FLORIDA 72 Hour BROKER COURSE STUDY GUIDE

Opening Minds to Open doors

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Salesperson to Broker (FAQs)

Broker Initial Application - Upgrade from Sales Associate to Broker (RE 2)

A broker is a person who, for another, and for compensation or in anticipation of compensation, appraises, auctions, sells, exchanges, buys, rents or offers, attempts or agrees to appraise, auction, or negotiate any sale, exchange, purchase, or rental of business enterprises or any real property or any interest in or concerning the same or who advertises the same.

Application Requirements:

AGE: Must be at least 18 years of age.**SOCIAL SECURITY NUMBER:** You must have a United States Social Security number to apply. You may visit the Social Security Administration website for information on how to obtain one.

EXPERIENCE: Must show proof of one of the following: Has been registered as an active sales associate for at least 24 months during the preceding 5 years under one or more brokers; has held a current and valid real estate sales associate's license for at least 24 months during the preceding 5 years in the employ of a governmental agency for a salary and performing the duties authorized in Chapter 475, F.S.; or has held a current and valid real estate broker's license for at least 24 months during the preceding 5 years in any other state, territory, or jurisdiction of the United States, or in any foreign national jurisdiction.

CERTIFICATION OF LICENSE HISTORY: A current certification of license history from the state you are claiming experience from is required if experience is coming from a state other than Florida. The history must contain your initial license exam type, current license status, disciplinary information, and how many active months within the preceding five years.

EDUCATION: Prior to sitting for the state exam you must show proof of course completion of Florida approved 72 hour pre-license education for brokers. The course is good for two (2) years from the date of completion. An expired course will not be accepted at the exam site and you will not be able to sit for your exam without proof of a valid course completion slip. The course is not required at the time of application submission. You may submit application for state exam approval prior to taking the pre-license education.
EDUCATION EXEMPTIONS: If you hold a 4 year degree, or higher, in real estate you may be exempt from the pre-license education requirement. In order to determine your exemption please submit an original certified transcript with your application for review. If you wish to submit prior to application, please send an original certified transcript with cover letter to: Division of Real Estate, Attention: Education Section, 400 West Robinson Street, Suite N801 Orlando, Florida 32801.

EXAMINATIONS: The examination is given by Pearson Vue. To **Learn more** visit their website to find a location near you to set up your exam once the application has been approved by the DBPR.

The Candidate Information Booklet is a useful source to help guide you through the examination process.

FEE: Pay the required fee as provided in the application. Military veterans, their spouses and Florida National Guard members may be eligible for a fee waiver, fee reimbursement, and/or fee discount. Please visit our **DBPR Military Services** page for more information.**FINGERPRINTS:** Must have a background check as part of the licensing process. To learn more about fingerprinting, please visit our **fingerprint FAQs**.

APPLICATION: To complete the application using the Online Service you must first set up your Online Account and link your current sales associate license to the account. Once that is complete the Application for Online will be available to complete. You may also complete the "Printable Application" by clicking the link at the bottom of the page and sending it to the address on the application.**MORE INFORMATION:** **Learn more** about this profession's application requirements(use the back button or arrow to return to this page)**NOTICE FOR APPLICANTS SUBMITTING FINGERPRINTS WHERE CRIMINAL RECORD RESULTS WILL BE USED FOR LICENSING PURPOSES**
If you have questions or need assistance in completing this application, please call the Customer Contact Center at 850.487.1395 or use our convenient contact form.

Apply Using Online Services

Apply Using a Printable Application

KEY NUMBERS FOR FL REAL ESTATE BROKER LICENSE

0- Exempt from renewal (active armed forces); 6 mos temp license-spouse; 60 month app waiver (honorable disc)
1- 1 business day for sales associate to give EMD to broker. (3 bus days for broker to deposit in escrow account)
1- st degree misdemeanor (inaccurate rental list) 1 year jail; $1000 fine
1 – year in involuntary active – triggers 28 hour reactivation course
2 – Years inactive period before Null and Void
2- Year active in last 5 years to become a broker
2- Consumer members on FREC; 2 Members of FREC on Probable Cause Panel
2- .002 Intangible tax paid on pm the new mortgage only
3- 3rd Degree felony unlicensed RE activity (5 years - $5,000 fine)
3- Business Days Broker must deposit proceeds in escrow account
3- Days Must receive HOA docs within 3 days or cancel the contract
3%- maximum annual tax increase for homesteaded residential properties
3.5- % down payment on FHA (insured) loans (Mortgage Insurance Premium-MIP)
4- Settlement Procedures when conflict over EMD (mediation, arbitration, litigation, EDO)
4- year degree in Real Estate exempt from 63-72 hours course; Lawyers need 72 hour course (exempt 14CE)
5- years broker must maintain records
5% - Max simple int Landlord required to give tenant or 75% total int on security deposit
6- months Max to petition FREC (null-void-physical hardship); 6 months temp license to spouse -armed forces
7- FREC Members - (2 consumer members; 2 Probable Cause Panel)
7- James Bond (.007) State Documentary stamps on Sales Price – Paid by the seller – Buyer is ½ .0035 (Doc note)
10%- max annual tax increase for non-homesteaded properties (residential and commercial)
10%- withholdings from Foreign Investors (greater than $1 mill – 15%) Residential - $300,000 greater
10- days Broker notify the state of change of address
14- hours CE required every renewal term (18-24 months -2 years) 3 Law & Ethics
14- days maximum use of a vacation
15- days to notify FREC of conflicting demands buyer and seller
15- days for buyer to cancel Condo contract
20- typical minimum % down payment to avoid Private mortgage insurance on Conventional loans
21- days request hearing and dispute Probable cause findings
24- hours seller must receive copy of listing agreement
25- 25,000 deduction for Homestead Exemption ($1k diff up to next $25K)
25- 25% guarantee of loss VA loans
25- days -Notice of preliminary taxes (TRIM) consumer can speak/protest tax assessment with County PAO
30- days landlord must inform if deposit placed in a interest bearing acct
30- days notify DBPR of Guilty or Nolo Contendre Plea
30- Hours needed on RE Law Exam (to avoid 63 hours course for mutual recognition)
50- $50k max HEX -Value $75k or greater
60- Post licensing course for RE Brokers before renewal term (Go down to RE Sales if not completed) 45 RE sales
72- Hours need for RE Broker pre-licensing
75- Passing score required on State Exam
1,000- Personal funds in escrow account
5,000- Personal funds in an property management account
10,000- fine violation of Fl Telemarketing Act; 16,000- fine violation Federal Telephone Consumer Protection Act
1,000,000- assets – Broker can appoint 2 single agents sales associates for buyer-seller

Unit 1: Becoming a Licensed Real Estate Broker

Summary of Important Points

- A broker associate is an individual who meets the requirements of a broker but chooses to work in real estate under the direction (employ) of another broker.
- Applicants must be at least 18 years old and have earned a high school diploma or its equivalent. U.S citizenship is not required, and applicants do not have to be Florida residents. However, applicants must possess a Social Security number.
- The DBPR may waive the initial application, license, and unlicensed activity fees for military veterans and their spouses who apply for a DBPR license within 60 months of honorable discharge from the armed forces.
- A resident of Florida is a person who has resided in Florida continuously for a period of four calendar months or more within the preceding year.
- Broker applicants must complete at least 24 months of experience during the five-year period preceding application to become a Florida-licensed real estate broker.
- Sales associates must complete 45 hours of post-license education before the expiration of their initial license. Brokers must complete 60 hours of post-license education before the expiration of their initial license. Failure to do so will cause the license to become null and void.
- Fourteen hours of continuing education each license period is required for all real estate licensees following the initial license period.
- A licensee in good standing who is a member of the U.S. armed forces is exempt from renewal provisions during the period of active duty and six months after discharge from active duty.
- The DBPR may issue a temporary license to the spouse of an active-duty member of the armed forces who is assigned to duty in Florida. A temporary license expires six months after the date of issue and is not renewable.
- There are two types of inactive status: voluntary and involuntary. A licensee who has qualified for a real estate license but who voluntarily chooses not to engage in the real estate business may request voluntary inactive status. Involuntary inactive status occurs when a licensee fails to renew an active or voluntary inactive license before the expiration date.
- An owner-developer is an unlicensed entity that sells, exchanges, or leases its own property. Sales staff must hold active real estate licenses to be paid commission. The sales staff is exempt from licensure if paid strictly on a salaried basis.
- "Multiple licenses" refers to those cases in which a broker holds more than one broker's license.
- A group license is issued to a sales associate or a broker associate employed by an owner-developer (real estate developer) who owns properties in the name of various entities. A group license entitles the licensee to work in the various sales projects owned by the owner-developer.
- Licensees must notify the DBPR in writing within 10 days of a change in mailing address.
- Resident licensees who move out of the state must notify the Commission within 60 days of the change in residency.

Real estate services include any real estate activities involving compensation for performing the service for another. Compensation is anything of value paid or promised to be paid to an individual for performing services of real estate

Unit 2: Opening a Real Estate Office

Summary of Important Points

- Types of business entities that may register as a brokerage entity include the following: sole proprietorship, general partnership, limited partnership, limited liability partnership, corporation, and limited liability company.
- A *sole proprietorship* is a business owned by one person. A real estate brokerage sole proprietorship exists when the broker is the only owner. Sole proprietors are personally liable for the business losses as well as the debts and torts (negligent acts arising from breach of duty created by law) of sales associates and others working for the broker when acting within the scope of their duties.
- A *general partnership* is an association of two or more persons for the purpose of jointly conducting a business. General partners are agents for each other. One partner entering into an agreement binds the other partners to the agreement. Florida general partnerships are not subject to direct taxation. General partnerships feature pass-through treatment for federal income tax purposes. At least one partner must be an active real estate broker in a general partnership real estate brokerage. Partners who will deal with the public and perform services of real estate must be licensed as active brokers.
- A *limited partnership* is composed of both general partners and limited partners. Limited partners invest cash and may not participate in management. Limited partners have limited liability. All general partners who expect to perform real estate brokerage services on behalf of the limited partnership must be licensed as active brokers. Sales associates and broker associates may not be general partners in a real estate brokerage limited partnership; however, they may be limited partners.
- A *corporation* is an artificial person or legal entity created by law, consisting of one or more individuals. At least one of the corporation's officers or directors must be licensed as an active broker. Active Florida brokers, inactive Florida brokers, and unlicensed people may serve as officers and directors of a real estate brokerage. However, officers and directors who deal with the public and perform services of real estate must be licensed as active brokers. Sales associates and broker associates may not be officers or directors in real estate brokerage corporations. Sales associates and broker associates may be shareholders of a real estate brokerage corporation.
- An *ostensible partnership* (or quasi partnership) exists where there is no real partnership, but the parties act or do business in such a manner that the public assumes that a partnership exists. Ostensible partnerships are considered fraudulent and deceitful, and any licensees who operate as ostensible partners are subject to discipline.
- A *trade name* is a business name other than the legal name of the person doing business. A broker or brokerage entity may use a trade name after the name is registered with the DBPR.
- *Fictitious name* refers to the name registered with the Department of State.
- To have an active status, a real estate broker is required to open an office and register it with the DBPR.
- If a broker desires to conduct business from additional locations, the broker must register each additional location as a branch office and pay the appropriate registration fees. Registrations issued to branch offices are not transferable to another location.
- The brokerage office sign must contain (1) the trade name (if applicable), (2) the broker's name, and (3) the words "Licensed (or Lic.) Real Estate Broker." If desired, the names of the sales associates and broker

associates may be added below the broker's name(s), provided the appropriate title (sales associate or broker associate) appears after their name. A line or a space must separate the broker's names from the associates' names.

- The Americans with Disabilities Act (ADA) prohibits discrimination in places of public accommodation and commercial facilities such as hotels and real estate offices.
- All advertising must be in the name of the brokerage and under the supervision of the broker. Licensees who include their personal name in advertisements must use their last name as registered with the DBPR. Blind advertising fails to disclose the license name of the brokerage firm and provides only a post office box number, telephone number, and/or street address.
- *Point of contact information* refers to the information provided on the internet for contacting a brokerage firm or individual licensee, including mailing addresses, physical street addresses, email addresses, telephone numbers, and FAX telephone numbers. The brokerage firm name must be above, below, or adjacent to point of contact information.
- Failing to provide accurate and current rental information for a fee is a first-degree misdemeanor. The penalty for a first-degree misdemeanor is a fine of not more than $1,000 and/or up to one year in jail.
- A *telephone solicitation* is a telephone call placed for the purpose of encouraging the purchase of, or investment in, property, goods, or services. Telemarketers (including real estate licensees) must search the National Do Not Call Registry before making telemarketing calls. Violators of the federal Telephone Consumer Protection Act may be fined up to $16,000 per call. The penalty for violating Florida's Telemarketing Act is $10,000 per call.

Unit 3: Owning, Managing, and Supervising a Real Estate Office

Summary of Important Points

- Before opening a real estate office, a broker should prepare a business plan.
- The costs to open the company and the expenses for at least six months of operations are the minimum capital necessary to open the company's doors.
- Projecting income and expenses depends on the scope of the company's operations, its market area, economic conditions, and the number and productivity of its sales personnel.
- The broker should decide whether the firm will be part of a national franchise or whether it will remain independent.
- The broker must decide whether to prepare tax returns on an accrual basis or a cash basis.
    - When using the accrual basis, income is recognized when earned, and expenses are booked in the period that is benefited.
    - When using the cash basis, income is taxable in the year it is received, and expenses are deductible in the year they are paid.
- Most brokers classify sales associates as independent contractors for tax purposes.
- Brokers do not pay employment taxes nor do they withhold income taxes for independent contractors.
- Brokers may not control the activities of independent contractors. The broker must understand the IRS reporting requirements to avoid penalties.
- The broker must recruit sales associates continually. Sources include advertising, career nights, prelicensing schools, other firms, and personal contacts.
- Whether hiring employees or independent contractors, the broker must be careful to follow all requirements of the fair employment laws and the Americans with Disabilities Act.
- A broker's desk cost is calculated by dividing total expenses by the number of sales associates.
- The company dollar is calculated by deducting commissions paid from gross income.
- The average company dollar per transaction is calculated by dividing company dollar by the number of transactions.
- The number of transactions needed each month is calculated by dividing the monthly expenses plus profit by the average company dollar per transaction.
- Unlicensed personal assistants may not be paid commissions and must not perform selling activities.
- Licensed personal assistants may be paid for real estate selling activities only by the broker.
- The broker should develop a complete policy and procedures manual. Each sales associate should get a copy.

Unit 4: Escrow Management

Summary of Important Points

- An *escrow account* is an account for the deposit of money held by a third party in trust for another for safekeeping.
- *Escrow deposits* (or *trust funds*) include cash, checks, and money orders and items that can be converted into cash, such as deeds and personal property. In addition to earnest money, deposits brokers hold in trust for others include money associated with leasing property such as rent deposits and security deposits.
- *Commingle* is the illegal practice of mixing a buyer's, seller's, tenant's, or landlord's funds with the broker's own money or mixing escrow money with the broker's personal funds or brokerage funds.
- Sales associates must deliver binder deposits to their broker-employer no later than the end of the next business day.
- Brokers must deposit escrow funds into their escrow account immediately, which means no later than the end of the third business day after the brokerage received the funds.
- The seller's approval must be obtained before accepting the postdated check and the fact that the check is postdated should be noted on the contract.
- If the broker's escrow account is an interest-bearing account, the broker must get written permission from all parties before placing the funds into the account. The written authorization must specify who is entitled to the interest earned. The broker may receive the interest.
- Brokers may open escrow accounts in a bank, savings association, or credit union located in Florida. The broker must be a signatory on the escrow account. If the broker chooses not to open an escrow account, the funds may be held by a title company or in an attorney's trust account.
- Brokers must maintain records of real estate transactions for five years, regardless of whether escrow funds were pledged (or two years after litigation, if beyond the five-year period).
- Brokers are allowed to place up to $1,000 of personal or brokerage funds in a sales escrow account or up to $5,000 of personal or brokerage funds in a property management escrow account.
- At least monthly, a broker must prepare a written statement comparing the broker's total trust liability with each trust account's reconciled bank balance. The broker must review, sign, and date the monthly reconciliation statement.
- *Trust liability* is defined as the total sum of all deposits received, pending, and being held by the broker at any point in time. It is other people's monies placed with the broker that correspond to specific real estate transactions—sales or property management.
- The broker determines trust liability by summing the contract deposits (the balances reflected for various transactions such as sales, rental proceeds, security deposits, and so forth).
- The broker reconciles the bank balance, beginning with the monthly bank statement balance. The broker subtracts outstanding checks and adds all deposits in transit (deposits collected, but not yet reflected on the bank statement).
- The broker's trust liability should equal the reconciled bank balance. If the trust liability and the bank balance do not agree, the reconciliation must include an explanation of the shortage or overage and any corrective action the broker has taken to correct the difference.

- Brokers must notify the FREC in writing of conflicting demands or of a good-faith doubt within 15 business days. Brokers must institute one of the settlement procedures within 30 business days of receiving conflicting demands or of having a good-faith doubt. The four settlement procedures are (1) mediation, (2) arbitration, (3) litigation, and (4) escrow disbursement order.

Unit 5: Office Inspections, Disciplinary Process, and Real Estate Recovery Fund

Summary of Important Points

- Seven steps comprise the complaint process:
  1. A complaint (an alleged violation of a law or rule) is filed with the DBPR.
  2. If the complaint is legally sufficient, the DBPR conducts an investigation and notifies the licensee-respondent. The complaint and the information obtained during the investigation are kept confidential until 10 days after probable cause has been found to exist. The DBPR's investigative report is forwarded to the probable-cause panel. In rare situations deemed to be too serious to allow the licensee to continue to practice real estate while the complaint process proceeds, the DBPR secretary may issue an emergency suspension order.
  3. The probable-cause panel consists of two FREC members. The probable-cause panel determines whether probable cause exists.
  4. If probable cause is found, the DBPR issues a formal (administrative) complaint. An Election of Rights is mailed with the complaint to the licensee. The licensee has 21 days to (1) not dispute the allegations of fact and request an informal hearing, (2) dispute the allegations of fact and request a formal hearing, or (3) not dispute the allegations of fact and waive the right to be heard. The licensee-respondent may enter into a stipulation (an agreement as to the facts of the case and the penalty reached between the attorneys for the DRE and the licensee).
  5. If there are no disputed facts, the Commission (probable-cause panel members are excused) decides the case and imposes the penalty in an informal hearing held during a regular FREC meeting. If the licensee-respondent requests a formal hearing or if the respondent disputes the allegations, the case is heard by a Florida administrative law judge in a formal hearing. The administrative law judge prepares a recommended order.
  6. The FREC imposes the final order (members of the probable-cause panel do not participate). The final order becomes effective 30 days after it has been entered.
  7. The licensee-respondent may appeal the final order.
     - The FREC may impose administrative penalties for violations of law or rules and regulations. The DBPR may issue a citation for violations that are of no substantial threat to the public. Such citations carry fines ranging from $100 to $500. The DBPR may issue a notice of noncompliance as a first response to a minor violation. The FREC may punish more serious offenses by issuing fines of up to $5,000 for each violation of Chapters 455 and 475 and/or a suspension of up to 10 years. In extreme cases, the FREC may revoke a license.
     - Failing to provide accurate and current rental information for a fee is a misdemeanor of the first degree, punishable in a court of law by a fine of up to $1,000 and/or by imprisonment of up to one year.
     - Misdemeanors of the second degree are punishable by a fine of up to $500 and/or by imprisonment of up to 60 days.
     - Unlicensed practice of real estate for compensation and falsifying an application are felonies of the third degree. The penalty is a fine of up to $5,000 and/or up to five years in jail per offense.

- Individuals can be reimbursed from the Real Estate Recovery Fund for monetary damages as a result of license law violations by a licensee. Claims are limited to $50,000 per transaction or the unsatisfied portion of a judgment claim, whichever is less, and no more than $150,000 against one licensee involving multiple transactions. The license is automatically suspended upon payment from the fund until the fund is reimbursed (EDO exception).
- If a person licensed by the DBPR is convicted or found guilty of a crime, or entered a plea of nolo contendere (no contest) or a plea of guilty to a crime, even if court action (adjudication) was withheld, the licensee must self-report the criminal offense in writing within 30 days to the DBPR.

Unit 6: Overview of Real Estate Valuation

Summary of Important Points

- An *appraisal* is an oral or written estimate or opinion of value of property rights as a specific date based on supportable evidence.
- The purpose of an appraisal is to determine the problem to be solved and the type of value to be estimated.
- Appraisers and real estate licensees who conduct real estate appraisals are required to comply with the *Uniform Standards of Professional Appraisal Practice (USPAP).* Appraisal reports involving a federally related transaction must be in writing and prepared by a state-certified or state-licensed appraiser.
- The four appraiser classifications are: (1) registered trainee appraiser, (2) licensed appraiser, (3) certified residential appraiser, and (4) certified general appraiser.
- A comparative market analysis (CMA) is used to assist sellers with establishing an asking price or to assist a buyer with establishing an offering price. A CMA is not an appraisal.
- A *broker's price opinion* (BPO) is a written opinion of the value of real property. Florida real estate licensees are allowed to prepare and charge for BPOs provided the BPO is not labeled as an appraisal.
- *Cost* is the total expenditure to create the improvement. *Price* refers to the amount of money actually paid. *Value* is determined by what consumers are willing to pay in the marketplace.
- *Market value* is the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, with the buyer and the seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.
- *Supply* is the amount and type of real estate available for sale or rent at different price levels in a given real estate market.
- *Demand* is the total quantity of a good that consumers are willing and able to purchase at various price levels over a given period of time.
- The principle of anticipation is based on the premise that expectation of future benefits creates value.
- The principle of substitution holds that when several goods or services offering similar benefits are available, consumers tend toward the one with the lowest price.
- An *overimprovement* occurs when an owner invests more money in a structure than the owner can reasonably expect to recapture.
- The principle of conformity suggests that property values are maximized when architectural homogeneity and uniformity of land use occur in a neighborhood.
- External economies result from positive external forces that enhance property values. External diseconomies have a negative impact on value.
- *Highest and best use* is the most profitable use of a property. It is the probable and legal use of real property that is physically possible, defendable, and financially feasible.
- *Reconciliation* is the process of evaluating and weighing each value indication obtained from the various approaches to value.

- The steps in the appraisal process are: (1) identify the problem to be solved; (2) determine the scope of work necessary to develop a credible appraisal; (3) develop the appraisal according to the scope of work; and (4) report the value estimate.
- Appraisers choose from three types of appraisal reports: (1) oral, (2) form, and (3) narrative.

Unit 7: Sales Comparison, Cost, and Income Approaches

Summary of Important Points

- The sales comparison approach is based on the premise that the value of the subject property can be estimated by reviewing recent sales similar to the subject property and comparing those properties with the subject property.
- In an arm's-length transaction, the parties deal from equal bargaining positions.
- A *fixture* is an item that originally was personal property but has been permanently attached to or made part of real property.
- A *trade fixture* is an article a commercial tenant attaches as a necessary part of the tenant's trade or business.
- When a transaction price has been adjusted for financing and conditions of sale, the resulting price is the normal sale price. The *normal sale price* is the price a property would have sold for at the time of the transaction if the transaction had been consistent with the market.
- The market conditions–adjusted normal sale price is derived by applying an adjustment for market conditions to the normal sale price.
- The final adjusted sale price is derived by making adjustments for location and physical characteristics to the market conditions–adjusted normal sale price.
- The cost approach is based on the theory that a knowledgeable purchaser will not pay more for a property than the cost of acquiring a similar site and constructing an acceptable substitute structure.
- *Reproduction cost* is the cost to build a structure that is an exact duplicate of the property being appraised.
- *Replacement cost* is the cost to construct improvements of equal utility to those being appraised, although not the exact physical duplicate.
- The three methods used to estimate building costs are quantity survey method, unit-in-place method, and comparative-unit method.
- *Effective age* is the age indicated by a structure's condition and utility.
- *Economic life* is the total estimated number of years that an improvement is expected to contribute to the property's value.
- Accrued depreciation is composed of physical deterioration, functional obsolescence, and external obsolescence.
- The most common way to estimate accrued depreciation is called the age-life method, which applies a ratio of effective age and economic life to the structure's reproduction cost new.
- The *gross rent multiplier* (GRM) is the ratio between a property's gross monthly rent and its selling price. The *gross income multiplier* (GIM) is the ratio between the property's gross annual income and its selling price.
- The *income capitalization approach* develops an estimated value based on the present worth of future income from the subject property. The approach capitalizes net operating income into value.
- *Potential gross income* (PGI) is the total annual income a property would produce if it were fully rented and no collection losses were incurred.
- *Effective gross income* (EGI) is calculated by subtracting vacancy and collection losses from the PGI.
- *Net operating income* (NOI) is the income remaining after subtracting operating expenses from EGI.
- The three categories of operating expenses are (1) fixed, (2) variable, and (3) reserve for replacements.

Unit 8: Comparative Market Analysis

Summary of Important Points

- A real estate licensee, in the normal course of business, often prepares a comparative market analysis (CMA) to give an opinion of value.
- The CMA, while not an appraisal, uses the same methods of comparison.
- BPOs are most often prepared for distressed properties.
- CMAs are most useful when used for single-family homes and multifamily residences up to four units.
- The CMA form has three major sections: (1) currently on the market, (2) recently sold, and (3) recently expired.
- Information needed for preparation of a CMA may be found in MLS records, company files, and public records.
- Important elements of comparison include location, age, size, condition, and other improvements.
- The licensee should adjust for major differences so that the CMA is not misleading.
- When adjusting comparable sales, use the CIA/CBS approach. If the comparable is inferior, add. If the comparable is better, subtract.

Unit 9: Basic Business Appraisal

Summary of Important Points

- Business appraisers usually have specialized training in accounting, finance, and the valuation of intangible assets.
- Most businesses are appraised as going concerns, using the three traditional approaches to value; however, if a business is unlikely to succeed, the liquidation approach to value would be used.
- The business appraisal process is very similar to real estate appraising.
- Some of the difficulties appraisers encounter when business owners use generally accepted accounting principles (GAAP) are:
  - assets are reported at cost, not market value;
  - depreciation accounts distort values;
  - some assets may not be reported;
  - accrual basis accounting may yield significantly different results than cash basis accounting; and
  - inventory costing using FIFO gives different results than costing using LIFO.
- Business appraisers usually must adjust financial statements to reflect market value.
- Some of the most important business appraisal ratios are the current ratio, quick ratio, and debt-to-worth ratio.
- The pro forma income statement is important when using the comparable sales and income capitalization approaches to value.

Unit 10: Brokerage Relationships and Disclosure Requirements

Summary of Important Points

- A person who delegates authority to another is the *principal*. A person who accepts the authority is the *agent*. An agent is authorized to represent and act for the principal. The agency relationship creates a *fiduciary* relationship with the principal. A fiduciary acts in a position of trust or confidence with the principal.
- In all real estate transactions, there are three options concerning the role the real estate brokerage firm will assume: (1) no brokerage relationship, (2) single agent of either the buyer or the seller, and (3) transaction broker for the buyer and/or the seller.
- Licensees may not operate as dual agents. A dual agent is a broker who represents both the buyer and the seller as a fiduciary.
- The duties and obligations in each type of brokerage relationship apply to all real estate transactions.
- A *residential sale* is defined as the sale of improved residential property of four or fewer units, the sale of unimproved residential property intended for use as four or fewer units, or the sale of agricultural property of 10 or fewer acres.
- A written disclosure is required for residential sale transactions when a single agent relationship or a no brokerage relationship is chosen. The single agency disclosure must be made before, or at the time of, entering into a listing agreement or an agreement for representation, or before the showing of property, whichever occurs first. The no brokerage relationship disclosure must be made before the showing of property.
- License law mandates that a real estate broker working in a no brokerage relationship capacity has three duties: (1) deal honest and fairly, (2) disclose all known facts that materially affect the value of residential real property that are not readily observable to the buyer, and (3) account for all funds entrusted to the licensee.
- F.S. 475 mandates that a real estate broker working as a single agent has nine duties. Three of the duties are also required in a no brokerage relationship. Four of the duties apply exclusively to a broker working as a single agent: (1) confidentiality, (2) obedience, (3) loyalty, and (4) full disclosure.
- Under Florida law, it is presumed that all licensees are operating as transaction brokers unless another brokerage relationship is chosen. A transaction broker provides limited representation to a buyer, a seller, or both, but does not represent either in a fiduciary capacity or as a single agent.
- License law mandates that a real estate broker working as a transaction broker has the duties required in a no brokerage relationship plus four additional duties: (1) use skill, care, and diligence; (2) present all offers and counteroffers; (3) exercise limited confidentiality; and (4) perform additional duties that are mutually agreed to.
- A real estate broker may change from a single agent relationship to a transaction broker relationship only with the express written permission of the principal. The principal must sign or initial the Consent to Transition to Transaction Broker disclosure before the change can occur.
- Brokers must retain brokerage relationship disclosure documents for five years for all residential transactions that result in a written contract to purchase and sell real property and all nonresidential transactions that utilize designated sales associates.
- In a nonresidential transaction and where the buyer and the seller each have assets of $1 million or more, the broker, at the request of the buyer and the seller, may designate two sales associates to be *designated sales associates*. In such situations, one sales associate acts as a single agent for the buyer and the other sales

associate acts as a single agent for the seller. The broker is not considered a dual agent but rather a neutral party advising the designated sales associates to help facilitate the process. The buyer and the seller must sign the Designated Sales Associate disclosure listing the duties of a single agent and affirming that the buyer and the seller each have assets of at least $1 million.

Unit 11: Contracts

Summary of Important Points

- The three listing agreements used in Florida include open listings, exclusive agency listings, and exclusive right-of-sale listings.
    - An open listing is given to many brokers, and only the broker who sells the property is entitled to be paid.
    - An exclusive agency listing gives the listing to only one broker, but the owner reserves the right to sell the property without paying a commission.
    - An exclusive right-of-sale listing guarantees the broker compensation no matter who sells the property.
- A written listing agreement must have an expiration date and cannot be renewed automatically.
- A copy of the signed listing agreement must be given to the owner within 24 hours.
- A broker may be employed to find a purchaser or to effect a sale. If the listing requires the broker to find a purchaser, the broker has performed upon finding a ready, willing, and able buyer who agrees to purchase at the listed price or any terms acceptable to the seller. If required to effect a sale, the broker is due a commission only if the property transaction closes.
- The Commercial Real Estate Sales Commission Lien Act gives a broker lien rights against the seller's proceeds for earned commission. The lien rights do not affect the property's title.
- The Commercial Real Estate Leasing Commission Lien Act gives a broker lien rights for earned leasing commissions. If the landlord owes the broker's commission, the lien attaches to the landlord's interest in the property. If the tenant owes the broker's commission, the lien attaches to the tenant's leasehold estate.
- Contracts are agreements between two or more parties to do or abstain from doing something.

  Licensees can prepare listing contracts, sale contracts, form option contracts, and Supreme Court-approved lease agreements. Preparation of any other legal document is considered an unauthorized practice of law.

- The statute of frauds requires that contracts for the sale of real property be in writing and signed.
- The licensee should show the complete legal names of the buyer and the seller, as well as their marital status, on the contract.
- The licensee should take the seller's name and the property's legal description from a deed or title insurance policy.
- A form contract designed for residential property should not be used for business sales, new construction, exchanges, or contracts for deed.
- The law does not require a buyer to make an earnest money deposit, but a deposit is recommended. Brokers are not legally required to maintain an escrow account.
- It is not a good practice to let a buyer take possession of the property before closing. If this cannot be avoided, the buyer and the seller should enter into a lease agreement, allowing the seller to recover possession of the property more quickly if the buyer defaults.
- In case of breach of contract, the injured party has the right to collect liquidated damages, usually the earnest money deposit, or to sue for cancellation of the contract, for specific performance, or for compensatory damages.

- If the licensee buys property and the contract shows an earnest money deposit, the licensee must deposit the required earnest money into the broker's escrow account.
- Licensees need not disclose that a homicide, suicide, or death occurred in a property. It is illegal for licensees to disclose information that discriminates against persons with HIV or AIDS.
- If a purchaser of residential property is required to become a member in a homeowners association, a Homeowners' Association Disclosure must be given to the buyer.
- An option contract gives the optionee the right, but not the obligation, to purchase property at a specified price and specified terms for a specific period of time.
- Option contracts must have substantial valuable consideration and may not be used as a way to circumvent the real estate license law.
- Agreements for deed are financing devices for the sale of properties. Title normally is not transferred until all agreements have been satisfied. Licensees may not prepare contracts for deed.

Unit 12: Financing Real Estate

Summary of Important Points

- The note is a promise to repay the amount borrowed, while the mortgage is security for the note.
- Florida subscribes to the lien theory of mortgages; the mortgage is a lien against the property and the borrower has the deed.
- Priority of the mortgage lien is very important to the lender, because it sets the order of payment in case of foreclosure.
- If the note is not paid, the creditor may file suit to have the property sold to pay the debt.
- A fully-amortized mortgage is paid off by equal payments. A partially amortized mortgage is paid off at the end of the term with a balloon payment.
- An adjustable-rate mortgage (ARM) has a variable interest rate based on an index. A lender's margin is added to the index to determine the rate of interest charged to the borrower. The rate changes when the index changes, but annual caps restrict the amount of annual change allowed.
- A purchase money mortgage is seller financing.
- A blanket mortgage covers more than one property parcel.
- A reverse annuity mortgage is one in which the lender makes a payment to elderly homeowners based on their equity in the property.
- The most important types of mortgages are FHA-insured, VA-guaranteed, and conventional.
- FHA and VA loans have lower qualifying ratios, making such loans more readily available to consumers.
- In a contract for deed, the seller retains legal title to the property, giving a deed to the buyer only after all payments have been made.
- The Consumer Financial Protection Bureau (CFPB) is the primary regulator of consumer credit, banking, and mortgage lending.
- The Equal Credit Opportunity Act prohibits lender discrimination.
- The Truth in Lending Act requires lenders to disclose to the consumer the effective annual percentage rate of interest.
- The Real Estate Settlement Procedures Act protects consumers by requiring lenders to fully disclose the costs of closing a transaction.
- The borrower's income shows the ability to pay and the credit report shows the borrower's attitude toward paying debt on time.
- After qualifying the borrower, the lender will qualify the property: An appraisal determines that the property value is adequate; a title report ensures that the mortgage lien is safe; and a survey ensures that there are no encroachments or easements that will affect the lien.

Unit 13: Closing Real Estate Transactions

Summary of Important Points

- A licensee must monitor all details of a transaction's closing and has many tasks to accomplish between the contract date and the closing date.
- A checklist is one of the best ways to ensure that the licensee completes all tasks.
- Buyers and sellers expect the licensee to have reviewed all closing documents for completeness and accuracy. The broker is expected to have a complete understanding of closing statements and to be able to answer questions from the buyer or the seller.
- The IRS requires a buyer of property owned by a foreign investor to withhold 10% of the purchase price of the amount realized on the sale, and to deposit the sum with the IRS within 30 days. If the sale is greater than $1,000,000, the withholding rate is 15%. The sale of a personal residence is exempt if the amount realized is not greater than $300,000.
- A debit to a party is a charge to the party, increasing the amount due from the buyer and reducing the amount due to the seller. A credit benefits the party, reducing the amount due from the buyer and increasing the amount due to the seller.
- Property taxes are normally paid in arrears and are usually prorated using the 365-day method; entered on page 3.
- Homeowners association fees are normally paid in advance, and monthly fees are prorated based on the number of days in the month. Annual dues are prorated using the 365-day method. Because the seller paid the dues in advance, the buyer owes the seller for the unexpired portion of the dues; entered on page 3.
- Rent is usually paid in advance. Because the seller collected the full month, the seller owes the buyer for the amount of days left in the month; entered on page 3.
- Documentary stamp taxes on the deed are usually paid by the seller and are $.70 per hundred or fraction thereof of the sale price; entered on page 2.
- Documentary stamp taxes on the note are usually paid by the borrower and are $.35 per hundred or fraction thereof of the loan amount; entered on page 2.
- Intangible taxes on the note are usually paid by the borrower, and are .002 of the note amount; entered on page 2.
- The Closing Disclosure has five pages; pages 2 and 3 are important for test purposes.
  - Page 2 lists closing costs of the buyer or the seller.
  - Page 3 includes the purchase price, mortgages, prorations, the total of expenses, as well as the total amount due from buyer and the total amount due to seller.

Unit 14: Federal Income Tax Laws Affecting Real Estate

Summary of Important Points

- The two principal tax deductions available to homeowners are interest and property taxes.
- Homeowners may deduct all or part of the interest they paid during the year for up to two homes. Up to $1 million in debt qualifies for a home mortgage interest deduction.
- When a loan is used for the acquisition or improvement of a personal home, points are generally deductible in the year paid as interest, with several exceptions.
- A homebuyer who has not owned a residence for the previous two years can use up to $10,000 of an IRA to make the down payment and pay acquisition costs on a home.
- Expenses for a vacation home, if the owner uses the home more than 14 days per year or the home is rented out more than 10% of the time, are deductible only to the extent of rental income.
- A person who wishes to deduct expenses for an in-home office must meet strict guidelines.
- A homeowner who occupies a residence for two years may exclude up to $250,000 ($500,000 for married couples filing jointly) on the gain from the home's sale.
- An investor may deduct interest and depreciation from a rental property's net operating income.
- Reserves for replacement are not deductible for tax purposes.
- The first step in calculating depreciation is to allocate acquisition costs between land and improvements.
  - Only improvements may be depreciated.
  - Residential income property may be depreciated straight-line using a 27½-year life.
  - Nonresidential improvements may be depreciated straight-line using a 39-year life.
- If an investment property shows an operating loss, the investor's ability to deduct the loss from the nonpassive income depends on the investor's situation. If the investor earns more than $150,000 in income, she may not deduct any of the loss but can use it in future years against passive income or at the time of sale. An active participant earning less than $100,000 may deduct up to $25,000 of the loss from other nonpassive income.
- A real estate professional may deduct the entire loss from other nonpassive income.
- Long-term gains on the sale of investment property have a maximum 15% tax rate for taxpayers earning less than $400,000 ($450,000 for joint filers) and 20% for taxpayers making more than those amounts. Any depreciation taken during the holding period is recaptured and taxed at 25%.
- If all sales, when taken together, show a loss, a maximum of $3,000 in net losses is deductible annually.
- An installment sale allows the investor to pay taxes on the gain as the payments are received, rather than paying in the year of sale.
- A like-kind exchange allows the investor to defer paying taxes on the gain until the new property is sold. Boot is taxable property received that is not like-kind.

Unit 15: Investment Real Estate

Summary of Important Points

- Investment real estate brokers must seek additional education to serve investors' needs adequately.
- Static risk is associated with fire, storm, flood, theft, or liability from accidents. The investor can buy insurance to cover the risk.
- Dynamic risk concerns changes in the economy, supply and demand conditions, and tax codes. Because this risk can't be insured, it is mitigated by analysis and a higher required return.
- A knowledge of lease terminology helps to ensure that all parties understand clearly how rents are established, whether by square foot of rentable area or square foot of usable area.
- In an escalator lease, a base amount for expenses, such as taxes, utilities, insurance, and maintenance, is determined. Any expenses exceeding the base amount passes through to the tenant.
- An index lease increases the rent payment based on some published index, such as the Consumer Price Index.
- A net lease implies that the tenant is responsible for taxes, maintenance, and property insurance.
- A gross lease suggests that the owner is responsible for paying all expenses associated with the property.
- The broker should understand the appropriate situations for percentage leases.
- Owners' interests may be protected from uncontrolled cost increases when they use net leases or expense stops.
- Sometimes, rent concessions or tenant improvement allowances attract quality tenants and are, therefore, appropriate.
- The broker must be aware of current trends and requirements in mortgage lending.
- The broker should be familiar with prepayment clause language, the legal priority of leases versus mortgages, and the importance of an estoppel letter for an existing mortgage.
- The investment broker must be capable of preparing pro forma financial statements for a property that reflect not only the owner's records but also any necessary expenses the owner's records do not show. After compiling the statements, the broker prepares a ratio analysis of the property that indicates its level of risk and returns.
- A broker should be familiar with the following ratio calculations:
  - Debt service coverage ratio: net operating income ÷ annual debt service = debt service coverage ratio
  - Operating expense ratio: operating expenses ÷ effective gross income = operating expense ratio
  - Price per square foot: price ÷ number of sq. ft. = price per sq. ft.
  - Rent per square foot: potential gross income ÷ number of sq. ft. = rent per sq. ft.
  - Expenses per square foot: operating expenses ÷ number of sq. ft. = expenses per sq. ft.
  - Net operating income per square foot: net operating income ÷ number of sq. ft. = NOI per sq. ft.
  - Cash breakeven ratio: operating expenses – reserves + annual debt service ÷ potential gross income = cash breakeven ratio
  - Margin of safety: The calculation is one minus the cash breakeven ratio: 1 – .69 = 31%
  - Capitalization rate: net operating income ÷ value = rate
  - Equity dividend rate: before-tax cash flow ÷ equity = equity dividend rate
  - Loan constant: annual debt service ÷ original mortgage balance = mortgage constant
- Discounted cash flow methods of income property analysis give the investor strict decision-making criteria.

PGI
- V/C
EGI
- OE
NOI

$\left(\frac{I}{R} = V\right)$

- Net present value and internal rate of return are two measures that provide the best estimates of a property's return over the holding period.
- After the broker has completed the preliminary studies, and if the property is still under consideration, the broker prepares a risk analysis using techniques such as sensitivity analysis.
- A broker must understand the term "due diligence" and be alert for obvious flaws in a building's structure.
- The broker must learn as much as possible about the investor's situation to be able to match the investor with the right property.

Summary of Important Points

- The Growth Management Act requires cities and counties to prepare comprehensive land-use plans. The act also contains a concurrency provision that requires infrastructure to be in place concurrent with new development.
- The Community Planning Act shifted state oversite to local government control of planning and growth management.
- A *comprehensive plan* is a statement of policies for the future physical development of a city, county, or region.
- A *zoning ordinance* is a local law that implements the comprehensive plan.
- Zoning boards of adjustment provide a process for appeal when property owners feel that existing zoning laws cause them undue hardship or reduce their property values.
- Subdivision regulations control the size and location of streets and sidewalks, the placement of sewer and water lines, and the location of parks and open spaces.
- Impact fees are used to fund major, offsite infrastructure expansion that serves the community at large, as well as the subdivision residents.
- A legally nonconforming use is the permission to continue a use despite the current enacted zoning ordinance.
- Variances grant landowners permission to build or use land to relieve hardships the owners did not cause.
- Special exceptions help control the location of certain land uses not included in the zoning ordinance.
- A planned unit development is a concept involving a development larger than a traditional subdivision, generally allowing mixed land use within the development and designed to provide a maximum amount of land for open space by clustering home.
- A community development district constructs, operates, and maintains communitywide infrastructure and services for the benefit of its residents.
- Special flood hazard areas (SFHAs) are designated in the 100-year flood plan and have a 1% or greater chance of flooding in any given year.
- Wetlands have groundwater levels at or near the surface for much of the year or are covered by aquatic vegetation.
- The Clean Water Act created a permit system administered by the U.S. Army Corps of Engineers for dredging and filling activities in wetlands connected with navigable waters.
- The Coastal Zone Management Act is a federal law designed to protect and preserve sensitive wetlands and coastal regions.
- The Coastal Construction Control Line program was established by the Florida Legislature to protect the coast from improperly designed structures that can destabilize or destroy the beach and dune system.
- Developers must register subdivisions of 100 or more lots with the Bureau of Consumer Final Protection. Developers of 25 or more lots must provide buyers with a property report before the sale contract is signed.

Unit 17: Environmental Concerns Affecting Real Estate Transactions

Summary of Important Points

- The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is administered by the Environmental Protection Agency (EPA). Key features of CERCLA are as follows:
  1. Created a National Priorities List.
  2. Liability for responsible persons.
  3. Created Superfund to finance emergency response and cleanup costs.
- The Superfund Amendments and Reauthorization Act (SARA) created an innocent landowner immunity status.
- Brownfields legislation encourages development of abandoned property by shielding innocent developers from liability of toxic wastes that existed at a site prior to purchase.
- An environmental site assessment (ESA) studies the likelihood that hazardous substances may be present on a property. If red flags signal a potential environmental concern, the broker should recommend that a Phase I assessment be conducted.
- A Phase I ESA is primarily an investigative phase during which the due diligence work takes place. A Phase II ESA involves soil, air, and mineral testing and analysis to determine the presence and extent of environmental problems, and the estimated costs of correcting the problems. A Phase III ESA consists of remediation plans subject to regulatory approval and supervision.
- Asbestos is a mineral fiber that was used before 1978 for its fireproofing and insulating qualities. It is a health hazard when fibers break down and are inhaled. Encapsulation can prevent asbestos fibers from becoming airborne. The DBPR is responsible for licensing and regulating asbestos contractors and asbestos consultants.
- Florida statutes require a mandatory radon disclosure at the time or before a person enters into a contract for sale and purchase or a lease agreement. The law does not require testing to determine radon levels before the sale or lease.
- Before a person enters into a sale or lease of a dwelling built before 1978, the Residential Lead-Based Paint Hazard Reduction Act requires the disclosure of any lead-based paint and lead-based paint hazards known to exist. The seller or lessor also must provide the purchaser or lessee with a lead hazard information pamphlet and any existing lead test results. In a residential sale, the purchaser must be allowed 10 days (or another period the parties agree to) to conduct a lead inspection.
- Insures authorized to issue property hazard insurance in Florida must make available, for an additional premium, coverage for sinkholes for the structure and personal property within the structure.
- The DBPR licenses mold assessors and mold remediators.

Unit 18: Property Management

Summary of Important Points

- The Florida Nonresidential Landlord and Tenant Act has fewer consumer protections than the residential part of the act.
- The Florida Residential Landlord and Tenant Act has many consumer protections, including the requirements for meeting housing and health codes, handling of security deposits and advance rents, and the eviction process.
- The Fair Housing Act prohibits discrimination in the sale or rental of homes based on race, color, religion, sex, national origin, handicap, or familial status.
- The Americans with Disabilities Act made it unlawful to discriminate against persons with physical or mental impairments.
- Many brokers enter the property management field because it offers many benefits, one of which is stable income.
- Brokers manage residential properties, office and retail properties.
- In addition to rental properties, many property managers work as community association managers for condominiums and homeowners associations.
- A community association is an association that has more than 10 units or has an annual budget greater than $100,000.
- Managers of community associations must have a community association manager's license unless exempted.
- While many property managers hold Florida real estate licenses, owners are exempt from that requirement, and employees of owners need not have a license so long as their compensation is by salary.
- The qualifications for a property manager include not only the ability to work well with people but also knowledge of building systems, marketing skills, and sensitivity to environmental problems.
- The manager is expected to employ and train employees, prepare financial reports, and ensure that there are no violations of the fair housing laws.
- A property manager must analyze the market area as well as the property. A market analysis indicates the economic health of the area and the neighborhood, while the property analysis shows the owners the condition of the physical property, such as deferred maintenance.
- The advertising and promotion program might include the internet, billboards, newspapers, apartment guides, radio and television, and direct mail. The manager must evaluate each medium to determine the most effective method of promotion.
- Once the promotion has generated prospective tenants, the manager must be certain that the rental staff is well trained.
- The staff must understand how to create interest and desire and handle objections.
- People who wish to sign a lease must be qualified, and the staff must make a background check.
- The policies of the management company must be communicated to the tenant to reduce misunderstandings.
- The most common tenant complaint concerns maintenance service requests.
- Maintenance is provided for physical integrity, functional performance, housekeeping, and merchandising.
- Tenants should have no doubt that the collection policies will be enforced in the event their rent is late.

- Another important function of the manager is accounting and recordkeeping.
- Owners depend on the manager to control risk through insurance and other steps, such as prohibiting certain breeds of dogs.
- Many managers hire outside contractors who are licensed and insured to transfer some of the risk.

KEY NUMBERS FOR FL REAL ESTATE BROKER LICENSE

0- Exempt from renewal (active armed forces); 6 mos temp license-spouse; 60 month app waiver (honorable disc)
1- 1 business day for sales associate to give EMD to broker. (3 bus days for broker to deposit in escrow account)
1- st degree misdemeanor (inaccurate rental list) 1 year jail; $1000 fine
1 – year in involuntary active – triggers 28 hour reactivation course
2 – Years inactive period before Null and Void
2- Year active in last 5 years to become a broker
2- Consumer members on FREC; 2 Members of FREC on Probable Cause Panel
2- .002 Intangible tax paid on pm the new mortgage only
3- 3rd Degree felony unlicensed RE activity (5 years - $5,000 fine)
3- Business Days Broker must deposit proceeds in escrow account
3- Days Must receive HOA docs within 3 days or cancel the contract
3%- maximum annual tax increase for homesteaded residential properties
3.5- % down payment on FHA (insured) loans (Mortgage Insurance Premium-MIP)
4- Settlement Procedures when conflict over EMD (mediation, arbitration, litigation, EDO)
4- year degree in Real Estate exempt from 63-72 hours course; Lawyers need 72 hour course (exempt 14CE)
5- years broker must maintain records
5% - Max simple int Landlord required to give tenant or 75% total int on security deposit
6- months Max to petition FREC (null-void-physical hardship); 6 months temp license to spouse -armed forces
7- FREC Members - (2 consumer members; 2 Probable Cause Panel)
7- James Bond (.007) State Documentary stamps on Sales Price – Paid by the seller – Buyer is ½ .0035 (Doc note)
10%- max annual tax increase for non-homesteaded properties (residential and commercial)
10%- withholdings from Foreign Investors (greater than $1 mill – 15%) Residential - $300,000 greater
10- days Broker notify the state of change of address
14- hours CE required every renewal term (18-24 months -2 years) 3 Law & Ethics
14- days maximum use of a vacation
15- days to notify FREC of conflicting demands buyer and seller
15- days for buyer to cancel Condo contract
20- typical minimum % down payment to avoid Private mortgage insurance on Conventional loans
21- days request hearing and dispute Probable cause findings
24- hours seller must receive copy of listing agreement
25- 25,000 deduction for Homestead Exemption ($1k diff up to next $25K)
25- 25% guarantee of loss VA loans
25- days -Notice of preliminary taxes (TRIM) consumer can speak/protest tax assessment with County PAO
30- days landlord must inform if deposit placed in a interest bearing acct
30- days notify DBPR of Guilty or Nolo Contendre Plea
30- Hours needed on RE Law Exam (to avoid 63 hours course for mutual recognition)
50- $50k max HEX -Value $75k or greater
60- Post licensing course for RE Brokers before renewal term (Go down to RE Sales if not completed) 45 RE sales
72- Hours need for RE Broker pre-licensing
75- Passing score required on State Exam
1,000- Personal funds in escrow account
5,000- Personal funds in an property management account
10,000- fine violation of Fl Telemarketing Act; 16,000- fine violation Federal Telephone Consumer Protection Act
1,000,000- assets – Broker can appoint 2 single agents sales associates for buyer-seller

Summary of Education Exemptions

	Prelicense Course I	**Prelicense Course II**	**Post-License**	**Continuing Education**
4-year or higher real estate degree*	Exempt	Exempt	Exempt	Not exempt
Florida-licensed attorney**	Exempt	Not exempt	Not exempt	Exempt

*Although exempt from FREC-approved Courses I and II, must pass the license exams.

**Must be an active member of The Florida Bar. Exempt from Course I only, but must pass the license exam.

License Renewal Periods (cont.)

Active vs. Inactive Status

An active license is required to engage in real estate brokerage services. Licensees who choose not to engage in the real estate business may place their licenses on inactive status. There are two types of inactive status: (1) voluntary inactive and (2) involuntary inactive.

Inactive Status	
Voluntary inactive	The licensure status that results when a licensee has applied to the Department to be placed on inactive status and has paid the renewal fee prescribed by rule
Involuntary inactive	The licensure status that results when a license is not renewed at the end of the license period prescribed by the Department
Reference: Section 475.01, F.S	

Voluntary inactive

Penalties for Practicing Without a Current Active License

Rule 61J2-24.001 Violation	***First Violation***	***Second and Subsequent Violations***

(w) Section 475.42(1)(a), F.S. Practice without a valid and current license	(w) $250 to $2,500 administrative fine and suspension to revocation	(w) $1,000 to $5,000 administrative fine and suspension to revocation
(x) Section 475.42(1)(b), F.S. Practicing beyond scope as a sales associate	(x) $250 to $1,000 administrative fine and suspension to revocation	(x) $1,000 to $5,000 administrative fine and suspension to revocation
(y) Section 475.42(1)(c), F.S. Broker employs a sales associate who is not the holder of a valid and current license	(y) $250 to $1,000 administrative fine and suspension to revocation	(y) $1,000 to $5,000 administrative fine and suspension to revocation

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Real Estate Services

Florida real estate license law identifies real estate–related activities called *real estate services* that require a Florida real estate license. **Real estate services** include any real estate activity involving compensation for performing the service for another.

To Remember: A BAR SALE

A Advertise real estate services

B Buy

A Appraise

R Rent or provide rental information or lists

S Sell

A Auction

L Lease

E Exchange

Key Points Regarding Residential and Commercial Lien Rights

Residential	Commercial

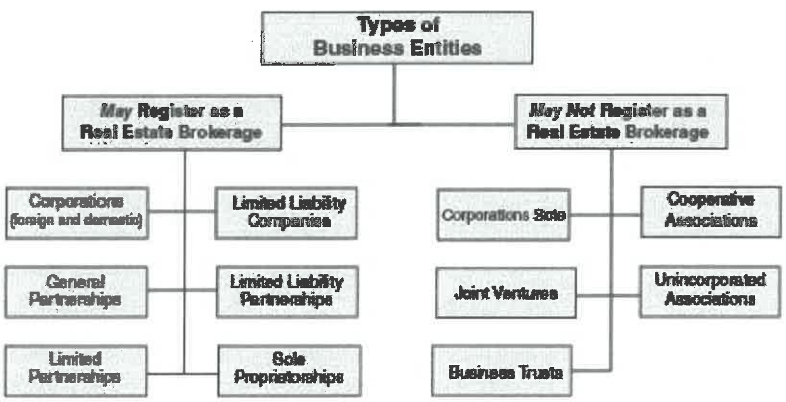
Broker cannot place a lien on real property unless owner gives express authority in the listing agreement, buyer representation agreement, or sale contract	Broker must include in the brokerage agreement the required disclosure regarding the broker's lien rights at or before the time the owner (seller) enters into the brokerage agreement
Unless a lien right is authorized, the broker must seek relief in a court of law and obtain a judgment for the amount owed	If the disclosure is included in the brokerage agreement and signed by the owner, the broker has a lien right on owner's net sale proceeds for any unpaid commission
It is a violation of law to place a lien or lis pendens on property unless the broker is expressly authorized to do so	The owner cannot waive the broker's lien right once agreed to

Commercial Real Estate Leasing Commission Lien Act

Types of Business Entities That May Register as Brokerage Entities

A broker may choose from a variety of business entities (see **Business Entities**). Sole proprietorships, partnerships (both general and limited), limited liability partnerships, corporations, and limited liability companies may be registered as real estate brokers and/or brokerage entities. Chapter 475.01, F.S., defines the term *broker* to include any person who is a general partner, an officer, or a director of a partnership or corporation that acts as a real estate broker.

Business Entities



All real estate brokerage entities must register with the DBPR. Registration includes the names of every licensed and unlicensed general partner of a real estate brokerage general partnership or limited partnership and every officer and director of a real estate brokerage corporation. Every member of a member-managed real estate brokerage limited liability company must also register. A person licensed as a sales associate or broker associate may not register as a general partner, a member of a member-managed real estate limited liability company, a manager of a manager-managed real estate limited liability company, an officer, or a director of a brokerage corporation.

Civil and Criminal Penalties (cont.)

Criminal Penalties

Criminal penalties are issued by criminal courts. All imprisonment penalties or fines (except administrative fines) must be obtained in a court of law because the Commission lacks the authority to assess such penalties. The DBPR must refer any criminal matters to the state attorney general's office for investigation and possible prosecution. **Criminal Penalties** shows common criminal penalties.

Criminal Penalties

Criminal Penalty	**Fine**	**Incarceration**
Third-degree felony	$5,000	5 years
First-degree misdemeanor	$1,000	1 year
Second-degree misdemeanor	$500	60 days

Third-Degree Felony

Making misleading statements or giving false information on a DBPR license application is a third-degree felony. Unlicensed activity, including providing real estate services for compensation without a real estate license, is a third-degree felony. Theft or reproduction of a license exam is also a third-degree felony. The penalty for a third-degree felony is a fine of not more than $5,000 and/or up to five years in jail.

First-Degree Misdemeanor

It is a first-degree misdemeanor to fail to provide accurate and current rental information for a fee. The penalty for a first-degree misdemeanor is a fine of not more than $1,000 and/or up to one year in jail.

Second-Degree Misdemeanor

A criminal violation of Chapter 475 is a misdemeanor of the second degree (except as noted earlier). For example, false and misleading advertising is a second-degree misdemeanor. A second-degree misdemeanor is punishable by a fine of not more than $500 and/or by imprisonment for not more than 60 days.

The DBPR maintains a website dedicated to unlicensed activity at http://www.myfloridalicense.com/dbpr/reg/ula.html. Consumers may call 866-532-1440 to report unlicensed activity.