Expressed:** A written or oral agreement to representation.
- **Implied:** Actions taken that a reasonable person can assume agency has begun.
- **Necessity:** Agency without action or consent but is necessary due to extenuating circumstances.

The termination of agency may occur either voluntarily or involuntarily by either party. A voluntary termination can be done by either party, mutually, or if there is an abandonment of duties. Involuntary termination can occur in a number of ways including:

- Unlawful practices
- Failure to make payment
- Removal of licensure
- Incapacity or either party
- Expiration of agreed terms

G. Licensee obligations to parties of a transaction

Once agency is created with a client, the agent is held to certain legal responsibilities during representation of the client. These include:

- **Care and diligence:** The agent is required to meet a minimum standard of care when representing the client so that affairs are handled to satisfaction. This includes the use of skills and expertise that the agent is assumed to possess to work for the client.
- **Loyalty:** The agent shall act exclusively in the best interest of the client at all times and not pursue any activities for personal gain or that harms the client without their prior knowledge.
- **Accounting:** The agent shall properly handle and advise the client on all matters related to money or documents.
- **Obedience:** The agent shall promptly and completely follow any instructions from the client as long as they are lawful in nature.
- **Disclosure:** Any and all information related to the transaction of the client must be disclosed in a proper and timely manner.
- **Confidentiality:** The agent shall keep all information confidential even extending beyond the timeframe of any transaction.

V. REAL ESTATE PRACTICE (14)

A. Responsibilities of broker

1. Practicing within scope of expertise

A real estate broker's responsibilities are to negotiate and arrange real estate transactions. Specifically, these duties include writing contracts, overseeing transactions, advising clients either buyers or sellers and many others. Additionally, a broker has a higher qualification license than a real estate agent and can hire agents to work as a team under their supervision. A broker that has agents working under them is also called a supervising or managing broker. Supervisory responsibilities include:

- Confirms eligibility and continued licensing of all brokerage agents
- Instructs and trains agents
- Assumes responsibility for agent behavior, performance, and legal compliance
- Marketing for agents

2. Unauthorized practice of law

Real estate brokers and salespersons should maintain duties only within their scope and expertise. They are not authorized to practice law by any means. Some activities that an agent should avoid includes:

- Speculate on potential legal outcomes of a dispute
- Legal advice
- File a lawsuit
- Make arguments in court
- Draft legal paperwork

Individuals who are found to perform unauthorized legal tasks may face penalties including:

- Loss of license
- Fines
- Lawsuits
- Forfeiture of commissions

B. Brokerage agreements between the broker and principal (seller, buyer, landlord, or tenant)

1. Seller representation – Types of listing agreements

a. Exclusive right-to-sell and exclusive agency listing

An **exclusive right to sell** listing is an agreement between a seller and a real estate broker or agent to give exclusive rights to sell and market the home. The seller can't hire another broker or agent for the duration of the agreement. The agreement requires the seller to provide a commission to the brokerage regardless of the agent used at closing.

An **exclusive agency listing** similarly is an agreement between a seller and brokerage for exclusive rights for the sale of a home. However, in this type of agreement, the seller retains the right to market and sell the home to a buyer without having to pay a commission.

b. Non-exclusive or open listing

An **open listing** allows the owner to place listings with multiple real estate brokers. Additionally, the homeowner retains the right to sell the home independently and avoid paying any commission to an agent. This listing type is not included in MLS.

c. Net listing (conflict of interest)

Net listings are an agreement with a seller where a real estate agent is paid by keeping the difference between what the homeowner wants to sell the home for and the actual sales price. This shifts a large amount of risk to the agent for assuming they can do better than the asking price.

d. Multiple listing service (MLS)

A multiple listing service (MLS) is a private database created, maintained and paid for by real estate professionals to help their clients buy and sell property. They can list the homes their clients have for sale and see what is available for buyers. Home sellers can't post their home directly to the MLS, because access to this database is limited to licensed agents and brokers who pay for membership. Each regional MLS has its own listings and clients may become a member of more than one. The MLS also is an information exchange among professionals in addition to the listing of properties.

2. Buyer representation

A buyer representation agreement or buyer broker agreement is a contract detailing the duties of the agent or broker with a prospective home buyer. The agreement will outline the duties of

the agent as well as the specifics of the commission to be paid. The typical elements of the agreement include:

- Exclusivity
- Compensation
- Desired property description
- Required disclosures
- Term of the representation

3. Property management agreement

Property management is an agreement with a property owner and a company to handle every aspect of the rental property. A property management agreement outlines the responsibilities of the property management company. The common tasks include:

- Tenant screening
- Lease agreement drafting
- Rent collection
- Help with eviction and legal services
- Accounting
- Routine inspections
- Move-in and move out reports
- Handle tenant complaints
- Pay contractors
- Arrange repairs and maintenance
- Property showings
- Marketing

a. Accounting for funds

The accounting of property management activities is vital to the financial success of the ownership. The accounting should keep diligent records of all credits, debits, and expenses. Additionally, an awareness of tax law can be critical to the bottom line considering the large amount of available deductions. Some of the main elements of proper accounting include:

- Debits and credits
- Account balances
- Accounts payable
- Accounts receivable
- Depreciation
- Expenses
- Deductions
- Tax credits

b. Property maintenance

While property management companies are responsible for facilitating maintenance requests, they most often do not perform the maintenance themselves. They will hire licensed contractors to perform repairs necessary. These may include:

- Landscaping
- Plumbing
- HVAC
- Electrical work
- Damage repair

c. Leasing property

A lease is a contractual agreement between an owner and a renter where one party agrees to rent property owned by another party. The lease guarantees the use of an asset in exchange for regular payments for a specified period.

d. Collecting rents and security deposits

A security deposit is money provided by a renter to an owner in case of damage done to a property. Security deposits are refunded upon completion of the lease if the property was left in good condition. Security deposits typically must be paid prior to moving in and are held by the owner in an escrow account. Any interest that accrues shall be returned to the renter. The most common amount for a security deposit is equal to one month's rent but may be higher if there is reason to do so such as the presence of pets. A security deposit may also be used as replacement for rent that is not paid.

4. Termination of agreements

An agreement may be terminated either by mutually or unilaterally. If the agreement to terminate is mutual, both parties may be relieved of the contractual obligation and continue on to other endeavors. If there is no agreement, the contract may be terminated due to a breach of contract such as the agent is not honoring contractual duties or exercising an opt-out clause that is included in the contract. These may include the ability to choose a different agent within the same company or a minimum amount of time for an agent to address any grievances.

5. Services, fees, and compensation

Brokers charge brokerage fees for the work related to real estate transactions. A brokerage fee is often a fixed fee or percentage charged to the buyer, the seller, or both. The associated fees are typically between 1% and 2% of the loan amount. The services include:

For sellers:

- Listing homes on MLS
- Counselling the seller in preparing their home to be sold
- Submitting offers and coordinating negotiations
- Providing and advising on documents, disclosures, and transaction items
- Providing guidance throughout the closing process

For buyers:

- Assisting buyers to find prospective properties
- Setting up property viewings
- Coordinating offers, counteroffers, and negotiations
- Providing and advising documents
- Coordinating inspections, reports, and repair negotiations
- Helping buyers throughout the closing process

C. Fair Housing

1. Equal opportunity in housing

Discrimination in lending shall not be tolerated. Applicants must have an equal opportunity to receive loans and to be treated fairly. Discrimination is prohibited as a part of:

- Fair Housing Act
- Civil Rights Act
- Home Mortgage Disclosure Act
- The Community Reinvestment Act

All applicants must receive the same level of treatment in a fair and just manner. Examples of unfair treatment include:

- Refusing to provide a loan
- Refusing to provide loan information
- Appraisal discrimination
- Imposing different terms or conditions on different people

2. Protected classes

The Equal Credit Opportunity Act prohibits discrimination in all aspects of the mortgage process on the basis of all of the following:

- Gender
- Race

- Color
- Religion
- Nationality
- Marital status
- Age
- Public assistance programs
- Exercising of rights under the Consumer Credit Protection Act

There is information that is acceptable to be questioned under the act. These include:

- Immigration status
- Permanent residency
- Credit history
- May ask if a client is receiving child support or alimony

3. Fair housing laws

The Fair Housing Act protects people from discrimination for any home-buying related activities. The following are prohibitions for the protection of consumers:

It is illegal to take any of the following actions because of race, color, religion, sex, disability, familial status, or national origin for the sale of a property:

- Refusal to rent, sell, negotiate or make housing available
- Set different terms, conditions or privileges
- Provide a person with different housing services or facilities
- Falsely deny that housing is available for inspection, sale or rental
- Advertising must not indicate preference of any kind
- Impose different sales prices or rental charges
- Use of different qualification criteria
- Eviction
- Harassment
- Fail to complete or delay maintenance or repairs
- Push or recommend an individual to a particular building or neighborhood.
- Persuade or attempt to influence a homeowner to sell their homes by suggesting that people of a particular protected characteristic are about to move into the neighborhood. This practice is also known as blockbusting
- Deny membership to any related organizations

Similarly, the following is prohibited from discrimination in lending practices:

- Refusal to provide a mortgage loan
- Refusal to provide information regarding loans
- Impose different terms or conditions on a loan

- Appraisal discrimination
- Refusal to purchase a loan

The specific exemptions to the Fair Housing Act are:

- Rental of a room in a dwelling with no more than four independent units if the owner lives in one of the units
- Housing operated by private organizations or clubs which restrict membership
- Single-family purchase without a mortgage broker

4. Illegal practices, enforcement, and penalties

A real estate professional must adhere to the fair and ethical behavior when performing duties. Some of the prohibited practices include:

- Discrimination as per the Fair Housing Act.
- Steering is forcing a specific geographical area on an applicant based on race, religion, or ethnicity and it is strictly prohibited.
- Loan types must be clearly and properly designated so that the consumer is not misled into thinking a product is available or obtainable that is not.
- Answering questions about a property that identifies a characteristic of the neighborhood based on race, marital status, or other prohibited identifiers. For example, if asked to find a home in an “Italian” neighborhood, the agent must refuse to answer.
- Providing listings that include discriminatory or specific language about certain groups of people.

If a complaint is filed for violation of the Fair Housing Laws, the case can go to trial. Penalties incurred may include:

- Compensation for actual damages
- Permanent injunctive relief
- Appropriate equitable relief
- Cost of attorney's fees
- Maximum civil penalties are \$16,000, for a first violation of the Act; \$37,500 if a previous violation has occurred within the preceding five-year period; and \$65,000 if two or more previous violations have occurred within the preceding seven-year period

5. Prohibited advertising

The National Association of Realtors (NAR) Code of Ethics provides guidance for the professional to adhere to for proper behavior. Some of the prohibitions for advertising included in the code:

- “An individual cannot print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations, or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.”
- “The term “free” and similar terms in their advertising may be used only if they clearly disclose:
 - By whom they are being, or expect to be, paid
 - The amount of the payment or anticipated payment
 - Any conditions associated with the payment, offered product or service”
- “Any party interested in receiving or otherwise benefiting from an offer will have clear, thorough, advanced understanding of all the terms and conditions of the offer”
- “Professionals shall not offer for sale/lease or advertise a property without authority.”

For mortgage products, it is prohibited to provide advertising which includes misrepresentations, expressly or by implication, in any commercial communication regarding any term of any mortgage. Regulation N prohibits misrepresentations or misleading claims in advertising for mortgages. As per section 1014.3, this includes among others:

- Type and amount of mortgage fees
- Terms, payments, or amount of loan
- Taxes or insurance associated with a loan
- Type of mortgage
- Interest rate details
- Misrepresentations of the source of commercial communication
- Ability of a consumer to be approved for a loan

When an attractive product is presented to get a potential customer engaged but then is sold a different product, this is a bait and switch. This is a prohibited practice and any advertised product must be actually available to the consumer.

It is required that advertisements are reviewed for compliance before publication. They should be reviewed to ensure they are truthful and clearly state the ability for terms and conditions to change. Products advertised must be actually available to the consumer. Negligence is not an excuse for unlawful advertising.

It is prohibited to provide advertising which includes misrepresentations, expressly or by implication, in any commercial communication regarding any term of any mortgage.

6. Housing and Urban Development (HUD)

The Department of Housing and Urban Development (HUD) oversees federal programs that address issues for Americans seeking housing. HUD’s goals are to increase homeownership,

support community development and increase access to affordable housing free from discrimination. The agency enforces federal housing laws, operates mortgage-supportive initiatives and distributes millions of dollars in federal grants. It is divided into a number of offices including:

- Federal Housing Administration (FHA)
- Office of Public and Indian Housing
- Office of Community Planning and Development
- Office of Healthy Homes and Lead Hazard Control
- Office of Federal Housing Enterprise Oversight
- Office of Policy Development and Research
- Office of Fair Housing and Equal Opportunity
- Government National Mortgage Association (GNMA)

The primary programs administered by HUD include:

- Federal Housing Administration mortgage and loan insurance
- Community Development Block Grants for economic development, job opportunities and housing rehabilitation
- Rental assistance in the form of Section 8 certificates or vouchers for low-income households
- Fair housing public education and enforcement

7. Americans with Disabilities Act (ADA)

The Americans With Disabilities Act (ADA) of 1990 makes it unlawful to discriminate against people with disabilities. Some of the stipulations related to real estate practices include:

As per the ADA Code:

“Title I of the ADA applies to employment. Qualified persons with a disability who can perform the essential functions of the job with or without reasonable accommodation must not be discriminated against in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. If a real estate sales office has 15 or more employees, they are subject to Title I.”

“Title III of the ADA prohibits entities that own, lease, lease to or operate a place of public accommodation from discriminating against the disabled. If a real estate broker or salesperson has a home office in which business is conducted with customers, that portion of the home must also be in compliance with the ADA. The ADA requires equal access and services to disabled individuals in the most integrated setting possible. Architectural and communication barriers are to be removed in existing facilities where such removal is readily achievable and can be carried out without much difficulty or expense. Examples of steps to take in order to

remove barriers include installing ramps, rearranging tables and chairs, repositioning telephones, adding raised markers on elevator control buttons, widening doors, or installing offset hinges to widen doors.”

D. Risk management

1. Supervision

Risk management is the identification, classification, and assessment of risks associated with an action or project. Risks are not necessarily a detrimental factor as they can be identified as either a threat or an opportunity. When buying or selling a home, each property comes with a unique set of inherent risks. It is beneficial for professionals involved in the transaction to use risk management strategies to better understand the value of the property. Risks that are identified as threats have a negative impact on the property. This may include items such as deterioration or undesirable characteristics. Opportunities may include underutilized lands or a pool that needs minor repairs. Once risks have been identified, they can be evaluated for impact and likelihood of occurrence. For example, a property may have an older furnace which would have a significant impact on the functionality of the property if it failed and due to its age, it is likely to fail sometime soon. This information helps the buyer and seller better understand the specifics of the property.

After the specific risks are identified, a mitigation strategy shall be assigned to each risk. These strategies include:

- **Avoidance:** The parties involved can choose not to take part in an action in which the risk is involved.
- **Risk reduction:** Taking action to mitigate the risk.
- **Transference:** Sharing or transferring the risk to another party.
- **Acceptance:** Moving forward with the action despite the risks presented.

2. Compliance with federal regulations; including Privacy and Do Not Contact

Non-public information can be classified as any personally identifiable information provided by a consumer to a financial institution in connection with obtaining a financial product or service. The Gramm-Leach-Bliley Act (GLBA) protects the distribution of such information in unacceptable ways.

The GLBA provides guidance to institutions regarding the sharing of non-public information. They must at a minimum disclose:

- What information is collected about its customers
- With whom the financial institution shares the information
- How the information is protected

- Opt-out options

The GLBA protects the consumer's personal financial information and requires financial institutions to explain how they will share and protect this private information. This includes disclosure of policies to the consumer related to these processes. The GLBA contains three main provisions:

- Privacy rule
- Safeguard rule
- Pre-texting rule

The Act requires a financial institution to notify the consumer if they plan to share personal information with any third parties. The consumer must be supplied with both a privacy notice and an opt-out notice. The privacy notice must contain the institution's policy on the sharing of information and the types of information shared. This must be provided no later than the time the relationship is established with the consumer. An annual notice must also be provided but it is acceptable to be posted online and not directly distributed. The privacy notice must be delivered in written form unless specifically requested with written notice to be provided electronically from the consumer. Permissible hours include 8 AM to 9 PM. Entities making calls must maintain written policies that shall be provided on demand. The person making the calls must be trained and informed of the existence of the do-not-call list. Requests from consumers to not receive calls must be internally recorded including the name and telephone number of the person.

The act provides protections to the consumer which will allow for the protection of non-public information. These include:

- Providing initial privacy notice
- Opt-out notice
- Annual privacy notice
- Prohibitions of sharing information for marketing purposes

The do-not-call registry protects consumers from unwanted solicitations on the phone. It is managed and maintained by the Federal Trade Commission (FTC). Those who choose to be on the list will limit but not eliminate any telemarketing calls from personal information.

Telemarketers are required to check the list no less than once every 31 days. A consumer who is called impermissibly may file a complaint with the FTC and a penalty of up to \$16,000 per incident is possible.

The do-not-call register does not eliminate all scenarios for telemarketing. There are situations where a business is exempt from the restrictions such as:

- Charities or non-profits

- A telemarketing business that has an existing relationship with a consumer may continue to call for 18 months.
- Survey calls or political polls
- Caller with written permission from a specific consumer
- An organization that makes only business-to-business calls

Consumers are able to join the list online for free by adding their telephone number to the database. They may also do so over the phone by the number provided by the FTC. Information acquired after a solicitation can be retained for 2 years.

3. Vicarious liability

Vicarious liability is a situation in which one party is held partly responsible for the unlawful actions of a third party. This does not absolve the individual from liability as well, but rather both may face legal action. This can occur in real estate related to unlawful acts during the home buying process or if a broker is responsible for the actions of an agent under their supervision.

4. Antitrust laws

The 1890 Sherman antitrust laws were enacted to ensure a fair and competitive market for real estate transactions. Some of the prohibitions included in the act includes:

Price fixing is an agreement on a standard set price across multiple companies. The rigid setting of fees would not allow for an open and fair market for customers. This applies to competing brokers, real estate governing bodies, or multiple listing organizations in regards to sale conditions, fees, or management rates.

Group boycotting is the act of two or more brokers conspiring against another business or coming together to agree to withhold their patronage to reduce competition.

The allocation of markets or customers is the agreement to divide areas with customers so that there is no competition within markets.

Tie-in agreements are an agreement to sell one product but only with the condition that the buyer also purchases a different product or service.

The penalty for violation of the Sherman Antitrust Laws can be a fine of up to \$100,000 and up to three years in prison for individuals. A corporation may be fined up to \$1 million.

5. Fraud and misrepresentation

Fraud and misrepresentation in real estate transactions are both ways in which misinformation is provided to a client. There is an important difference between the two. Fraud is the

intentional providing of information to deceive an individual into performing a desired act, such as signing a contract or entering into an agreement. Misrepresentation is the unintentional providing of incorrect information. While fraud is a more severe penalty and wrongdoing, both have consequences and can affect the viability of an established contract.

6. Types of insurance

a. Errors and Omissions

Errors and omissions insurance (E&O) is malpractice insurance coverage for real estate professionals to pay for claims related to error, omission, or negligence in an agent's duties. Not all actions are covered under E&O. Common exclusions include claims resulting from dishonest or criminal acts, if the agent caused bodily harm or death to another person, or if there is damage to someone's property. Often brokers may include coverage as a part of employment.

b. General Liability

General liability insurance covers claims resulting from bodily injury or property damage. Additionally, the insurance will cover medical expenses and attorney fees related to these claims.

VI. PROPERTY DISCLOSURES AND ENVIRONMENTAL ISSUES (8)

A. Property conditions and environmental issues

1. Hazardous substances

a. Lead-based paint

The use of lead in paint was prohibited beginning in 1978. Exposure to lead paint and specifically, inhalation or ingestion of paint flakes can cause severe medical issues. The 1992 Residential Lead-Based Paint Hazard Reduction Act required any licensed individual involved in the sale, lease, management, construction, or appraisal of a property built before 1978 to provide clear notification to parties involved in the transaction.

b. Asbestos, radon, and mold

In 1978, asbestos, a construction material used commonly than in many parts of the home, was banned. Therefore, any home transaction involving a property that was built before 1978 may include this hazardous material. Asbestos is linked to health complications due to its ability to become friable, which means it will break down into particles small enough to be inhaled. Asbestos has been linked to respiratory diseases such as lung cancer. Due to the friability, asbestos is not easy to remove since the disturbances causes the particles to become airborne. A different mitigation strategy that may be acceptable is encapsulation. This is when the material identified with asbestos is enclosed with some other material.

Radon is an odorless, colorless radioactive gas that is produced by the natural decay of radioactive substances. It is a concern in the ground below a property in which case it can seep through the foundation and enter the home. Radon also has been linked to respiratory issues including lung cancer due to inhalation over time. Radon tests can be performed and if they are determined to be above the acceptable limit, mitigation must be implemented. The acceptable limit is determined on the state level but the generally accepted action level established by the World Health Organization is 2.7 pCi/L. Radon mitigation systems will extract the airborne gas and reduce levels.

Mold is organic growth in areas of high moisture. Mold is common in areas of the home such as around leaks in roofs, windows, or pipes, or where there has been flooding. Exposure to mold can be dangerous due to the effect on the air quality in the home. Some individuals may have a minor allergic reaction but others such as black mold can cause a serious threat to health including respiratory issues.

c. Groundwater contamination and underground storage tanks

Groundwater contamination occurs from the seeping of substances into the groundwater. This may occur due to substances such as gas, road salts, or oil. The groundwater becomes unsafe and no longer usable due to health concerns. The existence or potential existence of groundwater contamination can trigger the need for an environmental site assessment.

By EPA definition, an underground storage tank (UST) is defined as “a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground.” UST’s may contain petroleum or other certain hazardous substances, such as methane and solvents. If a property contains an underground storage tank, it must be inspected for leaking. UST’s that are failing can contaminate the groundwater, leading to hazardous drinking water conditions. It is common for homes built before the late 1970s to include UST’s. An owner of a UST that is regulated by the federal government must meet the following requirements:

- Leak detection
- Overfill, spill, and corrosion
- Appropriate registration
- Regular site checks
- Mitigate spills or leaks
- Ensure proper procedures for installation and removal
- Complete routine checks
- Keep proper records

d. Waste disposal sites and brownfields

A brownfield is a property that includes the presence or potential presence of a hazardous substance, pollutant, or contaminant. This factor makes construction, renovation, or reuse of the property difficult. According to the EPA, it is estimated that there are more than 450,000 brownfields in the U.S. The EPA’s Land Use and Revitalization program has been instituted to help clean up these properties to realize benefits such as an increase in local tax bases, job growth, and environmental improvements. The program provides grants to help mitigate the higher costs of environmental complications. These grants support the revitalization efforts by funding environmental assessment, cleanup, and job training activities.

e. Flood plains, flood zones, and flood insurance

Flood plains are lands bordering rivers and streams that normally are dry but are covered with water during floods. Properties on flood plains are at high risk of damage due to flooding.

Flood zones are geographic areas that FEMA has classified according to the potential levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM). The

zone a property falls in determines the requirement for flood insurance. Those in high-risk areas are required to have flood insurance. Those in the moderate risk levels are not required but should consider the purchase of flood insurance. The general zones are as follows as per FEMA:

High-Risk Zones:

- “Zone A: Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage.”
- “Zone V: Coastal areas with a 1% or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26% chance of flooding over the life of a 30-year mortgage.”

Moderate or Less Risk Zones:

- “Zone B: Area of moderate flood hazard, usually the area between the limits of the 100-year and 500-year floods.”
- “Zone D: Areas with possible but undetermined flood hazards.”

2. Clean Air and Water Acts

The Clean Air Act of 1970 regulates air emissions from stationary and mobile sources. The law authorizes the Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards (NAAQS) to protect public health and public welfare and to regulate emissions of hazardous air pollutants. The purpose of the act is to regulate air pollutant emissions and determines acceptable levels for emissions.

The Clean Water Act (CWA) regulates discharges of pollutants into the waters of the United States and establishes quality standards for surface waters. The act contains the EPA implemented pollution control programs such as wastewater standards and national water quality criteria recommendations for pollutants in surface waters. This law makes it illegal to discharge any pollutant from a point source into navigable waters, without a permit.

3. Environmental Protection Agency (EPA)

a. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) provides Federal funds to clean up uncontrolled or abandoned hazardous-waste sites due to accidents, spills, and other emergency releases of pollutants and contaminants into the environment. EPA also will hold those responsible for the violations and enforce cooperation in the cleanup. If a responsible party cannot be found, the Act gives EPA the funds and means necessary to implement a cleanup process for the contaminated site.

b. Superfund Amendment and Reauthorization Act (SARA)

The Superfund Amendments and Reauthorization Act amended the Comprehensive Environmental Response, Compensation, and Liability Act. The changes to the Act include:

- Encouraged permanent remedies and innovative treatment technologies
- Provided new enforcement authorities and settlement tools
- Larger State involvement
- Emphasis on human health problems
- Included higher levels of citizen participation in determining how sites should be cleaned up
- Increased the size of the trust fund to \$8.5 billion.
- Revised Hazard Ranking System

c. Environmental site assessments (including Phase I and II studies) and impact statements

An Environmental Site Assessment (ESA) is a process of evaluating the environmental liability of a real estate asset. The process includes the conducting of "all appropriate inquiry" into the past or present uses of a property to determine whether the property is impacted by a recognized environmental condition (REC). The ESA process includes a site inspection, a review of historical records of the property, and research of records available at government agencies. Once this information is gathered and evaluated, an Environmental Site Assessment Report is completed which includes an opinion on any identified release of hazardous substances at the property.

A site assessment can be Phase I, Phase II or Phase III. A Phase I primarily assesses the likelihood that a site is contaminated through visual observations, historical use reviews, and regulatory records. A Phase II assesses whether contamination is in fact present. Phase III is used when contamination has already been identified. The tasks associated with each phase are typically as follows:

Phase I Environmental Site Assessment:

- Review of records
- Visual inspection for the land
- Visual inspection of properties nearby
- Interviews with relevant parties
- Goal: determine the likelihood of contamination

Phase II Environmental Site Assessment:

- Soil and water sampling

- Inspection for substances like mold, radon, or lead paint
- Identification of wetlands, ecological resources, or endangered species that may prevent certain land uses
- Goal: determine actual presence of environmental contaminants

Phase III Site Assessment:

- Only used when contamination has been identified
- Determines the level of the contamination
- Starts the development of a remediation plan
- Estimation of the cost for remediation

If the assessment determines that any action is needed that will affect the environment, an environmental impact statement (EIS) is required. An EIS is a document prepared to describe the effects of proposed activities on the environment. The elements of the EIS must include:

- Description of the proposed project
- Explain why the project is being considered
- Identify alternatives
- Detail the environmental consequences

d. Wetlands protection

Wetlands are areas of land where water covers the soil or is present at or near the surface of the soil all year or for varying periods of time during the year. The water creates favorable conditions for the growth of special plants and promotes the development of wetland soils. Wetlands are divided into two general categories: coastal or tidal wetlands and inland or non-tidal wetlands. The Federal Government protects wetlands through regulation, acquisition, or through incentives and disincentives. Wetlands shall not be built on without difficult to obtain permits and need to be identified as a part of any real estate transactions.

B. Disclosure obligations and liability

Disclosure information and obligations are set by state law but sellers are generally required to provide a written disclosure for information regarding anything they have knowledge of regarding the property's condition that may affect its value. Some of the most common required disclosures include:

- Repairs or damage to the property
- A death in the home
- Neighborhood factors affecting the desirability of the location
- Increased risk of damage from a natural disaster or other hazard
- Water damage

- HOA information
- Missing basic items that are reasonably expected to be present
- Historical designations or restrictions
- Termite damage
- Environmental risks

A lack of proper or withholding of disclosure information may result in a lawsuit or a breach of contract.

VII. FINANCING AND SETTLEMENT (7)

A. Financing concepts and components

1. Methods of financing

a. Mortgage financing – conventional and non-conventional loans

Lenders must evaluate a borrower's ability to repay to determine if they can in fact meet the requirements of the loan terms. For a loan to be considered conventional there are minimum requirements that must be met. This ensures a minimum level of credentials for the borrower that provides a reasonable expectation that the loan can be paid back. This includes:

- Limiting the debt-to-income ratio of the borrower to 36% in most cases.
- Minimum down payment of typically at least 5%
- Minimum credit score of 620

Conventional loans often require a higher minimum down payment amounts than government-backed loans such as FHA which requires 3.5% or VA which can be as low as 0%. While low down payment loans exist, lenders will not often accept less than 5% down and anything less than 20% will require Private Mortgage Insurance (PMI). The cost of the PMI will vary depending on the down payment and other factors such as credit score.

A conventional mortgage also has requirements outside of the borrower's qualifications. The loan will not have more risky aspects such as:

- Interest-only payments
- Negative Amortization
- Balloon Payments
- Loan terms longer than 30 years
- Excess points or fees

A non-conventional loan is one that does not have to follow traditional mortgage loan requirements. These loans offer more flexible qualification requirements and are often backed by government entities such as The Federal Housing Administration, the U.S. Department of Veterans Affairs, and the U.S. Department of Agriculture.

b. Seller financing – land contract/contract for deed

Seller financing involves a loan for a property directly from the seller of the home. This non-conventional loan can allow homebuyers to avoid strict mortgage requirements but may include some fewer desirable aspects such as higher interest rates. Additionally, an assumable loan allows a borrower to take on an existing loan including all aspects of that loan such as the term and interest rate. An assumption clause in a mortgage contract allows the seller to pass the responsibility of the existing mortgage onto the buyer. This may be attractive if the terms of the existing loan are more attractive than what is currently available for the buyer. This is not a common practice as banks don't often allow it on conventional mortgages. They are more common for government-backed mortgages such as FHA, VA, or USDA.

2. Lien theory vs. title theory and deed of trust

In title theory, the title is held in the lender's name until the final payment is made, the title is passed or re-conveyed to the borrower.

In lien theory, the title to the property is held in the name of the borrower with a security interest or lien to the property to the lender. When the property is sold the lien would be paid off and released.

3. Sources of financing (primary and secondary mortgage markets, and seller financing)

The primary mortgage market is the name for the transactions involving the origination and execution of mortgage loans. These loans are then packaged and sold in the secondary mortgage market.

The secondary mortgage market is where mortgages are bought and sold as securities. An aggregator is an entity that purchases mortgages from financial institutions and then securitizes them into mortgage-backed securities (MBS).

A mortgage investor purchases loans on the secondary market from the primary market. Loans which are originated in the primary market are grouped into mortgage-backed securities (MBS) which can be purchased as an investment. Fannie Mae and Freddie Mac are the largest mortgage investors in the world who buy loans that fit their underwriting guidelines.

Fannie Mae and Freddie Mac are government entities that purchase most of the home loans in the US and provide liquidity to lenders as needed. This allows lenders to be able to have the assets necessary to provide a larger and wide-ranging number of loans. This is done by Fannie Mae and Freddie Mac packaging loans into attractive mortgage-backed securities in which payment is more dependable. This helps to stabilize the market and lower interest rates based on the reduced risk. The sister company, Ginnie Mae, is the entity responsible for payments of mortgage bonds and does not fall under Fannie Mae and Freddie Mac's responsibilities.

4. Types of loans and loan programs

There are a number of different loan types that may be used to fit an individual's specific scenarios. Some of the more common loan types include:

Fixed-rate mortgages include an interest rate that will not change over the full life of the loan. Because of this, there is a constant payment for the principal and interest for the full amortization schedule of the loan. The total home payment can change due to variances in the property taxes, insurance, or PMI.

An adjustable-rate loan has a rate that may fluctuate throughout the life or a portion of the loan term. The rate for the adjustable period is determined by the fully indexed rate which is the margin plus the index. ARM's have caps that the rate cannot exceed regardless of the index and margin. The lifetime cap limits the increase over the life of the loan and the periodic cap limits the increase from one period to the next.

Balloon loans include a lump sum payment portion of the principal balance instead of fully amortizing with payments over the life of the loan. Consumers will pay a portion of the loan or an interest-only period which have lower payments. Then at the end, there is a remaining balance that must be paid. Balloon loans are considered high-risk options.

A reverse mortgage provides payment from a lender to a borrower that taps into the existing equity of a home. The equity is reduced as the payments are made. The lender is not buying the home however and the borrower is indeed still responsible for the increase in debt that results from the payments. This is often settled by the selling of the home at the completion of the loan.

The Home Equity Line of Credit (HELOC) is a way for a borrower to tap into the equity of an existing home loan for other purposes. HELOC's and home equity loans are, but there are some differences. One of which is that the home equity loan typically will have a fixed rate while the HELOC will be an adjustable-rate with interest calculated per diem. The line of credit can be accessed up to the maximum amount agreed upon by the borrower and lender. The borrower can use as much or as little as they wish. HELOCs often have a draw period in which there are interest-only payments and then a repayment period where the payment includes both interest and principal.

There are two types of loans for construction:

Construction-to-permanent loans is a single loan comprised of two parts. Therefore, there is only one closing and terms can be set on the mortgage after construction such as a maximum rate. The payments made during construction are interest only.

A construction-only loan is actually two separate loans: one solely for the construction of the home and then a mortgage. Because of this the fees for the loans are separate and require two sets

Interest-only mortgages as the name suggests, include payments that consist only of paying interest. This means that there is no pay down of the principal balance as the loan progresses. These mortgages will have a set period of interest only and then begin a phase of increased payments that include a portion for paying down the principal.

5. Mortgage clauses

A clause is simply a particular section of a contract. Some types of clauses that are common in real estate transactions may include:

Acceleration clause: Requires the entire amount of the debt to be due immediately. An acceleration clause may activate when the borrower misses a specified number of payments.

Subordination clause: Outlines the hierarchy of liens on a property. Loans must have an order in which they are to be paid off. This clause establishes where available funds will go first. This is often useful in a foreclosure scenario where a borrower has failed to make payments and a determination must be made as to where available funds are to be allocated.

Prepayment penalty clause: A penalty will be charged to the borrower if the loan is paid off early. This would occur if additional principal payments are made by the borrower to reduce the balance and thus the loan term. This reduces the amount of interest paid over the life of the loan.

Alienation or due-on-sale clause: Requires a borrower to pay the entire loan balance if the property in the process of being sold. This is common to prevent a buyer of a property from assuming the current loan which may include more favorable or outdated terms.

Release clause: Allows an individual property in a blanket mortgage to be released from any liens by the lender. This is common when an individual has multiple properties and wishes to combine them under a single loan.

B. Lender Requirements

1. FHA requirements

FHA loans are government-backed loans. Therefore, an FHA loan has a low minimum down payment of 3.5% but the credit score of the individual must be at least 580. If the credit score falls between 500 and 580 the minimum down payment increases to 10%. FHA has maximum debt ratios which are 31% on the front end and 43% on the back end. The loans actually come from an FHA approved lender and not FHA itself. The backing of the loan comes from the required upfront mortgage insurance premium cost that is included as a part of the closing costs. This does not relieve the borrower however of the annual PMI requirement. In addition to traditional mortgages, FHA also offers the following:

- Home equity conversion loans
- 203k home improvement loans
- Energy-efficient mortgage program
- Graduated payment loans

The determination of the interest rate for FHA mortgages is determined by a number of factors similar to conventional loans including:

- Credit score
- Amount of loan
- Down payment
- Type of rate
- Discount points

The FHA establishes minimum property standards that may cause properties acceptable under conventional loans, to not be eligible for FHA financing. The standard is established to protect both the lender and the borrower from entering into an agreement with a sub-standard property that may require extensive repairs or limit the ability of a resale.

The minimum standards can be divided into three categories:

- Safety: Any aspects of the property which may be considered a risk to the safety of the occupant or any visiting individuals must be addressed. This may include certain areas of the home which are not up to code such as railing heights or tripping hazards
- Security: The home should adequately protect the occupant and possessions inside
- Soundness: The property may not have aspects that may compromise the structural integrity of the home. This may include rotting of structural supports or excessive foundation cracking

FHA will assess the severity of the defect and does not require the repair of anything determined to be minor or cosmetic

FHA sets limits on the amount that can be borrowed. It is dependent on the geographical area in which the loan is taken and the median sale price in that area. However, it can never be higher than the ceiling or lower than the floor in any area. Single-family forward loan limits are 115% of median house prices, subject to the floor and ceiling on the limits. Any areas where the loan limit exceeds this floor is considered a high-cost area, and FHA is required to set its maximum loan limit ceiling for high-cost areas at 150% of the national conforming limit.

2. VA requirements

VA loans are available for veterans to receive more beneficial loans. The loans are issued by private lenders but backed by the US Department of Veteran affairs. Some of the benefits of the VA loans include:

- 0% down payment
- No PMI
- Lower interest rates
- Easier to qualify

VA entitlement is a benefit to veterans seeking a first-time mortgage. It refers to the amount of money that is guaranteed to lenders in the event of default. While VA loans can require 0% down, there is a limit based on the entitlement. There are two scenarios to determine the amount:

- \$36,000 for loans less than \$144,000
- 25% of loans greater than \$144,000

A Certificate of Eligibility (COE) verifies to the lender that the applicant is eligible for a VA loan. To obtain the certificate, the borrower must provide evidence of service depending on their status:

- For Veterans/Current or former National Guard/Reserve members who have been activated for Federal active service
 - DD Form 214
- Active Duty Servicemember
 - A current statement of service
- Current National Guard or Reserve member not Federal active service
 - Statement of Service

A funding fee of 2.15% for VA loans is required by all but certain exempt veterans. A down payment of 5 percent or more will reduce the fee to 1.5% and a 10 percent down payment will reduce it to 1.25%.

All Reserve or National Guard must pay 2.40%. A down payment of 5 percent or more will reduce the fee to 1.75% and a 10 percent down payment will reduce it to 1.5%.

The following are exemptions to paying the funding fee:

- Veterans receiving VA compensation for service-connected disabilities.
- Veterans who would be entitled to receive compensation for service-connected disabilities if they did not receive retirement pay.
- Surviving spouses of veterans who died in service or from service-connected disabilities

The funding fee is eligible to be financed as a part of the loan.

3. Buyer qualification and Loan to Value (LTV)

Underwriting is the evaluation of a borrower to determine their suitability for a loan. They will evaluate the applicant for their ability-to-repay and determine if the lender shall proceed with issuing the loan. The ability to repay rule is mostly centered around 8 factors:

- Current or expected income
- Employment status
- Mortgage payment
- Any additional loans secured by the same property
- Property taxes, insurance, and any other associated costs related to the property
- Monthly debts
- Debt-to-income ratios
- Credit history

The debt-to-income ratio is a representation of the amount of monthly debts and obligations a borrower will have compared to the monthly income. This is a common way for the lender to assess the borrower's ability to repay. There are two types of debt ratios. The front end or housing ratio is the total mortgage payment only divided by the monthly income. The back-end ratio is the Mortgage payment and all other debt payments divided by the income:

$$\text{Front End DTI} = \frac{(\text{Mortgage})}{\text{Monthly Income}}$$

$$\text{Back End DTI} = \frac{(\text{Mortgage} + \text{Debt Payments})}{\text{Monthly Income}}$$

The income must be calculated by taking the yearly income and dividing it by 12. The Mortgage payment includes all principal, interest, property tax, insurance, and PMI. Other debt obligations are those which require a monthly minimum payment such as student loans or credit cards. This does not include all monthly expenses such as utility bills or grocery costs.

The housing-to-income ratio also known as the front-end ratio is an evaluation of income relative to only the proposed total mortgage payment. This includes principal, interest, taxes, hazard insurance, and PMI if applicable. Often the desirable front-end is 28%.

The total debt ratio is also referred to as the back-end ratio. This is the ratio of all proposed monthly obligations including the total mortgage payment and any others to the monthly income. This may include loans, credit cards, or other debts. A favorable back-end ratio is typically considered to be 36% but can be as high as 50% in some circumstances.

Not all assets are considered similar in their ability to be used for loans. The most common types of assets which are allowed includes:

- Earnest money deposit
- Checking or savings account
- Business accounts
- Stocks
- Bonds
- Mutual funds
- 401k or other retirement funds (to a certain percentage)
- Acceptable gifts
- Sale of assets
- Verified deposits

Some assets which are not acceptable include:

- Cash on hand
- Sweat equity (except in certain circumstances)
- Lender contributions
- Unvested funds
- Undocumented funds
- Illegally obtained funds

Loan-to-value ratio is simply the amount financed divided by the value of the home as determined either by the sale price for a purchase transaction or the appraised value for a refinance:

$$LTV = \frac{\text{Amount of Loan}}{\text{Value of Property}}$$

The maximum LTV is determined by the minimum amount of money a borrower must put down to qualify for the loan. This is determined by the type of loan whether it be conventional, FHA, VA, etc. The loan-to-value ratio is also the factor used to determine the need and extent of private mortgage insurance (PMI).

4. Hazard and flood insurance

The hazard insurance must show that it fully covers damage from natural occurrences. This may include an endorsement or separate policy from the original. The claims must be settled however on a replacement cost basis and not actual value. Hazard insurance is typically paid for through an escrow account along with property taxes and PMI as applicable.

Flood insurance is an additional aspect of hazard insurance for certain properties. FEMA requirements stipulate that the flood coverage must be at least the lesser of:

- The maximum amount of NFIP coverage available for the particular property type, or
- The outstanding principal balance of the loan, or
- The insurable value of the structure.

The requirement for flood insurance is determined by the location of the property and whether or not they are in the specific designated flood zones. The Flood Emergency Management Agency (FEMA) provides flood zone maps. Flood insurance is required in high-risk areas designated as Zone A and Zone V.

The amount of flood insurance is determined by the type of property and the limits of the property. The minimum amount of flood insurance is the least of the following three:

- The National Flood Insurance Program (NFIP) Maximum
- The insurable value of the property
- The loan amount

NFIP typically cannot exceed \$250,000 for the structure of the home and \$100,000 for personal property

Private flood insurance can also be purchased to satisfy the requirements. The advantage is the limits on private insurance are much higher than the maximums provided by NFIP. The private flood insurance cost is a function of the FEMA hazard area. The more high-risk area, the higher the cost.

If there is no insurance on a property due to reasons such as failure to pay, the lender can force insurance on the borrower so that the property is still protected. This is known as force-placed insurance.

5. Private mortgage insurance (PMI) and mortgage insurance premium (MIP)

Private Mortgage Insurance (PMI) is protection for the lender. The borrower pays a monthly fee that is used to insure the lender in the event of default.

While PMI does not cover the borrower in the event of default, it helps the lender to have more confidence in the borrower's ability to repay. This has allowed less qualified borrowers to get loans, especially in the case of lower down payment amounts.

The yearly cost of PMI is typically between 0.5% to 1.0% of the total loan amount. This yearly cost is divided into equal monthly payments as a part of the borrower's monthly obligations. The amount is often a function of the down payment amount. The more put down, the less the yearly premium will be.

FHA loans will require an upfront mortgage insurance premium (UFMIP). This is required to be able to provide the borrower with a reduced down payment amount to offset the risk the lender is taking with the reduced equity. This is a one-time payment as a part of the closing costs. This does not replace the need for monthly mortgage insurance. The UFMIP will typically be about 1.75% of the total loan amount.

One of the many benefits of VA loans is they do not require PMI.

IF the initial down payment is less than 20%, PMI will end automatically at a scheduled LTV of 78%. This also holds true if extra payments are applied to the principal despite the fact that a loan may have the necessary equity to remove PMI there is a seasoning period in which the borrower must wait to apply to remove the payment. This period is a minimum of 2 years.

PMI is required if the loan to value ratio is greater than 80%. If 80% is not achieved, the PMI will automatically be stopped at an LTV of 78% in accordance with the amortization schedule. A borrower can apply to have PMI removed a minimum of 2 years after the origination of the loan if there is reason to believe the loan to value has decreased. This may be because of principal payoff or an increased appraisal.

C. Federal Financing Regulations and Regulatory Bodies

1. Truth-in-Lending and Regulation Z

Regulation Z (Truth in Lending Act) aims to provide consumers with clarity regarding the actual costs of credit related to home purchases. Additionally, there is protection for consumers from misleading practices. It requires lenders to:

- Disclose interest rates
- Allow borrowers the right to cancel within a specified period
- Use clear language about loan and credit terms
- Respond to complaints, among other provisions.

In addition, the act:

- Protects consumers against inaccurate and unfair credit billing and credit card practices
- Provides consumers with rescission rights
- Provides rate caps on certain dwelling-secured loans
- Imposes limitations on home equity lines of credit and certain closed-end home mortgages
- Provides minimum standards for most dwelling-secured loans
- Delineates and prohibits unfair or deceptive mortgage lending practices.

The TILA and Regulation Z do not, however, tell financial institutions how much interest they may charge or whether they must grant a consumer a loan.

TILA section 1026.24(i) provides prohibited acts in advertising. Some of the requirements include:

- “Only advertising for products actually available
- Providing clear disclosures
- Requirements for mentioning of interest rates
- Triggering terms
- Disclosure requirements of rates and payments
- Disclosure requirements specifically for TV and radio
- Prohibited practices including:
 - Misleading of the term fixed rate
 - Misleading comparisons
 - Misrepresentation about government endorsements
 - Current lender’s name
 - Debt elimination
 - Improper use of the term “counselor”
 - Misuse of foreign languages”

Section 1026.4(b) of Regulation Z gives examples of finance charges generally applicable to consumer loans:

- “Interest and any amount payable under an add-on or discount system of additional charges.
- Service, transaction, activity, and carrying charges.
- Points, loan fees, assumption fees, finder’s fees, and similar charges.
- Appraisal, investigation, and credit report fees.
- Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer’s default or other credit loss.
- Charges imposed on a creditor by another person for purchasing or accepting a consumer’s obligation.
- Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.
- Premiums or other charges for insurance against loss of or damage to property, or against liability arising out of the ownership or use of property.
- Discounts for the purpose of inducing payment by a means other than the use of credit.
- Charges or premiums paid for debt cancellation or debt suspension coverage”

Regulation Z defines a finance charge as the cost of credit as a dollar amount. The calculation is a process that involves determining which of many fees associated with a loan’s origination and closing are included in the charge. Section 1026.4(c)(7) of Regulation Z details the fees excluded from the finance charge if a transaction is secured by real property or is a residential mortgage transaction:

- “Fees for title examination, abstract of title, title insurance, property survey, and similar purposes.
- Fees for preparing loan-related documents, such as deeds, mortgages, and reconveyance or settlement documents.
- Notary and credit-report fees.
- Property appraisal fees or fees for inspections to assess the value or condition of the property if the service is performed prior to closing, including fees related to pest-infestation or flood-hazard determinations.
- Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the finance charge.”

2. TILA-RESPA Integrated Disclosures (TRID)

TRID was introduced to reduce the amount of paperwork involved in mortgage transactions and to provide more clarity, understanding, and accuracy for the borrower. The goal of the act was also to reduce confusion.

The integrated disclosure rule was meant to try to simplify and streamline the mortgage process for applicants. This was made in an effort to reduce confusion that was found to be common in many mortgage transactions. Some main changes of the rule include replacing the Good Faith Estimate with the loan estimate and the final HUD-1 form with the closing disclosure. TRID applies to most closed-end mortgages and does not apply to HELOCs, reverse mortgages, and a dwelling not attached to a real property.

Most closed-end loans which are secured by a property are covered by TILA with some exceptions. These exceptions include:

- Reverse mortgages
- HELOC's
- Loans secured by a home that is not attached to a property (i.e. mobile home)
- Loans made by an entity that provides 5 or fewer mortgages in a calendar year

Some common violations of the TRID include:

- Date of issuance for the Loan estimate or closing disclosure
- Failing to provide seller's CD
- Consistency in fee names
- Incorrect information such as contact

a. Consumer Financial Protection Bureau (CFPB)

The Consumer Financial Protection Bureau aims to support, educate, and protect consumers seeking and using loans. The protection extends beyond mortgages and includes car, student, and others as well. The CFPB provides tools and examples to consumers as they progress through the loan process so that they may make informed decisions.

The CFPB also protects consumers by taking action against those who participate in illegal or predatory practices. Complaints can be filed and companies are required to cooperate and respond.

The CFPB is also subject to the laws governing federal agencies to ensure they proceed in a fair and responsible manner. They have accountability to the President and Congress including annual reports, audits, and semi-annual testifying to Congress. The CFPB is also subject to veto by the Federal Stability Oversight Council (FSOC) and must consult with federal banking

agencies when establishing new rules. There are a number of checks and balances towards the CFPB including a capped budget, small business rule processes, mandatory cost-benefit analyses, and mandatory stakeholder involvement and comment.

CFPB has oversight over a large number of entities to ensure enforcement of federal consumer finance laws. It has authority over banks, thrifts, and credit unions with assets over \$10 Billion and any affiliates. Also, CFPB oversees non-bank mortgage originators and servicers, payday lenders, and private student lenders of any size. CFPB also maintains a list of depository institutions and affiliates.

The CFPB allows consumers to submit complaints if they believe a violation has occurred. Complaints are submitted online or over the phone. Complaints are then submitted to the company in question for a response. Complaints are published with personal information removed for the education of the public.

b. Loan Estimate (LE)

A loan estimate is the replacement for the Good Faith Estimate (GFE). It is standard across lenders and must have identified clearly the terms and estimated fees for the loan. The goal is to make the process easy to understand for consumers

The loan estimate is the initial form received after the application is received. It must be provided within 3 business days after receipt of the application. The information provided includes a best estimate of the interest rate, monthly payment, and closing costs for the loan. Also included will be anticipated property taxes and insurance costs.

The loan estimate shall also include any features of the loan including prepayment penalties or negative amortization. The loan estimate is not an indication of approval.

The loan estimate expires 10 days after issue. Expiration of the loan estimate is considered a change in circumstance and any further progress would require a revised LE.

Estimated information included in the loan estimate includes among others:

- Interest rate
- Monthly payment
- Total closing costs
- Prepayment penalties
- Amounts that can increase after closing
- Mortgage insurance
- End of mortgage insurance
- Loan costs
- Prepaids

- Taxes
- Cash to close

c. Closing Disclosure (CD)

The HUD-1 statement has been replaced with the closing disclosure. The CD is implemented to make the costs and fees clear. The CD provides the actual costs at closing but can vary from the loan estimate within certain limitations.

Closing disclosure provides the final costs and specifications of the loan. The information provided includes:

- Final interest rate
- Monthly payment
- Closing costs
- Cash to close
- Prepayment penalty
- Costs that may increase after closing
- Breakdown of closing costs
- Total cost of the loan
- APR
- Total interest paid over the life of the loan
- Late payment penalties
- Indication of negative amortization
- Loan assumption indication

3. Real Estate Settlement Procedures Act (RESPA)

RESPA was enacted in 1974 by Congress to allow consumers the ability to obtain costs for settlement services at closing so that they may have the ability to choose appropriately between loan providers. RESPA also includes provisions to protect consumers from excessive settlement costs or lenders who participate in prohibited acts such as kickbacks or referral fees.

RESPA stands for the Real Estate Settlement Procedures Act and is overseen by the U.S. Department of Housing and Urban Development (HUD).

The main purposes of RESPA include:

- Providing certain disclosures in connection with the real estate process so home purchasers can make informed decisions regarding their real estate transactions
- To prohibit certain unlawful practices by real estate settlement providers, such as kickbacks and referral fees, that can drive up settlement costs for home buyers.

RESPA includes a number of prohibited practices for the protection of consumers. They include:

- Section 6: Right to proper servicing of the loan
- Section 8: Prohibiting a person from receiving anything of value for a referral of settlement services or being paid without performing a service.
- Section 9: Prohibits the requirement of settlement services from a particular company directly or indirectly
- Section 10: Limits the amount of money a lender may hold in escrow

a. Referrals

Section 8 of RESPA prohibits any person involved in a mortgage transaction from giving or accepting anything of value for referrals of settlement service business. A charge also cannot be accepted for services that are not performed. These are also known as kickbacks, fee-splitting and unearned fees. Violations of Section 8 are subject to criminal and civil penalties including a fine up to \$10,000 and prison up to one year.

A lender may own or have a partial interest in real estate, mortgage, or title companies. RESPA requires that when one of these entities refers the applicant to another affiliated provider, the loan applicant receives an Affiliated Business Arrangement Disclosure. This disclosure must include the details of the relationship and the estimate for the service. It shall be provided at the time of the referral and no later.

Kickbacks are compensation paid illegally to an individual involved in a real estate transaction so that they may provide a specific recommendation, service, or decision. This would be a sales agent being paid by a third-party service to be recommended.

b. Rebates

A real estate professional can agree to rebate a portion of his/her commission to a consumer. However, some states do have laws prohibiting the payments of rebates to unlicensed individuals.

4. Equal Credit Opportunity Act (ECOA)

The Equal Credit Opportunity Act (ECOA) Regulation B was instituted to protect applicants from discrimination throughout the credit process. It provides requirements to lenders for compliance. They shall not discriminate based on age, gender, ethnicity, nationality, marital status, or income from public assistance.

The two main aspects of Regulation B include:

- “A creditor shall not discriminate against an applicant regarding any aspect of a credit transaction.

- A creditor shall not make any oral or written statement, in advertising or otherwise, to applicants or prospective applicants that would discourage, on a prohibited basis, a reasonable person from making or pursuing an application.”

ECOA prohibits discrimination in all aspects of the mortgage process on the basis of all of the following:

- Gender
- Marital status (unless in a community property state)
- Age
- Race
- Ethnicity
- Religion
- Nationality
- Receipt of public assistance

Notice shall be provided within 30 days on an existing account to an applicant who is to be denied for a mortgage loan. The notice should include a statement of specific reasons for the denial including the credit agency which provided credit information.

There is information that is acceptable to be questioned under the act. These include:

- Immigration status
- Permanent residency
- Credit history
- Inclusion of child support or alimony

If a lender chooses to deny a loan application, the consumer has certain rights to information that must be disclosed. These include:

- Reason for denial or informing the consumer that they have the right to request the reason for denial
- Notice of decision within 30 days of application
- Specific reasons for denial such as income or employment history
- Reasons for less favorable terms if offered
- Right to receive an appraisal if applicable
- Negative information from a credit report that influenced the decision

5. Mortgage fraud and predatory lending

Mortgage fraud is an attempt to provide false or incomplete information in order to obtain a loan or approval when the individual may otherwise not be qualified. Fraud may occur in a

number of different aspects of the mortgage process including asset declaration, falsifying documentation such as contracts or applications, statement of income, employment fraud, and others. Applications and documents will be assessed for the presence of red flags which are indicators of fraud.

Asset fraud is a misrepresentation of assets to obtain a loan. The possible fraud indications can include:

- Asset Documentation
- Salary does not match deposits
- Nontraditional banking institutions
- Inconsistent dates of bank statements
- No paper-trail for funds
- Unknown related parties

Fannie Mae provides guidance on the potentially troubling aspects of a contract during review. Sales contract red flags include:

- Seller not on the title
- Purchaser name is different than the application name
- There is no real estate agent involved in the transaction
- Power of attorney
- Earnest money is the entirety of the down payment
- More than one deposit checks
- Unusual real estate agent commission

Mortgage Application indicators include:

- Significant changes from original application to the subsequent
- Unsigned or undated application
- P.O. Box or unclear employer address
- Loan is a cash-out refinance on a recently acquired property
- Payment shock
- Purchaser does not own property

Documentation and consistency are the keys to an underwriter verifying the information provided on an application is accurate as stated by the applicant. The amounts of income, assets, and liabilities shall be consistent across all bank statements, paystubs, accounts, and any other documentation.

Verification of gray areas may even be taken a step further. Certain actions that may be taken include contacting an employer to verify employment status or asking the applicant for a Letter

of Explanation to provide further information and documentation on a questionable aspect of the application.

Employment and income documentation red flags include:

- Generic job title
- Home address excessively far from employer without remote employment
- Employer not responsive
- Paychecks not matching deposits
- Abuse of overtime

There are two scenarios of fraud regarding the consumer's bank account. The first is fraudulent activity by the consumer and the second being activity taken against the consumer when the account has been compromised.

Activity by the consumer may include:

- Suspicious Cash Transactions
 - Deposits just below the reportable minimum
 - A number of deposits over a period of time below the reportable minimum
 - Suspicious transactions
- Check tampering
- Billing such as unexplainable reimbursements or fees

Fraud activity against the consumer can happen when the account has been compromised either by obtaining the consumer's personal information or by theft. These are usually identified by unusual transactions in different locations than the consumer is in.

Similarly, to income fraud, employment fraud red flags include:

- Applicant's job title is generic, e.g., "manager," "vice president"
- Employer's address is a post office box, the property address, or the applicant's current residence
- Applicant's residence is in a location remote from the employer
- Employer name is similar to a party to the transaction
- Employer unable to be contacted

Loan originators are required to report any suspicious activity that could jeopardize both the lender's investment and the applicant's wellbeing. If a financial institution suspects suspicious or illegal behavior, they must file a Suspicious Activity Report (SAR)

When a professional takes advantage of an ill-informed borrower for personal gain, this is called predatory lending. Loan types must be clearly and properly designated so that the consumer is not misled into thinking a product is available or obtainable that is not.

Steering is forcing a specific geographical area on an applicant based on race, religion, or ethnicity and it is strictly prohibited.

D. Settlement and closing the transaction

Settlement is the finalizing of the loan. It is a meeting of the buyer, seller, and lender where the property and funds legally change hands. This is also referred to as closing. Documents to be provided at closing must include:

- Closing Disclosure (CD)
- Promissory Note
- Mortgage/Security Instrument/Deed of Trust
- Transfer of ownership for purchase transactions
- Right to Cancel
- Escrow statement

Closing disclosure provides the final costs and specifications of the loan. The information provided includes:

- Final interest rate
- Monthly payment
- Closing costs
- Cash to close
- Prepayment penalty
- Costs that may increase after closing
- Breakdown of closing costs
- Total cost of the loan
- APR
- Total interest paid over the life of the loan
- Late payment penalties
- Indication of negative amortization
- Loan assumption indication

The initial closing disclosure is the first one received after the underwriting approval. This must be provided 3 days prior to the signing of the final loan documents.

The closing disclosure must be provided 3 business days in advance of consummation.

The final closing disclosure details the final terms and costs of the loans. If nothing has changed, this will be the same as the initial CD. It must be provided 3 days prior to consummation.

Title insurance is paid as a one-time fee upfront and varies based on the value of the property and the anticipated work to secure the necessary title information.

Prepays are payments that are required to be provided before they are due to the appropriate entity. Generally, for mortgages, this refers to the funding of escrow accounts including the property taxes, hazard insurance, and PMI. Lenders will often require that the escrow account includes a minimum amount of reserves to ensure there are sufficient funds in the account. The prepays will include this buffer along with the required amount that will be needed at the time the bill is due.

At closing, there are often expenses related to establishing the escrow account. Generally, the funding of escrow accounts includes property taxes, hazard insurance, and PMI. Lenders will often require that the escrow account includes a minimum amount of reserves to ensure there are sufficient funds in the account. The prepays will include this buffer along with the required amount that will be needed at the time the bill is due. A common amount of reserve is 3 months but may vary among lenders.

Origination fees are often a percentage of the purchase price, typically 1%. However, this can vary and there are instances where it is waived in return for a higher interest rate in which case the fee is paid by means of the yield spread premium.

Loan consummation is the time at which the borrower becomes contractually obligated to meet the agreement of the loan terms to the creditor. This is not necessarily the same as closing or settlement as different states may have different laws regarding when the obligation is final.

VIII. REAL ESTATE MATH CALCULATIONS (7)

A. Property area calculations

1. Square footage

Square footage is an area calculation used to determine the total size of the home. Rectangular rooms or homes can be determined by the length and width:

$$\text{Square Footage} = \text{Length} \times \text{Width}$$

2. Acreage total

Acres are the standard unit of measure for the size of a lot of land. To convert between square footage and acres:

$$\text{Acres} = \frac{\text{Square Footage}}{43,560}$$

B. Property valuation

1. Comparative Market Analysis (CMA)

The market approach is the most common of the appraisal types and is used for most purchase loans. The value of the home is determined by comparison to other properties with similar characteristics that have been sold in as recent of a timeframe as possible. The comparisons (referred to as “comps”) are then evaluated by identifying the differences in certain characteristics such as square footage, age, lot size, home type, street type, and many others. Typically, a minimum of three comps are required and the most similar and most recent homes are chosen. At times, homes that are currently on the market are also used as a basis for comparison but will not hold as much weight as the sales. If possible, homes no more than a 1-mile radius away from the home shall be chosen and as well as no more than 1 year prior to the transaction.

Once the comps are evaluated in comparison to the home to be purchased, the prices of the sales are adjusted to represent a price of equal value. These values are then averaged and evaluated using some appraiser judgment to determine a fair market value of the home.

2. Net Operating Income (NOI)

The income appraisal approach is a way of evaluating investment properties that will generate income. This is common for condo or apartment complexes where renters will reside. The approach involves calculating the Net Operating Income (NOI) which is the income generated divided by the capitalization rate:

$$NOI = \frac{Income}{Capitalization\ Rate}$$

3. Capitalization rate

The capitalization rate is a percentage representation of the expected income that can be generated from a property on a yearly basis if it is bought with a cash investment. It can be calculated as a function of the net operating income and the current market value of the property:

$$Capitalization\ Rate = \frac{NOI}{Market\ Property\ Value}$$

4. Equity in property

Equity is the amount of surplus value when the value of a property is compared to the outstanding amount on an existing loan. The property value can be determined as either the actual sale price or the appraised value of the home.

$$Amount\ of\ Equity = Property\ Value - Outstanding\ Loan\ Balance$$

5. Establishing a listing price

A listing price is agreed upon by the selling party and the listing agent. This is commonly arrived at by using a comparative market analysis taking into account recent comparable sales and current listings in the area.

6. Assessed value and property taxes

To calculate property tax, many states will use the millage rate equation:

$$Property\ Tax = \frac{Market\ Value\ of\ Property\ X\ Assessment\ Ratio\ X\ Millage\ Rate}{1000}$$

The millage rate is the tax rate applied to the assessed value. Millage rates are typically expressed per \$1,000 with one mill representing \$1 in tax for every \$1,000.

C. Commission/compensation

Commission is based on the sales price of the home and can vary between typically between 4% - 6%. To determine the commission:

$$\text{Commission} = \text{Sales Price} \times \text{Commission Rate (as a decimal)}$$

It is common practice for the seller to pay the fee but it can be negotiated or split as necessary.

D. Loan financing costs

1. Interest

Accrued interest is the amount of interest that has accumulated over a period of time since the inception of the loan or since the previous payment. For mortgages, this will be the amount of interest that has accrued each month in between payments. Accrued interest is determined based on the period in which the interest is calculated. For example, if daily interest is required, it will be calculated every day whereas monthly will be calculated once per month.

A periodic interest rate calculates interest based on the number of compounding periods. Lenders will typically quote interest rates based on an annual basis, but the compounding of the interest occurs most often at a monthly interval. This means that interest is being calculated at a rate of the annual divided by the number of compounding periods in a year. Be sure to convert the interest rate to decimal form by dividing by 100:

$$\text{Interest} = \frac{\text{Rate in decimal form}}{\# \text{ of compounding periods}} \times \text{Principal Balance}$$

Most often mortgages compound once per month or 12 times per year. So, the interest rate is divided by 12 to find the monthly interest.

Daily simple interest calculates interest on a daily basis as opposed to monthly like a traditional loan. To calculate, divide the annual rate by 365 days and multiply by the outstanding balance and then multiply by the number of days in the period:

$$\text{Interest} = \left(\frac{\text{Annual Rate as a decimal}}{365} \right) (\text{Loan amount}) (\text{Number of days in period})$$

2. Loan to Value (LTV)

Loan-to-value ratio is the amount financed divided by the value of the home as determined either by the sale price for a purchase transaction or the appraised value for a refinance:

$$LTV = \frac{\text{Amount of Loan}}{\text{Value of Property}}$$

3. Fees

The settlement statement is a summary to identify all details costs and fees for the transaction. Fees and charges listed include:

- Broker/sales commissions
- Origination fee
- Loan discount
- Appraisal fee
- Credit report fee
- Lender's inspection fee
- Mortgage insurance application fee
- Assumption fee
- Items to be paid in advance
 - Taxes
 - Interest
 - Insurance
- Escrow reserves
- Title charges
- Recording and transfer fees
- Any additional fees not listed

Origination fees are often a percentage of the purchase price, typically 1%. However, this can vary and there are instances where it is waived in return for a higher interest rate in which case the fee is paid by means of the yield spread premium.

Prepays are payments that are required to be provided before they are due to the appropriate entity. Generally, for mortgages, this refers to the funding of escrow accounts including the property taxes, hazard insurance, and PMI. Lenders will often require that the escrow account includes a minimum amount of reserves to ensure there are sufficient funds in the account. The prepays will include this buffer along with the required amount that will be needed at the time the bill is due.

Title insurance is paid as a one-time fee upfront and varies based on the value of the property and the anticipated work to secure the necessary title information.

TILA-RESPA Integrated Disclosure Rule has 3 types of tolerance thresholds. This is to ensure a good faith standard of estimates and to allow the borrower to prepare for the required fees. The three types are:

- Zero tolerance: As the name implies there may be no increase from estimate to closing disclosure
- 10% cumulative tolerance: The change in all fees must not be more than 10%
- No or unlimited tolerance: Any change is acceptable

The 10% tolerance is a cumulation of all the fees. Fees subject to this are:

- All recording fees
- Third-party service fees which the borrower can shop for

4. Amortization, discount points, and prepayment penalties

Amortization schedules are used by lenders to present a loan repayment schedule based on specific loan characteristics. The schedule will identify the standing of the loan after each payment including the remaining principal balance, interest, and escrow payments.

Discount points allow the borrower an option to save money on interest over the life of the loan if they choose. The points are beneficial if the borrower will maintain the loan for a period of time that will exceed the breakeven point. This is when the savings from interest exceed the initial upfront cost of the points. Each point typically is worth 1% of the loan and lowers the interest rate by 0.25%.

Prepayment penalties are a choice for a lender to impose on a borrower. For prepayment penalties to be allowed, all of the following must be true:

- The APR must remain constant
- The loan is qualified
- The loan is not a higher-priced loan

Additionally, there are certain restrictions on penalties.

- A prepayment penalty is capped at 2% for the first two years and 1% thereafter.
- A prepayment penalty can only exist for the first 3 years
- The lender must offer a non-prepayment penalty loan option

E. Settlement and closing costs

1. Purchase price and down payment

Down payments are the amount of money provided by the borrower to make an initial payment against a loan. To calculate the down payment percentage, divide the amount of the down payment by the purchase price. Be careful to not use the loan amount:

$$\% \text{ Down Payment} = \frac{\text{Down Payment}}{\text{Purchase Price}}$$

2. Monthly mortgage calculations- principal, interest, taxes, and insurance (PITI)

The monthly mortgage payment is calculated by the addition of all applicable aspects of the loan. This typically will include principal, interest, taxes, and insurance which is simplified as the acronym PITI for short. Additionally, the monthly payment may include PMI if applicable.

$$\text{Monthly Payment} = \text{Principal} + \text{Interest} + \text{Taxes} + \text{Insurance} + \text{PMI}$$

3. Net to the seller

When a property owner sells a home, they will either have a net gain or a net loss depending on the current amount of equity in the home and any fees incurred for the sale of the home. Typically, the seller is responsible for the sales commissions and some additional fees but others can be negotiated depending on the specific contract:

$$\text{Net Gain or Loss} = \text{Sales Price} - \text{Outstanding loan} - \text{Seller Fees}$$

4. Cost to the buyer

The cost to the buyer is the sales price plus any additional closing costs that they may incur for the purchase of the home. Closing costs include the expenses beyond the cost of the property itself that it takes to get the loan. Typically closing costs will range from 2%-5% of the purchase price of a loan.

$$\text{Total Cost to the Buyer} = \text{Sales Price} + \text{Closing Costs}$$

5. Prorated items

Due to the nature of tax payments in mortgages, there is a prorating of the costs incurred at closing. Tax payments are typically made twice annually but for a purchase agreement, the closing most likely occurs at some time in between these payments. The responsibilities of these taxes are then split between the seller and buyer based on the time since and until the payments. The seller will be responsible for everything up until closing and the buyer must pay everything beyond the closing date. Since the payment is already made, this may result in a credit between parties.

Interest is also a closing cost that is calculated on a prorated basis depending on the closing date. A seller is still responsible for the interest on a loan since their last payment. This interest accumulates daily. Interest per diem is a calculation of interest on a per-day basis:

$$\text{Daily Interest for a Monthly Payment} = \frac{\text{rate}}{365} \times \text{principal} \times \text{number of days}$$

6. Debits and credits

A debit is an entry of accounting that increases an asset or expense account, or decreases a liability or equity account. The simplest way to remember is debits identify money that flows into an account.

A credit is an entry of accounting that either increases a liability or equity account, or decreases an asset or expense account. Conversely to debits, credits identify money that is flowing out of an account.

7. Transfer tax and recording fee

A **transfer tax** on real estate is a fee imposed by state, county, or municipal law necessary to complete the transferring of real property. The amount of the tax is based on the property value and the property classification. Typically, the seller is liable for the real estate transfer tax, but it may be negotiated with the buyer.

A **recording fee** is a government fee imposed for registering or recording the purchase or sale of a piece of real estate. Recording fees are for the costs of the services provided by the clerk or recording agency that must maintain complete official documents.

F. Investment

1. Return on investment

The return on an investment (ROI) is the ratio of the net profit or loss upon sale of the asset. The factors included involve the purchase price, sale price, and any expenses incurred during the duration of ownership. Additionally, for investment or rental properties, there is the consideration of income received. Return on investment is often indicated as a percentage:

$$ROI = \frac{\text{Net Return on Investment}}{\text{Cost of investment}} \times 100\%$$

2. Appreciation

Appreciation is the increase in value of an asset over time. Real estate is one of the few assets that do gain value as opposed to items such as most cars which lose value over time.

Appreciation is only a function of value that is volatile and not guaranteed to go up. However, it can be approximated if a rate is determined. The average is often taken as 3.8% can vary by location. Appreciation can be calculated as follows for some time in the future:

Appreciated Home Value

$$= \text{Sales Price} X (1 + \text{Yearly Rate of Appreciation (Decimal)})^{\text{Number of Years}}$$

3. Depreciation

Depreciation is the loss of value over time for an asset. Depreciation is calculated by establishing a useful life of an asset and evenly reducing the original cost of the item on a yearly basis. While a property's value will typically appreciate over the life of its loan, depreciation can still be claimed for tax purposes on investment or rental properties. Additionally, depreciation can be claimed on these properties for improvements:

$$\text{Depreciated Value} = \text{Original Sales Price} - \# \text{ of Years} X \left(\frac{\text{Original Sales Price}}{\text{Useful Life}} \right)$$

4. Tax implications on investment

The sale of real estate is treated as a capital gain or loss but is commonly an exempt transaction for the seller. The IRS has the following exemption amounts for net profit from a sale:

- \$250,000 of capital gains on real estate for single filers.
- \$500,000 of capital gains on real estate for married and filing jointly filers

Those who are not eligible for the exemption include:

- The home is not the owner's principal residence.
- The property owner lived in the home for less than two years in the five-year period before sale.
- The exemption was claimed on another home in the two-year period before the sale of this home.
- The home was purchased through a like-kind exchange.

The tax rate depends on the length of time the property was owned and the income level of the seller. A capital gain is considered short term if owned for less than one year and long term if owned for more than one year. The tax rate for long-term capital gains can be 0%, 15%, or 20% depending on the income.

G. Property management calculations

1. Property management and budget calculations

In real estate, an operating budget determines the income and expenses for a property. A property manager will prepare the annual operating budget for landlords and maintain it

throughout the year. The budget is concerned with the gross operating income (GOI) and the operating expenses (OE) of the property. The income is generally from rental income but may include others such as interest or machines owned on the property that may generate income. The operating expenses are the costs to operate and maintain the property. These can be used to calculate the net operating income of the property:

$$\text{Net Operating Income} = \text{Gross Operating Income} - \text{Operating Expenses}$$

2. Tenancy and rental calculations

Rental calculations determine the loss or gain from ownership of a property with tenants. With the large amount of deductions, the net income may easily result in a loss despite having more income than expenses:

$$\text{Net Rental Income} = \text{Gross Income} - \text{Expenses} - \text{Deductions}$$

Texas Sales Agent State Study Guide

I. COMMISSION DUTIES AND POWERS (2 ITEMS)

A. General Powers

1. Composition, Duties, and Powers

The commission that oversees the protection of consumers related to real estate transactions in Texas is the Texas Real Estate Commission (TREC). This commission was established in 1949 and deals with matters related to real property transactions and valuation services. The TREC works in conjunction with the Texas Appraiser Licensing and Certification Board (TALCB). Some of the purposes of the agency are to:

- Provide licensing
- Education
- Administer complaint investigation services
- Regulation and enforcement of state laws and requirements
- Charge and collect fees
- Discipline of violators
- Establish standards and code of conduct

The agency is divided into the following divisions:

- Executive
- Customer relations
- Education and Examinations
- Licensing
- Enforcement
- TALCB
- Financial Services
- Information Technology

The commission is formed by nine governor appointed members. There is a minimum requirement that the commission includes six licensed brokers and three must be members of the public to ensure proper representation. The members also are required to be registered voters. The members serve a six-year term.

2. Real Estate Advisory Committees

The TREC may establish various real estate advisory committees to investigate, research and provide recommendations for specialized areas of interest. The committee will be composed of a chair-member, vice-chair, secretary, and contributing members. Some examples include:

- The Education Standards Advisory Committee (ESAC): Reviews and makes recommendations to the TREC on course content requirements and standards and instructor certification requirements for qualifying and continuing education courses.
- Inspector Committee: Provide recommendations to the Commission regarding the licensing, education, and regulation of inspection.

B. Handling of Complaints

1. Investigations

Individuals of the public who feel there has been a violation of the Real Estate License Act or the TREC rules may file a complaint which will open an investigation. TREC provides guidance and an overview of the process in the TREC Complaint Overview Manual. Complaints are prioritized in three levels as per the manual:

- Level 1
 - Fraud or misrepresentation that involves loss of >\$10K
 - Personal safety issues
 - Unlicensed activity
 - Mortgage Fraud
- Level 2
 - Fraud or misrepresentation that involves loss of money or property
 - Negligence
 - Allegations involving education providers.
 - Violations of Sections 1102.301-1101.303, 1101.305, Texas Occupations Code.
 - Violations of Standards of Practice found in 22 Tex. Admin. Code §§ 535.227-535.231
- Level 3
 - Technical violations
 - Chapter 1102 complaints other than those listed in Level 2 above

Investigations can either be headquarters or field investigations. Upon receipt of a complaint, respondents are required to provide a response within 14 days except for real estate education providers which must respond within 15 days.

Headquarters investigations are conducted by legal assistants who begin by having the complaint opening approved by an attorney. Then each respondent is sent a copy of the

complaint along with a letter requesting a response. Upon completion of this process the complaint is assigned an attorney for review.

Field investigations are conducted by investigators who also must have the complaint opening approved by an attorney. Each respondent receives a copy of the complaint along with a letter indicating that they will be contacted. The investigator contacts the complainant, respondents, and any relevant witnesses. The investigator creates an investigative report and then the complaint is assigned to an attorney for review.

2. Hearings and Appeals

Once an attorney has reviewed a case, they will make a determination that can be in one of the following categories:

- No disciplinary action
- Informal disciplinary action
- Formal disciplinary action

The defendant can either agree or dispute the determination. If they agree, the case may be settled mutually by an agreed order.

If a defendant refutes the determination, they will receive a notice of alleged violation (NOAV) and will have 30 days to respond either to accept discipline or may have a hearing.

Hearings are typically scheduled 30-90 days from the date of the hearing request. After the hearing is held, an administrative law judge (ALJ) has 60 days to issue a Proposal for Decision (PFD). The PFD provides a summary of evidence, a determination regarding a violation of the statutes or rules, and a recommendation for discipline.

The case then goes in front of the TREC Commissioners who make a final decision in the case. A respondent can file a request for rehearing if they still disagree with the decision. If the rehearing is denied, the respondent can file an appeal in district court.

C. Penalties for Violation

1. Unlicensed Activity

Practicing real estate without an active license in the state of Texas is considered a criminal offense. The penalties may include jail time of up to one year and a fine of up to \$4,000. TREC may also enforce administrative penalties up to \$5,000 for each violation. Violations accumulate on a daily basis regardless of continuity. The Commission may also issue a "cease and desist" order to halt any known unlicensed activity.

2. Authority for Disciplinary Actions

Violation of The Real Estate License Act (law) or TREC rules may result in an investigation being open which may result in formal disciplinary action. Disciplinary action types may include:

- Reprimand
- Suspension
- Revocation

The Commission instituted the “penalty matrix,” which establishes penalty ranges to various violations of The Real Estate License Act and Commission Rules. The penalty matrix contains three ranges for penalties:

- \$100 - \$1,500
- \$500 - \$3,000
- \$1,000 - \$5,000

3. Recovery Trust Account

TREC has two real estate recovery funds to reimburse consumers who suffer damages caused by TREC license holders: The Real Estate Recovery Trust Account and The Real Estate Inspection Recovery Fund. An application may be submitted for the Real Estate Recovery Trust Account after filing suit and obtaining a judgment in civil court for damages against a licensed real estate broker, sales agent or easement/right-of-way agent.

Consumers may also file an application for payment from the Real Estate Inspection Recovery Fund after filing suit and obtaining a judgment in civil court for damages against a licensed inspector. Each recovery fund has different filing requirements and payment limits. The funds are used to reimburse consumers for out-of-pocket damages.

Maximum payments from the Real Estate Recovery Trust Account are \$50,000 per transaction, with a maximum of \$100,000 per license holder for multiple transactions.

Maximum payments from the Real Estate Inspection Recovery Fund are \$12,500 per transaction, with a maximum of \$30,000 per license holder for multiple transactions.

II. LICENSING (2 ITEMS)

A. Activities Requiring License

1. Scope of Practice

Texas Administrative Code Section 535.4 provides details on the scope of work which requires licensure:

The Act is applicable to any real estate broker or sales agent while physically within the State of Texas. This applies regardless of the location of the property in question or where the customers live. Some of the activities in which license is required includes:

- A person must be licensed as a broker or sales agent to show a property.
- A broker must be licensed to direct or supervise individuals who perform acts for which a license is required.
- A real estate license is required for a person to solicit listings or to negotiate listings.
- An individual must have a broker license to operate a rental agency.
- A real estate license is required to incur a fee or consideration for supporting the finding of real property for sale, purchase, rent, or lease.
- A person must be licensed as a broker or sales agent if, for compensation, the person:
 - Advertises the sale, purchase, rent, or lease of real property
 - Accepts inquiries for properties for sale or rent
 - Refers the inquiry to the owner

2. Exemptions

Attorneys at Law: An attorney who is licensed to practice law in Texas is exempt but cannot:

- Sponsor real estate salespersons
- Act as the designated broker for a licensed business entity unless

To perform these acts, the attorney would also have to have a separate real estate license.

Attorneys in Fact: This applies to individuals with valid power of attorney. It must be established in the same county as the property in question. There is a limit on the number of transactions involved in this type of scenario which is no more than three real estate transactions per calendar year.

Public Officials: Public officials and employees of governmental or quasi-governmental units are exempt.

3. Business Entities

Business entities must be qualified to do business in the state of Texas in order to obtain the required broker's license. Additional requirements apply to foreign entities as per Texas Administrative Code Section 535.132:

A person residing outside of Texas may apply for a license under this section if the person:

- Has a foreign broker license
- Had a Texas real estate salesperson or broker license within two years before filing of the application.

An individual that moves to a different state from Texas is not required to maintain an office in Texas unless there is a sponsored individual for a salesperson in Texas.

B. Licensing Process

1. General Requirements (fitness sponsor, etc.)

An applicant must follow the procedure and meet all of the requirements for licensure. These requirements include:

- Submit application and fee
- 18 years or older
- US Citizen or legal alien
- Complete fingerprint procedure
- Meet education requirements
- Meet the moral character requirements

A sales agent must also be sponsored by a licensed Broker in order to perform any act of real estate services. Anyone with any criminal offenses, unpaid judgments, discipline taken against a professional or occupational license, or have performed unlicensed activity is encouraged to consider requesting an fitness determination (FD). The FD process is cheaper than going through the process of obtaining a license and a determination can be made earlier in the process to avoid unnecessary time wasted.

2. Education

The education requirement includes 180 classroom hours of the following qualifying real estate courses:

- Principles of Real Estate I: 30 hours
- Principles of Real Estate II: 30 hours

- Law of Agency: 30 hours
- Law of Contracts: 30 hours
- Promulgated Contract Forms: 30 hours
- Real Estate Finance: 30 hours

3. Examination

License exams are administered by PearsonVUE testing service company and are required to obtain a license. The exam consists of a national and state portion. To pass the individual must answer 56 national questions and 21 state questions correctly. If the exam is failed three times, the applicant must take additional education

4. Grounds to Deny an Application

As per the Texas Administrative Code section 535.52:

"The Commission may deny a license to an applicant who fails to satisfy the Commission as to an individual applicant's honesty, trustworthiness, or integrity under the Act, Texas Occupations Code Chapter 1102, and the rules of the Commission. Conduct that tends to demonstrate that an applicant does not possess the requisite honesty, trustworthiness or integrity includes, but is not limited to:"

- A plea of guilty or a conviction of any offense listed in §541.1
- Violation of any term or condition of parole
- Falsifying information to the Commission
- Disciplinary in Texas or any other state
- Activity outside of their legal practice
- Violations of the Act or the rules of the Commission
- Failing to pay fees resulting from a judgement

5. Appeals of Denial

The Commission will notify an applicant of any denials. Hearings follow the requirements and provisions of The Texas Occupations Code Section 1101.364 and Texas Administrative Code Act Chapter 533. The Commission may provide a probationary license if they deem it appropriate.

C. License Maintenance and Renewal

1. Continuing Education

A real estate license must be renewed once every two years. As part of the renewal process, an individual must complete continuing education courses.

Sales Apprentice Education Requirements:

- First time renewal:
 - 270 qualifying real estate course hours
 - 4 hours of TREC's Legal Update I
 - 4 hours of TREC's Legal
- Supervisors must complete the 6-hour Broker Responsibility course.
- Qualifying documents must be submitted to TREC at least 10 days before renewal.

Active Sales Agent renewal requirements

- Complete 18 hours of approved Continuing Education (CE) courses
 - 8 hours of TREC Legal Update I and II
 - 3 hours of contract-related coursework
 - 7 hours of elective CE
- Supervisors must complete the 6-hour Broker Responsibility course.

2. Change of Sales Agent Sponsorship

Any change in the sponsorship of a sales agent must be submitted immediately upon the change. The new status can be documented by completing the TREC Sales agent Sponsorship form.

3. Inactive Status

A license may be renewed up to six months after the expiration date. After six months and up to two years past the expiration date, an individual may apply for reinstatement. After two years past the expiration date, an individual must reapply and pass the examination again.

An individual may renew a license on inactive status without completing CE. Any individual with an inactive license shall not engage in any type of real estate related activity

4. Assumed Names

An assumed business name is also known as a doing business as (DBA) name or trade name. A broker must meet the following requirements for a DBA name:

- To use in advertising the broker must:
 - Register the name with the Commission
 - Provide written evidence of legal authority to use the assumed business name in Texas. This may include registration of the name with the Secretary of State or county clerk's office.

- Notification must be provided to the Commission in writing by the 10th day after use is stopped if the broker is to discontinue use.

III. STANDARDS OF CONDUCT (7 ITEMS)

A. Professional Ethics and Conduct

The Texas Administrative code part 23 chapter 531 includes the Canons of Professional Ethics and Conduct. It includes rules for professional behavior. The parts include:

Fidelity: A real estate broker or salesperson has special obligations based on the established fiduciary relationships:

- The primary duty is to represent the interests of the client and no other party should influence the real estate transaction. However, all other parties involved should be treated fairly.
- That the real estate agent shall be faithful to the client
- The agent shall not place personal interest above the client's

Integrity: A real estate broker or salesperson shall exhibit integrity not in any way misrepresent themselves.

Competency: The licensee shall ensure they are and maintain knowledgeable and competent practice. The license holder must:

- Be aware of local market issues and conditions affecting the property
- Be aware of national, state, and local issues and developments affecting the property or industry
- Be able to use proper judgement and expertise in acts performed
- Ensure an understanding of the specific characteristics involved subject real estate being brokered for a client.

Discriminatory Practices: No real estate license holder shall be involved in practices which provide any preference, limitation, or discrimination based on the following:

- race;
- color;
- religion;
- sex;
- national origin;
- ancestry;
- familial status; or
- disability.

B. Grounds for Discipline

The Texas Occupations Code Chapter 1101 Section 651 covers prohibited practice which may be subject to discipline. Some of the prohibited practices includes:

- A licensed broker may not pay a commission to anyone performing the duties of a broker unless the person is licensed.
- A sales agent cannot take compensation for a real estate transaction from a person other than the broker that is sponsoring the sales agent.

Additionally, Section 1101.652 includes grounds for suspension or revocation. The commission may suspend or revoke a license if the license holder:

- Pleads guilty or is convicted of a felony or a criminal offense related to fraud.
- Uses fraudulent practices to attempt to obtain a license
- Fails to provide requested information to the Commission within the allowable timeframe
- Employs the use of misrepresentation, dishonesty, or fraud when performing real estate activities

The commission may suspend or revoke a license issued under this chapter or take other disciplinary action authorized by this chapter if the following actions are performed among others:

- Acts with negligence or incompetence in relation to any real estate transaction
- Proves to be dishonest or misrepresenting facts
- Found to provide a material misrepresentation to a potential buyer
- Does not follow through on a promise made to perform a specific action which affected the sale of a property
- Does not exhibit loyalty to the client being represented
- Compensation from more than one party in a transaction without proper disclosure
- Fails to remit money that legally belongs to another party

- Involved in the sale of real property by means of a lottery or deceptive practices
- Falsely guarantee future profits from the resale of real property
- Places a for sale sign on a property without the owner's consent
- Proceeds with the solicitation of the sale of a home without the buyer's consent
- Provides an advertisement that is in any way deceiving to the public
- Discrimination of any kind against an owner, potential buyer, landlord, or potential tenant

C. Unauthorized Practice of Law

Sales agents shall not provide legal advice or practice law. TREC has the ability to suspend or revoke a license if there is evidence of any of the following:

- Drafting of a legal instrument
- Advise a party on a legal instrument
- Advise a party concerning the title of a property

D. Trust Accounts

Trust accounts are managed by a party different than the beneficiary. The requirements include:

- The broker is encouraged but not required to maintain the trust as a separate account
- The account must be clearly labeled as a trust
- Non-trust funds may be deposited into the account if it is reasonable to cover any applicable fees
- Interest must be distributed timely and appropriately
- The broker has 30 days to remove any payment owed to them from the account
- All transactions shall be documented
- Any bounced checks shall include immediate notification

E. Splitting Fees

Section 535.147 provides restrictions for fee splitting including

- A broker or salesperson may not share a commission or fees with anyone not licensed

- An unlicensed person may share a commission if the acts do not fall under those in which a license is required. There should be no mistake in the perception of the individual being licensed or not.

F. Rebates

Section 535.148 indicates restrictions for rebates including that a license holder may not receive a commission, rebate, or fee from anyone other than the represented party without proper disclosure.

G. Advertising

Any advertisement must include the following in a readily noticeable location:

- The name of the license holder
- The broker's name. It is also a requirement that the font size of the name is no less than half of the largest contact information for anyone else identified in the ad.

For an advertisement on social media or by text, the information required may be located on a separate page or on the account user profile page of the license holder if the separate page is:

- Provided by a clear and easily accessible direct link
- Easily identifiable on the separate page or in the account user profile.

An advertisement shall not mislead or deceive the public in any way. This includes among others information:

- That is false or a misrepresentation in any way
- That implies the sales agent is a broker
- That uses a title higher than the individual actually has
- That contains a name different than the licensed individual
- That implies an unlicensed individual may perform licensed activities
- Pertaining to the value of the property unless an appraisal is available as evidence
- About a property that has an established exclusive listing agreement without any such agreement

IV. AGENCY/BROKERAGE (8 ITEMS)

A. Disclosure

A license holder must disclose either orally or in writing a established representation at the time of the license holder's first contact with other parties in the transaction or other licensed representatives involved in the transaction.

A license holder must provide the following within a reasonable timeframe of first contact with a client and any written communication must be in at least 10-point font:

- Description of duties related to the transaction
- Description of obligations related to the real estate transaction
- Provide contact information for the license holder and the broker.

B. Intermediary Practice

Sec. 1101.559 covers a broker acting as an intermediary. A broker may act as an intermediary between parties to a real estate transaction if:

- The broker obtains written consent from each party and a statement of the source of any expected compensation to the broker.
- A written listing agreement is provided to represent a seller, landlord, buyer or tenant that authorizes a broker to act as an intermediary in a real estate transaction

C. Broker-Sales Agent Relationships

Section 535.2 covers requirements concerning the broker to sales agent requirements:

- A broker is required to clearly indicate to a sponsored sales agent in writing the scope of the sales agent's authorized activities.
- A broker is responsible for any property management actions by the sponsored sales agent
- Listings and other agreements for real estate brokerage services must be solicited and accepted in a broker's name.
- A broker must ensure a sponsored sales agent's advertising compliant with code regulations
- The broker is responsible for maintaining clear records of the following:
 - Disclosures;
 - Commission agreements

- Communications regarding transactions
 - Offers
 - Contracts
 - Receipts
 - Property management contracts;
 - Appraisals
 - BPO's
 - Comparative market analyses
 - Sponsorship agreements
- A broker with sponsored sales agents must maintain written policies and procedures to ensure that:
 - Each sponsored sales agent understands their scope of responsibilities
 - Each sponsored sales agent keeps their license active and in good standing.
 - Compensation is paid to a sponsored sales with the written consent of the sponsoring broker.
 - Each sponsored sales agent is given reasonable notice of any changes in policy or regulations
 - Each sponsored sales agent adheres to advertising rules

D. Broker's Responsibility for Acts of Sales Agent

A broker is required to assume the responsibility of the actions of any individuals working under their umbrella. This may include:

- The authorized acts of a sales agent
- Property management activities
- Compliance activities and responses to the TREC
- All listings must be in the broker's name

E. Appropriate Use of Unlicensed Assistants

An unlicensed individual may not engage in the activities of licensed individuals as outlined in section 1101.002. Some activities that are permitted for those who are unlicensed include administrative or business actions such as"

- Distribution of promotional material
- Scheduling
- Research of information
- Assisting in open houses
- Data recording
- Office duties
- Bookkeeping

Unlicensed individuals shall not give the impression to any clients that they may perform certain duties outside of their scope.

V. CONTRACTS (7 ITEMS)

A. Promulgated Contracts, Forms, and Addenda

When negotiating contracts, a real estate license holder is required to use the specific contract forms approved by the Texas Real Estate Commission for that type of transaction with the following exceptions:

- The license holder is acting solely as a principal, not as an agent
- Transactions in which the Federal government requires a different form
- When a contract form (which may also be an addenda) has been prepared by a property owner or prepared by a lawyer and required by a property owner
- Situations where no mandatory contract form or addendum has been provided or created by the Commission. In this scenario, the form must be prepared by a lawyer or the Texas Real Estate Broker-Lawyer Committee and approved by the Commission

B. Statute of Frauds

The statute of frauds are laws that provide requirements that must be met for a contract to be enforceable. This applies to the following types of transactions:

- Real estate sale
- Leases exceeding one year
- Agreements with stipulations that do not have to be met within one year of agreement

The requirements for these types of contracts to be enforceable include:

- The contract must be in writing
- The contract must be signed by the principal or authorized representative

C. Seller Disclosure Requirements

A seller of residential real property shall give to the purchaser of the property a written notice substantially similar to the Seller's Disclosure Form provided by TREC. The form contains the minimum information for seller disclosure as required by the Texas Property Code Sections 5.008.

VI. SPECIAL TOPICS (4 ITEMS)

A. Community Property

Texas is a community property jurisdiction. This specifies that any property acquired by a couple during their marriage is equally owned by both. Separate property requires proof of sole ownership if an individual spouse wants to claim it separately. Also, any earnings by both partners along with any property purchased become community property that is owned equally in the marriage. Debts are also shared equally by each partner. IN the event of death, all property and debt is passed to the surviving spouse unless a valid will provides other direction.

B. Homestead Protections and Tax Exemptions

Homestead Tax Exemption: There is a general homestead exemption that owners need to apply for. The owner is required to have an interest in the property and it must be a primary residence. The exemption can only be claimed on a single property including those outside of the state of Texas. An applicable homestead can a separate structure, condominium or a manufactured home located on owned or leased land but it must be owned by the individual requesting the exemption. The maximum land area is no more than 20 acres. The types of exemptions:

- General: \$25,000 exemption as outlined earlier
- School taxes: Applies to all residence homestead owners for a \$25,000 exemption for school taxes.
- County taxes: An individual county may require a special tax. Some examples include farm-to-market roads or flood control. This will allow a \$3,000 exemption.
- Age 65 or older and disabled exemptions: A property owner age 65 or older or who is disabled may receive a \$10,000 homestead exemption for school taxes which can be added to the \$25,000 school tax exemption exemption for all homeowners.
- Optional percentage exemptions: Any taxing unit may provide an exemption of up to 20 percent of a home's value for various reasons as they see fit. The minimum optional exemption is \$5,000.

Homestead Liability Protection: Conversely to the tax exemptions, the Texas homestead liability protections do not need to be applied for and occur automatically. A home cannot be forced to be sold for the purposes of paying debts. The exceptions include:

- Purchase money
- Taxes
- Divorce
- Home improvement loans
- Home equity loans
- Reverse mortgages

- Liens predating the establishment of homestead
- Refinance loans
- The conversion or refinance of a lien on a mobile home that is attached to the homestead

The property must qualify as a homestead.

C. Deceptive Trade Practices Act

The Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA") provides requirements to protect consumers against false, misleading, and deceptive business and insurance practices. Some of the deceptive practices include among others:

- Misrepresentation of goods and services
- Intentionally causing confusion for products, affiliations or services
- Disparaging the goods, services, or integrity of another business
- Advertising goods or services with no intention to sell or to sell with different terms as advertised.
- Indicating that an agreement provides rights, remedies, or obligations which are not in fact true
- Misrepresenting the authority of a salesperson, representative, or agent.
- Implication of a guarantee or warranty which does not exist or is in fact speculation
- The failure to disclose information required in a transaction

D. Wills and Estates

Wills are legally binding documents that detail how an individual would like his or her property divided after death. There are four types of wills:

- Witnessed
- Holographic: No witness but written in the individual's writing
- Approved: Written on pre-printed state law-compliant forms
- Nuncupative: Oral wills written by witness

In Texas for a will to be valid the testator (the individual the will applies to) must be 18 years old or older and of sound mind. There must be two credible witnesses for a written will and three for an oral will. The will must be titled "Last will and testament" and must completed voluntarily.

E. Landlord-Tenant Issues

Texas Property Code Chapter 91 and 92 handles the laws governing the relationship between a landlord and tenant. Some of the requirements include:

- A monthly tenancy may be terminated by the tenant or the landlord by giving notice of termination. The termination date must be provided no later than one month after the date of notice
- If a notice of termination is given under a rent period of less than a month, the tenancy terminates on the later of the following days:
 - The identified time in the notice for termination
 - The day after the time beginning after notice and extending for a period equal to the period of the rental agreement
- If a tenancy ends in the middle of a rent-paying period, the tenant only needs to pay rent up to the end date of the tenancy.
- A landlord may terminate a lease if the tenant is convicted of a felony
- Subletting is not allowed without prior approval by the landlord
- If the tenant leaves, the landlord becomes liable for any damage once the tenant has left

F. Foreclosure and Short Sales

Foreclosure is the involuntary sale of a home by the lending institution due to the lack of payment. There are two types of foreclosures in Texas:

- Judicial
- Power of sale (Non-judicial)

Foreclosure and short sale law is covered in the Property Code Section 51.002 and 51.004. in a power of sale foreclosure, the lender can liquidate funds from the asset but the sale must occur in the county the property is located in. Notice must be provided to the debtor of the proceedings and a notice of sale shall be provided no less than 21 days prior. The debtors do have 20 days to become current with payments before action is taken.

G. Recording Statutes

Texas Law requires recordation for the conveyance of a property. Recordation is “the act of recording of deeds and other property instruments in a public registry.” Recordation is important to provide public notice of ownership claims and any other legal or financial claims. Unrecorded transactions without notice are void. The recording must be done with the county clerk in which the property is located.

H. Mechanic's and Materialman's Liens

A mechanic's lien is a legal claim against a home or other property due to unpaid work such as improvements made to a property. The lien must be filed in the public record within 75 days of the last day of the month when work was completed. The lien can only be applied if there is a written contract.

I. Veterans Land Board

The Texas Veterans Land Board (VLB) offers a number of benefits to veterans including:

- The VLB offers land
- Home and home improvement loans
- Long-term care homes
- Texas State Veterans Cemeteries
- Voices of Veterans Oral History Program
- VLB Call Center.

J. Home Owners Associations

Home owners associations in Texas have certain disclosure requirements. These include:

- Membership requirements to prospective buyers
- Acknowledgment that a failure to pay dues may result in a foreclosure

Failure to provide proper disclosure allows the buyer a right to rescind anytime before closing or within 7 days after closing if disclosure is given late.

K. Equitable Interest

Equitable interests in real property are covered under Texas Administrative Code Section 535.6:

A person may acquire an interest in a property and enter into an agreement without having a real estate license if the person:

- Does not use the option or contract to purchase to engage in real estate brokerage and
- Discloses the equitable interest to any potential buyer.

Question 1

A corporation purchases a piece of land with a vacant warehouse. The building is to be repurposed for the construction of condominiums. What is the real estate classification of the purchase?

- (A) Residential
- (B) Commercial
- (C) Industrial
- (D) Special

Question 2

A homeowner purchases a house plant and keeps it in the bedroom of a new property. Eventually, the plant is taken outside and put into the ground. What is the most appropriate classification of the property?

- (A) Real property
- (B) Intangible property
- (C) Land
- (D) Chattel

Question 3

A business owner leases a building to open a restaurant. As a part of their operations, the owner installs large cooktops that are bolted to the ground in the proposed kitchen. The cooktops are classified as which of the following property types?

- (A) Chattel
- (B) Emblems
- (C) Trade fixture
- (D) Intangible property

Question 4

What characteristic of land can be classified as economic?

- (A) Immobility
- (B) Scarcity
- (C) Uniqueness
- (D) Indestructibility

Question 5

In a metes-and-bounds survey system, what statement is true regarding the point of ending (POE)?

- (A) The POE must be established by a different landmark as the POB
- (B) The POE may be estimated in relation to the POB
- (C) The POE and the POB are the same identified point
- (D) The POE does not need to be established

Question 6

The lot-and-block survey system:

- (A) Must use the metes-and-bounds system to identify individual plots
- (B) Must use the rectangular survey system to identify individual plots
- (C) May use the rectangular survey system or metes and bounds to identify individual plots
- (D) Independently identifies individual plots

Question 7

A survey can be used to identify all of the following except:

- (A) Existing easements
- (B) Environmental contaminants
- (C) Property elevations
- (D) Property hazards

Question 8

What incident listed below is an example of an encroachment on an owner's property?

- (A) A portion of a fence built by a neighbor on the owner's property
- (B) Governmental seizure of a portion of land adjacent to a construction site
- (C) Purchase of a portion of land by a contractor for temporary use during construction
- (D) Town enforcement of the removal of a fence due to safety regulations

Question 9

Covenants, conditions, and restrictions (CC&Rs) are applicable to which of the following property types?

- (A) Multifamily homes
- (B) Industrial properties
- (C) Homes a part of a homeowner's association
- (D) Commercial properties

Question 10

What is not a situation in which a property can be obtained or modified through the use of police power?

- (A) Foreclosure
- (B) Building code violations
- (C) Tenant's rights violations
- (D) Environmental regulations

Question 11

What type of real estate ownership legally views a couple as a single entity?

- (A) Joint tenancy
- (B) Tenancy in common
- (C) Tenants by entirety
- (D) Community property

Question 12

What fee simple type contains the automatic termination upon the occurrence of an identified event?

- (A) Fee simple absolute
- (B) Fee simple determinable
- (C) Fee simple subject to a condition subsequent
- (D) Fee simple subject to the executory limitation

Question 13

What is not one of the identified bundle of rights included upon transfer of the title?

- (A) The right to possession
- (B) The right to control
- (C) The right to exclusion
- (D) The right to termination

Question 14

What type of lease agreement does not require a written agreement between the tenant and the landlord?

- (A) Estate for years
- (B) Periodic estate
- (C) Estate at will
- (D) Estate at sufferance

Question 15

An estate at sufferance is established at what point?

- (A) Upon the failure to make a payment by the tenant
- (B) Upon expiration of the lease term but before notice to vacate
- (C) Upon issuance of a notice to vacate
- (D) Upon violation of the minimum amount of time identified in the notice to vacate

Question 16

A tenant and a landlord enter into a double net lease agreement. What are the payment responsibilities of the tenant?

- (A) Rent only
- (B) Rent and property tax
- (C) Rent plus property taxes and insurance.
- (D) Rent plus property taxes, insurance, and utilities

Question 17

A landlord and a tenant enter into a percentage lease at 10%. The property will house a restaurant run by the tenant. The rent agreed upon is \$800 per month. In the month of January, the restaurant has a gross revenue of \$5,000. What is the required payment to the landlord?

- (A) \$800
- (B) \$1,300
- (C) \$5,000
- (D) \$5,800

Question 18

A homeowner has an existing mortgage on a property that has a current outstanding balance of \$150,000. A second mortgage is also taken out on the property with a current balance of \$60,000. The homeowner becomes unable to pay their loans and the home is sold in foreclosure with proceeds totaling \$170,000. What will be the remaining balance on the second mortgage after sale?

- (A) \$0
- (B) \$20,000
- (C) \$40,000
- (D) \$60,000

Question 19

What type of deed is used for the transfer of real estate between relatives where no exchange of money has taken place?

- (A) Release
- (B) Gift
- (C) Fiduciary
- (D) Bargain and sale

Question 20

What is not a requirement for the successful claim of adverse possession?

- (A) Continuous use
- (B) Actual possession
- (C) Open and notorious possession
- (D) Breach of current agreement

Question 21

A tenant is visited by a landlord at the property to discuss the terms of their lease. During the meeting, the landlord notices and comments on damage to the stairs to the basement. What type of notice is given to the landlord in regards to the need for the repair?

- (A) Express actual notice
- (B) Implied actual notice
- (C) Constructive notice
- (D) Legal notice

Question 22

A prospective buyer who has a large family will only buy a home with a minimum of five bedrooms. This requirement is an example of which characteristic of value?

- (A) Demand
- (B) Utility
- (C) Purchasing power
- (D) Transferability

Question 23

Which of the following appraisal types is most appropriate for an entire apartment complex?

- (A) Market approach
- (B) Income approach
- (C) Cost approach
- (D) None of the above

Question 24

Each of the options listed below indicates a characteristic of a different comparable property for a market appraisal, which is most likely to be omitted?

- (A) Distance of 0.5 miles
- (B) 200 square feet larger
- (C) 35 years younger construction
- (D) Sold 4 months ago

Question 25

What is not a prohibited practice related to obtaining an appraisal?

- (A) Implying future work based on the valuation
- (B) Indicating a minimum required valuation for a loan to be approved
- (C) A consumer obtaining multiple appraisals
- (D) Excluding payment if a valuation did not meet expectations

Question 26

What is the standard length of time over which a home is depreciated?

- (A) 5 years
- (B) 10.5 years
- (C) 27.5 years
- (D) 30 years

Question 27

A home sells for \$200,000. The town has a millage rate of 14.8 and uses an 80% assessment ratio. Determine the property tax for the home.

- (A) \$2,368
- (B) \$3,380
- (C) \$4,555
- (D) \$6,800

Question 28

A home with 2,000 square feet is having a comparative market analysis performed. There are three comparative properties with price per square foot adjusted values of \$200, \$180, and \$175. Determine the CMA value of the home.

- (A) \$280,000
- (B) \$320,000
- (C) \$370,000
- (D) \$420,000

Question 29

A property that has a gross annual rental income of \$24,000 is being evaluated for sale. A comparable property has a gross annual rental income of \$30,000 and sold for \$280,000. Determine the comparable value of the property for sale.

- (A) \$224,000
- (B) \$255,000
- (C) \$280,000
- (D) \$310,000

Question 30

What is the reduction of a home's value due to outdated features that cannot be easily changed?

- (A) Deterioration
- (B) Depreciation
- (C) Functional obsolescence
- (D) Economic obsolescence

Question 31

The cost approach for appraisals is most likely appropriate for all of the following scenarios except:

- (A) New construction
- (B) Insurance
- (C) Commercial
- (D) Rental

Question 32

Total construction costs for a new home total \$150,000. It is determined that depreciation is \$5,000. If the land cost \$45,000 determine the value of the home by the cost approach.

- (A) \$155,000
- (B) \$170,000
- (C) \$190,000
- (D) \$195,000

Question 33

If an express contract is established and agreed upon, an identical implied contract:

- (A) Must be applied
- (B) May be applied
- (C) Cannot exist
- (D) Supplements the express contract

Question 34

Real estate contracts can typically be classified as what type of contract?

- (A) Unilateral
- (B) Bilateral
- (C) Option
- (D) Adhesion

Question 35

Two parties have a dispute over a real estate contract. It is discovered in a court of law that there were errors in the contract. This would most likely deem the contract to be:

- (A) Void
- (B) Valid
- (C) Voidable
- (D) Unenforceable

Question 36

What type of contract termination is used for a material breach of contract?

- (A) Termination for cause
- (B) Termination for convenience
- (C) Termination of performance
- (D) Termination by means of prior agreement

Question 37

Upon completion of a real estate transaction, the interest the buyer gains in the property is called:

- (A) Equitable title
- (B) Mortgage interest
- (C) Title insurance
- (D) Title deed

Question 38

A buyer and seller agree to a sales price of \$200,000. Included in the contract is an inspection contingency of 2%. What is the minimum amount of repair costs resulting from the inspection that initiates the contingency?

- (A) \$2,000
- (B) \$4,000
- (C) \$10,000
- (D) \$20,000

Question 39

The agent's requirement to follow directions from the client and fulfill these needs is the requirement for which licensee obligation?

- (A) Loyalty
- (B) Accounting
- (C) Obedience
- (D) Confidentiality

Question 40

Time is of the essence is a contractual obligation that requires a party to act:

- (A) In a reasonable timeframe
- (B) In a specified timeframe
- (C) In a reasonable or specified timeframe
- (D) Without any restrictions on timetables

Question 41

What is most likely not an item negotiated as a part of a counteroffer?

- (A) Closing costs
- (B) Earnest money amount
- (C) Closing date
- (D) None of the above

Question 42

What is the maximum amount of seller concessions for an FHA loan?

- (A) 2%
- (B) 3%
- (C) 6%
- (D) 10%

Question 43

What is an advantage to the seller in the use of an installment sales contract?

- (A) The seller retains possession of the property
- (B) The gains are spread out over the life of the loan to reduce capital gain taxes
- (C) The seller has the ability to attract a larger pool of buyers
- (D) The seller receives all gains in a lump sum payment

Question 44

Two parties agree to an option contract. Once the property becomes available, what is the obligation of the buyer?

- (A) The buyer is alerted first to the availability but must bid against other buyers
- (B) The buyer has exclusive rights to buy the property in perpetuity
- (C) The buyer has first right of refusal to buy the property
- (D) The buyer has allowed the purchase to be made by another party

Question 45

A buyer and a brokerage agree to a net listing agreement. The baseline price is set at \$150,000. If the home sells for \$170,000, what is the commission amount for the agent?

- (A) \$0
- (B) \$10,000
- (C) \$20,000
- (D) \$30,000

Question 46

What listing agreement between a buyer and broker does not include listing the home on the MLS?

- (A) Exclusive right to sell listing
- (B) Exclusive agency listing
- (C) Open listing
- (D) Net listing

Question 47

Which of the following is not exempted from the Fair Housing Act?

- (A) Rental of a room in a dwelling with no more than four independent units
- (B) Housing operated by private organizations
- (C) Housing operated by private clubs
- (D) Multi-family home without the use of a broker or real estate agent

Question 48

A real estate agent encourages a borrower to lie about their income so that they may be able to afford a more expensive home leading to a higher fee for the transaction. This can be classified as which of the following?

- (A) Predatory lending
- (B) Steering
- (C) Bait and switch
- (D) Redlining

Question 49

What Title of the Americans with Disabilities Act applies to disabled individuals seeking employment?

- (A) I
- (B) II
- (C) III
- (D) IV

Question 50

What is a true statement regarding the ability of a real estate professional to join MLS?

- (A) A professional can join more than one region
- (B) A professional can only have access to a single region
- (C) MLS is a singular national database
- (D) MLS is in the public domain and may be accessed by anyone

Question 51

What is not an example of non-public information?

- (A) Phone number from a telephone book
- (B) Social security provided through a financial service
- (C) Information obtained through internet cookies
- (D) Credit score

Question 52

A buyer has a home inspection done on a property. The inspection identifies the roof as being very old and in need of repair. If the buyer suggests that the seller share the cost of repair for the roof, what type of risk management strategy is being employed?

- (A) Avoidance
- (B) Reduction
- (C) Transference
- (D) Acceptance

Question 53

A mortgage lender that advertises a low-interest rate that is unattainable and instead tries to sell products in which are costlier is performing which of the following techniques?

- (A) Bandwagon advertising
- (B) Steering
- (C) Bait and switch
- (D) Shock advertising

Question 54

A broker represents a seller who owns a piece of land. A contractor wishes to buy the land to build homes. The brokerage informs the contractor that they can only buy the land if they can represent the contractor when it comes time to sell. What antitrust prohibition is the brokerage in violation of?

- (A) Price fixing
- (B) Group boycotting
- (C) The allocation of market
- (D) Tie-in agreement

Question 55

A title search comes back with an indication that the local railroad company has the ability to access part of the home's land for access to the tracks. This can be classified as which of the following issues resulting from the title search?

- (A) Lien
- (B) Encumbrance
- (C) Easement
- (D) Survey dispute

Question 56

Which of the following is not one of the three prohibitions as per the Gramm-Leach Bliley Act?

- (A) Right to Access
- (B) Financial Privacy
- (C) Safeguard Rule
- (D) Pretexting Prohibition

Question 57

To avoid prohibited steering, what is not an example of a required loan type that must be presented to the consumer?

- (A) The loan with the lowest interest rate
- (B) The loan with the lowest interest rate without a prepayment penalty
- (C) The loan with the lowest total dollar amount
- (D) The loan with the lowest origination fees

Question 58

What duty most likely falls outside of the scope of property management?

- (A) Accounting
- (B) Eviction
- (C) Property showings
- (D) Performing repairs

Question 59

During the life of a loan, FEMA has determined that a property that was previously in the moderate-risk flood zone, is now in a high-risk flood zone. Which of the following statements is true regarding the requirements for flood insurance?

- (A) FEMA now requires the property to get flood insurance
- (B) FEMA allows a 10-year grace period until the property is required to get flood insurance
- (C) The property is grandfathered in and does not require flood insurance
- (D) FEMA recommends flood insurance, but it is not required

Question 60

Which of the following is most likely eligible to be covered by errors and omissions insurance?

- (A) Monetary loss due to mistakes during the closing
- (B) Legal fees related to prohibited advertising practices
- (C) Damage caused by the agent to a listed property
- (D) Hospital bills to an injured individual during a showing

Question 61

Which of the following statement is most likely false regarding a brownfield site?

- (A) The site may be revitalized for sale and use
- (B) The site contains the presence or potential presence of hazardous materials
- (C) The site falls under the EPA Land Revitalization Program
- (D) The site has Federal oversight

Question 62

Disclosure requirements are determined by which of the following?

- (A) Federal requirements
- (B) State requirements
- (C) The selling agent
- (D) The seller

Question 63

What is not a change to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as per the Superfund Amendments and Reauthorization Act?

- (A) Allowed the EPA to identify guilty parties and force aid in cleanup
- (B) Increased State involvement
- (C) Revised the Hazard Ranking System
- (D) Stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites

Question 64

In what year was asbestos banned as a construction material?

- (A) 1950
- (B) 1965
- (C) 1978
- (D) 1985

Question 65

Soil sampling is most likely to be associated with which environmental site assessment phase?

- (A) I
- (B) II
- (C) III
- (D) IV

Question 66

What is not a function of the CFPB?

- (A) Conduct research on consumer behavior
- (B) Investigate consumer complaints
- (C) Alert consumers to possible risks
- (D) Dictate recommended consumer actions

Question 67

Which of the following types of loans is it acceptable to have a 0% down payment?

- (A) Conventional
- (B) VA
- (C) FHA
- (D) None of the above

Question 68

Which of the following entities cannot be considered a part of the primary mortgage market?

- (A) Mortgage bankers
- (B) Mortgage brokers
- (C) Credit unions
- (D) Mortgage aggregator

Question 69

An FHA loan is to be used for a purchase in an area deemed to be classified as the lowest cost market. In 2019, the FHA ceiling is \$726,525 and the floor is \$314,827. What is the loan limit for the FHA mortgage in this county?

- (A) \$314,827
- (B) \$500,000
- (C) 110% of the median sale price
- (D) \$726,525

Question 70

At what loan-to-value percentage will PMI be automatically removed on a conventional loan?

- (A) 75%
- (B) 78%
- (C) 80%
- (D) 90%

Question 71

An advertisement uses the term “fixed” to describe a rate for a non-variable rate transaction where the payment will increase in a stepped fashion. According to the Truth in Lending Act, which of the following must accompany the term “fixed” in the advertisement in close proximity?

- (A) The term “Variable Rate Mortgage”
- (B) The term “Fixed Rate Mortgage”
- (C) The term “ARM”
- (D) The time period for which the payment is fixed

Question 72

Which of the following fee tolerance thresholds permit a 0% increase in fees from the loan estimate to the closing disclosure?

- (A) Zero tolerance
- (B) 10% cumulative tolerance
- (C) no or unlimited tolerance
- (D) Tiered tolerance

Question 73

If the consumer does not provide an intent to proceed, how long does it take in days for the initial loan estimate to expire?

- (A) 10
- (B) 15
- (C) 21
- (D) 30

Question 74

A borrower owns a home valued at \$450,000 and owes \$300,000. He wishes to obtain a Home Equity Line of Credit. The lender is allowing access up to 90% of equity. What is the maximum amount of the HELOC loan?

- (A) \$50,000
- (B) \$75,000
- (C) \$105,000
- (D) \$150,000

Question 75

A simple-interest mortgage has a rate of 4.0% and a current balance of \$100,000. What is the interest due at the end of a 30-day period?

- (A) \$225
- (B) \$329
- (C) \$380
- (D) \$425

Question 76

On a loan estimate, a borrower has total closing costs of \$8200. The down payment will be \$19,500. If a deposit of \$5000 was provided previously, calculate the estimated cash to close.

- (A) \$11300
- (B) \$19500
- (C) \$22700
- (D) \$27700

Question 77

A proposed loan amount of \$300,000 will have an interest rate of 4.25%. However, the borrower chooses to buy 2 points on the loan for a lower interest rate. What is the new interest rate?

- (A) 3.75%
- (B) 4.00%
- (C) 4.50%
- (D) 4.75%

Question 78

A borrower has an adjustable-rate mortgage with an initial fixed rate of 5.0%. At the time the fixed rate expires, the index is determined to be 3% and the margin is 2.5%. If the outstanding balance on the loan is \$158,000, what is the increase in the monthly interest-only for the first month of the adjustable rate?

- (A) \$65.83
- (B) \$95.66
- (C) \$101.22
- (D) \$145.90

Question 79

Calculate the required prepaid costs on a loan estimate. The property tax requirement is 3 months at an annual cost of \$5000/year. The homeowner's insurance requirement is 6 months at a rate of \$1100/year and there are 10 days of interest required at 17.25 per day at a rate of 4.5%.

- (A) \$1972
- (B) \$2025
- (C) \$2200
- (D) \$2435

Question 80

A borrower has an existing mortgage principal of \$230,000 on a home that is valued at \$280,000. The borrower wishes to purchase a second home at a total cost of \$220,000. What percent down on the second home must the borrower put to keep the combined LTV at 80%?

- (A) 15%
- (B) 18%
- (C) 20%
- (D) 23%

Question 81

The correct penalty matrix ranges for violations of The Real Estate License Act are:

- (A) \$100 - \$1,500 • \$500 - \$4,000 • \$1,500 - \$5,000
- (B) \$100 - \$2,500 • \$500 - \$3,500 • \$3,500 - \$6,000
- (C) \$100 - \$1,500 • \$500 - \$3,000 • \$1,000 - \$5,000
- (D) \$100 - \$1,000 • \$500 - \$2,000 • \$1,000 - \$4,000

Question 82

Reimbursement Payments from the Real Estate Recovery Trust Account may not exceed?

- (A) \$60,000 per transaction / maximum of \$120,000 for multiple transactions per license.
- (B) \$40,000 per transaction / maximum of \$120,000 for multiple transactions per license.
- (C) \$50,000 per transaction / maximum of \$100,000 for multiple transactions per license.
- (D) \$80,000 per transaction / maximum of \$150,000 for multiple transactions per license.

Question 83

No real estate license holder shall inquire about, respond to or facilitate inquiries about disclosure of an owner, occupant, purchaser, lessor, lessee of real property is intended to indicate any preference, limitation, or discrimination based on the following?

- (A) Race, Color, Religion, national origin, ancestry or Disability
- (B) Race, Color, Religion & Gender
- (C) Race, Color, Religion, Sex, national origin, ancestry, familial status or Disability
- (D) Race, Color, Religion & Financial Status

Question 84

The statute of frauds are laws that provide requirements that must be met for a contract to be enforceable. To which types of transactions are these laws applied to?

- (A) Real estate sale
- (B) Leases exceeding one year
- (C) Agreements with stipulations that do not have to be met within one year of agreement
- (D) All of above types

Question 85

What are the four economic characteristics of real state that affect its value as a product in the marketplace?

- (A) Scarcity, improvements, permanence of investment and area of preference
- (B) Lavishness, improvements, permanence of investment and area of preference
- (C) Scarcity, improvements, permanence of investment and area of preference
- (D) Scarcity, expansion plan, immovability and area of preference

Question 86

Texas real estate license holders are governed by which of the following state laws?

- (A) The Texas Securities Act, The Texas Real Estate Security Act, and the Texas Engineering and Surveying Act.
- (B) The Texas Real Estate Licensing Act, The Inspector Act, the Residential Service Company Act, and the Timeshare Act.
- (C) The Texas Real Estate Commission Act, the Texas Relinquishment Act, and the Time Share Act.
- (D) None of the above.

Question 87

Under Texas Real Estate Commission rules, a real estate broker or salesperson acting as a fiduciary has a special obligation to:

- (A) Be an impartial mediator between the interests of all parties in any transaction.
- (B) Ensure that their commission from every property sale will increase over time.
- (C) Represent their client and their own positions while treating other parties in a transaction fairly.
- (D) Avoid getting bogged down in the details of transactions in order to complete sales quickly.

Question 88

A Mechanic's and Materialman's Lien (M & M Lien) is a way to _____.

- (A) Ensure all work by contractors and other tradespeople is complete.
- (B) Secure any payment for work done to real property.
- (C) Protect contractors from the state.
- (D) Protect homeowners.

Question 89

Which of the following is under the minimal services rule?

- (A) Showing the client new property
- (B) Calling the client every day
- (C) Performing an open house
- (D) Putting the client's interest above all else

Question 90

According to TREC rule 531.3, dealing with license holder competency, which of the following statements is true?

- (A) To sell real estate in Texas, the real estate license holder must be a member of the Texas Bar.
- (B) A real estate license holder must be familiar with local rent control laws.
- (C) A real estate license holder is required to be familiar with the laws governing mineral rights.
- (D) A license holder must be informed on national, state, local issues and developments in the real estate industry.

Question 91

According to TREC rule 535.4, dealing with license requirements, which of the following statements is false?

- (A) A licensed Broker in another state transacting a Texas property sale by mail, telephone, internet, email, or other means, does not require a Texas real estate license.
- (B) Unless otherwise exempted under the Texas Real Estate License Act (TRELA), a person must be licensed as a broker or a sales agent to show property.
- (C) Those directing or supervising others performing acts for which a real estate license is required must also be licensed as a broker or a salesperson.
- (D) A business entity owned by a broker or sales agent which receives compensation on behalf of the license holder must be licensed as a broker under TRELA.

Question 92

What is the statute of limitations for the submission of consumer complaints to the Texas Real Estate Commission?

- (A) Four years
- (B) 12 months
- (C) 2 years
- (D) There is no statute of limitations for the submission of consumer complaints to TREC.

Question 93

According to the Texas Inspector Act, a licensed real estate inspector must carry a liability insurance policy with a minimum limit of _____ per occurrence and an aggregate annual total of at least _____.

- (A) A minimum limit of \$1,000,000 per occurrence and an aggregate annual total of at least \$1,000,000.
- (B) A minimum limit of \$500,000 per occurrence and an aggregate annual total of at least \$500,000.
- (C) A minimum limit of \$100,000 per occurrence and an aggregate annual total of at least \$100,000.
- (D) A minimum limit of \$50,000 per occurrence and an aggregate annual total of at least \$50,000.

Question 94

What is the purpose of the Texas Residential Service Company Act?

- (A) It provides for the licensing and regulation of residential service companies who provide residential service contracts, also known as warranties.
- (B) It provides regulations for utility companies servicing residential customers.
- (C) It provides special financing for home appliances purchased at the time of property sale.
- (D) It guarantees that all appliances purchased at the point of sale meet safety standards and are UL compliant.

Question 95

What information is in the written statutory statement that a licensee MUST provide for a consumer at their first face-to-face meeting?

- (A) Duties of the broker representing one of the parties or acting as an intermediary.
- (B) Disclosure by the seller of the defects in the property.
- (C) Rights of consumer filing a complaint with the Texas Real Estate Commission.
- (D) Rights of consumer filing a suit to be paid out of the recovery fund.

Question 96

According to the Texas Residential Service Company Act, is a foreign corporation eligible to obtain a license as a residential service company?

- (A) Yes, if it agrees to an annually assessed foreign business tax and it complies with Texas laws.
- (B) Yes, if it registers to engage in business in the state as a foreign corporation under the Texas Business Corporation Act and complies with all other laws.
- (C) No, Texas regulations prohibit the state from entering service agreements with foreign companies.
- (D) No, under the Texas “Buy America” resolution passed by the legislature and signed by the governor, all Texas state business must be conducted with American companies.

Question 97

According to The Real Estate License Act of Texas, which one of the following actions is a fair and impartial act for the intermediary?

- (A) Appointing associated licensees to work with the parties.
- (B) Appointing subagents to work with the parties.
- (C) Agreeing to represent the owner.
- (D) Agreeing to represent a buyer.

Question 98

What is the purpose of the Texas Timeshare Act?

- (A) The Act provides a “cooling off period” prior to the sale of a timeshare and simplified rules for selling or buying a timeshare.
- (B) The Act provides the legal requirements for rezoning an area for timeshares in Texas.
- (C) The Act regulates the creation and sale of timeshare interests in development properties.
- (D) The Act protects potential buyers from “high pressure” sales tactics from unscrupulous developers by granting consumers legal recourse under provisions of the law.

Question 99

Which of the following is not required in a Timeshare Disclosure Statement?

- (A) The type of timeshare plan being offered and the name and the address of the developer.
- (B) A description of the duration and operation of the timeshare plan.
- (C) A description of the existing or the proposed amenities of the timeshare plan.
- (D) Recent structural engineer’s reports on a single or multisite.

Question 100

In Texas, a person is legally defined as a broker when:

- (A) they receive a commission in exchange for selling, exchanging, or purchasing real estate.
- (B) they are a real estate license holder.
- (C) they successfully pass the real estate broker exam.
- (D) they go into business a real estate broker.

Question 101

What is the purpose of the TREC administered Real Estate Recovery Trust Funds?

- (A) The funds provide down payment money for first time, low-income home buyers.
- (B) The funds reimburse consumers who have suffered damages caused by TREC license holders.
- (C) The funds are used for financing loans to consumers for residential property rehabilitation.
- (D) None of the above.

Question 102

What is(are) the method(s) of legal recourse for a consumer to recover damages from the Real Estate Trust Funds?

- (A) Consumers may file an application for payment from the Real Estate Recovery Trust Account after filing suit and obtaining a final judgment in civil court for damages.
- (B) Consumers may file an application for payment from the Real Estate Inspection Recovery Fund after filing suit and obtaining a final judgment in civil court for damages.
- (C) Consumers may file a TREC Request For Mediation application between themselves and the real estate license holder to obtain a settlement for damages.
- (D) Both A and B are true.

Question 103

What is the purpose of the Texas Real Estate Inspector Committee?

- (A) The function of the Committee is to provide recommendations to the Commission regarding the licensing, education, and regulation of inspectors in Texas.
- (B) The Committee reviews and approves candidates applying for a real estate inspector license.
- (C) The Committee collects information on model real estate inspector training programs from other states and makes recommendations to the Commission as to their application in Texas.
- (D) The Committee settles legal cases brought against licensed real estate inspectors.

Question 104

How many members are on the Texas Real Estate Inspector Committee, and how do they get assigned?

- (A) There are twelve members on the Committee. Six are from the real estate inspector industry, and six are appointed by the Commission Chair.
- (B) There are nine members on the Committee, and they are all appointed by the governor.
- (C) There are nine members on the Committee. Six are from the real estate inspector industry, and three are members of the public appointed by the Commission Chair.
- (D) There are six members on the Committee, and they are all from the real estate inspector industry.

Question 105

Which of the following is not a requirement for becoming a Texas real estate inspector?

- (A) 354 hours of Texas inspector education (330 hours online & 24 hours in the classroom).
- (B) Inspections: 40 hours of field training.
- (C) A four-year degree from a college or university.
- (D) Fingerprint

Question 106

What is the best description of how the statute of fraud functions in the Texas Real Estate Licensing Act (TRELA)?

- (A) It requires a person intending an action to recover a commission for the sale or purchase of real estate to notify the party against whom the action will be brought in writing no less than thirty days of the filing.
- (B) It prohibits a person from maintaining an action to recover a commission for the sale or purchase of real estate if there is no prior statement or memorandum of agreement in writing signed by the party against whom the action is being brought.
- (C) Partially performed real estate contracts are considered fraudulent. They, therefore, are illegal under the Texas statute of fraud. The intention is to protect consumers from unscrupulous brokers.
- (D) It places the burden of proof on consumers to show they do not owe the commission requested by the broker for a real estate transaction, regardless of whether it was completed.

Question 107

In Texas, if a contract is promulgated, it is:

- (A) provided by TREC for optional use in Texas real estate transactions.
- (B) a standard contract or form available from an office supply store.
- (C) provided by TREC and is required for use by all Texas real estate professionals.
- (D) a fraudulent document illegally disseminated.

Question 108

When negotiating contracts binding the sale or lease of a property, a real estate licensee MUST use an appropriate Texas Real Estate Commission promulgated form unless another form has been prepared and is REQUIRED by the:

- (A) Lender's appraiser
- (B) Owner of the property
- (C) Property surveyor
- (D) Title company's attorney

Question 109

According to the Texas Residential Service Company Act, when should a residential service contract be used?

- (A) It is used when marketing properties with components or systems that do not work, or that are near the end of their mechanical life.
- (B) It is used when marketing properties with working components or systems which clearly have many years of mechanical life remaining.
- (C) It is used when contracting for any property rehabilitation and renovation.
- (D) It is used when contracting for routine building maintenance or repairs.

Question 110

What is the Texas Home Owners Protection Act?

- (A) Chapter 209 establishes standards for real estate inspection of single-family homes.
- (B) Chapter 209 establishes standards for service contracts, real estate contracts and other forms.
- (C) Chapter 209 establishes standards for ensuring single-family homes are up to code and are in compliance with structural requirements.
- (D) Chapter 209 establishes standards applicable to record retention, member notices, voting, assessment collection, and foreclosure, among other things.

Question 111

What are the legal penalties for the unauthorized practice of law by a real estate agent in Texas?

- (A) The agent may be arrested and imprisoned for up to 3 years based on trial verdict and sentencing.
- (B) The agent found guilty in a court of law may be fined up to \$10,000 or, if unable to pay, spend 90 days in jail.
- (C) The agent may have their real estate license revoked or suspended, and an administrative penalty may be imposed as a result of an investigation by TREC.
- (D) The agent may have their driver's license revoked or suspended. They may also be ordered to conduct up to 200 hours of community service.

Question 112

What is the function of the Standards & Enforcement Service Division of the TREC?

- (A) It conducts random covert investigations of real estate agents while enforcing provisions of Texas real estate law and taking disciplinary action against violators.
- (B) It administers TREC's complaint investigation and disciplinary enforcement programs.
- (C) It conducts an annual review of real estate professional standards, studies how well they work based on investigation, and revises standards as it deems necessary.
- (D) It administers and enforces provisions under the Texas Real Estate License Act, the Inspector Act, the Residential Service Company Act, the Timeshare Act, and the Environmental Quality Act.

Question 113

Can a real estate broker act as an intermediary in Texas?

- (A) A broker may act as an intermediary to parties in a real estate transaction as long as the broker has written consent from each party and the consent states who will pay the broker.
- (B) A broker may act as an intermediary to parties in a real estate transaction as long as they have at least ten years experience in the real estate business.
- (C) A broker may act as an intermediary to parties in a real estate transaction as long as they notify the Commission and receive their approval in writing.
- (D) Under no circumstance can a broker act as an intermediary to parties in a real estate transaction. A broker may only represent one party in a transaction.

Question 114

With what other state agency does TREC share staff and resources?

- (A) Texas AgriLife Research
- (B) Texas Residential Construction Commission
- (C) Texas Appraiser Licensing and Certification Board
- (D) Texas Board of Architectural Examiners

Question 115

Can a Texas broker complete a promulgated contract?

- (A) No, since the broker would be practicing law.
- (B) No, only specially certified brokers can use the forms.
- (C) Yes, the broker is permitted to complete the promulgated contract since it is not considered practicing law.
- (D) No, since TREC specifically prohibits the practice.

Question 116

In order to obtain a Texas real estate license, what are the requirements?

- (A) A person must be a U.S. citizen, at least 21 years old, with at least 2 years of college. They must also agree to take a lie detector test.
- (B) A person must be a U.S. citizen or a lawfully admitted alien, at least 18 years old, and meet TREC's requirements for honesty, trustworthiness, and integrity.
- (C) A person must be a U.S. citizen or a lawfully admitted alien, at least 18 years old, or at least 16 with parental approval in writing. TREC requirements of honesty, trustworthiness, and integrity apply.
- (D) A person must be a U.S. citizen, or hold a valid green card, at least 18 years old with a high school diploma or GED, and they must be able to pass psychological tests that measure truthfulness.

Question 117

According to Texas Property Code Section 5.008, sellers of _____ must give purchasers a written notice containing their knowledge of the condition of the property, and set forth form language focusing on material defects.

- (A) multilevel apartment buildings
- (B) single-unit residential property
- (C) commercial property
- (D) hotel property.

Question 118

Which of the following is true about Texas intermediary brokers?

- (A) They represent sellers only.
- (B) They represent buyers and sellers.
- (C) They could assist both buyers and sellers in the same transaction.
- (D) They are illegal dual agents.

Question 119

What type of property requires the Texas Seller's Disclosure of Property Condition?

- (A) Single commercial units
- (B) Single family residential homes
- (C) Double commercial units
- (D) All forms of property

Question 120

What is the purpose of the Texas listing agreement?

- (A) It is a marketing brochure listing real estate properties for sale, including prices and photos of each property.
- (B) Its main purpose is to prohibit a real estate broker from selling or leasing property on behalf of an owner or to collect any commission.
- (C) It is a legal document executed by the property owner and the real estate broker which permits other competing real estate brokers to sell or lease the property for a commission.
- (D) It is a legal document executed by a property owner and a real estate broker which gives the broker the authority to sell or lease the owner's property for a commission.

Question 121

When a complaint is filed against a license holder, what is an extremely critical part of the complaint process?

- (A) The most critical time is when an investigator has concluded their investigation, and the license holder can present evidence refuting the complaint made by the consumer.
- (B) The critical time will depend on the investigator's line of questioning and the documents the license holder can produce to defend themselves against disciplinary action.
- (C) The critical time of the complaint process is always the middle when arguments and counter arguments are presented. That is when the license holder must be prepared to provide information and documentation supporting their actions.
- (D) When a complaint is filed against a license holder, an extremely critical part of the complaint process occurs with the initial response by the license holder. These written responses or statements made to an investigator are the critical times during which they can provide information and respond in a way that discourages TREC from pursuing disciplinary action.

Question 122

TREC Rule 531.19 details discriminatory practices of a license holder. Any of eight different demographic categories may experience this type of discrimination, according to the rule. Which of the following is not one of the categories?

- (A) Color
- (B) Ancestry
- (C) Sexual Orientation
- (D) Religion

Question 123

According to the Timeshare Act, when does a developer establish a timeshare on a property?

- (A) When the developer expressly declares an intent to subject the property to a timeshare plan through the recording of a timeshare instrument in this state.
- (B) When the municipality where the property is located rezones the property and adjoining properties to allow for timeshare development.
- (C) When the property is acquired by local government through easement and the developer is granted permission to the developer to establish timeshares.
- (D) When a developer persuades the Commission, they are honest and morally upright

Question 124

Which of the following is not an eligibility requirement to obtain a real estate inspector license?

- (A) Perform at least 25 real estate inspections under direct supervision.
- (B) Hold an apprentice inspector license for a least 3 months.
- (C) Be sponsored by a professional inspector
- (D) Completion of a bachelor's degree in structural engineering from an accredited college or university.

Question 125

Under the Residential Service Company Act, what factors do the Commission weigh when considering whether to issue or deny a license?

- (A) Whether the applicant has a history of severe mental illness
- (B) Whether the applicant has a serious drug or alcohol addiction problem.
- (C) Whether a foreign-born applicant can speak fluent English.
- (D) The Commission can weigh any factors they deem relevant.

Question 126

What real estate classification covers governmental owned buildings for public services?

- (A) Residential
- (B) Commercial
- (C) Industrial
- (D) Special

Question 127

What example of personal property below is most likely to be identified as a fixture?

- (A) Furnace
- (B) Light fixture
- (C) Toaster
- (D) House plant

Question 128

What factor is not a consideration in the determination of classifying an item of property as a fixture?

- (A) Minimum purchase price of the property
- (B) Nature of the attachment to the property
- (C) Inclusion in the original construction
- (D) Terms of the purchase agreement

Question 129

A bill of sale shall include all of the following elements except:

- (A) Date of purchase
- (B) Description of asset transferred
- (C) Amount paid for asset
- (D) Qualifications of purchaser

Question 130

A homeowner has decided to put her home up for sale. Before doing so, she decides to make some improvements to the home including an electrical upgrade. Which economic characteristic of land does the homeowner affect which will influence the value of the property?

- (A) Scarcity
- (B) Location
- (C) Permanence of investment
- (D) Indestructibility

Question 131

What is not one of the three methods for the description of a property

- (A) Graphical positioning system
- (B) Metes-and-bounds
- (C) Lot-and-block
- (D) Rectangular survey

Question 132

In a metes-and-bounds survey system, a mete is defined as which of the following elements?

- (A) Point of beginning
- (B) The boundary lines between identified points
- (C) The enclosed area
- (D) Point of ending

Question 133

A Covenants, conditions, and restrictions (CC&Rs) agreement may include any of the following except:

- (A) Changes made to the property
- (B) Parking restrictions
- (C) Changes in square footage to a property
- (D) Mortgage prepayment penalties

Question 134

When a property is taken by eminent domain, what is the required amount of compensation to the property owner?

- (A) The owner does not need to receive compensation
- (B) The assessed property value
- (C) Fair market value
- (D) The most recent sale price

Question 135

Escheat is the right of the government to seize which of the following types of property?

- (A) Properties in violation of environmental laws
- (B) Foreclosures
- (C) Properties suspected of housing illegal activities
- (D) Unclaimed properties

Question 136

A property owner has a piece of land that is identified as needed for a governmental project. The homeowner does not wish to sell and eminent domain has been initiated. Which of the following is a violation of the homeowner's rights?

- (A) Ability to challenge the need for the project in the interest of public good
- (B) Ability to challenge the offer of fair market value
- (C) Ability to seek legal counsel
- (D) Ability to no longer maintain the property

Question 137

What type of real estate ownership allows for unequal ownership of the property?

- (A) Joint tenancy
- (B) Tenancy in common
- (C) Tenants by entirety
- (D) Community property

Question 138

What fee simple type allows for the option of termination upon the occurrence of an identified event?

- (A) Fee simple absolute
- (B) Fee simple determinable
- (C) Fee simple subject to a condition subsequent
- (D) Fee simple subject to the executory limitation

Question 139

Which right in the bundle of rights identifies the titleholder as the legal owner of the property?

- (A) The right of possession
- (B) The right of control
- (C) The right of exclusion
- (D) The right of disposition

Question 140

In an established life estate for a property, the life tenant wishes to sell the property. What statement is true regarding the ability of the life tenant to sell the property?

- (A) The life tenant has full rights to sell the property
- (B) The remainderman has full rights to sell the property
- (C) The property cannot be sold
- (D) The life tenant can sell the property only with the consent of the remainderman

Question 141

A landlord has an established estate at will agreement with a tenant but without a written contract. What is the legal requirement for notice to vacate?

- (A) There is no requirement since no agreement has been established
- (B) Only the landlord is required to provide notice to vacate
- (C) Only the tenant must provide notice to vacate
- (D) Both the landlord and the tenant must provide notice of intent to vacate

Question 142

A tenant and a landlord enter into a triple net lease agreement. The costs incurred on a particular month are as follows:

- Rent: \$900
- Property Taxes: \$300
- Insurance: \$90
- Utilities: \$150

What is the total responsibility of the tenant?

- (A) \$900
- (B) \$1,200
- (C) \$1,290
- (D) \$1,440

Question 143

Which of the following statements are true regarding the payout of proceeds on a single property with multiple liens?

- (A) The proceeds get distributed evenly
- (B) The proceeds only go to the highest priority lien despite the amount of proceeds
- (C) All liens must receive a minimum amount of the proceeds
- (D) The proceeds may be exhausted before all parties receive payment

Question 144

A property owner purchases a home and later discovers there is a rare mineral in the ground under the surface of the property. The title has no noted restrictions to ownership of the subsurface. Who has claim to ownership of the minerals?

- (A) The property owner
- (B) The local government
- (C) The public
- (D) The previous owner

Question 145

What type of deed only warrants any title defect from the time the grantor took possession of the property, but not prior?

- (A) Quitclaim
- (B) Limited warranty
- (C) Fiduciary
- (D) Grant

Question 146

A governmental entity is to take a property by means of escheat. The information is provided in multiple newspapers indicating the lack of any identifiable heir. What type of notice is being provided for the acquisition of the property?

- (A) Express actual notice
- (B) Implied actual notice
- (C) Constructive notice
- (D) Legal notice

Question 147

What title recording tracks the detailed chain of ownership back to the original owner?

- (A) Abstract of title
- (B) Chain of title
- (C) Market of title
- (D) Cloud on title

Question 148

A property owner wishes to sell their home. The seller is having difficulty finding a suitable buyer due to the high value of the property limiting the pool of potential buyers. This limitation is an example of which characteristic of value?

- (A) Demand
- (B) Scarcity
- (C) Purchasing power
- (D) Transferability

Question 149

Which of the following appraisal types is most appropriate for a school building?

- (A) Market approach
- (B) Income approach
- (C) Cost approach
- (D) None of the above

Question 150

Which of the following is not considered a valid valuation as determined by ECOA?

- (A) An appraiser's report
- (B) A report by a government-sponsored entity
- (C) A broker opinion price
- (D) Any publicly available valuation

Question 151

Which of the following is not a violation of ensuring appraiser independence?

- (A) Encouraging a targeted value
- (B) Withholding appraiser payment
- (C) Providing further detail for consideration
- (D) Mischaracterization of the property

Question 152

What is not a true statement regarding a broker price opinion (BPO)?

- (A) A BPO is a value based on expert judgment and not an official valuation
- (B) The BPO can be done quicker and cheaper than an assessment
- (C) A BPO is based off of qualitative neighborhood characteristics
- (D) The BPO may be used to determine the assessed value

Question 153

A comparative market analysis is being performed. One of the comparable properties has a square footage of 1,500 sq. ft. and the home being evaluated has a total area of 1,800 sq. ft. If the adjustment for living area is \$1,000 per 100 square feet, what is the adjustment in the comparable property's value?

- (A) -\$1,000
- (B) -\$3,000
- (C) +\$1,000
- (D) +\$3,000

Question 154

The gross income multiplier is calculated using which of the following values?

- (A) Annual net income
- (B) Annual gross income
- (C) The depreciated operating income
- (D) The lifespan income

Question 155

What method of the cost approach to appraisals includes construction costs based on a new structure with newer materials, current construction methods, and design?

- (A) Reclamation
- (B) Replacement
- (C) Reproduction
- (D) Recovery

Question 156

What is not one of the identified required elements of a valid contract?

- (A) Offer
- (B) Intention
- (C) Timely
- (D) Capacity

Question 157

A real estate contract is considered actionable. However, it is discovered in the later stages the process that crucial information was purposefully withheld. The contract is most likely considered:

- (A) Void
- (B) Valid
- (C) Voidable
- (D) Unenforceable

Question 158

A real estate contract required the delivery of an appraisal by a specified date. The party responsible provides it a day late. What type of breach of contract is this?

- (A) Material
- (B) Minor
- (C) Anticipatory
- (D) Actual

Question 159

The legal payments imposed on a defendant found guilty is:

- (A) Liquidated damages
- (B) Punitive damages
- (C) Liability cost
- (D) Compensatory damages

Question 160

A buyer and a seller agree to a contractual clause that provides the seller with 3% of the purchase price if the buyer is in breach of a contract. What type of damages are agreed to?

- (A) Liquidated damages
- (B) Punitive damages
- (C) Liability cost
- (D) Compensatory damages

Question 161

A seller has a contract with a buyer for the purchase of real estate. The seller is informed that the buyer intends to not attend the closing. At the time the information is known, what type of breach of contract is being performed?

- (A) Minor
- (B) Material
- (C) Anticipatory
- (D) Fundamental

Question 162

If rescission is applied to a contract, what is the state of the agreement between the parties?

- (A) The contract may resume as agreed upon
- (B) The obligations of each party return to the point before the breach of contract occurred
- (C) The obligations of each party resume without the identified item which caused the breach of contract
- (D) The contact is treated as if never executed

Question 163

The use of a kick-out clause:

- (A) Allows the seller to take another offer without notifying the seller
- (B) Allows the seller to take another offer but the buyer is allowed to match
- (C) Allows the seller to take another offer that is less than the current offer only
- (D) Prevents the seller from taking any additional offers on the property

Question 164

A real estate agent comes to an agreement to represent a buyer in the sale of a single home. What type of client relationship is the representation?

- (A) General agent
- (B) Universal agent
- (C) Special agent
- (D) None of the above

Question 165

What statement is true regarding the legality of implied agency relationships?

- (A) Agency must have a written contract
- (B) Agency does not need a written contract
- (C) The need for a written contract varies by state law
- (D) Both implied or written agency is acceptable everywhere

Question 166

If a counteroffer is provided, what is the status of the original offer made?

- (A) The original offer still stands
- (B) The original offer still stands and must be addressed
- (C) The original offer still stands if the counteroffer is rejected
- (D) The original offer is now void

Question 167

Seller concessions for conventional loans are limited based on what factor?

- (A) Down payment
- (B) Purchase price
- (C) Contingencies
- (D) LTV ratio

Question 168

Interest rates for seller financing loans are:

- (A) Determined by national averages
- (B) Determined by an underwriter
- (C) Provided by the financial institution
- (D) Negotiated between the buyer and seller

Question 169

The price of the property or home set in an option contract is:

- (A) A fixed purchase price
- (B) A maximum allowable price
- (C) A minimum purchase price
- (D) Subject to a predetermined range

Question 170

What is an example of a real estate agent working outside of the scope of their duties?

- (A) Providing service recommendations
- (B) Legal advice
- (C) Providing a sale price
- (D) Suggest counter offers

Question 171

What statement is true for an exclusive agency listing but not for an exclusive right to sell brokerage agreement?

- (A) The seller can't hire another broker
- (B) The brokerage has exclusive rights to sell the home
- (C) Brokerage is only paid if they bring in the buyer
- (D) The agreement is for a specified timeframe

Question 172

What is not an acceptable use of a security deposit by a landlord?

- (A) Cover the cost of repairs
- (B) Replace unpaid rent
- (C) Cleaning the property left in unsatisfactory conditions
- (D) Cover costs of improvements to the home

Question 173

The Fair Housing Act requires all of the following to be provided in advertising except:

- (A) Include a sentence explanation of the Fair Housing Act in all advertisements
- (B) Include the “equal housing lender” slogan in any broadcast advertisement
- (C) Display an Equal Housing Opportunity poster wherever mortgage loans are made
- (D) Display the Equal Housing Opportunity Logo on all printed promotional material

Question 174

Which of the following is the practice of channeling prospective buyers to specific neighborhoods based on race, religion, or ethnicity?

- (A) Steering
- (B) Blockbusting
- (C) Redlining
- (D) Predatory lending

Question 175

What statement below is false regarding the Multiple Listing Service (MLS)?

- (A) Access to MLS requires paid dues
- (B) MLS is not available to the general public
- (C) Sellers can post their home to MLS without an agent but not access other homes for sale
- (D) MLS is divided into regional service

Question 176

What regulation does not have requirements against the discrimination of individuals in a real estate transaction?

- (A) Fair Housing Act
- (B) Civil Rights Act
- (C) Home Mortgage Disclosure Act
- (D) Exemption Act

Question 177

A real estate agent has a home office. A client in a wheelchair agrees to representation but the agent does not have a ramp compliant with the Americans with Disabilities Act. What statement applies to the agent's responsibilities?

- (A) The agent is in violation of Title I of the ADA
- (B) The agent is in violation of Title III of the ADA
- (C) Home offices do not need to comply with the ADA
- (D) The ramp is too expensive and therefore falls outside of ADA requirements

Question 178

Before a financial institution can disclose nonpublic information to a third party, what is not a requirement that must be provided to the consumer?

- (A) An initial notice of the institution's privacy policies
- (B) An opt-out notice
- (C) Identification of the third party
- (D) A reasonable time frame to opt-out

Question 179

What is the minimum number of employees at a real estate sales office in which Title I of the ADA Act applies?

- (A) 0
- (B) 5
- (C) 10
- (D) 15

Question 180

Which of the following is not a typical trait of a borrower who can be classified as subprime?

- (A) History of a foreclosure
- (B) Debt to income ratio of 40% or more
- (C) FICO score below 600
- (D) History of bankruptcy

Question 181

To prevent illegal flipping, FHA requires purchasers to own a home for how long before selling again?

- (A) 3 months
- (B) 6 months
- (C) 1 year
- (D) 2 years

Question 182

Risks may be identified as:

- (A) Threats only
- (B) Opportunities only
- (C) Threats or opportunities
- (D) Neither threats nor opportunities

Question 183

A real estate agent who works for a broker is representing a seller. The seller tells the agent of water damage that has occurred in the basement but the real estate agent tells the seller that they should agree to not disclose the information. Later on, the brokerage is sued for nondisclosure. The brokerage is subject to which of the following?

- (A) General liability
- (B) Vicarious liability
- (C) Malpractice
- (D) The brokerage is not responsible for the actions of the agent

Question 184

As per FEMA flood insurance requirements, the amount of coverage must be the lesser of all of the following except:

- (A) The maximum amount of NFIP coverage available for the particular property type
- (B) The appraised value of the property
- (C) The outstanding principal balance of the loan
- (D) The insurable value of the structure

Question 185

The agreement to divide areas with customers so that there is no competition within markets is what antitrust prohibition?

- (A) Price fixing
- (B) Group boycotting
- (C) The allocation of market
- (D) Tie-in agreement

Question 186

As per EPA definitions, what is the minimum amount of underground volume for a storage tank to be considered underground?

- (A) 10%
- (B) 25%
- (C) 50%
- (D) 75%

Question 187

During a property walkthrough it is observed that water is seeping though the walls of the foundation causing a moist condition in the basement. The home is built in 1980. What hazardous substance is most likely to be present?

- (A) Asbestos
- (B) Lead paint
- (C) Mold
- (D) Radon

Question 188

A Phase I environmental site assessment is used to achieve what goal?

- (A) Determine the likelihood of a site contamination
- (B) Test for the presence of contamination
- (C) Determines an action plan for identified contamination
- (D) Determines the cost of remediation for site contamination

Question 189

What is the generally accepted action level established by the World Health Organization for levels of radon in pCi/L?

- (A) 1.5 pCi/L
- (B) 2.7 pCi/L
- (C) 3.5 pCi/L
- (D) 4.2 pCi/L

Question 190

According to RESPA, what is the maximum allowable “cushion” for a borrower’s escrow account that a lender can require?

- (A) 1/12 of yearly disbursements
- (B) 1/6 of yearly disbursements
- (C) 1% of the total loan
- (D) 3% of the total loan

Question 191

As per ECOA, a creditor is able to consider the inclusion of a source of income based on which of the following?

- (A) Part-time vs full-time income
- (B) Income from a pension
- (C) Probability of continuance
- (D) Income from alimony

Question 192

Which of the following mortgage types are 100% government insured?

- (A) VA
- (B) FHA
- (C) USDA
- (D) Conventional

Question 193

A balloon loan is most appropriate for which of the following scenarios?

- (A) A borrower with a high down payment amount
- (B) A borrower who will be moving in 2 years
- (C) A borrower with a poor credit score
- (D) Purchase of a second property

Question 194

What is the minimum credit score needed to be able to provide a down payment of less than 10% on an FHA loan?

- (A) 500
- (B) 550
- (C) 580
- (D) 620

Question 195

What is the front-end and back-end maximum qualifying FHA debt ratios?

- (A) 28/40
- (B) 31/43
- (C) 35/48
- (D) 38/50

Question 196

As per the ECOA, the applicant is not required to submit which of the following forms of income?

- (A) Reliable alimony
- (B) Part-time jobs
- (C) Public assistance income
- (D) Social Security income

Question 197

Which of the following is a true statement regarding the function of Private Mortgage Insurance?

- (A) PMI protects the lender in case of borrower failure to pay
- (B) PMI protects the lender and borrower in case of borrower failure to pay
- (C) PMI protects the borrower in case of borrower failure to pay
- (D) PMI supplements hazard insurance in case of damage

Question 198

How many business days after the receipt of a loan application must the initial loan estimate be provided?

- (A) 3
- (B) 7
- (C) 10
- (D) 30

Question 199

A loan amount is \$200,000. The total amount of interest that will be paid over the loan term is \$100,000. Calculate the Total Interest Percentage (TIP).

- (A) 25%
- (B) 50%
- (C) 75%
- (D) 100%

Question 200

For a conventional loan where the down payment is 12% for an investment property, what is the maximum amount of seller-paid concessions for the transaction?

- (A) 2%
- (B) 3%
- (C) 6%
- (D) 9%

Question 201

A seller agent and a buyer agent agree to a commission split. The total commission will be 6% on a \$350,000 home. What is the commission for the seller's agent?

- (A) \$8,250
- (B) \$10,500
- (C) \$15,550
- (D) \$21,000

Question 202

What is the maximum amount of a prepayment penalty for the first two years of the life of a loan?

- (A) 1%
- (B) 2%
- (C) 3%
- (D) 5%

Question 203

A borrower must keep his debt-to-income ratio at 40% maximum. She has \$500 and \$300 per month in credit card payments and student loans respectively. What is the maximum allowable monthly total mortgage payment if her monthly gross income is \$5750?

- (A) \$1200
- (B) \$1500
- (C) \$2000
- (D) \$2200

Question 204

A mortgage applicant is provided with a loan estimate that includes \$5000 in recording fees and is subject to the 10% cumulative fee limit. What is the maximum amount for the recording fees that are acceptable on the closing disclosure?

- (A) \$5000
- (B) \$5200
- (C) \$5450
- (D) \$5500

Question 205

A mortgage applicant has a yearly salary of \$60,000/year. The home he wishes to purchase has a monthly tax bill of \$450/month, insurance of \$90/month, and PMI of \$120/month. What is the maximum mortgage amount to keep the housing ratio to 28% or less?

- (A) \$740
- (B) \$890
- (C) \$1100
- (D) \$1350

Question 206

What are the Three Physical Characteristics of Land?

- (A) Mobility, Indestructibility and Uniqueness
- (B) Immobility, Indestructibility and Commonness
- (C) Mobility, Indestructibility and Commonness
- (D) Immobility, Indestructibility and Uniqueness

Question 207

Basic real estate transactions involve a body of complex laws that include which of the following?

- (A) Law of contracts, the general property law, the law of agency, and specific state real estate license law.
- (B) Federal regulations, such as environmental laws, as well as federal, state, and local tax laws.
- (C) State and local land-use and zoning laws also have a significant effect on the practice of real estate
- (D) All of above

Question 208

Which one of the options is not a form of co-ownership?

- (A) Tenancy in common
- (B) Ownership in severalty
- (C) Tenancy by the entirety
- (D) Community property

Question 209

What is meant by discharge of contract in real estate business?

- (A) When the agreement is terminated.
- (B) When a contract has been completely performed, with all its terms fulfilled.
- (C) When contract is terminated due to party's breach or default.
- (D) Any one of above

Question 210

What is meant by the term novation in relevance to real estate transaction contract?

- (A) Substitution of a new contract for an existing contract is called novation
- (B) Breaching of an existing contract is called novation
- (C) Revising an existing contract is called novation
- (D) Renovation of real estate property under a contract is called novation

Question 211

Payments from the Real Estate Recovery Trust Account for claims, including attorney's fees, interest, and court costs, arising out of a single transaction may not exceed a total of:

- (A) \$125,000
- (B) \$100,000
- (C) \$50,000
- (D) \$40,000

Question 212

What type of property required the Texas Seller's Disclosure of Property Condition?

- (A) All forms of property
- (B) Single commercial units
- (C) Double commercial units
- (D) Single family residential homes

Question 213

Can a Texas sales agent legally maintain a trust account?

- (A) No, only a Texas broker can.
- (B) Not unless the sales agent has a trust license.
- (C) Yes, with the permission of the principal.
- (D) Yes, with the permission of the broker.

Question 214

In Texas, when negotiating real estate contracts, a licensee shall use only contract forms promulgated by

- (A) Texas Real Estate Contract Inc.
- (B) The Texas Real Estate Commission
- (C) The Texas Department of Commerce.
- (D) The Texas Real Estate Contract Commission.

Question 215

There are eight protected classes in Texas Fair Housing. What are they?

- (A) race, color, religion, sex, handicap, familial status, national origin, or wage.
- (B) race, color, religion, sex, handicap, familial status, national origin, or ancestry.
- (C) race, color, religion, wage, handicap, familial status, national origin, or ancestry.
- (D) race, wage, religion, sex, handicap, familial status, national origin, or ancestry.

Question 216

The Texas Real Estate Commission conducts its business in order to

- (A) assist in any business estate problems.
- (B) protect the public interest.
- (C) satisfy the government.
- (D) make profit.

Question 217

In order for a tenant to claim relief for constructive eviction

- (A) the landlord must have intentionally withheld required repairs or maintenance.
- (B) any defect must be deemed to present a health hazard to the tenants.
- (C) the tenant must prove continuous residence in the premises.
- (D) the defect must be related to either heating or water systems.

Question 218

A buyer purchases a furnished condominium apartment as an investment. The document that evidences the buyer's ownership of the furniture is a:

- (A) special warranty deed.
- (B) homeowner's insurance policy.
- (C) bill of sale.
- (D) buyer's inventory.

Question 219

A broker who enters into a property management contract is considered a

- (A) Fiduciary
- (B) principal
- (C) trustee
- (D) trustor

Question 220

A buyer's interest in real property, acquired at the moment the seller and buyer enter into a sales contract, is known as:

- (A) legal title
- (B) equitable interest
- (C) fee simple determinable
- (D) an option to purchase

Question 221

The appropriate time for a selling broker to explain the agency relationship to a prospective buyer is:

- (A) at their initial meeting.
- (B) after the buyer has viewed a number of properties.
- (C) when the buy is prepared to sign a purchase agreement.
- (D) at closing.

Question 222

A geographic region in which similar properties compete with the subject property for potential buyers is called:

- (A) municipality
- (B) political district
- (C) market area
- (D) demand unit

Question 223

In the absence of a formal appraisal report, which of the following choices is the MOST appropriate for setting a listing price in a new, rapidly selling neighborhood?

- (A) The price that willing buyers have recently paid for similar structures.
- (B) The cost of reproducing the structure plus the original lot values.
- (C) The price that is an average of the cost of reproducing the structure and the recent sales prices.
- (D) The price that is an average of the listed prices of the most recently sold similar properties.

Question 224

Which of the following factors would be included in the description of replacement cost?

- (A) Similar utility and current material
- (B) Similar utility and replica of material
- (C) Different utility and current material
- (D) Different utility and replica of material

Question 225

Under an exclusive right-to-sell listing, a broker has the authority to take which of the following actions on behalf of a seller?

- (A) Accept any bona fide offer.
- (B) Accept only those offers that meet the seller's list price.
- (C) Pay for any needed repairs to the property and submit.
- (D) Bill the seller for reimbursement.

Question 226

In order to purchase a home, Darla needs to take out a mortgage. A mortgage is an example of a(n):

- (A) Executory contract
- (B) Executed contract
- (C) Implied contract
- (D) Unilateral contract

Question 227

Another name for easement is:

- (A) Common lien
- (B) Right of way
- (C) Egress right
- (D) Nonpossessory interest

Question 228

Barbali manages a commercial office building. One of the tenants contacts her to complain about a broken door lock. What type of maintenance is necessary to repair the lock?

- (A) Property maintenance
- (B) Corrective maintenance
- (C) Preventive maintenance
- (D) Proactive maintenance

Question 229

The profit realized from the sale of real estate held for 3 years is:

- (A) Long term capital gains
- (B) General capital gains
- (C) Gross income
- (D) Short term capital gains

Question 230

What is another name for swamps, marshes, and bogs?

- (A) Navigable waterways
- (B) Streams
- (C) Wetlands
- (D) Wastewater systems

Question 231

Ownership of real property for an undetermined length of time is called:

- (A) A leasehold estate
- (B) An estate
- (C) A nonfreehold estate
- (D) A freehold estate

Question 232

Lori has agreed to transact real estate business on behalf of Alex with Alex's authority. Lori is:

- (A) A licensed salesperson
- (B) An agent
- (C) A principal
- (D) A neutral party

Question 233

Lev owns a home. Francois is a real estate agent who has visited Lev to try to list Lev's home for sale, but Lev refuses. Lev nonetheless permits Francois to show 3 prospective purchasers his home. Has an agency been created?

- (A) Yes. An agency by estoppel.
- (B) No. An agreement was not signed.
- (C) No. There was no meeting of the minds.
- (D) Yes. An express agency.

Question 234

Mr. Carpenter, a single man aged 50, sells his personal residence for \$600,000. He originally purchased it 9 years ago for \$550,000. What portion of the sales proceeds is taxable?

- (A) \$600,000
- (B) \$550,000
- (C) \$50,000
- (D) None

Question 235

The adjusted basis of a taxpayer's residence would be _____

- (A) cost plus improvements minus depreciation
- (B) cost plus improvements
- (C) cost
- (D) cost minus improvements

Question 236

A broker is asked to lease 1,200 square feet of warehouse space at \$6 per square foot per year. If the broker's commission will be 8 percent of the first year's rental income, the MAXIMUM amount payable is:

- (A) \$576
- (B) \$691
- (C) \$720
- (D) \$960

Question 237

A lot was purchased as an investment for \$10,500 and sold a year later at a loss of 20%. If the owner paid a 10% commission, what was the owner's net loss on the sale?

- (A) \$2,820
- (B) \$2920
- (C) \$2940
- (D) \$3,150

Question 238

A buyer contracts to purchase a previously occupied single-family residence. The Buyer did NOT receive a copy of the Seller's Disclosure Notice before signing the contract. According to the Texas Property Code, the buyer has the right to:

- (A) sue for three times the amount of the earnest money
- (B) file a complaint with TREC
- (C) terminate the contract within 7 days after receiving the contract
- (D) reduce the sale price by the necessary repair costs

Question 239

According to The Real Estate License Act of Texas, which one of the following actions is a fair and impartial act for an intermediary?

- (A) Appointing associated licensees to work with the parties.
- (B) Appointing subagents to work with the parties.
- (C) Agreeing to represent an owner.
- (D) Agreeing to represent a buyer.

Question 240

As a marketing promotion, a real estate salesperson offers property for sale by lottery. This practice is:

- (A) lawful since the adoption of the Texas State Lottery
- (B) prohibited unless authorized by the owner in writing
- (C) grounds for suspension or revocation of license
- (D) lawful if a real estate lottery license has been issued

Question 241

When the association of a salesperson with the sponsoring broker is terminated, the broker MUST:

- (A) immediately return the salesperson's license to the Commission
- (B) return the salesperson's license to the Commission within 10 days
- (C) return the salesperson's license to the Commission within 30 days
- (D) have the salesperson apply for an inactive license

Question 242

An individual is exempt from real estate licensure in Texas when performing which of the following activities?

- (A) Selling real estate to another person.
- (B) Offering an employer's property for rent.
- (C) Procuring prospects for the purpose of renting particular properties.
- (D) Locating apartment units for tenants.

Question 243

Absent an agreement, the spouse's rental income from separate property is:

- (A) community property
- (B) the individual spouse's separate property
- (C) not subject to reimbursement by the other spouse on divorce
- (D) not income to the community

Question 244

Who is responsible to the Texas Real Estate Commission, the public, and the clients for the acts of a salesperson?

- (A) Only the salesperson
- (B) Salesperson's sponsoring broker
- (C) Texas Association of Realtors
- (D) Attorney General

Question 245

Combining a principal's funds with the licensee's personal funds is:

- (A) considered to be commingling
- (B) establishing an escrow account
- (C) necessary in real estate speculation
- (D) standard practice to ensure a commission

Question 246

Which is not true about Texas military spouses seeking a real estate license?

- (A)The application will be expedited if the spouse is licensed in another state that has similar licensing requirements.
- (B) An alternate competency test may be provided to the applicant instead of the standard licensing exam.
- (C) The applicant may be re-licensed if they have an expired Texas license.
- (D) A military spouse is exempt from all of the Texas licensing requirements.

Question 247

Which fiduciary duty requires the agent to act with care concerning handling funds received on behalf of the principal?

- (A) Full disclosure
- (B) Loyalty
- (C) Accountability
- (D) Reasonable skill and care

Question 248

Trevor owns an apartment that is 75 years old. He has not performed much maintenance on the building, so the foundation and structural integrity are starting to crumble. As a result, the building's value has been decreasing. What does that reduction in value refer to?

- (A) Environmental decrease
- (B) External obsolescence
- (C) Functional obsolescence
- (D) Depreciation

Question 249

Which document must be presented to buyers and sellers entering into an agency relationship with a broker under Texas law?

- (A) An information About Broker Services Form
- (B) The Texas Mandated BBOS form and pamphlet
- (C) The Texas State Buyers and Sellers Guide
- (D) The Listing Agreement

Question 250

The purpose of the Real Estate Recovery Trust Account is to enable

- (A) sellers to recover escrow money that brokers have mishandled.
- (B) people to get recourse of uncollected judgment against licenses.
- (C) widows to gain money if their spouses passed away.
- (D) sellers to recover lost money on sales agreements.

Question 251

Breach of contract is a violation of any of the terms or conditions of a contract without legal reason. The courts generally allow a defaulting party reasonable time to cure if?

- (A) There is no undue burden or hardship on the other party.
- (B) When the breaching party is not financially capable
- (C) When parties mutually decide to resolve the issue
- (D) When defaulting party is not interested to continue

Question 252

What is a general leasing contract?

- (A) A lease is a contract to transfer the partial ownership and specific rights to exclusive possession and use of the property to the other party who can be a tenant for a specified period under various terms and conditions.
- (B) A lease is a contract to transfer the lessor's (owner) complete rights to exclusive possession and use of the property to the tenant for an unspecified period.
- (C) A lease is a contract to transfer the lessor's (owner) specific rights to exclusive possession and use of the property to the tenant for a specified period under various terms and conditions.
- (D) A lease is a contract to transfer the lessor's (owner) specific rights to exclusive possession and use of the property to the tenant for a specified period unconditionally

Question 253

What are the basic features of Estate from Period to Period (Periodic Tenancy)?

- (A) Indefinite term & automatically renewing
- (B) Definite term & automatically renewing
- (C) Definite term & annually renewal
- (D) Indefinite term & mandatory annually renewing

Question 254

What are the basic features of Estate at Will Tenancy Contract?

- (A) Right to possess property for an unspecified term, it continues until it is terminated and it is automatically terminated by the death of either the landlord or the tenant.
- (B) Right to possess property for a specified term, it continues until it is terminated and it is automatically terminated upon the death of either the landlord or the tenant.
- (C) Right to possess property for a specified term of maximum five years after which it terminates and it is automatically terminated upon the death of either the landlord or the tenant.
- (D) Right to possess property for an unspecified term and period and it is only terminated upon the death of either the landlord or the tenant.

Question 255

What is Executory Contract?

- (A) An executory contract is any contract for the sale of real estate which has unperformed obligations in excess of 180 days, on both sides, involving a personal residence
- (B) An executory contract is a contract for the rental purpose of real estate which has other obligations in excess of 180 days, on both sides, involving a personal residence
- (C) An executory contract is a contract for the rental purpose of real estate which has other obligations in excess of 180 days, on both sides, involving a non-personal residence
- (D) An executory contract is a contract for the sales of real estate which has no obligations in excess of 180 days involving both sides, It is only meant for personal residence

Question 256

Which of the following is most likely not classified as real property?

- (A) Trees
- (B) Sheds
- (C) Crops
- (D) Shrubs

Question 257

All of the following can be classified as a chattel except:

- (A) Furniture
- (B) Clothing
- (C) Flowers
- (D) Patents

Question 258

A business owner leases a property to open a new bar. The tenant makes modifications to the property including installation of larger items for the proper functioning of the bar. Which of the following are true statements regarding the ownership of the installation of trade fixtures?

- (A) The fixtures become owned by the landlord once installed
- (B) The fixtures remain the property of the tenant
- (C) The fixtures are the property of the tenant as long as they remain removable
- (D) The fixtures can be claimed by either party

Question 259

All of the following can be classified as natural attachments except:

- (A) Pond
- (B) Shrub
- (C) Well
- (D) Flowers

Question 260

What statement below is true regarding the terms of a bill of sale?

- (A) A bill of sale always provides an absolute transfer of ownership
- (B) A bill of sale always provides a conditional transfer of ownership
- (C) A bill of sale may provide an absolute or conditional transfer of ownership
- (D) None of the above

Question 261

What characteristic of land can be classified as physical?

- (A) Immobility
- (B) Location preference
- (C) Indestructibility
- (D) Uniqueness

Question 262

The property taxes are determined based on which of the following?

- (A) Assessed value and millage rate
- (B) Assessed value and local state sales tax
- (C) Appraised value and the millage rate
- (D) Appraised value and the local state sales tax

Question 263

What is a true statement regarding the difference between police power and eminent domain?

- (A) Police power requires compensation to the owner while eminent domain does not
- (B) Police power does not require compensation to the owner while eminent domain does
- (C) Both police power and eminent domain require compensation to the owner
- (D) Neither police power nor eminent domain require compensation to the owner

Question 264

In general, zoning ordinances are determined by which of the following entities?

- (A) Federal government
- (B) State government
- (C) Municipal government
- (D) Home owner's association

Question 265

A governmental project is initiated to install a pipeline. The proposed line will need to go underground through an individual property owner's land but will be 10 feet underground. The landowner is not amenable and does not wish to sell the rights to build under the land. What statement is true regarding the government's ability to obtain the necessary rights to build?

- (A) The government may institute police power to obtain the property
- (B) The government must use eminent domain to obtain the entire property
- (C) The government may use eminent domain to obtain an easement to build underground
- (D) The government may not obtain the necessary rights

Question 266

What type of real estate ownership is not available in all states?

- (A) Sole
- (B) Joint
- (C) Common
- (D) Community

Question 267

What type of fee simple is not dependent on a conditional requirement?

- (A) Fee simple absolute
- (B) Fee simple determinable
- (C) Fee simple subject to a condition subsequent
- (D) Fee simple defeasible

Question 268

The bundle of rights is afforded to an individual in which of the following steps of the home buying process?

- (A) Agreement with broker
- (B) Approval by underwriter
- (C) Acceptance of offer by the seller
- (D) Transfer of title

Question 269

A property owner establishes a life estate naming a beneficiary. Upon death of the life tenant, the property shall be transferred to which of the following?

- (A) The grantor
- (B) The financial institution
- (C) The remainderman
- (D) The life tenant's next of kin

Question 270

A property owner and a tenant agree to a lease. It is determined that the tenant will live in the property for a specified amount of time and no more than the established end date. What type of agreement is established?

- (A) Estate for years
- (B) Periodic estate
- (C) Estate at will
- (D) Estate at sufferance

Question 271

What type of lease agreement includes all costs incurred during the tenancy to be the responsibility of the tenant?

- (A) Gross
- (B) Net
- (C) Percentage
- (D) None of the above

Question 272

Title insurance covers:

- (A) The lender only
- (B) The borrower only
- (C) The lender and the borrower
- (D) The government on backed loans

Question 273

What is not one of the three guarantees of a general warranty deed?

- (A) The grantor owns the title free and clear of any defects
- (B) No one will make a claim against the property
- (C) There are no liens or encumbrances other than stated in the deed
- (D) The grantor will defend the title of the property against third-party claims

Question 274

What type of involuntary alienation is the term for the loss of land due to natural causes?

- (A) Avulsion
- (B) Partitioning
- (C) Aversion
- (D) Forfeiture

Question 275

A marketable title is one that:

- (A) Includes guarantee that the title is free of mistakes
- (B) The title cannot be brought to court for legal dispute
- (C) May include mistakes but shall be legally viable
- (D) Includes mistakes that need to be addressed before transfer

Question 276

A closing protection letter is a document that is provided in association with which of the following?

- (A) Abstract of title
- (B) Opinion of title
- (C) Chain of title
- (D) Title insurance

Question 277

What is not one of the identified characteristics of market value?

- (A) Demand
- (B) Flexibility
- (C) Scarcity
- (D) Utility

Question 278

A property is bought and the appraisal is artificially inflated. The home is resold shortly after purchase at a profit. Which of the following illegal tactics is likely being employed?

- (A) Redlining
- (B) Flipping
- (C) Mortgage fraud
- (D) Coercion

Question 279

As per ECOA, a mortgage applicant must be informed of the right to receive an appraisal within _____ business days of the receipt of the application.

- (A) 3
- (B) 7
- (C) 10
- (D) 30

Question 280

A property owner who has a tenant needs to install a new roof. The total cost of the roof is \$7,500. If the lifespan of the roof is 10 years, what is the yearly depreciation of the roof?

- (A) \$500
- (B) \$750
- (C) \$7,500
- (D) The roof is determined a repair and cannot be depreciated

Question 281

The Town of Woodbridge has a millage rate of 26.5. Determine the amount of property tax for an assessed value of \$220,000.

- (A) \$4,250
- (B) \$5,830
- (C) \$6,880
- (D) \$10,250

Question 282

What is not used as a comparative characteristic for a comparative market analysis (CMA)?

- (A) Fireplaces
- (B) Views
- (C) Landscaping
- (D) None of the above

Question 283

An investor decides to buy condominiums with five units for rent. The sales price of the condos was \$600,000. What is the minimum average monthly rent per unit to yield a gross income multiplier of 5?

- (A) \$1,500
- (B) \$2,000
- (C) \$2,200
- (D) \$2,850

Question 284

What is the loss of value of a property due to factors that are external to the property?

- (A) Deterioration
- (B) Depreciation
- (C) Functional obsolescence
- (D) Economic obsolescence

Question 285

What method of the cost approach to appraisals includes construction costs based on a replica of the existing property?

- (A) Capitalization
- (B) Replacement
- (C) Reproduction
- (D) None of the above

Question 286

What work on a home can be classified as an repair and not a improvement?

- (A) Bathroom renovation
- (B) Addition of a deck
- (C) Plumbing repair under a sink
- (D) Installation of a security system

Question 287

What element of a valid contract ensures the presence of some exchange of value?

- (A) Offer and acceptance
- (B) Intention
- (C) Consideration
- (D) Legal capacity

Question 288

A dispute is taken to a court of law and it is determined that the contract is unenforceable. What is the consequence of the determination?

- (A) The contract may still be executed
- (B) The contract may still be executed except for the aspect in question
- (C) The contract needs further review
- (D) The contract is unenforceable and eliminates any obligations to both parties

Question 289

The legal removal of obligations from parties in a contract is:

- (A) Breach of contract
- (B) Recission
- (C) Termination
- (D) Compensation

Question 290

The statute of frauds requires which of the following stipulations?

- (A) The contract must be in writing
- (B) The contract must have a stipulated reasonable timeframe
- (C) The contract must have an oral agreement
- (D) The contract must include an exchange of value

Question 291

Up until what point is the providing of an earnest money deposit revokable?

- (A) The check is written by the buyer
- (B) The check is provided to the buyer's broker
- (C) The broker communicates the acceptance of the offer to the seller
- (D) The earnest money may be taken back at any time

Question 292

A buyer and seller have agreed to a purchase price. However, during the process, the buyer is not approved by the underwriter after a thorough review. What type of contingency would allow for the buyer to still receive their earnest money deposit back?

- (A) Home sale
- (B) Financing
- (C) Kick-out clause
- (D) Inspection

Question 293

A landlord with multiple properties hires a property manager. What type of client relationship is established?

- (A) General
- (B) Special
- (C) Universal
- (D) None of the above

Question 294

A prospective home buyer decides to let an uncle represent them as a real estate agent. They speak on the phone where the buyer expresses an intent to buy and then they discuss potential options. What agency creation method is established?

- (A) Expressed
- (B) Implied
- (C) Necessity
- (D) Contingent

Question 295

What is not one of the required legal responsibilities once agency is created?

- (A) Loyalty
- (B) Accounting
- (C) Legal counsel
- (D) Disclosure

Question 296

What is not one of the three options upon receipt of an offer?

- (A) Acceptance
- (B) Deference
- (C) Rejection
- (D) Counter

Question 297

A buyer and seller agree to a sales price of \$250,000 on a primary residence. The buyer wishes to have the seller cover closing costs. If the buyer is putting down a 5% down payment, what is the maximum amount of seller concessions?

- (A) \$2,500
- (B) \$3,333
- (C) \$5,000
- (D) \$7,500

Question 298

A buyer and seller agree to seller financing. If the buyer of the property fails to meet the payments of the contract what recourse is available for the seller?

- (A) The buyer must sell the property and provide proceeds to the seller
- (B) The seller may evict the buyer as in a rental property
- (C) The seller may foreclose and remove the buyer
- (D) The seller has no recourse

Question 299

What is not one of the required elements of an option contract?

- (A) Fixed price
- (B) Premium
- (C) Alternate
- (D) Time frame

Question 300

Security deposits for a renter are kept:

- (A) In an escrow account
- (B) In a landlord's saving's account
- (C) By the buyer's brokerage
- (D) By the seller's brokerage

Question 301

What type of data below is excluded from being reported by a financial institution as a part of the Home Mortgage Disclosure Act?

- (A) Data about ethnicity
- (B) Loans on unimproved land
- (C) The type of loan
- (D) Loans for home improvement

Question 302

What HUD program provides law enforcement officers, teachers, firefighters, and emergency medical technicians with the opportunity to purchase homes located in revitalization areas at a discount?

- (A) Rehabilitation Loan Mortgage Insurance
- (B) Assisted Living Conversion Program
- (C) Good Neighbor Next Door
- (D) Self-Help Housing Property Disposition

Question 303

Which of the following is not an option for finding a HUD approved counselor?

- (A) CFPB find a counselor tool
- (B) Call HOPE 24/7 hotline
- (C) Call HUD Hotline
- (D) Call CFPB

Question 304

What is a true statement regarding a purchaser's ability to obtain a title report?

- (A) The title report must be obtained from a lender recommended title company
- (B) The title report must be obtained through an independent title company
- (C) The title report must be obtained by the purchaser personally
- (D) The title report may be obtained by the purchaser or through a title company

Question 305

What information is not published when a CFPB complaint is filed?

- (A) Date of complaint
- (B) Subject of complaint
- (C) Description with consent
- (D) Incurred penalty

Question 306

What Title of the Americans with Disabilities Act (ADA) requires that architectural and communication barriers are to be removed in existing facilities?

- (A) I
- (B) II
- (C) III
- (D) IV

Question 307

As per the Gramm-Leach Bliley Act, what is not a minimum requirement for a disclosure notice on the sharing of non-public information?

- (A) How the information is used by affiliates
- (B) With whom the information is shared
- (C) Safeguards for the information
- (D) What information is collected

Question 308

What is the latest permissible time for phone calls from telemarketers?

- (A) 7 pm
- (B) 8 pm
- (C) 9 pm
- (D) 10 pm

Question 309

Which of the following is not a factor when determining an individual's debt to income ratio?

- (A) Student loans
- (B) Gross income
- (C) Net income
- (D) Credit card payments

Question 310

If a borrower is delinquent on payments and the bank agrees to allow the borrower to sell the home for less than is owed, they are agreeing to which of the following?

- (A) Forbearance
- (B) Foreclosure
- (C) Short Sale
- (D) Avulsion

Question 311

As per the Equal Credit Opportunity Act (ECOA), it is permissible for an individual to be denied credit for which of the following reasons?

- (A) Age
- (B) Immigration status
- (C) Gender
- (D) Marital status

Question 312

Which of the following was enacted to prevent redlining?

- (A) Bank Secrecy Act
- (B) Truth in Lending Act
- (C) Community Reinvestment Act
- (D) US Patriot Act

Question 313

What scenario is least likely to be covered by general liability insurance for real estate professionals?

- (A) Individual slips on ice during a showing
- (B) A piece of personal property is broken during a showing
- (C) A property is damaged during an inspection
- (D) A company car is stolen

Question 314

A group of real estate brokers meet and decide to set the same price for commissions in a specific area. What prohibited practice is occurring?

- (A) Price fixing
- (B) Allocation of markets
- (C) Tie-in agreement
- (D) Group boycotting

Question 315

A homeowner allows the hazard insurance on the property to lapse. If the lender places insurance on the property without the consent of the borrower, it is called which of the following?

- (A) Premium insurance
- (B) Title insurance
- (C) Force-placed insurance
- (D) Mortgage insurance

Question 316

What environmental protection act regulates the discharge of pollutants into bodies of water?

- (A) Resource Recovery Act
- (B) Clean Water Act
- (C) The Comprehensive Environmental Response, Compensation, and Liability Act
- (D) Flood Control Act

Question 317

A property built before what year is subject to concerns related to lead-based paint?

- (A) 1955
- (B) 1960
- (C) 1970
- (D) 1978

Question 318

A property for sale is known to have contamination levels in the ground. What environmental site assessment phase is appropriate for the site?

- (A) I
- (B) II
- (C) III
- (D) IV

Question 319

What known hazardous substance does not have a significant potential risk to an individual's respiratory health?

- (A) Asbestos
- (B) Radon
- (C) Mold
- (D) None of the above

Question 320

What designated flood zone is considered a high-risk area?

- (A) Zone A
- (B) Zone B
- (C) Zone D
- (D) Zone X

Question 321

The act of encouraging repeated refinancing of a loan without any real benefit to the borrower is which of the following practices?

- (A) Redlining
- (B) Steering
- (C) Loan Flipping
- (D) Ballooning

Question 322

Which of the following loan types are subject to up-front mortgage insurance premiums?

- (A) Conventional loan with 20% down
- (B) VA loan with 10% down
- (C) Conventional loan with 10% down
- (D) FHA loan with 20% down

Question 323

Which of the following loan types require two sets of fees to be applied at closing?

- (A) Construction-to-permanent loan
- (B) Jumbo loan
- (C) Balloon loan
- (D) Construction only loan

Question 324

Which of the following fees are not allowed for a VA loan?

- (A) Discount points
- (B) Attorney fees charged by a lender
- (C) Lender fee
- (D) Title insurance

Question 325

A borrower wishes to refinance an existing loan to remove the PMI from the monthly payment. How long after the first payment must she wait to be able to eliminate PMI?

- (A) 1 year
- (B) 2 years
- (C) 5 years
- (D) 10 years

Question 326

According to the TILA-RESPA integrated disclosures, all of the following must be included in the loan estimate to consider it received except:

- (A) Property sale history
- (B) Consumer name
- (C) Consumer income
- (D) Property address

Question 327

If a recording fee decreases from the loan estimate to the closing disclosure, which of the following statements are true?

- (A) The fee is not included in the cumulation of fees
- (B) The fee is included in the cumulation of fees
- (C) The fee is not included in the cumulation of fees for the zero-tolerance requirement
- (D) The fee is included in the cumulation of fees for the zero-tolerance requirement only

Question 328

How long after consummation may a revised closing disclosure be provided?

- (A) 15 business days
- (B) 15 calendar days
- (C) 30 calendar days
- (D) 30 business days

Question 329

A proposed loan amount of \$300,000 will have an interest rate of 4.25%. However, the borrower chooses to buy 2 points on the loan for a lower interest rate. Considering only the loan amount and the points, what is the new amount to be financed?

- (A) \$300,600
- (B) \$306,000
- (C) \$360,000
- (D) \$294,000

Question 330

An investor decides to purchase real estate as a vacation rental. The original purchase price is \$350,000 and additionally an extra \$10,000 in remodeling costs. The property is kept for five years with an accumulation of \$5,000 per year in rental income. If the property is sold for a net profit of \$20,000 at the end of five years, what is the return on investment?

- (A) 12.5%
- (B) 20%
- (C) 33%
- (D) 120%

Question 331

Using an estimated annual rate of 3%, what is the appreciated home value for a property sold for \$200,000 after five years?

- (A) \$215,200
- (B) \$222,860
- (C) \$231,855
- (D) \$245,890

Question 332

A single tax filer sells a home for \$350,000. If the closing costs are estimated at 5%, what is the minimum existing mortgage payoff amount in which the seller is exempt from capital gain taxes?

- (A) \$82,500
- (B) \$100,000
- (C) \$112,500
- (D) \$120,000

Question 333

A buyer who agrees to a purchase price of \$200,000. What is the minimum amount of down payment to avoid PMI on a conventional loan?

- (A) \$10,000
- (B) \$20,000
- (C) \$30,000
- (D) \$40,000

Question 334

Calculate the per diem interest over a 30-day period if a loan has a balance of \$242,000 and an interest rate of 4.25%.

- (A) \$34.25
- (B) \$710.22
- (C) \$744.23
- (D) \$845.34

Question 335

A fixed-rate mortgage has a P & I monthly payment of \$820. The yearly tax bill is \$6000 and the Hazard Insurance is \$1200 per year. If the loan includes a PMI of \$82 per month, what is the total monthly payment of the loan?

- (A) \$1288
- (B) \$1502
- (C) \$1625
- (D) \$1822

Question 336

When was Texas Real Estate Commission (TREC) established and how many divisions does it have to control its Operations and objectives?

- (A) TREC was established in 1949 with six divisions
- (B) TREC was formed in year 1939 with eight divisions to operate
- (C) TREC was established in year 1949 with eight divisions to operate
- (D) TREC was formed in year 1949 with nine different divisions

Question 337

Individuals of the public who feel there has been a violation of the Real Estate License Act or the TREC rules may file a complaint which will open an investigation. Complaint are grouped into:

- (A) Two Categories
- (B) Three Categories.
- (C) Four Categories.
- (D) Five Categories.

Question 338

As per the TREC Complaint Overview Manual, one of the elements of level 2 complaints are?

- (A) Allegations involving education providers.
- (B) Unlicensed activity
- (C) Mortgage Fraud
- (D) Technical violations

Question 339

After the Texas Real Estate Commission issues a Final Order in a case, a respondent can file a:

- (A) Request for rehearing only
- (B) Request for rehearing and at the same time appeal in district court
- (C) Request for rehearing to Commission and if denied then can appeal in district court.
- (D) Appeal in district court before requesting for rehearing to Commission

Question 340

What are the two real estate recovery funds??

- (A) The Real Estate Recovery Trust Account & The Real Estate Public Fund
- (B) The Real Estate Recovery Trust Account & The Real Estate Inspection Recovery Fund
- (C) The Real Estate Inspection Recovery Fund & The Real Estate Public Fund
- (D) The Real Estate Inspection Recovery Fund & The Real Estate Reimbursement Public Account

Question 341

To be able to become a qualified estate broker/agent, an individual must complete which of the following courses?

- (A) Principles of Real Estate I & II (30+30 Classroom hours)
- (B) Law of Agency & Law of Contracts (30+30 classroom hours)
- (C) Promulgated Contract Forms & Real Estate Finance (30+30 classroom hours)
- (D) All of Above

Question 342

The Texas real estate exam consists of a national and state portion and to pass the exam an individual must answer?

- (A) 56 national questions and 21 state questions correctly
- (B) 57 national questions and 23 state questions correctly
- (C) 56 national questions and 22 state questions correctly
- (D) 58 national questions and 25 state questions correctly

Question 343

What are the real estate license renewal requirements?

- (A) License must be renewed every year and all individuals must complete approved Continuing Education (CE) courses
- (B) License must be renewed after every two years and all individuals must complete approved Continuing Education (CE) courses as per TREC specific rules
- (C) License must be renewed every three years but there is no required rule for completing approved continue education courses
- (D) None of the above

Question 344

Per Texas Administrative code part 23 chapter 531 that includes the Professional Ethics and Conduct rules for professional behavior, these rules focus on:

- (A) Fidelity, Integrity & Discriminatory Practices
- (B) Fidelity, Competency & Integrity
- (C) Fidelity, Competency, Integrity, & Discriminatory Practices
- (D) Fidelity, Competency, Integrity, Discriminatory Practices & Authorized practice of law

Question 345

Upon any unauthorized Practice of law by sales agents, TREC has the ability to suspend or revoke the license if there is established evidence of"

- (A) Drafting of a legal instrument
- (B) Advise a party on a legal instrument
- (C) Advise a party concerning the title of a property
- (D) Any or all of the above

Question 346

If a violation of TREC rules occurs by real estate sales agents the formal disciplinary action to be taken includes:

- (A) Reprimand of a license & Suspension of a license
- (B) Reprimand of a license & Revocation of a license
- (C) Suspension of a license & Revocation of a license
- (D) Revocation of a license, Reprimand of a license & Suspension of a license

Question 347

What type of property jurisdiction is used in the State of Texas?

- (A) It is not a community property jurisdiction
- (B) It is a community property jurisdiction, any property acquired by a married couple is owned by them separately
- (C) It is not community property jurisdiction, but any property acquired by a married couple is owned by them mutually
- (D) It is a community property jurisdiction, any property acquired by a married couple is owned by them mutually and is also is presumed to be community property

Question 348

What is the optional percentage limits for the Homestead Protections and Tax Exemptions?

- (A) Up to 20 percent property value, however the amount of an optional exemption cannot be less than \$5,00
- (B) Up to 30 percent property value, however the amount of an optional exemption cannot be less than \$10,000
- (C) Up to 25 percent property value, however the amount of an optional exemption cannot be less than \$6,000
- (D) Up to 25 percent property value, however the amount of an optional exemption cannot be less than \$5,000

Question 349

Under the Texas Property Code, the homestead of a family or single adult is protected from forced sale for the purposes of paying debts and judgments except in cases of:

- (A) Purchase money, taxes, home improvement loans, home equity loans, reverse mortgages, refinance loans, or the conversion or refinance of a lien on a mobile home that is attached to the homestead
- (B) Purchase money, taxes, divorce, reverse mortgages, liens predating the establishment of homestead, refinance loans, or the conversion or refinance of a lien on a mobile home that is attached to the homestead
- (C) Purchase money, taxes, divorce, home improvement loans, home equity loans, reverse mortgages, liens predating the establishment of homestead, refinance loans, or the conversion or refinance of a lien on a mobile home that is attached to the homestead
- (D) Improvement loans, home equity loans, reverse mortgages, liens predating the establishment of homestead, refinance loans, or the conversion or refinance of a lien on a mobile home that is not attached to the homestead

Question 350

Homestead liability protection is only available for property that qualifies as being a homestead in what scenario?

- (A) When the owner either live on it
- (B) Have a reasonable expectation of building a home on it
- (C) They only have one homestead
- (D) When all above conditions are met

Question 351

The primary purpose of the Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA") is to:

- (A) protect consumers against false, misleading, and deceptive business
- (B) protect consumers against false, misleading, and deceptive business and insurance practices
- (C) protect consumers against false, misleading, deceptive business and insurance practices, unconscionable actions, and breaches of warranty
- (D) Protect consumers against false, misleading, and deceptive business and insurance practices, recovery funds to reimburse consumers who suffer damages unconscionable actions, and breaches of warranty

Question 352

To be eligible for an approved application, TREC specifically requires which of the following characteristics?

- (A) Integrity
- (B) Honesty
- (C) Trustworthiness
- (D) All of the above

Question 353

How many types of wills are recognized by TREC rules and regulations?

- (A) Three
- (B) Four
- (C) Five
- (D) Six

Question 354

The purpose of the Texas Real Estate License Act (TRELA) is best described as:

- (A) The purpose of TRELA is to protect the public through regulation of licensed real estate brokerage practitioners, real estate inspectors, residential service companies, and entities offering timeshare interests
- (B) The purpose of TRELA is to regulate the licensed real estate property and entities offering timeshare interests
- (C) The purpose of TRELA is to protect real estate brokerage practitioners, real estate inspectors, residential service companies, and entities offering timeshare interests
- (D) None of above

Question 355

How many forms of ownership are controlled by Texas state laws in the case of a simple estate?

- (A) Three
- (B) Four
- (C) Five
- (D) Six

Question 356

What is Time-share ownership in real estate regulated by TREC?

- (A) Time-share ownership permits multiple purchasers to buy interests in real estate
- (B) Time-share ownership permits single purchasers to buy interests in real estate at a particular time
- (C) Time-share ownership permits multiple purchasers to buy interests in public real estate property only
- (D) Time-share ownership permits multiple purchasers to buy interests in community real estate property only

Question 357

In Texas, the statute of limitations due to a breach of a contract is which of the following?

- (A) Two years for breach of contract.
- (B) Three years for breach of contract.
- (C) Four years for breach of contract.
- (D) Five years for breach of contract.

Question 358

How many basic types of rent leases are recognized under TREC rules?

- (A) Five
- (B) Four
- (C) Three
- (D) Two

Question 359

The TREC-promulgated One to Four Family Residential Contract (Resale) allows a stated fee time period of:

- (A) 1 to 7 days
- (B) 4 to 7 days
- (C) 7 to 10 days
- (D) 7 to 14 days

Question 360

The TREC Commercial Contract option period is:

- (A) 30 to 60 days
- (B) 30 to 90 days
- (C) 30 to 120 days
- (D) 60 to 120 days

Question 361

What regulations fall under police power?

- (A) Use and occupancy, size, location, and construction
- (B) Occupancy, Size, location, covered area and rent value
- (C) Size, location, covered area and Rent value
- (D) All of the above

Question 362

Under Texas homestead laws, a family or single person cannot be forced out of their home as a result of creditor claims unless the which of the following exceptions apply?

- (A) Pre-existing real estate loan or mechanic's lien, which can foreclose for defaults and nonpayment.
- (B) Only mechanic's lien, which can foreclose for defaults and nonpayment.
- (C) Pre-existing real estate loan can foreclose for defaults and nonpayment.
- (D) Pre-existing real estate dispute through the legal proceedings among inheritor's heirs

Question 363

How many types of real estate listing agreements are there recognized by TREC rules?

- (A) Two
- (B) Three
- (C) Four
- (D) Five

Question 364

What is not one of the general TREC contracts?

- (A) Cancellation of Inspection Contract
- (B) New Home Contract (complete construction)
- (C) Farm and Ranch Contract
- (D) Unimproved Property Contract

Question 365

What restrictions are placed on individuals who make calls to determine whether a person is interested in buying or selling property, or has property they wish to sell?

- (A) Any such activities in Texas must be conducted by a license holder
- (B) Any unlicensed person can perform such activities in Texas
- (C) If appointed by the nominated broker unlicensed person can perform such activities in Texas
- (D) Only an attorney can engage unlicensed person to perform such activities in Texas

Question 366

What is the Additional Right to Terminate a Sale Purchase contract?

- (A) An additional right to terminate the contract due to the appraisal
- (B) Under TREC rules all client have additional right to terminate the contract by default
- (C) An additional right to terminate due to inspection circumstances
- (D) This rule is not applicable in the state of Texas

Question 367

Home inspectors in Texas are required to have which of the following?

- (A) A comprehensive and qualified home construction experience
- (B) No home construction experience
- (C) Five years of home construction experience
- (D) To be certified and five years of home construction experience

Question 368

The Completion of Repairs and Treatments Paragraph in TREC contracts requires that?

- (A) The seller must engage someone who is licensed to make the repairs or if no license is required by law, the seller must use someone who is commercially engaged in the trade of providing such repairs
- (B) The seller must ask buyer to engage someone who is licensed to make the repairs from his own resources
- (C) The seller must ask his agent to complete the repair works with consent of buyer
- (D) Seller or buyer can have the repair work from either of their resources or mutually

Question 369

Who verifies that the option fee is paid on time?

- (A) Buyer's Agent
- (B) Seller's Agent
- (C) Escrow Agent
- (D) Real estate licensed Agent

Question 370

Which Paragraph of the standard TREC contract provides a procedure by which the escrow agent may release earnest money if a party fails to respond to a demand for the earnest money by the other party?

- (A) Paragraph 15: Default
- (B) Paragraph 16: Mediation
- (C) Paragraph 18: Escrow
- (D) Paragraph 19 Representations

Question 371

A client may use a contract drafted by an attorney instead of the TREC promulgated form in which of the following scenarios?

- (A) This exception only applies if the contract has been prepared by an attorney at the request of the principal
- (B) This exception only applies if the contract has been prepared by an attorney at the request of the buyer's agent
- (C) This exception only applies if the contract has been prepared by an attorney at the written request of the principal's and buyer's agents mutually
- (D) There is no provision of alternate contract

Question 372

What is the highest monetary value as per The penalty matrix?

- (A) \$1,500
- (B) \$2,500
- (C) \$5,000
- (D) \$6,000

Question 373

Reimbursement Payments are to be made from the Real Estate Recovery Trust Account to four separate transactions from a single individual. What is the maximum amount that may be paid from the trust account?

- (A) \$60,000
- (B) \$80,000
- (C) \$100,000
- (D) \$120,000

Question 374

As per the TREC One to Four Family Residential Contract, the purchase of a residential service contract is:

- (A) Prohibited
- (B) Required for purchases
- (C) Only available to the seller
- (D) Optional

Question 375

How can a revision be made in any TREC 1-4 contract standard forms if required to match any term(s) and conditions that are not mentioned in standard form?

- (A) Make changes on the form itself.
- (B) Attach a special provisions addendum
- (C) A single page or two attached to the standard form
- (D) All of the above

Solution 1

Since the property is to be repurposed for condominiums, it can now be classified as residential.

The answer is **(A)**

Solution 2

The plant as a house plant is easily movable and can be considered a chattel. Once the plant becomes attached to the land, it now is real property.

The answer is **(A)**

Solution 3

Trade fixtures are pieces of property that a tenant affixes to a leased building or land for the purpose of conducting business. This would include a cooktop or other equipment attached to the property as long as they are still removable.

The answer is **(C)**

Solution 4

Land characteristics can be classified as either economic or physical. Land has three distinct physical characteristics:

- Immobility
- Indestructibility
- Uniqueness

The answer is **(B)**

Solution 5

A property must be fully enclosed. To do this the point of beginning (POB) must be met by the point of ending (POE).

The answer is **(C)**

Solution 6

The lot-and-block system identifies plots of land by a lot number or letter and the block in which the lot is located. However, the block itself is located by using either the metes-and-bounds system or the rectangular survey system.

The answer is **(C)**

Solution 7

A property survey confirms or determines a property's boundary lines and the specifics of any other restrictions for the property. A survey can determine the following information for a property:

- Legal boundaries
- Easements
- Elevation
- Hazard Areas

The answer is **(B)**

Solution 8

An encroachment is when a property owner violates the established property rights agreed to with the neighbors. The fence being built on a neighbor's property without an agreement would be an encroachment.

The answer is **(A)**

Solution 9

Covenants, conditions, and restrictions (CC&Rs) are the established rules for a home AS a part of a homeowners' association (HOA). They establish rules and limitations on living in the community.

The answer is **(C)**

Solution 10

Police power gives the government the right to enact regulations for the health, safety, and welfare of the public. Some examples that fall under this category include:

- Building codes
- Zoning laws

- Safety regulations
- Rights of tenants and landlords
- Environmental regulations and control
- Right to damage property for the best public interest

The answer is **(A)**

Solution 11

Tenants by entirety allows for the passing of property at death to not require any legal process or documents. This is due to the fact that this type of ownership sees the married couple as a single entity.

The answer is **(C)**

Solution 12

Fee Simple Determinable includes an interest in property that is terminated automatically upon the occurrence or non-occurrence of an event or condition.

The answer is **(B)**

Solution 13

A bundle of rights is the set of legal privileges that is generally afforded to a real estate buyer with the transfer of the title. The bundle includes the following:

- The right of possession
- The right of control
- The right of exclusion
- The right of enjoyment
- The right of disposition

The answer is **(D)**

Solution 14

Estate at will is where a tenant occupies a property with the consent of the owner but without a formal written contract or lease.

The answer is **(C)**

Solution 15

Estate at sufferance is an agreement in which a tenant is legally permitted to live on a property after a lease term has expired but before the landlord has provided notice to vacate

The answer is **(B)**

Solution 16

In a net lease, the tenant is responsible for some or all costs associated such as utilities, maintenance, insurance, and others. The net agreement can be single, double, or triple which indicates the number of responsibilities beyond the required rent. Therefore, a double net lease would include rent plus property taxes and insurance.

The answer is **(C)**

Solution 17

A percentage lease is an agreement with commercial tenants in which there is a requirement to pay the landlord a fixed percentage of gross revenue earned from business conducted at the property. In this scenario, the agreed percentage is 10%. Therefore, with a gross revenue of \$5,000, the tenant owes the landlord rent plus an additional \$500 which is 10% of \$5,000. The total payment is $\$800 + \$500 = \$1,300$.

The answer is **(B)**

Solution 18

If there are multiple loans on a single property, there is an established hierarchy that dictates which loans get paid first by remaining assets in the event of failure to pay. In this case, the first mortgage has seniority and the second mortgage is a junior lien. Therefore, the first mortgage gets paid by the proceeds from the sale and anything remaining gets applied to the second mortgage. Once the \$150,000 is paid off, there is \$20,000 remaining and the second mortgage balance is reduced to \$40,000.

The answer is **(C)**

Solution 19

A gift deed is used for the transfer of real estate between relatives where no exchange of money has taken place.

The answer is **(B)**

Solution 20

Adverse possession is when an individual other than the owner uses a piece of property openly, publicly, and without the owner's consent for a specified period of time. If an individual wishes to successfully claim adverse possession they must exhibit the following:

- Continuous use
- Hostile takeover
- Open and notorious possession
- Actual possession
- Exclusive use

The answer is **(D)**

Solution 21

Implied actual notice is when an individual witnesses something that provided them with information about the property. No one has told the individual directly nor is there written evidence of the information being conveyed but it is reasonable to assume that the information or event provided the necessary notice.

The answer is **(B)**

Solution 22

Utility is a measure of the usefulness of a property. Each individual buyer has a minimum level of utility such as no less than three bedrooms, be near the ocean, or other specific features. In this scenario the home's utility must satisfy the need for five bedrooms.

The answer is **(B)**

Solution 23

The income approach is used to estimate the value of income-producing properties.

The answer is **(B)**

Solution 24

Choosing comparable properties does not have exact requirements but should be as close as possible in size, location, age, and other characteristics. The comparable homes should also be sold as recently as possible. Of the options listed, an age difference of 35 years is a noticeable gap and should not be used as a comparable based on the information provided.

The answer is **(C)**

Solution 25

It is acceptable for a consumer to obtain multiple appraisals

The answer is **(C)**

Solution 26

Properties are depreciated over a period of 27.5 years.

The answer is **(C)**

Solution 27

Since the property taxes are based on assessed value and not market value, the price needs to be converted using the assessment ratio:

$$\text{Assessed Value} = \$200,000 \times 0.8 = \$160,000$$

Then, to determine the property taxes, multiply the assessed value by the millage rate and divide by \$1,000:

$$\text{Property Tax} = \frac{\$160,000 \times 14.8}{\$1,000} = \$2,368$$

The answer is **(A)**

Solution 28

To get the value of the home, first get the average of the adjusted prices per square foot:

$$\text{Average} = \frac{\$200 + \$180 + \$175}{3} = \$185$$

Then multiply this average by the square feet of the subject property to find its CMA value:

$$\text{CMA Value} = \$185 \times 2000 = \$370,000$$

The answer is **(C)**

Solution 29

Using the comparable property, we can determine the gross income multiplier:

$$\text{Gross Income Multiplier} = \frac{\text{Sale Price}}{\text{Gross Annual Rental Income}} = \frac{\$280,000}{\$30,000} = 9.33$$

Then we can use this multiplier to determine the estimated value of the property for sale:

$$\begin{aligned}\text{Estimate Value} &= \text{Gross Income Multiplier} \times \text{Gross Annual Rent} \\ &= 9.33 \times \$24,000 = \$224,000\end{aligned}$$

The answer is **(A)**

Solution 30

Functional obsolescence is the reduction of a home's value due to outdated features that cannot be easily changed.

The answer is **(C)**

Solution 31

The cost approach is appropriate when the consideration of construction is a factor. Some of the most common examples include:

- New homes
- Insurance coverage
- Commercial properties

Rental properties are better suited for the income approach which factors in the amount of income the owner can expect from the properties.

The answer is **(D)**

Solution 32

To determine value as per the cost approach, the property's value is determined by the cost of land, plus total costs of construction, less depreciation:

$$\text{Property Value} = \text{Cost of Construction} + \text{Cost of Land} - \text{Depreciation}$$

Therefore, the property value is:

$$\$150,000 + \$45,000 - \$5,000 = \$190,000$$

The answer is **(C)**

Solution 33

Once an express contract has been established and agreed upon, an identical implied contract cannot exist.

The answer is **(C)**

Solution 34

A bilateral contract is one in which each party promises to perform an act in exchange for the other party's promise to perform. This is the typical type of real estate sales contract.

The answer is **(B)**

Solution 35

An unenforceable contract will not hold up in a court of law and eliminates any obligations imposed on parties in the contract. A contract can be considered unenforceable if the elements of a valid contract are not met. This includes errors in the contract.

The answer is **(D)**

Solution 36

Termination is the ending of a contract before all obligations are met to fully execute the contract. Termination for cause is when a material breach of contract occurs.

The answer is **(A)**

Solution 37

The sale of a property gives the new owner an interest in the property called the equitable title.

The answer is **(A)**

Solution 38

Inspection contingencies stipulate a cost of repairs that if exceeded, allows the buyer to be relieved of the contractual obligations and receive their earnest money back in full. The amount is often specified as a percentage of the sales price. In this case, 2% of \$200,000 is \$4,000.

The answer is **(B)**

Solution 39

The agent has certain legal obligations and responsibilities to the client once the agreement is established. Among those includes obedience which is a requirement for the agent to promptly and completely follow any instructions from the client as long as they are lawful in nature.

The answer is **(C)**

Solution 40

Time is of the essence is a legal phrase that when used in a contract enforces parties to act in a reasonable or specified timeframe.

The answer is **(C)**

Solution 41

A negotiation between a buyer and a seller may include additional items other than the purchase price. Some of those may include:

- Closing cost share
- Earnest money deposit amount
- Closing date
- Contract contingencies

The answer is **(D)**

Solution 42

For any FHA loan, the seller concessions are capped at 6%.

The answer is **(C)**

Solution 43

An installment sales contract is an agreement where a buyer of real estate agrees to pay the seller the full amount of the purchase price broken up in installments over time. This may allow the seller to be able to reduce capital gains taxes by spreading out the gain over a period of time.

The answer is **(B)**

Solution 44

An options contract is an agreement between two parties to facilitate a potential transaction involving an asset at a preset price and date. The buyer gets the exclusive right to buy the property but is not obligated to do so upon the time the option is available.

The answer is **(C)**

Solution 45

In a net listing agreement, the commission is based on the difference between the established baseline price and the actual sales price. Therefore, the commission is \$170,000 - \$150,000 = \$20,000.

The answer is **(C)**

Solution 46

An open listing allows the owner to place listings with multiple real estate brokers. This listing type is not included in MLS.

The answer is **(C)**

Solution 47

The specific exemptions to the Fair Housing Act are:

- Rental of a room in a dwelling with no more than four independent units
- Housing operated by private organizations or clubs which restrict membership
- Single-family purchase without a mortgage broker

The answer is **(D)**

Solution 48

When a professional takes advantage of an ill-informed borrower for personal gain, this is called predatory lending.

The answer is **(A)**

Solution 49

Title I of the ADA applies to employment. Qualified persons with a disability who can perform the essential functions of the job with or without reasonable accommodation must not be

discriminated against in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment.

The answer is **(A)**

Solution 50

The Multiple listing service is a database for the sharing and exchange of information between real estate professionals. It is divided regionally and professionals can become members of more than one region if needed.

The answer is **(A)**

Solution 51

Information is publicly available if an institution has a reasonable basis to believe that the information is lawfully available to the general public. A phone book fits this description.

The answer is **(A)**

Solution 52

The identified risk for the buyer is the concern that if the property is purchased, the roof will need to be replaced or cause additional damage to the home. By proposing to share the costs, the buyer's mitigation strategy is transference which is the sharing or transferring of the risk to another party.

The answer is **(C)**

Solution 53

When an attractive product is presented to get a potential customer engaged but then is sold a different product, this is a bait and switch.

The answer is **(C)**

Solution 54

Tie-in agreements are an agreement to sell one product but only with the condition that the buyer also purchases a different product or service.

The answer is **(D)**

Solution 55

A title search can return a number of issues that may not be readily apparent. Among them are liens, encumbrance, forgeries, boundary disputes, and others. If there is an agreement to access the land, this is called an easement.

The answer is **(C)**

Solution 56

There are three rules as established by the Gramm-Leach Bliley Act:

- The Financial Privacy Rule: requires providing customers with privacy disclosure
- Safeguard Rule: Requires written security plans by institutions
- Pretexting Prohibition: Prohibits the practice of collecting information under false pretenses

The answer is **(A)**

Solution 57

TILA section 1026.36(e) covers the prohibition of steering a consumer towards a specific loan type or transaction. The consumer must be presented with the loan options in section 3 which include:

- The loan with the lowest interest rate;
- The loan with the lowest interest rate without negative amortization, a prepayment penalty, interest-only payments, a balloon payment in the first 7 years of the life of the loan, a demand feature, shared equity, or shared appreciation; or, in the case of a reverse mortgage, a loan without a prepayment penalty, or shared equity or shared appreciation; and
- The loan with the lowest total dollar amount of discount points, origination points, or origination fees (or, if two or more loans have the same total dollar amount of discount points, origination points, or origination fees, the loan with the lowest interest rate that has the lowest total dollar amount of discount points, origination points or origination fees).

While origination fees are a part of option "C" a loan with solely the lowest origination fees is not required.

The answer is **(D)**

Solution 58

While property management companies are responsible for facilitating maintenance requests, they most often do not perform the maintenance themselves. They will hire licensed contractors to perform the repairs necessary.

The answer is **(D)**

Solution 59

If a property that was previously in a moderate-risk flood area moves to a high-risk area, FEMA now requires flood insurance and will notify the property owner.

The answer is **(A)**

Solution 60

Errors and omissions insurance (E&O) is malpractice insurance coverage for real estate professionals to pay for claims related to error, omission, or negligence in an agent's duties. Common exclusions include claims resulting from dishonest or criminal acts, if the agent caused bodily harm or death to another person, or if there is damage to someone's property.

The answer is **(A)**

Solution 61

Brownfields contain or may contain hazardous materials. They may be revitalized but are most often undertaken by state programs and are not under Federal oversight. Superfunds are hazardous sites that are Federally handled.

The answer is **(D)**

Solution 62

Disclosure requirements vary by state and may be different. Some only require the structure condition and others include the land as well.

The answer is **(B)**

Solution 63

The Superfund Amendments and Reauthorization Act amended the Comprehensive Environmental Response, Compensation, and Liability Act. The changes to the Act include:

- Stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites
- Required Superfund actions to consider the standards and requirements found in other State and Federal environmental laws and regulations
- Provided new enforcement authorities and settlement tools
- Increased State involvement
- Increased the focus on human health problems posed by hazardous waste sites
- Encouraged greater citizen participation in making decisions on how sites should be cleaned up
- Increased the size of the trust fund to \$8.5 billion.
- Revised the Hazard Ranking System

The answer is **(A)**

Solution 64

Asbestos was banned as a construction material in 1978. Therefore, any home transaction involving a property that was built before 1978 may include this hazardous material.

The answer is **(C)**

Solution 65

A Phase II environmental assessment is used to determine whether contamination is in fact present. This would include activities such as sampling and other physical tests.

The answer is **(B)**

Solution 66

The CFPB has a number of functions related to consumer protection. They do not dictate the actions of consumers.

The answer is **(D)**

Solution 67

The VA loan allows the borrower to put down no money.

The answer is **(B)**

Solution 68

The secondary mortgage market is where mortgages are bought and sold as securities. An aggregator is an entity that purchases mortgages from financial institutions and then securitizes them into mortgage-backed securities (MBS).

The answer is **(D)**

Solution 69

FHA sets limits on the amount that can be borrowed. It is dependent on the geographical area in which the loan is taken and the median sale price in that area. However, it can never be higher than the ceiling or lower than the floor in any area. If the county is determined to be in the lowest cost market, this means that the floor will apply.

The answer is **(A)**

Solution 70

While a down payment of 20% can avoid the need for PMI and a borrower can apply to have PMI removed at 80% LTV, it will automatically stop at 78%.

The answer is **(B)**

Solution 71

TILA section 1026.24(i) provides prohibited acts in advertising. In this situation, we are directed specifically to section 1026.24(i)(1)(ii) which discusses non-variable-rate transactions and the term fixed. The requirement is that any use of the term “fixed” shall be accompanied by the time period for which the rate or payment is fixed and the fact that the rate may vary.

The answer is **(D)**

Solution 72

There are 3 types of tolerance thresholds:

- Zero tolerance: As the name implies there may be no increase from estimate to closing disclosure
- 10% cumulative tolerance: The change in all fees must not be more than 10%
- No or unlimited tolerance: Any change is acceptable

The answer is **(A)**

Solution 73

The loan estimate expires 10 days after issuing.

The answer is **(A)**

Solution 74

The HELOC is a way for a borrower to tap into the equity of an existing home loan for other purposes. To calculate, the borrower is only allowed to have a total owed amount of 90% of the value of the home: $0.90 \times 450,000 = \$405,000$. Then subtract what is already owed: $405,000 - 300,000 = \$105,000$

The answer is **(C)**

Solution 75

A simple-interest loan calculates interest on a daily basis as opposed to monthly like a traditional loan. To calculate, divide the rate by 365 days and multiply by the outstanding balance and then multiply by the number of days in the period:

$$\text{Interest} = \left(\frac{0.04}{365}\right)(100,000)(30) = \$328.77$$

The answer is **(B)**

Solution 76

The estimated cash to close is the sum of the cost minus any previous deposits or seller credits. In this case: $8200 + 19500 - 5000 = \$22700$.

The answer is **(C)**

Solution 77

Points are used to lower interest rates and each point will lower the rate by 0.25%.

The answer is **(A)**

Solution 78

The new adjustable rate is the index plus the margin: $3 + 2.5 = 5.5\%$. The new rate is now 0.5% higher than the previous loan. To find the increase, divide the interest rate by the number of months and multiply by the balance:

$$\text{Monthly Interest Increase} = \frac{0.005}{12} \times 158000 = \$65.83$$

The answer is **(A)**

Solution 79

The prepaid section includes insurance, MIP, prepaid interest, and property taxes. In this scenario:

$$\text{Taxes} = (5000)/12 \times 3 = 1250$$

$$\text{Insurance} = 1100/2 = 550$$

$$\text{Interest} = 17.25 \times 10 = 172.50$$

$$\text{Sum} = \$1972$$

The answer is **(A)**

Solution 80

The combined LTV is simply a ratio of the addition of the loans to the addition of the values. In this case, we want the overall LTV to be at least 80% so the equation becomes:

$$0.80 = \frac{\text{Loan 1} + \text{Loan 2}}{\text{Value 1} + \text{Value 2}} = \frac{230000 + \text{Loan 2}}{280000 + 220000}; \text{Loan 2} = \$170,000$$

The down payment is then $\$220,000 - \$170,000 = \$50,000$

The percent is $50000/220000 = 22.7\%$

The answer is **(D)**

Solution 81

The Commission adopted a rule known as the “penalty matrix,” which is taken into consideration to assigns penalty range to various violations of The Real Estate License Act and Commission Rules. The penalty matrix contains three ranges for penalties:

- \$100 - \$1,500
- \$500 - \$3,000
- \$1,000 - \$5,000

The answer is **(C)**

Solution 82

The Real Estate Recovery Trust Account can be used to reimburse consumers in order to compensate them from any damage caused by a license holder when the offender cannot pay for those damages. Payments from the Real Estate Recovery Trust Account may not exceed \$50,000 per transaction, with a maximum of \$100,000 per license holder for multiple transactions

The answer is **(C)**

Solution 83

The Texas Administrative code part 23 chapter 531 includes the Canons of Professional Ethics and Conduct. One of its parts is Discriminatory Practices, which says that real estate license holders shall not inquire about, respond to or facilitate inquiries about, or make a disclosure of an owner, previous or current occupant, potential purchaser, lessor, or potential lessee of real property which indicates or is intended to indicate any preference, limitation, or discrimination based on the following: race, color, religion, sex, national origin, ancestry, familial status, or Disability.

The answer is **(C)**

Solution 84

The statute of frauds are laws that provide requirements that must be met for a contract to be enforceable. Applicable transactions include:

- Real estate sale
- Leases exceeding one year
- Agreements with terms that do not have to be met within one year of agreement

The answer is **(D)**

Solution 85

The four economic characteristics of land that affect its value as a real estate product in the marketplace are scarcity, improvements, permanence of investment and area of preference.

The answer is **(C)**

Solution 86

Texas real estate license holders are governed by the Texas Real Estate Licensing Act, the Inspector Act, the Residential Service Company Act, and the Timeshare Act.

The answer is **(B)**

Solution 87

Under Texas Real Estate Commission rules, a real estate broker or salesperson acting as a fiduciary has a special obligation to represent their client and their own positions while treating other parties in a transaction fairly.

The answer is **(C)**

Solution 88

A Mechanic's and Materialman's Lien (M&M Lien) is a way to secure any payment for work done to real property.

The answer is **(B)**

Solution 89

In accordance with the Texas Real Estate License Act, all brokers are required to provide a minimum level of service to any client they represent in communications and negotiations. Provisions of the law detail the obligations of the broker to their clients with great specificity. Therefore, the law was crafted in a manner clearly aimed at instilling broker commitment to putting client interests above all else.

The answer is **(D)**

Solution 90

According to TREC rule 531.3, dealing with license holder competency, a license holder must be informed on national, state, local issues and developments in the real estate industry.

The answer is **(D)**

Solution 91

According to TREC rule 535.4, dealing with license requirements, a licensed Broker in another state transacting a Texas property sale by mail, telephone, internet, email or other means MUST have a Texas real estate license. Hence, because A is false, it is the correct answer.

The answer is **(A)**

Solution 92

The statute of limitations for the submission of consumer complaints to the Texas Real Estate Commission is four years.

The answer is **(A)**

Solution 93

According to the Texas Inspector Act, a licensed real estate inspector must carry liability insurance policy with a minimum limit of \$100,000 per occurrence and an aggregate annual total of at least \$100,000.

The answer is **(C)**

Solution 94

The purpose of the Texas Residential Service Company Act is to provide for the licensing and regulation of residential service companies who provide residential service contracts, also known as warranties.

The answer is **(A)**

Solution 95

At their first face-to-face meeting, the licensee must provide the consumer information about the duties of the broker representing one of the parties or acting as an intermediary pursuant to statutory language.

The answer is **(A)**

Solution 96

According to the Texas Residential Service Company Act, a foreign corporation is eligible to obtain a license as a residential service company if it registers to engage in business in the state as a foreign corporation under the Texas Business Corporation Act and complies with all other laws.

The answer is **(B)**

Solution 97

Appointing associated licensees to work with the parties in a real estate transaction is a fair and impartial act for the intermediary according to the Texas Real Estate Licensing Act.

The answer is **(A)**

Solution 98

The purpose of the Texas Timeshare Act is to regulate the creation and sale of timeshare interests in development properties.

The answer is **(C)**

Solution 99

Recent structural engineer's reports on a single site or multisite are not required in a Timeshare disclosure statement.

The answer is **(D)**

Solution 100

In Texas, a person is legally defined as a broker when they receive a commission in exchange for selling, exchanging, or purchasing real estate.

The answer is **(A)**

Solution 101

The purpose of the TREC administered Real Estate Recovery Trust Funds is to reimburse consumers who have suffered damages caused by TREC license holders.

The answer is **(B)**

Solution 102

The methods of legal recourse for a consumer to recover damages from the Real Estate Trust Fund are to file an application for payment from the Real Estate Recovery Trust Account after filing suit and obtaining a final judgment in civil court for damages, and to file an application for payment from the Real Estate Inspection Recovery Fund after filing suit and obtaining final judgment in civil court for damages.

The answer is **(D)**

Solution 103

The purpose of the Texas Real Estate Inspector Committee is to settle legal cases brought against licensed real estate inspectors.

The answer is **(D)**

Solution 104

There are nine members on the Texas Real Estate Inspector Committee. Six are from the real estate inspector industry and three are members of the public appointed by the Commission Chair.

The answer is **(C)**

Solution 105

Possessing a four-year degree from a college or university is not a requirement for becoming a Texas real estate inspector.

The answer is **(C)**

Solution 106

The statute of fraud in the Texas Real Estate Licensing Act (TRELA) prohibits a person from maintaining an action to recover a commission for the sale or purchase of real estate if there is no prior statement or memorandum of agreement in writing signed by the party against whom the action is being brought.

The answer is **(B)**

Solution 107

A promulgated contract is one that is provided by TREC and is required for use by all Texas real estate professionals.

The answer is **(C)**

Solution 108

An appropriate Texas Real Estate Commission promulgated form must be used unless another form has been prepared and required by the owner of the property.

The answer is **(B)**

Solution 109

According to the Texas Residential Service Company Act, a residential service contract should be used when marketing properties with working components or systems which clearly have many years of mechanical life remaining.

The answer is **(B)**

Solution 110

The Texas Home Owners Protection Act, Chapter 209, establishes standards applicable to record retention, member notices, voting, assessment collection, and foreclosure, among other things.

The answer is **(D)**

Solution 111

The legal penalties for the unauthorized practice of law by a real estate agent in Texas are that the agent may have their real estate license revoked or suspended, and an administrative penalty may be imposed as a result of an investigation by TREC.

The answer is **(C)**

Solution 112

The Standards & Enforcement Service Division of the TREC administers TREC's complaint investigation and disciplinary enforcement programs.

The answer is **(B)**

Solution 113

A broker may act as an intermediary to parties in a real estate transaction as long as the broker has written consent from each party and the consent states who will pay the broker.

The answer is **(A)**

Solution 114

The Texas Real Estate Commission shares staff and resources with the Texas Appraiser Licensing and Certification Board.

The answer is **(C)**

Solution 115

A Texas broker is permitted to complete the promulgated contract because it is not considered to be practicing law.

The answer is **(C)**

Solution 116

In order to obtain a Texas real estate license, a person must be a U.S. citizen or a lawfully admitted alien, at least 18 years old and meet TREC's requirements for honesty, trustworthiness and integrity.

The answer is **(B)**

Solution 117

According to their knowledge of the condition of the property and set forth from language of Texas Property Code Section 5.008, sellers of single-unit residential property must give purchasers a written notice containing focusing on material defects.

The answer is **(B)**

Solution 118

The Texas Real Estate License Act provides that a broker may act as an intermediary between parties to a real estate transaction as long as the broker has written consent from each of the parties and that written consent states who will pay the broker. Texas intermediary brokers can assist both buyers and sellers in the same transaction.

The answer is **(C)**

Solution 119

According to Texas Property code Section 5008, sellers of single unit residential real property are required to give buyers a written notice containing their knowledge of the condition of the property. The Texas Real Estate Commission provides a "Seller's Disclosure Notice" form that incorporates language in compliance with the code requirements. Hence, when selling a single-family home, the seller is required to provide the buyer written notice detailing their knowledge of property condition, pursuant to Texas property Section code 5008.

The answer is **(B)**

Solution 120

The Texas Listing Agreement is a legal document executed by a property owner and a real estate broker which gives the broker the authority to sell or lease the owner's property for a commission.

The answer is **(D)**

Solution 121

When a complaint is filed against a license holder, an extremely critical part of the complaint process occurs with the initial response by the license holder. These written responses or statements made to an investigator are the critical times during which they can provide information and respond in a way that discourages TREC from pursuing disciplinary action.

The answer is **(D)**

Solution 122

Sexual orientation is not a category included under discriminatory practices of a license holder Rule 531.19.

The answer is **(C)**

Solution 123

When a developer expressly declares an intent to subject the property to a timeshare plan through the recording of a timeshare instrument in this state, the developer is establishing a timeshare on a property.

The answer is **(A)**

Solution 124

To obtain a real estate inspector license in Texas, it is not necessary to have a bachelor's degree in structural engineering from an accredited college or university.

The answer is **(D)**

Solution 125

Under the Residential Service Company Act, the Commission may weigh any factors it deems relevant when considering whether to issue or deny a license.

The answer is **(D)**

Solution 126

Special purpose property is used by and for the public. This may include cemeteries, government buildings, libraries, parks, places of worship, and schools.

The answer is **(D)**

Solution 127

The classification of a fixture is a chattel that becomes attached to the land. The classification can be based on whether or not the item can be easily moved. A furnace is not a permanent part of the home but is not easily moved and becomes a fixture of the home.

The answer is **(A)**

Solution 128

The criteria used to classify whether property is a fixture or not includes:

- How is the item attached?
- Inclusion of the item with the construction of the property.
- Agreement between the buyer and seller.

The value of the property is inconsequential.

The answer is **(A)**

Solution 129

The elements of a bill of sale include:

- Date of purchase
- Name and address of the seller and buyer
- Amount paid for the transfer of ownership
- Description of the assets being transferred
- Guarantee that the item is free from all claims and offsets
- Representations or warranties
- Signatures of the seller, of the buyer, and a notary public

The answer is **(D)**

Solution 130

Permanence of investment is an economic characteristic that indicates that a portion of work performed on the land is considered to have permanent value. Not all improvements retain value but some that have permanence include items such as drainage, electricity, water, and sewer systems.

The answer is **(C)**

Solution 131

There are 3 methods used to determine the exact location and boundaries of a parcel of land:

- Metes-and-bounds
- Rectangular survey
- Lot-and-block

The answer is **(A)**

Solution 132

The metes-and-bounds method establishes a point of beginning (POB) from a monument or landmark. Metes, which are boundary lines that enclose the bounds, are then established between points until the point of ending is reached.

The answer is **(B)**

Solution 133

CC&R's dictate the rules for a community by an HOA. They may have limitations or restrictions related to how the owner may use or modify the property.

The answer is **(D)**

Solution 134

Compensation for eminent domain must be provided and the value shall be fair market value.

The answer is **(C)**

Solution 135

Escheat is the ability of the government to obtain properties that are unclaimed. This most commonly occurs when there is no clear heir and an owner has died.

The answer is **(D)**

Solution 136

A homeowner who does not agree with the action of eminent domain imposed on them may challenge the decision in a court of law. They may seek legal counsel and an appraisal to ensure proper treatment. They shall not destroy or no longer maintain the property and still expect proper value.

The answer is **(D)**

Solution 137

Tenancy in common is a type of ownership where two or more persons hold title to real estate jointly with equal or unequal percentages of ownership.

The answer is **(B)**

Solution 138

Fee Simple Subject to a Condition Subsequent allows for an interest that can be terminated at the will of a future interest holder upon the occurrence or non-occurrence of an event or condition.

The answer is **(C)**

Solution 139

The right of possession upon transfer of title identifies the titleholder as the legal owner of the property.

The answer is **(A)**

Solution 140

In a life estate, the life tenant cannot sell the property unless the remainderman provides written consent to do so.

The answer is **(D)**

Solution 141

Despite the lack of a written agreement, an estate at will still has certain legal obligations that must be met by both the tenant and the landlord. Subject to state law, both must give notice to the other property of intent to vacate the property and typically this shall be at least a 30-day notice.

The answer is **(D)**

Solution 142

For a triple lease agreement, the tenant is responsible for the rent plus all additional expenses incurred. Therefore, the total payment of the tenant is the sum of all costs: $\$900 + \$300 + \$90 + \$150 = \$1,440$.

The answer is **(D)**

Solution 143

The hierarchy of loans establishes the payment to lien holders from proceeds if there is a failure of payment. The proceeds will go to the highest priority loan first until it is fully satisfied and then on to the next until all proceeds are exhausted. This may result in some creditors receiving zero in payment.

The answer is **(D)**

Solution 144

The property owner generally has exclusive rights to the soil, minerals, and any other materials found underneath the land. If there are any deviations to this, it must be disclosed in the title deed at the time of purchase. If no restrictions are indicated, it can be assumed the buyer has full subsurface rights to the property unless this is not stipulated under state law.

The answer is **(A)**

Solution 145

A special or limited warranty deed stipulates that the grantor only warrants any title defect from the time the grantor took possession of the property, but not prior.

The answer is **(B)**

Solution 146

Constructive notice is information that is printed in the public record. This is sufficient to assume that an individual should be aware if needed regardless of formal acknowledgment.

The answer is **(C)**

Solution 147

The chain of title traces the historical transfer of ownership from the current owner back to the original owner. The chain of title is much more detailed in the specifics of ownership than the abstract of title.

The answer is **(B)**

Solution 148

Purchasing power is the ability of a buyer to afford the home. The more people that can afford the property, the more available buyers. Sometimes, in scenarios of very high-priced homes, the potential pool of buyers can be limited and the price may have to go down to attract additional suitors.

The answer is **(C)**

Solution 149

For a building that is not frequently sold, the cost approach determines what the value of the property may be by assuming a reasonable buyer would not pay more than a comparable building on a comparable lot. Often this is most appropriate for buildings such as schools, hospitals, or government buildings that are not bought and sold frequently.

The answer is **(C)**

Solution 150

Just because a document or source discusses a property's value does not mean it can be used as a valuation. This is certainly true for public information.

The answer is **(D)**

Solution 151

An appraiser must not be influenced in any way to make a decision. They may, however, be alerted to additional information.

The answer is **(C)**

Solution 152

A broker price opinion (BPO) is an unofficial assessment of a property's potential market value based on expert judgment. A BPO is often based on qualitative and subjective factors such as neighborhood characteristics, curb appeal, and current market trends. A broker price opinion costs much less and can be done more quickly than an official appraisal of the property.

The answer is **(D)**

Solution 153

The difference in the living area is $1,800 - 1,500 = 300$ sq. ft. Therefore, the total adjustment is:

$$\text{Adjustment} = \left(\frac{300}{100}\right) \times \$1,000 = \$3,000$$

Then since the home in question has the greater amount of square feet, the adjustment is made to increase the value of the comparable and the adjustment is positive.

The answer is **(D)**

Solution 154

A gross income multiplier is an estimate of the value of an investment property. It is typically calculated by dividing the property's sale price by its estimated or provided gross annual rental income.

The answer is **(B)**

Solution 155

The replacement method determines the cost of a new structure with newer materials, current construction methods, and design.

The answer is **(B)**

Solution 156

A valid contract shall contain the following elements:

- Offer and acceptance

- Intention
- Consideration
- Legal capacity
- Legality

The answer is **(C)**

Solution 157

While a void contract is often considered not executable by design, a contract may be deemed voidable if the agreement is actionable, but the circumstances surrounding the agreement are questionable in nature. This includes agreements made where one party withheld information or intentionally provided inaccurate information.

The answer is **(C)**

Solution 158

A minor breach of contract is the deliverable of the contract by the other party, but the party failed to fulfill some part of their obligation. The missing of a deadline but still providing the deliverable qualifies as a minor breach.

The answer is **(B)**

Solution 159

Punitive damages are legal payments that are imposed on a defendant found guilty.

The answer is **(B)**

Solution 160

Liquidated damages cover losses in the event of a breach of contract by the other in which the monetary damages would be difficult to determine.

The answer is **(A)**

Solution 161

The actual breach of contract has not occurred yet, but there is information to indicate that the other party in the agreement will be in breach if the action is completed. This is anticipatory breach.

The answer is **(C)**

Solution 162

Recission is the legal removal of obligations from parties in a contract. The court determines that the parties shall be returned to the point of obligation as if the contract was never executed.

The answer is **(D)**

Solution 163

A kick-out clause allows the seller to accept an offer from another qualified buyer. However, the seller must give the current buyer a specified amount of time to match the qualifications of the new buyer. Otherwise, the seller can back out of the contract and sell to the new buyer.

The answer is **(B)**

Solution 164

A special agent relationship is the representation of an individual for a specific singular task or transaction.

The answer is **(C)**

Solution 165

The recognition of legal agency varies by state law and some do require a written agreement for it to hold up but some find implied agency acceptable.

The answer is **(C)**

Solution 166

A counteroffer voids a previous offer and the entity that presented that offer is no longer legally responsible for it.

The answer is **(D)**

Solution 167

The buyer may negotiate for the seller to cover closing costs. But these amounts are limited based on the loan type and the down payment amount.

The answer is **(A)**

Solution 168

For loans that are seller-financed, the agreement allows the buyer and seller to agree on the terms of the payments including the interest rate.

The answer is **(D)**

Solution 169

An option contract will set a predetermined specific price that the buyer may choose to agree to within the timeframe and stipulations of the contract.

The answer is **(A)**

Solution 170

Legal advice and counsel do not fall under the expertise of a real estate professional and shall not be provided.

The answer is **(B)**

Solution 171

An exclusive agency listing is an agreement between a seller and brokerage for exclusive rights for the sale of a home. In this type of agreement, the seller retains the right to market and sell the home to a buyer without having to pay a commission.

The answer is **(C)**

Solution 172

The security deposit covers the landlord in the event of damage or failure to pay by the tenant. Improvements to the home are not necessitated from failure of the tenant to fulfill obligations and therefore use of the deposit to cover these costs would be unlawful.

The answer is **(D)**

Solution 173

The Fair Housing Act requires advertisements to make the consumer aware of the seller's participation in the requirements of equal housing lending. They do not need to go into detail about what the Act requires in ads.

The answer is **(A)**

Solution 174

Steering is forcing a specific geographical area on an applicant based on race, religion, or ethnicity and it is strictly prohibited.

The answer is **(A)**

Solution 175

A multiple listing service (MLS) is a private database created, maintained and paid for by real estate professionals to help their clients buy and sell property. Home sellers can't post their home directly to the MLS, because access to this database is limited to licensed agents and brokers who pay for membership. Each regional MLS has its own listings and clients may become a member of more than one.

The answer is **(C)**

Solution 176

Discrimination is prohibited as a part of:

- Fair Housing Act
- Civil Rights Act
- Home Mortgage Disclosure Act
- The Community Reinvestment Act

The answer is **(D)**

Solution 177

As per ADA Title III, if a real estate broker or salesperson has a home office in which business is conducted with customers, that portion of the home must also be in compliance with the ADA.

The answer is **(B)**

Solution 178

The ability to opt-out must be provided along with a reasonable time frame but the third party for which information will be provided does not have to be identified.

The answer is **(C)**

Solution 179

If a real estate sales office has 15 or more employees, they are subject to Title I.

The answer is **(D)**

Solution 180

Subprime mortgages are less qualified borrowers. A DTI of 40% while not great is not considered an issue usually. More often it will be closer to or above 50% to be considered subprime.

The answer is **(B)**

Solution 181

FHA requires 3 months before the resale of a home.

The answer is **(A)**

Solution 182

Risks are not necessarily a detrimental factor as they can be identified as either a threat or an opportunity.

The answer is **(C)**

Solution 183

Vicarious liability is a situation in which one party is held partly responsible for the unlawful actions of a third party. This can occur in real estate between a broker and an agent even if the broker is unaware of the actions of the agent.

The answer is **(B)**

Solution 184

FEMA requirements stipulate that the flood coverage must be at least the lesser of:

- The maximum amount of NFIP coverage available for the particular property type, or
- The outstanding principal balance of the loan, or
- The insurable value of the structure.

The answer is **(B)**

Solution 185

The allocation of markets or customers is the agreement to divide areas with customers so that there is no competition within markets.

The answer is **(C)**

Solution 186

By EPA definition, an underground storage tank (UST) is defined as “a tank and any underground piping connected to the tank that has at least 10 percent of its combined volume underground.”

The answer is **(A)**

Solution 187

Mold is organic growth in areas of high moisture. Mold is common in areas of the home such as around leaks in roofs, windows, or pipes, or where there has been flooding.

The answer is **(C)**

Solution 188

A Phase I primarily assesses the likelihood that a site is contaminated through visual observations, historical use reviews, and regulatory records.

The answer is **(A)**

Solution 189

The acceptable limit is determined on the state level but the generally accepted action level established by the World Health Organization is 2.7 pCi/L.

The answer is **(B)**

Solution 190

Section 10 of RESPA stipulates that the lender may require a cushion for an escrow account no more than 1/6 of the total yearly disbursements.

The answer is **(B)**

Solution 191

Section 1002.6(b)(5) provides guidance on what income to be considered as a part of the applicant's creditworthiness. The creditor must include all sources of income including part-time wages, pensions, alimony, etc. but does have the ability to evaluate the inclusion of income on the basis of its likelihood to continue.

The answer is **(C)**

Solution 192

The FHA loan is the only which is 100% backed. The VA and USDA are partially and conventional is 0%.

The answer is **(B)**

Solution 193

A balloon payment does not fully amortize over the life of the loan and there is a remaining balance at the end of the term. The advantage can be that the monthly payments and the rates are less. This lends itself to be advantageous in the short term and not the long term. Therefore, if someone were to be sure they are selling in a short period of time, the balloon mortgage may make sense.

The answer is **(B)**

Solution 194

An FHA loan has a minimum down payment of 3.5% but the credit score of the individual must be at least 580. If it drops to between 500 and 580, the minimum is 10%.

The answer is **(C)**

Solution 195

FHA maximum debt ratios are 31 on the front end and 43 on the back end.

The answer is **(B)**

Solution 196

The ECOA requires the lender or mortgage broker to consider reliable sources of income such as part-time, pensions, alimony, social security, public assistance, and others. However, the applicant is not required to submit alimony, child support, or separate maintenance as income.

The answer is **(A)**

Solution 197

PMI is used as protection for the lender. The borrower is in no way protected if there is a failure to pay the monthly payments.

The answer is **(A)**

Solution 198

TRID stipulates that the lender must deliver the application no later than 3 business days after application.

The answer is **(A)**

Solution 199

The TIP is the ratio of the total amount of interest paid to the total loan amount:

$$TIP = \left(\frac{100}{200} \right) \times 100 = 50\%$$

The answer is **(B)**

Solution 200

For a principal residence or secondary home purchase, the limit on seller concessions is limited depending on the amount of the down payment. For an investment property, however, the down payment does not matter and it is a consistent 2%.

The answer is **(A)**

Solution 201

Commission is based on the sales price of the home. It is common for the two agents to split the commission and to be paid by the seller. To determine the commission:

$$\text{Commission} = \text{Sales Price} \times \text{Commission Rate} = \$350,000 \times 0.03 = \$10,500$$

The answer is **(B)**

Solution 202

A prepayment penalty is capped at 2% for the first two years and 1% thereafter.

The answer is **(B)**

Solution 203

Debt-to-income (DTI) ratio is a comparison of a borrower's income to obligations. In this case, we know the target ratio and we have to back figure the maximum mortgage:

$$DTI = \frac{(Mortgage + Debt Payments)}{Monthly Income} = 0.40 = \frac{(Mortgage + 800)}{5750}; Mortgage = \$1500$$

The answer is **(B)**

Solution 204

For the 10% cumulative rule all of the fees combined must not increase by more than 10%:
 $5000 \times 1.1 = \$5500$.

The answer is **(B)**

Solution 205

The housing ratio, also known as the front-end ratio, is the housing payment divided by the monthly income. The monthly income is $60000/12 = 5000$. The equation becomes:

$$0.28 = \left(\frac{450 + 90 + 120 + Mortgage Payment}{5000} \right)$$

If you solve for the mortgage payment you get \$740.

The answer is **(A)**

Solution 206

Land has three physical characteristics: immobility, indestructibility, and uniqueness.

The answer is **(D)**

Solution 207

The real estate set of laws include:

- Contract law
- General property law
- Agency law
- Real estate license law
- Federal regulations
- Federal, state, and local tax laws
- Zoning and land-use laws
- Federal, state, and local environmental regulations rights.

The answer is **(D)**

Solution 208

Ownership in severalty occurs when property is owned by one individual or corporation. The term comes from the fact that a sole owner is severed or cut off from other owners. The severalty owner has sole rights to the ownership and sole discretion to sell, will, lease, or otherwise transfer part or all the ownership rights.

The answer is **(B)**

Solution 209

A contract is discharged when the agreement is terminated. The most desirable case is when a contract terminates because it was completely performed, with all its terms fulfilled. Contracts may be terminated for other reasons, such as a party's breach or default.

The answer is **(D)**

Solution 210

Substitution of a new contract for an existing contract is called novation. The new agreement may be between the same parties, or a new party may be substituted for either. Novation occurs when a new, clear contract with all the accepted changes is signed by all the parties. However difficult to read, the original contract should always be saved in case of any later disagreement over the terms agreed upon.

The answer is **(A)**

Solution 211

Payments from the Real Estate Recovery Trust Account for claims, including attorney's fees, interest, and court costs, arising out of a single transaction may not exceed a total of \$50,000.

The answer is **(C)**

Solution 212

When selling single family residential homes, the Texas Seller's Disclosure of Property Condition is required.

The answer is **(D)**

Solution 213

Only a Texas broker can legally maintain a trust account.

The answer is **(A)**

Solution 214

In Texas, a licensee shall only use contract forms promulgated by the Texas Real Estate Commission when negotiating real estate contracts.

The answer is **(B)**

Solution 215

The eight protected classes in Texas Fair Housing are race, color, religion, sex, handicap, familial status, national origin, or ancestry.

The answer is **(B)**

Solution 216

The Texas Real Estate Commission conducts its business in order to protect the public interest.

The answer is **(B)**

Solution 217

In order for a tenant to claim relief for constructive eviction, the landlord must have intentionally withheld required repairs or maintenance.

The answer is **(A)**

Solution 218

When a buyer purchases a condominium that includes furniture, the document that evidences the buyer's ownership of the furniture is a bill of sale.

The answer is **(C)**

Solution 219

A broker who enters into a property management contract is considered a fiduciary.
The answer is **(A)**

Solution 220

A buyer's interest in real property, acquired at the moment the seller and buyer enter into a sales contract, is known as equitable interest.

The answer is **(B)**

Solution 221

The appropriate time for a selling broker to explain the agency relationship to a prospective buyer is at their initial meeting.

The answer is **(A)**

Solution 222

A geographic region in which similar properties compete with the subject property for potential buyers is called a market area.

The answer is **(C)**

Solution 223

The most appropriate means of determining a selling price in a new rapidly selling neighborhood, in the absence of a formal appraisal report is the price that willing buyers have recently paid for similar structures.

The answer is **(A)**

Solution 224

Similar utility and current material would be factors included in the description of replacement costs.

The answer is **(A)**

Solution 225

Under an exclusive right-to-sell listing, a broker has the authority to pay for any needed repairs to the property and submit on behalf of a seller.

The answer is **(C)**

Solution 226

A mortgage is an example of an Executory contract.

The answer is **(A)**

Solution 227

Another name for easement is nonpossessory interest.

The answer is **(D)**

Solution 228

For a commercial building, the repair of a broken lock is an example of corrective maintenance.

The answer is **(B)**

Solution 229

The profit realized from the sale of real estate held for three years is called long term capital gains.

The answer is **(A)**

Solution 230

Another name for swamps, marshes, and bogs is wetlands.

The answer is **(C)**

Solution 231

Ownership of real property for an undetermined length of time is called a freehold estate.

The answer is **(D)**

Solution 232

Lori has agreed to transact real estate business on behalf of Alex because she is an agent.

The answer is **(B)**

Solution 233

Although Lev refuses to list his home, when he agrees to allow the real estate agent Francois show his home to 3 prospective purchasers, an agency by estoppel is created.

The answer is **(A)**

Solution 234

Although Mr. Carpenter purchased his property 9 years ago for \$550,000 and sold it for \$600,000, he will pay no taxes since it was his personal residence.

The answer is **(D)**

Solution 235

The adjusted basis for a taxpayer's residence is cost plus improvements.

The answer is **(B)**

Solution 236

If a broker leases 1200 square feet of warehouse space at \$6 per square foot per year and the broker's commission on the first year's rental income is 8 percent, the maximum amount payable is \$576.

The answer is **(A)**

Solution 237

If a lot is purchased for \$10,500 and sold a year later at a 20% loss, and the owner paid a 10% commission on the sale, the owners net loss is \$2940.

The answer is **(C)**

Solution 238

If a buyer contracts to purchase a previously occupied single-family residence but does not receive a copy of the Seller's Disclosure Notice before signing the contract, the buyer may terminate the contract within 7 days of receiving the contract.

The answer is **(C)**

Solution 239

According to The Real Estate License Act of Texas, appointing associated licensees to work with the parties is a fair and impartial act for an intermediary.

The answer is **(A)**

Solution 240

A real estate salesperson offering property for sale by lottery is grounds for suspension or revocation of license for that salesperson.

The answer is **(C)**

Solution 241

When the association of a salesperson with the sponsoring broker is terminated, the broker must immediately return the salesperson's license to the Commission.

The answer is **(A)**

Solution 242

An individual is exempt from real estate licensure in Texas when offering an employer's property for rent.

The answer is **(B)**

Solution 243

Absent an agreement, spouse's rental income from separate property is considered community property.

The answer is **(A)**

Solution 244

The salesperson's sponsoring broker is responsible to the Texas Real Estate Commission, the public, and the clients for the actions of the salesperson.

The answer is **(B)**

Solution 245

Combining a principal's funds with the licensee's personal funds is considered to be comingling. In law, comingling is considered to be a breach of trust in which the fiduciary mixes funds held in care for a client with his own funds, making it difficult to determine which funds belong to the fiduciary and which funds belong to the client.

The answer is **(A)**

Solution 246

Military spouses are not exempt from Texas real estate licensing requirements.

The answer is **(D)**

Solution 247

An agent must act with care and is accountable for the handling of funds received on behalf of the principal.

The answer is **(C)**

Solution 248

A reduction in the value of real estate with the passage of time due to degrading foundation and structural integrity refers to depreciation. Depreciation is defined as the reduction in value of an asset over time due in particular to wear and tear.

The answer is **(D)**

Solution 249

Under Texas law, an Information About Broker Services Form must be provided to buyers and sellers entering into an agency relationship with a broker.

The answer is **(A)**

Solution 250

The purpose of the Real Estate Recovery Trust Account is to enable people to get recourse of uncollected judgment against licensees.

The answer is **(B)**

Solution 251

A contract may be terminated if it is breached by one of the parties. A breach of contract is a violation of any of the terms or conditions of a contract without legal reason. Some breaches are curable, while others are not. The courts generally allow a defaulting party reasonable time to cure if there is no undue burden or hardship on the other party. For example, a tenant pays late but will not be evicted even though there would be a monetary penalty for the breach. An example of a breach that is not curable is when the buyer, who has signed a buyer-broker agreement, buys a property with another agent. While not curable, there is a remedy for the breach that may involve a small claims action up to \$10,000.

The answer is **(A)**

Solution 252

A lease is a contract between an owner of real estate (the lessor) and a tenant (the lessee). A lease is a contract to transfer the lessor's rights to exclusive possession and use of the property to the tenant for a specified period.

The answer is **(C)**

Solution 253

An estate from period to period is created when the landlord and tenant enter into an agreement for an indefinite time with no specific termination date.

The answer is **(A)**

Solution 254

An estate at will gives the tenant the right to possess property with the landlord's consent for an unspecified or uncertain term; it continues until it is terminated by either party giving proper notice. An estate at will is automatically terminated by the death of either the landlord or the tenant.

The answer is **(A)**

Solution 255

An executory contract is any contract for the sale of real estate which has unperformed obligations in excess of 180 days, on both sides, involving a personal residence.

The answer is **(A)**

Solution 256

Real property is land or things attached to land which cannot be moved. Trees or plants that grow on land can also be considered real property. The exception is those that require routine cultivation or labor, such as crops.

The answer is **(C)**

Solution 257

Chattels are tangible personal property such as furniture or clothing. Additionally, some chattels can be attached to land and become part of real property. Patents are intangible property and are not chattels.

The answer is **(D)**

Solution 258

The trade fixtures shall still be removable otherwise it becomes the property of the owner of the property.

The answer is **(C)**

Solution 259

Attachments are anything attached to the property and can be classified as either natural or man-made. Natural ones are living things such as trees, shrubs, or flowers. Man-made ones are installed and not a naturally occurring element of the property.

The answer is **(C)**

Solution 260

The bill of sale is proof of a transfer of ownership. However, a bill of sale may either be absolute in which ownership is transferred entirely or conditional in which the grantor has a conditional claim to seizure if stipulations are not met.

The answer is **(C)**

Solution 261

Land has four distinct economic characteristics that influence its value as an investment:

- Scarcity
- Improvements
- Permanence of investment
- Location or area preference

The answer is **(B)**

Solution 262

It is important to note that the assessed value for a property is not the same as the appraised value. The assessed value, along with the millage rate is used in the determination of the property taxes.

The answer is **(A)**

Solution 263

Both police power and eminent domain are forceful means of taking property from a homeowner in which an agreement has not been reached. One of the key differences is that eminent domain does require some compensation to the homeowner whereas police power does not.

The answer is **(B)**

Solution 264

Zoning ordinances set restrictions on how a property can be used or modified. Most often, they are determined at the town or city level of government for a specific region.

The answer is **(C)**

Solution 265

Eminent domain may be used for a portion of a property or an easement and it is not necessary to obtain the entirety of the property. If it is determined that the project is for the good of the public, eminent domain may be used to obtain the necessary easement.

The answer is **(C)**

Solution 266

Community property is joint ownership by a husband and wife during their marriage in which each spouse owns everything equally, regardless of who earned or spent the money. This is not available in all states.

The answer is **(D)**

Solution 267

Fee simple absolute is an interest in property a person will receive when they either buy land or receive land as a gift. The interest is absolute because the interest will not end on the occurrence of an event or condition.

The answer is **(A)**

Solution 268

The bundle of rights is provided to the buyer along with the acquisition of the title.

The answer is **(D)**

Solution 269

A life estate shall establish a remainderman who is the identified individual that will receive the property upon the death of the life tenant.

The answer is **(C)**

Solution 270

An estate for years is a lease with an established beginning and end date. At the end of the established time period, the tenant is expected to vacate the property, and notice is not required.

The answer is **(A)**

Solution 271

A gross lease is one that includes all costs a tenant might incur during their stay. In addition to rent, this includes taxes, insurance, utilities, and any others.

The answer is **(A)**

Solution 272

The title insurance covers both the lender and the borrower from loss or damages resulting from the property title.

The answer is **(C)**

Solution 273

The three guarantees of a general warranty deed include:

- The grantor owns the title free and clear of any defects from the time the grantor owned the property back to prior ownership of the property
- There are no liens or encumbrances other than stated in the deed
- The grantor will defend the title of the property against third-party claims

The answer is **(B)**

Solution 274

Avulsion is the sudden loss of land by natural processes. This may occur due to events such as hurricanes, landslides, earthquakes, erosion, and others.

The answer is **(A)**

Solution 275

A marketable title may not be free of mistakes but a court will legally force its acceptance by a buyer.

The answer is **(C)**

Solution 276

Many states require an attorney to provide a closing protection letter which is an additional certification by the attorney who issued the opinion of title. It certifies the information provided and assumes responsibility for any legal recourse that could arise due to erroneous reporting.

The answer is **(B)**

Solution 277

The characteristics of value include:

- Demand
- Utility
- Scarcity
- Purchasing Power
- Transferability

The answer is **(B)**

Solution 278

Flipping, which is commonly confused with house flipping by a contractor, is when collusion occurs between a buyer, appraiser, and a lender in which a home is bought and then sold artificially for a higher price in a short time frame.

The answer is **(B)**

Solution 279

The right to receive notice must be provided within 3 business days.

The answer is **(A)**

Solution 280

Depreciation is only taken for work classified as an improvement and not repairs. A roof falls under improvement and can be depreciated. The yearly depreciation is the cost of improvement divided by the lifespan:

$$\text{Yearly Depreciation} = \frac{\$7,500}{10} = \$750$$

The answer is **(B)**

Solution 281

The property tax is determined from the assessed value of the property and the millage rate or mill rate. The mill rate is expressed per \$1,000 with one mill representing \$1 in tax for every \$1,000. Therefore, to find the property tax, multiply the assessed value by the mill rate and then divide by \$1,000:

$$\text{Property Tax} = \left(\frac{\$220,000 \times 26.5}{\$1,000} \right) = \$5,830$$

The answer is **(B)**

Solution 282

A CMA should take into account any features of the property that may be determined to affect the value. Fireplaces, landscaping, and scenery are all relevant choices.

The answer is **(D)**

Solution 283

A gross income multiplier is calculated by dividing the property's sale price by its estimated or provided gross annual rental income. Therefore, to determine the rent from a targeted gross income multiplier use the following:

$$\text{Gross Annual Rental Income} = \frac{\text{Sale Price}}{\text{Gross Income Multiplier}} = \frac{\$600,000}{5} = \$240,000$$

Since this is the annual income, we can find the monthly income by $\$120,000/12 = \$10,000$. Then since there are five units, the rent per unit is $\$10,000/5 = \$2,000$.

The answer is **(B)**

Solution 284

Economic obsolescence is a loss of value of a property due to factors that are external to the property. The catalyst is outside of the control of the owner of the property and therefore the issue can most likely not be corrected.

The answer is **(D)**

Solution 285

The reproduction method determines cost from an exact replica of the property including original materials.

The answer is **(C)**

Solution 286

For investment properties or landlords, costs for work performed on a home can be depreciated but must be classified as a repair or improvement. Improvements are more substantial and permanent including renovations, additions, and remodeling. Repairs are work done to fix portions of the home due to wear and tear. This would include plumbing work to a single sink.

The answer is **(C)**

Solution 287

Consideration ensures that some level of value must be exchanged for a contract to be binding. The value does not have to be at some minimum level of adequacy for the contract to be executed but some value must be present.

The answer is **(C)**

Solution 288

An unenforceable contract will not hold up in a court of law and eliminates any obligations imposed on parties in the contract.

The answer is **(D)**

Solution 289

Recission is the legal removal of obligations from parties in a contract. The court determines that the parties shall be returned to the point of obligation as if the contract was never executed.

The answer is **(B)**

Solution 290

The statute of frauds mandates that for a contract to be enforceable it must be in writing and be signed by the person against whom enforcement of the contract will be sought.

The answer is **(A)**

Solution 291

The earnest money deposit is binding as soon as the agreement is communicated between the buyer and the seller.

The answer is **(C)**

Solution 292

A financing contingency allows the buyer to look for and obtain proper financing to complete the purchase of a property. If they are unable to, the contract can be terminated and earnest money returned.

The answer is **(B)**

Solution 293

A general agent establishes a representation of the client for a range of activities under a specific purpose. A property manager handles more than a single transaction but is still limited to the scope of the properties.

The answer is **(A)**

Solution 294

Implied agency involves actions taken that a reasonable person can assume agency has begun. The declaration of intention and the discussion of properties implies the intention of agency.

The answer is **(B)**

Solution 295

Once agency is created with a client, the agent is held to certain legal responsibilities during representation of the client. These include:

- Care and diligence
- Loyalty
- Accounting
- Obedience
- Disclosure
- Confidentiality

The answer is **(C)**

Solution 296

There are three options upon receipt of a counteroffer: accept it, reject it, or make another offer and continue negotiations.

The answer is **(B)**

Solution 297

The seller concessions are limited to a percentage of the sales price based on the down payment amount. For a 5% down payment, the limit is 3%. Therefore 3% of \$250,000 = \$7,500.

The answer is **(D)**

Solution 298

As a part of seller financing, the seller remains in possession of the legal title until the buyer pays in full. This allows the seller to foreclose on the home if payments are not made as per the agreement.

The answer is **(C)**

Solution 299

For an option contract to be established, it shall contain the premium, the purchase price, and the timeframe in which the buyer must decide to exercise the option.

The answer is **(C)**

Solution 300

A renter pays a security deposit but it is still owned by the tenant until there is a determination that it needs to cover repairs or some other applicable costs. Until that time the landlord shall keep the deposit in an escrow account and any interest is owed to the tenant.

The answer is **(A)**

Solution 301

Section 1003.3 covers exemptions from the need to report. Section (c)(2) indicates that unimproved land need not be reported.

The answer is **(B)**

Solution 302

The Good Neighbor Next Door program allows these types of professionals to seek discounted properties in specific areas.

The answer is **(C)**

Solution 303

HUD approved counselor's help with services related to the ability to pay a mortgage for a borrower. There is no HUD hotline, however.

The answer is **(C)**

Solution 304

The title report may be obtained through any means desired by the purchaser. It can be done personally at the assessor's office or courthouse but most often it is obtained through a professional.

The answer is **(D)**

Solution 305

Public information for complaints includes the date, subject, and a description if consented. There is no mention of penalties, but the resolution of the complaint is indicated

The answer is **(D)**

Solution 306

Title III of the ADA prohibits entities that own, lease, or operate a place of public accommodation from discriminating against the disabled. The ADA requires equal access and services to disabled individuals in the most integrated setting possible. Architectural and communication barriers are to be removed in existing facilities where such removal is readily achievable and can be carried out without much difficulty or expense.

The answer is **(C)**

Solution 307

The GLBA provides guidance to institutions regarding the sharing of non-public information. They must at a minimum disclose:

- What information is collected about its customers
- With whom the financial institution shares the information
- How the information is protected
- Opt-out options

The answer is **(A)**

Solution 308

Calls can be made no later than 9 pm.

The answer is **(C)**

Solution 309

Debt to income is a measure of the monthly debt obligations to the gross income, not the net pay.

The answer is **(C)**

Solution 310

If a borrower is delinquent there is a number of actions that can be taken by the lender. A short sale is when the lender agrees to sell the home for less than what is owed.

The answer is **(C)**

Solution 311

Acceptable reasons are related to the applicant's inability to display creditworthiness but may also be related to the proposed property. Common circumstances for denial may include:

- Poor credit history
- Insufficient assets
- Proposed property having unfavorable characteristics
- Lack of employment history
- Poor credit score
- Immigration status

The answer is **(B)**

Solution 312

Redlining is the unethical practice of not providing services to residents of a certain area based on race or ethnicity. The Community Reinvestment Act in 1977 was passed to prevent these practices.

The answer is **(C)**

Solution 313

General liability insurance cover costs related to bodily injuries and property loss or damage.

The answer is **(D)**

Solution 314

Price fixing is an agreement on a standard set price across multiple companies.

The answer is **(A)**

Solution 315

If there is no insurance on a property due to reasons such as failure to pay, the lender can force insurance on the borrower so that the property is still protected. This is known as force-placed insurance.

The answer is **(C)**

Solution 316

The Clean Water Act (CWA) regulates discharges of pollutants into the waters of the United States and establishes quality standards for surface waters.

The answer is **(B)**

Solution 317

The 1992 Residential Lead-Based Paint Hazard Reduction Act required anyone licensed individual involved in the sale, lease, management, construction, or appraisal of a property built before 1978 to provide a clear notification to parties involved in the transaction.

The answer is **(D)**

Solution 318

Phase III is used when contamination has already been identified. The tasks will include determining the extent of the contamination and developing a remediation plan.

The answer is **(C)**

Solution 319

Some of the health concerns with certain substances include those which can become airborne and therefore pose a significant respiratory risk. This is indeed the case for all of radon, asbestos, and mold which will release contaminants that can be breathed in.

The answer is **(D)**

Solution 320

Flood zones are geographic areas that FEMA has classified according to varying levels of flood risk. These zones are depicted on a community's Flood Insurance Rate Map (FIRM). The zone a property falls in determines the requirement for flood insurance. Those in high-risk areas are required to have flood insurance. High-risk zones include:

- Zone A
- Zone V

The answer is **(A)**

Solution 321

Loan flipping is when a borrower is encouraged to refinance without any real benefit. This results in unnecessary additional fees and costs.

The answer is **(C)**

Solution 322

The up-front mortgage insurance premium is a closing cost specific to an FHA loan and cannot be avoided regardless of the down payment amount.

The answer is **(D)**

Solution 323

A construction-only loan is actually two separate loans: one solely for the construction of the home and then a mortgage. Because of this the fees for the loans are separate and require two sets

The answer is **(D)**

Solution 324

The attorney fee cannot be charged by the lender and is not allowable.

The answer is **(B)**

Solution 325

Despite the fact that a loan may have the necessary equity to remove PMI, if it is not absent at the origination of the loan, there is a seasoning period in which the borrower must wait to apply to remove the payment. This period is a minimum of 2 years.

The answer is **(B)**

Solution 326

For an application to be received and complete, it must include:

- Consumer name
- Consumer income
- Social Security number
- Property address
- Estimate of the value of the property
- Loan amount sought

The answer is **(A)**

Solution 327

A decrease in a fee does not count in the cumulation of recording fees. Only increases are counted.

The answer is **(A)**

Solution 328

Any changes that are needed after consummation may be made in a revised closing disclosure within 30 calendar days.

The answer is **(C)**

Solution 329

Points are a way to pay an up-front amount that will lower the interest rate on a loan. Each point is worth 1% of the loan. In this case, 2 points will cost \$6000.

The answer is **(B)**

Solution 330

The return on an investment (ROI) is the ratio of the net profit or loss upon sale of the asset. Return on investment is often indicated as a percentage:

$$ROI = \frac{\text{Net Return on Investment}}{\text{Cost of investment}} \times 100\%$$

The net return is all of the income associated with the property:

$$\text{Net Return} = \$20,000 + \$5,000 \times 5 = \$45,000$$

Then calculate the ROI:

$$ROI = \frac{\$45,000}{\$350,000 + \$10,000} \times 100\% = 12.5\%$$

The answer is **(A)**

Solution 331

Appreciation is the increase in value of an asset over time. Appreciated value is calculated by

Appreciated Home Value

$$= \text{Sales Price} \times (1 + \text{Yearly Rate of Appreciation (Decimal)})^{\text{Number of Years}}$$

Therefore, the estimated property value after five years is:

$$\$200,000 \times (1 + 0.03)^5 = \$231,855$$

The answer is **(C)**

Solution 332

The IRS has the following exemption amounts for net profit from a sale for an individual filer:

- \$250,000 of capital gains on real estate

The proceeds are the net gain minus the existing payoff of the mortgage. The net gain must account for the closing costs. Therefore, the gross gain on the property is 95% of \$350,000 which is \$332,500. The seller is allowed a net gain of \$250,000 so the existing payoff must not be less than \$332,500 - \$250,000 = \$82,500.

The answer is **(A)**

Solution 333

For PMI to be avoided, typically the down payment needs to be 20% or more. Therefore 20% of \$200,000 is \$40,000.

The answer is **(D)**

Solution 334

Per diem interest is calculated by taking interest on a daily basis. The equation is:

$$\text{Daily Interest} = \frac{\text{rate}}{365} \times \text{principal} \times \text{time period}$$

$$\text{Daily Interest} = \frac{0.0425}{365} \times 242000 \times 30 = \$845.34$$

The answer is **(D)**

Solution 335

Monthly payment = $820 + 1200/12 + 6000/12 + 82 = \1502 .

The answer is **(B)**

Solution 336

TREC was established in 1949 including eight divisions.

The answer is **(C)**

Solution 337

Investigations into complaints are categorized as either being handled by the Headquarters or Field investigations.

The answer is **(A)**

Solution 338

TREC provides guidance on complaints and an overview of the process in the TREC Complaint Overview Manual. Complaints are prioritized in three levels as per the manual:

- Level 1: Fraud or misrepresentation that involves loss of >\$10K, personal safety issues, unlicensed activity and mortgage fraud.
- Level 2: Fraud or misrepresentation that involves loss of money or property negligence, Allegations involving education providers, Violations of Sections 1102.301-1101.303, 1101.305.
- Level 3: Technical violations

The answer is **(A)**

Solution 339

Each real estate case in Texas goes in front of the TREC Commissioners who makes the final decision of the case. After the Commission issues a Final Order in a case, a respondent can file a request for rehearing. If the rehearing is granted, the case will go back in front of the TREC Commissioners for reconsideration. If the rehearing is denied, the respondent can file an appeal the Final Order in district court.

The answer is **(C)**

Solution 340

There are two real estate recovery funds to reimburse consumers who suffer damages caused by TREC license holders:

- The Real Estate Recovery Trust Account
- The Real Estate Inspection Recovery Fund

The answer is **(B)**

Solution 341

The mandatory education qualification set by includes the following qualifying real estate courses:

- Principles of Real Estate I (30 classroom hours)
- Principles of Real Estate II (30 classroom hours)
- Law of Agency (30 classroom hours)
- Law of Contracts (30 classroom hours)
- Promulgated Contract Forms (30 classroom hours)
- Real Estate Finance (30 classroom hours)

The answer is **(D)**

Solution 342

To pass the individual must answer 56 national questions and 21 state questions correctly.

The answer is **(A)**

Solution 343

TREC real estate license shall be renewed every two years. As part of the renewal process, an individual must complete continuing education courses.

The answer is **(B)**

Solution 344

The Texas Administrative code part 23 chapter 531 includes the Canons of Professional Ethics and Conduct. It includes rules for professional behavior. The parts include Fidelity, Competency, Integrity, & Discriminatory Practices.

The answer is **(C)**

Solution 345

TREC has the ability to suspend or revoke a license if there is evidence of any of the following:

- Drafting of a legal instrument
- Advise a party on a legal instrument
- Advise a party concerning the title of a property

The answer is **(D)**

Solution 346

For real estate sales agents and brokers, formal disciplinary action includes may include the reprimand of a license, suspension of a license and revocation of a license.

The answer is **(D)**

Solution 347

Texas is a state that is a community property jurisdiction and specifies that any property acquired by a couple during their marriage is equally owned by both spouses.

The answer is **(D)**

Solution 348

The optional percentage exemption determines that any taxing unit, including a city, county, school, or special district, may offer an exemption of up to 20 percent of a home's value,

however whatever may be the percentage is, the amount of an optional exemption cannot be less than \$5,000.

The answer is **(A)**

Solution 349

Texas homestead liability protections are provided automatically and there is no filing requirement. Under the Texas Property Code, the homestead of a family or single adult is protected from forced sale for the purposes of paying debts and judgments except in cases of purchase money, taxes, divorce, home improvement loans, home equity loans, reverse mortgages, liens predating the establishment of homestead, refinance loans, or the conversion or refinance of a lien on a mobile home that is attached to the homestead.

The answer is **(C)**

Solution 350

Under the Texas Property code homestead liability protection is only available when the owner either lives on it or has a reasonable expectation of building a home on it. A family can only have one homestead.

The answer is **(D)**

Solution 351

The Texas Deceptive Trade Practices-Consumer Protection Act ("DTPA") was enacted on May 21, 1973. The primary purpose of the DTPA is to protect consumers against false, misleading, and deceptive business and insurance practices, unacceptable actions, and breaches of warranty.

The answer is **(C)**

Solution 352

The TREC requires that applicants exhibit honesty, trustworthiness and integrity. Any actions deemed to prove otherwise is grounds for denial of an application.

The answer is **(D)**

Solution 353

Wills are legally binding documents that detail how an individual would like his or her property divided after death. There are four types of wills:

- Witnessed
- Holographic
- Approved
- Nuncupative

The answer is **(B)**

Solution 354

The purpose of TREL is to protect the public through regulation of licensed real estate brokerage practitioners, real estate inspectors, residential service companies, and entities offering timeshare interests.

The answer is **(C)**

Solution 355

Although the available forms of ownership are controlled by state laws, a simple estate may be held in three basic ways:

- Ownership in severalty
- Forms of co-ownership
- In trust

The answer is **(A)**

Solution 356

Time-share ownership permits multiple purchasers to buy interests in real estate and is most common with resort property ownership

The answer is **(A)**

Solution 357

In Texas, the statute of limitations is four years for breach of contract.

The answer is **(C)**

Solution 358

There are three:

- Gross lease
- Net lease
- Percentage lease

The answer is **(C)**

Solution 359

The TREC-promulgated One to Four Family Residential Contract (Resale) Paragraph 23 provides the buyer an option for a stated fee and time period, which is generally \$100 to \$500 for 7 to 10 days.

The answer is **(C)**

Solution 360

The option period in commercial transactions is generally longer, usually from 30 to 90 days.

The answer is **(B)**

Solution 361

Regulations that govern the use, occupancy, size, location, and construction of real estate fall within the police powers.

The answer is **(A)**

Solution 362

Under Texas homestead laws, a family or single person cannot be forced out of their home as a result of creditor claims. The one exception to this claim is a pre-existing real estate loan or mechanic's lien, which can foreclose for defaults and nonpayment.

The answer is **(A)**

Solution 363

The Four Common Types of Listings:

- An open listing is a non-exclusive contract
- Exclusive Right to Sell Listing

- Exclusive Agency Listing
- Net Listing

The answer is **(C)**

Solution 364

The TREC website provides the list of approved contracts to be used including:

- Farm and Ranch
- Amendment
- New Home completed construction
- New Home incomplete construction
- One to Four Family Residential
- Residential Condo
- Unimproved Property

The answer is **(A)**

Solution 365

Such activities conducted in Texas must be conducted by a license holder.

The answer is **(A)**

Solution 366

The additional right allows the buyer has the right to terminate if the appraisal falls below a specified amount.

The answer is **(A)**

Solution 367

Home inspectors in Texas are not required to have any home construction experience.

The answer is **(B)**

Solution 368

Note that the Completion of Repairs and Treatments Paragraph in TREC contracts requires the seller to either use someone who is licensed to make the repairs or, if no license is required by law, the seller must use someone who is commercially engaged in the trade of providing such repairs—unless the buyer and seller agree otherwise in writing.

The answer is **(A)**

Solution 369

The escrow agent verifies that the Option Fee was paid timely.

The answer is **(C)**

Solution 370

Paragraph 18C relating to disbursement of earnest money of the standard TREC contract provides a procedure by which the escrow agent may release earnest money if a party fails to respond to a demand for the earnest money by the other party.

The answer is **(C)**

Solution 371

While license holders are required by law to use a TREC-promulgated form when one exists for a particular transaction, there is an exception when a client requests to use a contract prepared by an attorney.

The answer is **(A)**

Solution 372

The Commission adopted a rule known as the “penalty matrix,” which is taken into consideration to assigns penalty range to various violations of The Real Estate License Act and Commission Rules. The penalty matrix contains three ranges for penalties:

\$100 - \$1,500
\$500 - \$3,000
\$1,000 - \$5,000

The answer is **(C)**

Solution 373

Real Estate Inspection Recovery Trust is TREC account to reimburse payment to consumers in order to compensate them from any damage caused by the license holder such as the licensed real estate broker, sales agent or easement/right-of-way agent when the license holders cannot pay for those damages. Payments from the Real Estate Recovery Trust Account may not exceed \$50,000 per transaction, with a maximum of \$100,000 per license holder for multiple transactions.

The answer is **(C)**

Solution 374

Section 7H Residential Service Contracts indicates that they are optional to the buyer.

The answer is **(D)**

Solution 375

Changes may be made by:

- Notations on the form itself
- Special addendum
- Attachment of additional pages

The answer is **(D)**

Answer Key

1	A	41	D	81	C	121	D	161	C	201	B
2	A	42	C	82	C	122	C	162	D	202	B
3	C	43	B	83	C	123	A	163	B	203	B
4	B	44	C	84	D	124	D	164	C	204	B
5	C	45	C	85	C	125	D	165	C	205	A
6	C	46	C	86	B	126	D	166	D	206	D
7	B	47	D	87	C	127	A	167	A	207	D
8	A	48	A	88	B	128	A	168	D	208	B
9	C	49	A	89	D	129	D	169	A	209	D
10	A	50	A	90	D	130	C	170	B	210	A
11	C	51	A	91	A	131	A	171	C	211	C
12	B	52	C	92	A	132	B	172	D	212	D
13	D	53	C	93	C	133	D	173	A	213	A
14	C	54	D	94	A	134	C	174	A	214	B
15	B	55	C	95	A	135	D	175	C	215	B
16	C	56	A	96	B	136	D	176	D	216	B
17	B	57	D	97	A	137	B	177	B	217	A
18	C	58	D	98	C	138	C	178	C	218	C
19	B	59	A	99	D	139	A	179	D	219	A
20	D	60	A	100	A	140	D	180	B	220	B
21	B	61	D	101	B	141	D	181	A	221	A
22	B	62	B	102	C	142	D	182	C	222	C
23	B	63	A	103	D	143	D	183	B	223	A
24	C	64	C	104	C	144	A	184	B	224	A
25	C	65	B	105	C	145	B	185	C	225	C
26	C	66	D	106	B	146	C	186	A	226	A
27	A	67	B	107	C	147	B	187	C	227	D
28	C	68	D	108	B	148	C	188	A	228	B
29	A	69	A	109	B	149	C	189	B	229	A
30	C	70	B	110	D	150	D	190	B	230	C
31	D	71	D	111	C	151	C	191	C	231	D
32	C	72	A	112	B	152	D	192	B	232	B
33	C	73	A	113	A	153	D	193	B	233	A
34	B	74	C	114	C	154	B	194	C	234	D
35	D	75	B	115	C	155	B	195	B	235	B
36	A	76	C	116	B	156	C	196	A	236	A
37	A	77	A	117	B	157	C	197	A	237	C
38	B	78	A	118	C	158	B	198	A	238	C
39	C	79	A	119	B	159	B	199	B	239	A
40	C	80	D	120	D	160	A	200	A	240	C

241	A	281	B	321	C	361	A				
242	B	282	D	322	D	362	A				
243	A	283	B	323	D	363	C				
244	B	284	D	324	B	364	A				
245	A	285	C	325	B	365	A				
246	D	286	C	326	A	366	A				
247	C	287	C	327	A	367	B				
248	D	288	D	328	C	368	A				
249	A	289	B	329	B	369	C				
250	B	290	A	330	A	370	C				
251	A	291	C	331	C	371	A				
252	C	292	B	332	A	372	C				
253	A	293	A	333	D	373	C				
254	A	294	B	334	D	374	D				
255	A	295	C	335	B	375	D				
256	C	296	B	336	C						
257	D	297	D	337	A						
258	C	298	C	338	A						
259	C	299	C	339	C						
260	C	300	A	340	B						
261	B	301	B	341	D						
262	A	302	C	342	A						
263	B	303	C	343	B						
264	C	304	D	344	C						
265	C	305	D	345	D						
266	D	306	C	346	D						
267	A	307	A	347	D						
268	D	308	C	348	A						
269	C	309	C	349	C						
270	A	310	C	350	D						
271	A	311	B	351	C						
272	C	312	C	352	D						
273	B	313	D	353	B						
274	A	314	A	354	C						
275	C	315	C	355	A						
276	B	316	B	356	A						
277	B	317	D	357	C						
278	B	318	C	358	C						
279	A	319	D	359	C						
280	B	320	A	360	B						

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