

# **Florida Real Estate Commission**

# **SALES ASSOCIATE COURSE SYLLABUS**

# **(FREC COURSE I)**

**January 1, 2023**

**(effective date)**

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## **Suggested formatting and instructional techniques:**

- When discussing the application and examination process refer students to the Candidate Information Booklet
- Use application based instruction
- When available utilize case studies
- Emphasize the role of ethics in the practice of real estate
- Where applicable refer students to the Florida Administrative Code and Florida Statute.
- Section times are not required to be three hours in duration provided the overall course is 60-hours of instruction with 3-hour end-of-course examination. Allocate your time based upon the complexity of the material.
- Refer students to available online services offered by the Department of Business and Professional Regulation when discussing application, license renewal and general account information.
- Where appropriate incorporate the most timely forms and applications used in the field
- While the syllabus contains structured areas of study if you find that subject matter from different sections applies to the topics you are covering you may incorporate the material into that section.

# SECTION 1

## COURSE OVERVIEW: THE REAL ESTATE BUSINESS

### *Learning Objectives:*

- Describe the various activities of real estate brokerage
- Distinguish among the five major sales specialties
- Identify the role of property managers
- Describe activities that require appraiser services and distinguish among CMA, BPO, and appraisal
- Understand the mortgage process and the role of mortgage loan originator
- Explain the three phases of development and construction
- Distinguish among the three categories of residential construction

### Key Terms:

- absentee owner
- appraisal
- appraiser
- broker price opinion (BPO)
- business broker
- business opportunity
- community association manager (CAM)
- comparative market analysis (CMA)
- dedication
- farm area (target market)
- follow-up
- multiple listing service (MLS)
- property management
- property manager
- real estate brokerage
- subdivision plat map
- uniform standards of professional appraisal practice (USPAP)

### Outline

- I) Introduction to the Real Estate Business
  - A Overview of the real estate industry
    - 1) The real estate industry's role in the nation's economy
    - 2) Many industries are dependent on real estate activity
  - B Real estate is a business of many specializations
    - 1) Expert information is the product that a broker or a sales associate must market
      - (a) Knowledge of property transfer
      - (b) Knowledge of market conditions
      - (c) Knowledge of how to market real estate
- II) Real Estate Brokerage
  - A Sales and Leasing
    - 1) A business in which real estate license-related activities are performed under the authority of a real estate broker
    - 2) The broker acts as an agent or intermediary between two or more people in the negotiation of the sale, purchase or rental of real estate

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

- D Developer often dedicates land to a governmental body for public use
- E Construction
  - 1) Types of residential construction
    - (a) Spec homes
    - (b) Tract homes
    - (c) Custom homes
- IV) The Role of Government
  - A Local government
  - B State government
  - C Federal government
- V) Professional Organizations
  - A Variety of professional organizations are in existence
  - B National Association of REALTORS® (NAR)
  - C Florida REALTORS®
  - D Local Board (Association) of REALTORS®
  - E Distinguish between holding a Real Estate license vs. being a Realtor

## SECTION 2

### REAL ESTATE LICENSE LAW AND QUALIFICATIONS FOR LICENSURE

#### *Learning Objectives:*

- Identify the qualifications for a sales associate's license
- Describe the application requirements for licensure including nonresident application requirements
- Explain the importance of responding accurately and completely to the background information questions on the licensure application
- Illustrate the background check procedure conducted by the DBPR
- Describe the education requirement for pre- and post-license education and continuing education
- Distinguish among the various license categories
- Identify services of real estate where licensure is required
- Recognize actions that constitute unlicensed activity
- Recognize exemptions from real estate licensure
- Distinguish between registration and licensure
- Explain mutual recognition agreements

#### Key Terms:

- adjudication withheld
- broker
- broker associate
- compensation
- expungement
- Florida resident
- license/registration
- mutual recognition agreement
- nolo contendere / no contest
- owner-developer
- prima facie evidence
- real estate services
- reciprocity
- sales associate
- sealed

#### Outline

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

- 1) Chapter 20, F.S.
  - 2) Chapter 475, F.S.
  - 3) Chapter 455, F.S.
  - 4) Chapter 120, F.S.
  - 5) Chapter 61J2, F.A.C
- II) License Categories
- A Broker
  - B Sales associate C  
Broker associate
- III) General Licensure Provisions
- A Age
  - B High school diploma or its equivalent
  - C Honest, trustworthy, of good moral character
  - D Disclose if under investigation, convicted of a crime or ever entered a plea of *nolo contendere / no contest or guilty*
  - E Aliases/K/A
  - F Disclose if denied, or had a license disciplined or pending discipline in another jurisdiction
  - G Disclose if Denied, surrendered, or revoked license or registration to practice a regulated profession in any jurisdiction
  - H Guilty of any conduct or practice that would have been grounds for suspension or revocation under Chapter 475, F.S.
  - I U.S. citizenship (Chapter 455.10)
  - J Qualification of immigrants for examination (Chapter 455.11, F.S.)
  - K Requirement for United States social security number (Chapter 559, F.S.)
- IV) Application Requirements
- A License Fees
    - 1) Licensee fee exemptions (Chapter 455.213, F.S. and Chapter 455.219, F.S.)
  - B Application form
    - 1) Responding accurately and completely to background information on the application
  - C Background check procedure
  - D Summary of applicants (SOAs)
  - E Application time periods
  - F Rights of an applicant
  - F The length of time a licensure application is valid
    - 1) Initial application
    - 2) Exam eligible
  - G Reciprocity for U.S. armed service members and their spouses (Chapter 455.02, F.S.)
  - H Nonresident application requirements
  - I Regulations pertaining to pre-license courses
- V) Sales Associate License Requirements
- A Education exemptions
  - B Sales associate pre license course
  - C State licensure examination
- VI) Broker License Requirements
- A Education exemptions
  - B Experience requirement
  - C Broker pre license course

- D State licensure examination
- VII) Mutual Recognition Agreements with Other States
  - A Florida resident defined
  - B Distinguish between mutual recognition and reciprocity
- VIII) Information included on the real estate license
  - A Prima facia evidence that holder of a real estate license possesses current and valid licensure
- IX) Registration vs. Licensure
- X) License Renewal Education
  - A Post licensure requirement
    - 1) Hardship cases
  - B Continuing education
- XI) Real Estate Services
  - A Individuals who are required to be licensed
  - B Individuals who are exempt from licensure



## SECTION 3

### REAL ESTATE LICENSE LAW AND COMMISSION RULES

#### *Learning Objectives:*

- Describe the composition, appointment and member qualifications of the Florida Real Estate Commission
- Define the powers and duties of the Commission
- Describe the scope and function of the DBPR and the DRE
- Explain the different licensure statuses
- Distinguish between active and inactive license status
- Describe the regulations regarding involuntarily inactive status
- Distinguish between multiple and group licenses

#### Key Terms:

- active/inactive
- canceled
- cease to be in force
- current mailing address
- current status
- group license
- involuntarily inactive
- license authority voided
- multiple licenses
- null and void
- probation
- promulgates
- voluntarily inactive

#### Outline

- I) Regulation by Department of Business and Professional Regulation
  - A Organizational structure
    - 1) Division of Professions
    - 2) Division of Service Operations
    - 3) Division of Florida Condominiums, Timeshares and Mobile Homes
    - 4) Division of Real Estate
  - B Definitions (Chapter 455.01, F.S.)
  - C Legislative intent; requirements (Chapter 455.201, F.S.)
  - D Department powers and duties (Chapter 455.203, F.S.)
  - E Licensing examinations
- II) Division of Real Estate
  - A Organizational structure
- III) The Florida Real Estate Commission; Rules Governing Internal Organization and Operation (Chapter 61J2-20, F.A.C.)
  - A Purpose of regulation
  - B General structure
    - 1) Composition and qualifications of members
    - 2) Term of office and compensation
    - 3) Legal counsel
    - 4) Meetings and minutes

- C Duties and powers of the Commission
  - 1) Executive powers
  - 2) Quasi-legislative powers
  - 3) Quasi-judicial
- IV) License Renewal and License Statutes
  - A License renewal periods
    - 1) Armed Forces renewal exemption (Chapter 455.02, F.S.)
  - B Active vs. inactive status
    - 1) Voluntary Inactive
    - 2) Involuntary Inactive
      - (a) Renewal requirements
      - (b) Reactivation education
      - (c) Hardship
  - C Other license classifications
    - 1) Null and void
    - 2) Cease to be in force (Chapter 475.23, F.S.)
  - D Current mailing address
    - 1) Change of address procedure
    - 2) Penalty for failure to notify FREC
- V) Multiple Licenses and Group Licenses
  - A Multiple licenses
  - B Group license

## SECTION 4

### AUTHORIZED RELATIONSHIPS, DUTIES AND DISCLOSURE

#### *Learning Objectives:*

- Describe which provisions of the Brokerage Relationship Disclosure Act apply only to residential real estate sales and list types of real estate activities that are exempt from the disclosure requirements
- Define residential transaction
- Distinguish among nonrepresentation, single agent and transaction broker
- List and describe the duties owed in the various authorized relationships
- Compare and contrast the fiduciary duties owed in a single agent relationship and the duties owed in a transaction broker relationship
- Describe the disclosure procedures for the various authorized relationships
- Describe the required content and format of the various disclosure forms
- Explain the procedure for transition from a single agent to a transaction broker
- Describe the disclosure requirements for non-residential transactions where the buyer and seller have assets of \$1 million or more
- List the events that will cause an authorized relationship to be terminated

#### Key Terms:

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

#### Outline

- I) Concept of agency
  - A Historical perspective of agency relationships
    - 1) Statutory law
    - 2) Common law
    - 3) Administrative law
  - B Types of agency relationships in general business dealings
    - 1) General agent
    - 2) Special agent
  - C Fiduciary relationships

- 1) Dealing at arm's length
  - 2) Caveat emptor
  - 3) Dual agency
  - 4) Subagency
  - 5) Customer vs. client
- D Brokerage relationships determined by broker
- II) Disclosure Requirements
- 1) Applies to residential sales only
  - 2) Disclosure requirements do not apply to:
    - 1) Non residential transactions
    - 2) The rental or leasing of real property, unless an option to purchase all or a portion of the property improved with four or fewer residential units is given
    - 3) Auctions
    - 4) Appraisals
    - 5) Dispositions of any interest in business enterprises or business opportunities, except for property with four or fewer residential units
- III) Authorized Brokerage Relationships
- A Nonrepresentation
- 1) Customer means a member of the public who is or may be a buyer or seller of real property and may or may not be represented by a real estate licensee in an authorized brokerage relationship
  - 2) Duties
    - (a) Dealing honestly and fairly
    - (b) Disclose all known facts that materially affect the value of residential property which are not readily observable to the buyer
    - (c) Accounting for all funds entrusted to the licensee
  - 3) Disclose the no brokerage relationship (nonrepresentation) notice in writing before the showing of property (Chapter 475.278(4)(b), F.S.)
- B Single agent relationship
- 1) Single agent is a broker who represents, as a fiduciary, either the buyer or seller but not both in the same transaction
  - 2) The party with whom a real estate licensee has entered into a single agent relationship is the principal
  - 3) Duties
    - (a) Dealing honestly and fairly
    - (b) Loyalty
    - (c) Confidentiality
    - (d) Obedience
    - (e) Full disclosure
    - (f) Accounting for all funds
    - (g) Skill, care and diligence in the transaction
    - (h) Presenting all offers and counteroffers in a timely manner
    - (i) Disclosing all known facts that materially affect the value of residential real property that are not readily observable
  - 4) Give the single agent disclosure before, or at the time of, entering into a listing agreement or an agreement for representation or before showing the property, whichever occurs first
  - 5) Required information on the disclosure per Statute
  - 6) Required format of the disclosure per Statute

- C Transaction broker relationship
  - 1) Presumption of transaction brokerage relationship
  - 2) Transaction broker means a broker who provides limited representation to a buyer, a seller, or both, in a real estate transaction, but does not represent either in a fiduciary capacity or as a single agent
  - 3) Transaction brokers provide a limited form of nonfiduciary representation to a buyer, a seller, or both in a real estate transaction
  - 4) Duties include:
    - (a) Dealing honestly and fairly
    - (b) Accounting for all funds
    - (c) Using skill, care, and diligence in the transaction;
    - (d) Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer
    - (e) Presenting all offers and counteroffers in a timely manner, unless a party has previously directed the licensee otherwise in writing
    - (f) Limited confidentiality, unless waived in writing by a party. This limited confidentiality will prevent disclosure that the seller will accept a price less than the asking or listed price, that the buyer will pay a price greater than the price submitted in a written offer, of the motivation of any party for selling or buying property, that a seller or buyer will agree to financing terms other than those offered, or any other information requested by a party to remain confidential
    - (g) Any additional duties that are mutually agreed to with a party
- IV) Consent to Transition From Single Agent to Transaction Broker
  - A A single agent relationship may be changed to a transaction broker relationship at any time during the relationship between an agent and principal, provided the agent gives the transition disclosure and the principal consents to the transition before a change in relationship
  - B Procedure
    - 1) Give the single agent disclosure before, or at the time of, entering into a listing agreement or an agreement for representation or before showing of property, whichever occurs first
    - 2) Give transition disclosure and secure consent (signature) from party
  - C Required information on the disclosure per Statute
  - D Required format of the disclosure per Statute
- V) Designated sales associate
  - A Non-residential transaction limitations
  - B Disclosure requirements
  - C Single agent duties
- VI) Record keeping and retention
  - A Documenting brokerage relationship disclosure
- VII) Terminating brokerage relationship

## SECTION 5

### REAL ESTATE BROKERAGE ACTIVITIES AND PROCEDURES

#### *Learning Objectives:*

- Identify the requirements for real estate brokerage office(s) and the types of business entities that may register
- Explain what determines whether a temporary shelter must be registered as a branch office
- List the requirements related to sign regulation
- List the requirements related to the regulation of advertising by real estate brokers
- Explain the term *immediately* as it applies to earnest money deposits
- Describe the four settlement procedures available to a broker who has received conflicting demands or who has a good-faith doubt as to who is entitled to disputed funds
- Describe the obligations placed on a sales associate who changes employers and/or address
- Describe the regulations regarding lien rights for unpaid sales commission
- Contrast the features and requirements of the various types of business organizations

#### Key Terms:

- arbitration
- blind advertisement
- commingle
- conflicting demands
- conversion
- corporation (INC)
- deposit
- earnest money
- escrow account
- escrow disbursement order (EDO)
- failure to account and deliver
- general partnership
- good-faith doubt
- interpleader
- kickback
- limited liability company (LLC)
- limited liability partnership (LLP)
- limited partnership
- litigation
- mediation
- ostensible partnership
- personal assistant
- professional association (PA)
- point of contact information
- sole proprietorship
- team advertising
- trade name

## Outline

- I) Brokerage offices
  - A Broker office requirements
  - B Branch office requirements
    - 1) Sales associates must be registered and work under the direction and control of the employing broker
    - 2) Sales associates may not have offices of their own and must work from the broker's office or branch office
- II) Guidelines for advertising (Chapter 475.01(1), F.S.)
  - A False or misleading advertising (Chapter 475.42(1)(n), F.S.)
    - 1) Penalties for false advertising
    - 2) Unauthorized use of association names (Chapter 61J2-10.027, F.A.C.)
  - B Any advertising must be worded so that a reasonable person knows that the advertiser is a real estate licensee
  - C "Blind" advertising is prohibited; it must always reveal the licensed name of the brokerage firm
  - D Any person advertising real estate services is interpreted as acting as a broker
  - E Sales associates cannot advertise or conduct business in his or her own name
    - 1) Personal information in advertising
    - 2) Licensees selling their property by owner
  - F Team advertising
    - 1) Definition and requirements (Chapter 61J2-10.026, F.A.C.)
    - 2) Words that may not be used in team names
  - G Internet Sites
    - 1) Point of contact information
  - H Telephone solicitation
    - 1) Prerecorded telemarketing calls
    - 2) Federal regulation
    - 3) State regulation (Chapter 501.604(25), F.S.)
  - I Email advertising
    - 1) CAN-SPAM Act
    - 2) Unsolicited text messages
- III) Escrow (Trust) Accounts
  - A Definition of escrow account and trust funds
    - 1) Signatory on escrow account
    - 2) Interest bearing escrow accounts require written authorization for distribution of interest
    - 3) Broker must review, sign, and date monthly reconciliation statement
    - 4) Misappropriation of escrow funds
      - (a) Commingle
      - (b) Conversion
      - (c) Failure to account and deliver
    - 5) Money to maintain escrow account
      - (a) Sales escrow account
      - (b) Property management escrow account
    - 6) Recordkeeping and retention
    - 7) Title company and attorney escrow accounts
      - (a) Requirements (Chapter 61J2-14.008(2)(b), F.A.C.)
    - 8) Notice and settlement procedures

- (a) Conflicting demands
    - (1) Sales associates must inform their broker immediately of conflicting demands
- 9) Good-faith doubt procedure when it is not clear which party should receive the escrowed property
  - (a) Situations that are considered good-faith doubt
- IV) Broker/Sales associate licensee as an expert in specific aspects of property transfer
  - A Requirement to avoid offering an opinion of title since it can be relied on as expert opinion
  - B Ability to offer a representation of value, avoiding misrepresentation through exaggeration, etc.
  - C Misrepresentation of value by a licensee as fraud, breach of contract, or breach of trust
- V) Broker's Commission
  - A "Fixing" commissions or fees is illegal
  - B A Sales associate cannot contract directly with a principal
    - 1) The sales associate's commission is by agreement with the broker
    - 2) A sales associate cannot sue a principal over a commission
  - C "Kickbacks" are legal only under limited conditions
    - 1) All parties to the transaction must be fully informed of the kickback
    - 2) It must not be prohibited by other law
    - 3) It is unlawful to share a commission with an unlicensed person, except for the seller or buyer of the property
    - 4) It is unlawful for a licensee to pay any unlicensed person for performing real estate services
- VI) Change of Employer
  - A A sales associate must inform FREC about a change of employer
    - 1) Within ten days
    - 2) On a prescribed form
  - B A Sales associate's obligation of confidentiality with respect to principals or the broker does not end with termination of employment
  - C Duplication of records from a previous employer constitutes breach of trust, even if the one copying the records originated them, if done for the purpose of taking listings to the new employer
  - D Removal of records from a previous employer's office constitutes theft
- VII) Types of Business Entities
  - A Entities that may register as a brokerage
    - 1) Sole proprietorship
    - 2) General partnership
    - 3) Limited partnership
      - (a) Ostensible partnerships are prohibited
    - 4) Corporation
      - (a) For profit
      - (b) Not for profit
    - 5) Limited liability company
    - 6) Limited liability partnership
  - B Entities that may not register as a brokerage
    - 1) Corporation sole
    - 2) Joint venture



- 3) Business trust
  - 4) Cooperative association
  - 5) Unincorporated associations
  - C A sales associate is prohibited from being an officer or director in a real estate brokerage corporation, or a general partner in a brokerage limited partnership
- VIII) Trade names (Chapter 865.09, F.S.)
- A DBPR registration of trade name procedure
    - 1) Sales associates may not use a trade (fictitious) name
    - 2) Sales associates must register under their legal (personal) name
  - B DOS registration of a fictitious name
  - C Procedure to form a professional association in a sales associate's legal name (Chapter 475.161, F.S.)
- XI) Personal Assistants
- A Permissible activities of unlicensed personal assistants
  - B Licensed personal assistants
  - C Procedure for compensating personal assistants

## **SECTION 6**

### **VIOLATIONS OF LICENSE LAW, PENALTIES AND PROCEDURES**

#### ***Learning Objectives:***

- Explain the procedures involved in the reporting of violations, the investigation of complaints and the conduct of hearings
- Define the elements of a valid complaint
- Discuss the composition of the probable-cause panel
- Recognize events that would cause a license application to be denied
- Distinguish actions that would cause a license to be subject to suspension or revocation
- Identify individuals who would be eligible and the procedure to seek reimbursement from the Real Estate Recovery Fund
- Identify individuals who are not qualified to make a claim from the Real Estate Recovery Fund
- Describe the monetary limits imposed by law on the Real Estate Recovery Fund
- Distinguish among the various penalties that may be issued by a court of law

#### **Key Terms:**

- breach of trust
- citation
- complaint
- concealment
- culpable negligence
- formal or administrative complaint
- fraud
- legally sufficient
- misrepresentation
- moral turpitude
- notice of noncompliance
- probable cause
- recommended order
- stipulation
- subpoena
- summary/emergency suspension order
- voluntary relinquishment for permanent revocation

#### **Outline**

- I) Disciplinary Procedure
  - A The complaint (Chapter 475.25, F.S. and 455.225, F.S.)
    - 1) Filed with DBPR
    - 2) The complaint must be legally sufficient
    - 3) Notice of noncompliance for first-time offense of a minor violation
  - B DRE conducts investigation
    - 1) Anonymous complaints
    - 2) Withdrawal of complaints
    - 3) When an investigation of a subject is undertaken the DBPR forwards a copy of the complaint to the subject (except for criminal violation)
    - 4) Investigative report is submitted by legal to the probable-cause panel

- C Probable-cause Panel
  - 1) Composition of probable-cause panel
  - 2) Purpose is to determine whether probable cause exists
  - 3) Letter of guidance
- D Formal administrative complaint
  - 1) If probable cause is found, a formal administrative complaint is filed
  - 2) Formal complaint consisting of allegations of facts and charges against the licensee is sent to the address of record (Chapter 455.225, F.S.)
- E Licensee is entitled to an informal or a formal hearing
  - 1) Election of rights form
  - 2) If no dispute of material fact the case can be presented in an informal hearing before the FREC
  - 3) Waiver hearing
- F Settlement Stipulation
- G Voluntary Relinquishment for Permanent Revocation
- II) Commission meeting (probable-cause panel members are excused)
  - A Formal hearings are conducted by administrative law judges
    - 1) Hears evidence
    - 2) Makes findings of fact
    - 3) Submits a recommended order to FREC
  - B FREC (probable-cause members excused) consider the administrative law judge's report and recommended order and then issues a final order
    - 1) Summary/Emergency suspension order
  - C Judicial Review (appeal process)
    - 1) Stay of enforcement
    - 2) Writ of supersedeas
- III) Violations and Penalties
  - A Administrative penalties
    - 1) Deny a license application
      - (a) Grounds for denial
    - 2) Refusal to recertify a license for renewal
  - B Penalties issued by DRE
    - 1) Notice of noncompliance (Chapter 61J2.24.003, F.A.C.)
    - 2) Citation (Chapter 61J2.24.002, F.A.C.)
  - C Penalties issued by FREC
    - 1) Reprimand
    - 2) Denial of license application
    - 3) Probation
    - 4) Administrative fine
      - (a) Maximum \$5,000 per violation of Chapter 455, F.S.
      - (b) Maximum \$5,000 per violation of Chapter 475, F.S.
    - 5) Suspend a license up to 10 years
    - 6) Revoke a license
      - (a) Permanent
      - (b) Revoke without prejudice
  - D Violations and recommended penalties (Chapter 61J2-24.001, F.A.C.)
  - E Penalties that may be issued by a court of law
    - 1) Second degree misdemeanor
    - 2) First degree misdemeanor

- (a) Failing to provide accurate and current rental information for a fee
- 3) Civil penalties
  - (a) Denial and recovery of compensation
- 4) Third degree felony
  - (a) Making misleading statements or giving false information on a DBPR license application
  - (b) Conducting unlicensed activity
  - (c) Theft or reproduction of a DBPR license Exam
- 5) Criminal penalties
  - F Requirement to self-report (Chapter 455.227(1)(t), F.S.)
- IV) Real Estate Recovery Fund
  - A Applies to real estate brokerage transactions
    - 1) Involving Florida real estate
    - 2) Involving a licensee under Chapter 475, F.S
    - 3) Violating any part of Chapter 475, F.S.
  - B Persons *not* qualified to make a claim
  - C Payment for claims from the fund
  - D Authorized fund limit and fees
    - 1) Compensatory damages only
  - E Mandatory suspension
  - F Recovery fund claim resulting from an EDO
    - 1) Fees eligible to recover

## SECTION 7

### FEDERAL AND STATE LAWS PERTAINING TO REAL ESTATE

#### *Learning Objectives:*

- Explain the significance of the Jones vs. Mayer court case
- List the real estate included under the different fair housing acts
- Recognize the groups protected under the 1968 Fair Housing Act
- List the property exempt from the 1968 Fair Housing Act and the protected classes
- List the two protected classes added to the 1988 Fair Housing Amendment
- Describe the types of discriminatory acts that are prohibited under the 1968 Fair Housing Act
- Describe the HUD process for handling a complaint under the 1968 Fair Housing Act
- Describe the objectives and major provisions of the Americans with Disabilities Act
- Describe the major provisions of the Florida Residential Landlord and Tenant Act
- Describe the major provisions of the Interstate Land Sales Disclosure Act

#### Key Terms:

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

#### Outline

##### I) Federal Laws

- A Civil Rights Act of 1866
  - 1) Jones v. Mayer case
- B Civil Rights Act of 1964
- C Civil Rights Act of 1968
  - 1) Fair Housing Act of 1968 and amendments
    - (a) Prohibits discrimination in sales, leasing, advertising sales or rentals, financing or brokerage services
    - (b) Protected classes included race, color, religion, sex, national origin
      - (1) Familial status
      - (2) Handicap status
    - (c) Groups not covered under the Fair Housing Act
      - (1) Marital status
      - (2) Age
      - (3) Occupation
    - (d) Two categories of housing covered by the 1968 Fair Housing Act:
      - (1) Single-family
      - (2) Multifamily
    - (e) Real estate transactions exempted under the Act
    - (f) Acts prohibited
      - (1) Refusing to rent

- (2) Quoting different terms
- (3) Discriminatory advertising
- (4) Steering
- (5) Blockbusting
- (6) Redlining
- (7) Denying membership
- (8) False statements regarding availability
- (g) Housing for older persons
- (h) Special exemptions under the Act
  - (1) Religious organizations
  - (2) Private clubs
- (i) Equal housing opportunity poster
- (j) Enforcement of the Fair Housing laws
  - (1) Complaints filed with HUD under the 1968 Fair Housing Act (as amended)
  - (2) Civil suits filed in Federal district court
  - (3) Action taken by the Department of Justice
  - (4) Florida Fair Housing Act (Chapter 760.21, F.S.)
- (k) Responsibility and liability of real estate licensees
- D Americans with Disabilities Act of 1990
  - (1) Access to public transportation, public accommodation and commercial facilities
  - (2) New construction and renovation of public accommodations and commercial facilities
- E Interstate Land Sales Full Disclosure Act
- II) Florida Residential Landlord and Tenant Act
  - A Overview of the law
  - B Deposits and advance rents
    - (1) Broker properties management
    - (2) Renting to active military service members
    - (3) Selling tenant-occupied homes
  - C Landlord's obligation to maintain premises
  - D Tenant's obligations
  - E Landlord's access to premises
  - F Vacating premises
  - G Termination of rental agreements by the tenant
  - H Termination of rental agreements by the landlord
  - I Eviction procedure

## SECTION 8

### PROPERTY RIGHTS: ESTATES AND TENANCIES; CONDOMINIUMS, COOPERATIVES, COMMUNITY DEVELOPMENT DISTRICTS, HOMEOWNER ASSOCIATIONS AND TIME-SHARING

#### *Learning Objectives:*

- Define *real property* based on the definition in Chapter 475, F.S.
- List and explain the physical components of real property
- Explain the four tests courts use to determine if an item is a fixture
- Distinguish between real and personal property
- Describe the bundle of rights associated with real property ownership
- List the principal types of estates (tenancies) and describe their characteristics
- Describe the features associated with the Florida homestead law
- Distinguish between cooperatives, condominiums and time-shares and describe the four main documents associated with condominiums

#### Key Terms:

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

## Outline

- I) Land, Real Estate and Real Property
  - A Definition of real property (Section 475.01, F.S.)
  - B Physical components of real property
    - 1) Surface rights
    - 2) Subsurface rights
    - 3) Air rights
  - C Water rights
    - 1) Riparian rights
    - 2) Littoral rights
    - 3) Accretion and erosion
    - 4) Alluvion and Reliction
- II) Real Versus Personal Property
  - 1) Real property is basically land and improvements on the land
  - 2) Personal property usually consists of items having a limited life, which are easily movable from one place to another
    - 1) Personal property (or *chattel*, or *personalty*) includes any property that is not real property
  - 3) Fixtures
    - 1) A fixture is an item that was once personal property, but is now legally considered to be real property
    - 2) Legal tests of determination:
      - (a) Intent of the parties
      - (b) Method or degree of attachment
      - (c) Agreement and/or relationship of the parties
      - (d) Adaptation of the item
    - 3) Listing and sale contracts should clearly specify which items are considered real property in the transaction and any personal property that is to be included
  - 4) Definition of a trade fixture
    - 1) Fixture versus trade fixture
- III) Basic Property Rights
  - A "Bundle of Rights" include the rights of:
    - 1) Possession
    - 2) Enjoyment
    - 3) Disposition
    - 4) Control
    - 5) Exclusion
- IV) Freehold Estates
  - A An estate refers to the degree, quantity, nature and extent of interest (ownership rights) a person can have in real property
  - B Estates are divided into two general groups:
    - 1) Freehold estates which are for an indefinite length
    - 2) Leasehold estates (or nonfreehold) which are for a fixed term
  - C Freehold estates include:
    - 1) Fee simple estate
      - (a) Fee, fee simple, fee simple absolute. . .defined as the largest bundle of rights we have. All three terms mean the same thing. Most titles are held in fee.



- 2) Life estate
  - (a) Conventional life estates are created by action of the grantor
    - (1) Use during life of holder or whoever's life the interest is based on.  
Often used by husband for wife with children as *remaindermen*
    - (2) Remainder estate
    - (3) Reversion estate
  - (b) Legal life estates are created automatically by law
    - (1) Homestead is a legal life estate
      - (i) Homeowner's principal residence is protected from certain creditors
      - (ii) Not protected from real estate property taxes or from a mortgage for purchase or cost of improvements
- V) How Ownership Can Be Held
  - A Severalty—sole ownership. Only one party is needed to sign deed (Spouse must sign if homesteaded)
  - B Co-ownership
    - 1) Tenancy in common
    - 2) Joint tenancy with right of survivorship
      - (a) Creating a joint tenancy
    - 3) Tenancy by the entireties
- VI) Leasehold (Nonfreehold) Estates
  - A An interest in real property for a definite period (measured in calendar time)
  - B Types of leasehold estates
    - 1) Estate for years
    - 2) Tenancy at will
    - 3) Tenancy at sufferance
- VII) Cooperatives, Condominiums and Time-Sharing
  - A Cooperatives
    - 1) Own stock in a corporation
    - 2) Stock ownership carries right of occupancy through a proprietary lease
    - 3) Property taxes and special assessments are assessed against each unit
      - (a) Taxes and special assessments create a lien only on the individual unit
      - (b) Corporation pays the property tax bill and shareholders pay a pro rata share
    - 4) Transfer is accomplished by sale of stock
    - 5) Disclosures and cancellation period required by The Cooperative Act (Chapter 719, F.S.)
  - B Condominiums
    - 1) Own individual unit in fee simple
    - 2) Undivided interest in common areas
    - 3) Property tax levied on individual unit
    - 4) Transfer by deed
    - 5) Condominium documents
      - (a) Declaration
      - (b) Articles of incorporation
      - (c) Bylaws
      - (d) Frequently asked questions and answers (FAQ)
    - 6) Disclosures required by The Condominium Act (Chapter 718, F.S.)
      - (a) Condominium units sold by a developer

- (b) Resale condominium units sold by a unit owner
- C Time-Share
  - 1) Share ownership or right of occupancy for a time interval in a unit
  - 2) Legal formats
    - (a) Interval ownership
    - (b) Right-to-use
  - 3) Disclosures required under Florida Vacation Plan and Time-Sharing Act (Chapter 721, F.S. and Rule 61J2-23, F.A.C.)
    - (a) Time-share resale listing agreement disclosure
    - (b) Time-share resale contract disclosure
    - (c) Right to cancel the purchase agreement
  - 4) Licensure requirements and exemptions
- D HOA (Chapter 720, F.S.)
  - 1) Define
  - 2) Protection of homestead
  - 3) Tax exemption

## SECTION 9

### TITLE, DEEDS AND OWNERSHIP RESTRICTIONS

#### *Learning Objectives:*

- Differentiate between voluntary and involuntary alienation
- Explain the various methods of acquiring title to real property and describe the conditions necessary to acquire real property by adverse possession
- Distinguish between actual notice and constructive notice
- Distinguish between an abstract of title and a chain of title
- Explain the different types of title insurance
- Describe the parts of a deed and the requirements of a valid deed
- List and describe the four types of statutory deeds and the legal requirements for deeds
- List and describe the various types of governmental and private restrictions on ownership of real property
- Distinguish among the various types of leases and liens

#### Key Terms:

- abstract of title
- acknowledgment
- actual notice
- adverse possession
- alienation
- assignment
- chain of title
- condemnation
- construction lien
- constructive notice
- deed
- deed restriction
- easement
- eminent domain
- encroachment
- escheat
- further assurance
- general warranty deed
- grantee
- granting clause
- grantor
- gross lease
- ground lease
- habendum clause
- intestate
- lien
- net lease
- percentage lease
- police power
- quiet enjoyment
- quitclaim deed
- seisin

- sublease
- testate
- title
- variable lease
- warranty forever

### Outline

- I) Concept of Title
  - A Ownership in a bundle of rights
  - B Legal vs equitable title
  - C Transferred voluntarily or involuntarily by operation of law
- II) Transfer by Voluntary Alienation
  - A Deed
    - 1) When real property is sold or conveyed by gift
  - B Will
    - 1) Parties to a will
      - a) Deceased person who made the will is called a testator (if a male) or a testatrix (if female)
      - b) Devisee is the person receiving real property, or beneficiary if it is personal property
    - 2) Property conveyed by will
      - a) Devise if its real property
      - b) Bequest if its personal property
- III) Transfer by Involuntary Alienation
  - A Transfer by descent
    - 1) Person who dies without a will died intestate
    - 2) A form of involuntary alienation because the state (not the deceased) determines the disposition of property
    - 3) Passes to legal descendants known as heirs
  - B Escheat
    - 1) Provides for the property of a person who dies intestate and who has no known heirs to pass to the state
  - C Eminent domain
    - 1) Governmental power to take land from an owner through the legal process called condemnation
  - D Adverse possession
    - 1) Conditions for alienation by adverse possession
- IV) Notice to Legal Title
  - A Actual notice
  - B Constructive notice
    - 1) Acknowledgment
    - 2) Lis Pendens
- V) Protection of Title
  - A Title companies
  - B Chain of title vs. Abstract of title
  - C Title opinion
    - 1) Giving opinions of title (Chapter 475.25, F.S. and Rule 61J2-24.001(3), F.A.C.)
  - D Title insurance

- 1) Owner's policy
- 2) Lender's policy

#### VI) Deeds

##### A Parties to the deed

- 1) Grantor
- 2) Grantee

##### B Parts of a deed

- 1) Premises
- 2) Consideration
- 3) Words of conveyance (granting clause)
- 4) Interest or estate being conveyed (habendum clause)
- 5) Covenant of seisin
- 6) Deed restrictions
- 7) Exceptions and reservations
- 8) Appurtenances
- 9) Legal description of property
- 10) Voluntary delivery and acceptance

##### C Requirements for a valid deed

- 1) The deed must be in writing (Statute of Frauds)
- 2) The names of grantor and grantee
- 3) Grantor must have legal capacity
- 4) Consideration must be described
- 5) A granting clause or words of conveyance
- 6) A habendum clause must define the quality of the ownership interest being conveyed
- 7) Legal description of the property being transferred
- 8) Signature of the grantor and two witnesses
- 9) Voluntary delivery and acceptance

##### D Types of statutory deeds

- 1) General warranty deed
  - (a) Covenant of further assurance
  - (b) Covenant of quiet enjoyment
  - (c) Covenant of warranty forever
- 2) Special warranty deed
- 3) Bargain and sale deed
- 4) Quitclaim deed
- 5) Special purpose deeds
  - (a) Personal representative's deed
  - (b) Guardian's deed
  - (c) Committee's deed
  - (d) Tax deed

##### E Legal requirements

#### VII) Ownership Limitations and Restrictions

##### A Government restrictions

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

##### B Private restrictions

- 1) Deed restrictions
  - (a) Restrictive covenants
- 2) Easements
  - (a) Appurtenant
  - (b) In gross
  - (c) By prescription
  - (d) By necessity
  - (e) Implied easement
    - (1) encroachment
- 3) Leases
  - (a) Types of leases
    - (1) Gross
    - (2) Net
    - (3) Percentage
    - (4) Variable/Index
    - (5) Ground
  - b) Assignment
  - c) Sublease
- 4) Liens
  - (a) Liens defined
  - (b) Types
    - (1) Voluntary
    - (2) Involuntary
  - (c) Classifications
    - (1) General
      - (a) Judgment
      - (b) Income tax
      - (c) Estate tax
    - (2) Specific
      - (a) Property tax & special assessment
      - (b) Mortgage
      - (c) Vendors
      - (d) Construction (mechanics/materialman's)
  - (d) Lien priority
    - (1) Satisfaction
      - (a) Superior
      - (b) Junior

## SECTION 10

### LEGAL DESCRIPTIONS

#### *Learning Objectives:*

- Describe the purpose for legal descriptions
- Understand the licensee's role and responsibilities as it pertains to legal descriptions
- Explain and distinguish among the three types of legal descriptions
- Describe the process of creating a legal description using the metes-and-bounds method
- Locate a township by township line and range
- Locate a particular section within a township
- Understand how to subdivide a section
- Calculate the number of acres in a parcel based on the legal description, and convert to square feet
- Explain the use of assessor's parcel numbers
- Apply the measurements associated with checks, townships and sections

#### Key Terms:

- base line
- check
- government survey system
- legal description
- lot and block
- metes and bounds
- monument
- point of beginning
- principal meridian
- range
- section
- survey
- tier
- township
- township line

#### Outline

- I) Purpose of Legal Descriptions
  - A A legal description is a method of describing the location of real estate that will be accepted by a court
    - 1) Established boundary lines
- II) Types of Legal Descriptions
  - A Metes-and-Bounds
    - 1) Oldest method of land description
    - 2) *Metes* refers to *distance* (measured in feet) and bounds refers to *direction*
    - 3) Begin with reference point called a point of beginning (POB)
    - 4) Monuments are fixed objects used to establish boundaries

- 5) Compass bearings are used to describe the direction of the boundary lines
    - (a) Circle =  $360^\circ$
    - (b) Directions given in degrees ( $^\circ$ ), minutes ( $'$ ) and seconds ( $''$ )
    - (c) For example, N  $45^\circ 25' 20''$  E = North 45 degrees, twenty-five minutes, 20 seconds East
- B Government Survey System
- 1) Based on the logic that you can identify any point on a plane by reference to two axes
  - 2) Primary reference lines running in a north-south direction are called principal meridians and lines running in an east-west direction are called base lines
  - 3) Range lines run north-south every 6 miles. The north-south strip of land formed by two range lines is called a range
  - 4) Township lines run east-west every 6 miles. The east-west strip of land formed by two township lines is called a tier or township
    - (a) Numbering system of township lines and ranges
  - 5) Intersection of two range lines and two township lines form a 6-mile square called a township
    - (a) There are 36 sections in a township
    - (b) Numbering system of sections within townships
  - 6) Correction lines
  - 7) Using the government survey system
    - (a) Locating sections
    - (b) Subdividing sections
    - (c) Calculating size
    - (d) "And" in legal description
  - 8) Fractional sections and government lots
- C Lot and block survey method
- 1) Also called recorded plat method
  - 2) Recorded survey called a plat map
  - 3) Platted subdivision divided into blocks and lots
- III) Assessor's Parcel Number
- A To aid in the assessment of property for tax collection
  - B Tax maps based on recorded plat maps
    - 1) Other land in county
  - C Assessment roll
    - 1) Every parcel in county listed by parcel number
    - 2) Shows owner's name and address of record
    - 3) Assessed value of land and structures



# SECTION 11

## REAL ESTATE CONTRACTS

### *Learning Objectives:*

- List and describe the essentials of a contract
- Distinguish among formal, parol, bilateral, unilateral, implied, express, executory and executed contracts
- Describe the various ways in which an offer is terminated
- Describe the various methods of terminating a contract
- Explain the remedies for breach of a contract
- Describe the effect of the Statute of Frauds and the Statute of Limitations
- Describe the elements of an option
- Differentiate among the various types of listings
- Explain and describe the various disclosures required in a real estate contract
- Recognize what constitutes fraud
- Recognize what constitutes culpable negligence

### Key Terms:

- assignment
- attorney-in-fact
- bilateral contract
- competent
- contract
- exclusive-agency listing
- exclusive-right-of-sale listing
- fraud
- liquidated damages
- meeting of the minds
- net listing
- novation
- open listing
- option contract
- Statute of Frauds
- Statute of Limitations
- unenforceable
- unilateral contract
- valid contract
- void contract
- voidable contract

### Outline

- I) Contracts in General
  - A Definition of a contract
    - 1) Types of contracts real estate licensees may assist buyer and seller
  - B Preparation of contracts
  - C Statute of Frauds
  - D Statute of Limitations
  - E Void, voidable and unenforceable contracts

- II) Essential Elements of a Valid Contract
  - A Contractual capacity of the parties
  - B Offer and acceptance
  - C Legality of object
  - D Consideration
- III) Classification of Contracts
  - A Bilateral or unilateral contracts
  - B Express or implied contracts
  - C Executory or executed contracts
  - D Formal or informal contracts
- IV) Contract Negotiation
  - A Parties to offer
    - 1) Offeror
    - 2) Offeree
  - B Ways an offer is terminated
- V) Termination of Contracts
  - A Methods of terminating contracts
  - B Remedies for breach
  - C Assignment of contracts
- VI) Contracts Important to Real Estate
  - A Listing agreements (employment agreement)
    - 1) Conditions created by listing agreements
    - 2) Information included in listing agreements (Chapter 475.25, F.S. and Rule 61J2-24.002, F.A.C.)
    - 3) Multiple listing service
    - 4) Types of listings
      - (a) Open listing
      - (b) Exclusive-agency listing
      - (c) Exclusive-right-of-sale listing
      - (d) Net listing
    - 5) Buyer broker agreement
    - 6) Broker's compensation
    - 7) Procuring cause
  - B Sales contracts
    - 1) Contract negotiation
      - (a) Offers and counteroffers
      - (b) Acceptance
    - 2) Earnest money deposits
    - 3) Equitable title
    - 4) Information included in sales contracts
      - (a) Date, time and place of closing
      - (b) Purchase price
      - (c) Financing terms
      - (d) Quality of title to be conveyed
      - (e) Type of deed
      - (f) Items of personal property included
      - (g) Type of evidence of title to be provided
      - (h) Items to be prorated
      - (i) Spouse's signature

- (j) Power to bind the seller or the buyer
- 5) Required disclosures
  - (a) Radon gas disclosure (Chapter 404.056, F.S.)
  - (b) Energy efficiency disclosure
  - (c) Lead-based paint disclosure
  - (d) Homeowner association disclosure (Chapter 720.401, F.S.)
  - (e) Flood insurance disclosure
  - (f) Property tax disclosure (Chapter 689.261, F.S.)
  - (g) Building code violation disclosure (Chapter 125.69, F.S.)
  - (h) Community development district (CDD) disclosure
- 6) Material defects disclosure
  - 1) Johnson vs. Davis
  - 2) "As is" provision
  - 3) Duty for licensees to disclose
  - 4) Information that is not a material fact (Chapter 689.25, F.S. and Chapter 760.50, F.S.)
- C Option contracts
  - 1) Unilateral contract
  - 2) Consideration
  - 3) Information required
  - 4) Licensee requirements (Chapter 475.43, F.S.)
- VIII Misrepresentation and Fraud
  - A Ethical practices
    - 1) When in doubt disclose
    - 2) Fraud
    - 3) Culpable negligence

## **SECTION 12**

### **RESIDENTIAL MORTGAGES**

#### *Learning Objectives:*

- Distinguish between title theory and lien theory
- Describe the essential elements of the mortgage instrument and the note
- Describe the various features of a mortgage including down payment, loan-to-value ratio, equity, interest, loan servicing, escrow account, PITI, discount points and loan origination fee
- Explain assignment of a mortgage and the purpose of an estoppel certificate
- Explain the foreclosure process and distinguish between judicial and nonjudicial foreclosure
- Describe the mortgagor's and mortgagee's rights in a foreclosure
- Calculate loan-to-value ratio
- Explain the use of discount points and calculate approximate yield on a loan
- Distinguish among the various methods of purchasing mortgaged property

#### Key Terms:

- acceleration clause
- assumption
- blanket mortgage
- buydown
- contract for deed (land contract)
- defeasance clause
- deed in lieu of foreclosure
- discount points
- due on sale clause
- equity
- equity of redemption
- escrow
- estoppel certificate
- hypothecation
- interest
- lien theory
- lis pendens
- land development loans
- loan origination fee
- loan servicing
- loan-to-value ratio
- mortgage
- mortgagee
- mortgagor
- note
- novation agreement
- partial release clause
- PITI
- prepayment clause
- prepayment penalty

- receivership clause
- right to reinstate
- satisfaction of mortgage
- short sales
- subject to
- subordination agreement
- take-out commitment
- title theory

## Outline

- I) Mortgage concepts
  - A Mortgage law
    - 1) Title theory
    - 2) Lien theory
  - B Loan instruments
    - 1) Promissory note (essential elements)
    - 2) Fannie Mae/Freddie Mac Uniform Florida Fixed-Rate Note for single-family property
    - 3) Mortgage instrument
      - (a) Parties to a mortgage
      - (b) Satisfaction of mortgage
    - 4) Hypothecation
  - C First mortgages versus junior mortgages
    - 1) Determining what priority a mortgage lien has
    - 2) Subordination agreements
- II) Essential elements of the mortgage
  - A Important mortgage provisions
    - 1) Promise to repay
    - 2) Taxes and liens
    - 3) Property insurance
    - 4) Occupancy
    - 5) Maintenance and covenant of good repair
    - 6) Covenant of good repair
  - B Other mortgage provisions
    - 1) Prepayment clause
      - (a) Prepayment penalty clause
    - 2) Acceleration clause
    - 3) Right to reinstate
    - 4) Due on sale clause
    - 5) Defeasance clause
- III) Common mortgage features
  - A Down payment
  - B Loan-to-value-ratio
    - 1) Equity
      - (a)  $\text{Current market value} - \text{mortgage debt} = \text{equity}$
  - C Interest
  - D Loan servicing
  - E Escrow (impound) account
    - 1) PITI

- F Discount points
- G Loan origination fee
- IV) Assignment of the mortgage
  - A Estoppel certificate
- V) Methods of Purchasing Mortgaged Property Encumbered by an Existing Mortgage Loan
  - A Provisions under subject to the mortgage
  - B Provisions under assumed mortgage
    - 1) Effects of due on sale clause
    - 2) Novation
  - C Contract for deed (land contract)
    - 1) Distinguish a contract for deed from a normal sales contract and a mortgage
    - 2) Advantages and disadvantages of contract for deeds
    - 3) How a contract for deed is typically used
- VII) Land Development Loans and Construction Loans
  - A Land development loans overview
  - B Construction loans overview
    - 1) Blanket mortgage loans
    - 2) Takeout commitment
  - C Buydown
- VIII) Default
  - A Consequence of default
  - B Judicial versus nonjudicial foreclosure
    - 1) Deed in lieu of foreclosure
    - 2) Lis pendens
  - C Rights of mortgagor in foreclosure
    - 1) Equity of redemption
  - D Rights of mortgagee
    - 1) Surplus money action
  - E Results of foreclosure
    - 1) Effect on mortgagor/owner
      - (a) Deficiency judgments
      - (b) Effect on creditors or other claimants to title
      - (c) Effect on mortgagee
      - (d) Effect on title
  - F Short sales
  - G Income property foreclosure
    - 1) Receivership clause

## SECTION 13

### TYPES OF MORTGAGES AND SOURCES OF FINANCING

#### *Learning Objectives:*

- Describe the mechanics of an adjustable rate mortgage and the components of an ARM
- Describe the features of an amortized mortgage and amortize a level-payment plan mortgage when given the principal amount, the interest rate and the monthly payment amount
- Distinguish among the various types of mortgages
- Describe the characteristics of FHA mortgages and common FHA loan programs
- Identify the guarantee feature of VA mortgage loans and the characteristics of VA loan programs
- Explain the process of qualifying for a loan and how to calculate qualifying ratios
- Distinguish among the primary sources of home financing
- Describe the role of the secondary mortgage market and know the features of the major agencies active in the secondary market
- Describe the major provisions of the federal laws regarding fair credit and lending procedures
- Recognize and avoid mortgage fraud

#### Key Terms:

- adjustable rate mortgage (ARM)
- amortized mortgage
- balloon payment
- biweekly mortgage
- conforming loan
- conventional mortgage loan
- disintermediation
- home equity conversion mortgage (HECM)
- home equity loan
- index
- intermediation
- level payment plan
- lifetime cap
- margin
- mortgage insurance premium (MIP)
- mortgage broker
- mortgage fraud
- mortgage loan originator (MLO)
- negative amortization
- nonconforming loan
- nonconventional loan
- package mortgage
- partially amortized/balloon mortgage
- payment cap
- periodic cap
- purchase money mortgage
- reverse mortgage (HECM)
- teaser rate

- UFMIP

## Outline

- I) Qualifying for a Loan
  - A Loan application process
    - 1) Uniform Residential Loan Application
    - 2) Credit evaluation and credit scoring
    - 3) Qualifying ratios (introduction)
    - 4) Qualifying the property
    - 5) Preapproval and Qualifications
- II) Conventional mortgages
  - A Neither government insured nor guaranteed
    - 1) Down payment and LTV ratio
  - B Conventional mortgage loan features
    - 1) Qualifying ratios
      - a) Housing expense ratio calculation
      - b) Total obligations ratio calculation
    - 2) Interest rate
    - 3) Assumption
    - 4) Prepayment
    - 5) Down payment and private mortgage insurance (PMI)
    - 6) Loan to value ratio (LTV)
- III) Common Types of Mortgages
  - A Amortized mortgage
    - 1) Monthly payment is constant for term of mortgage
    - 2) As loan is paid off, amount applied to principal increases as amount applied to interest decreases
    - 3) 30-year and 15-year terms
    - 4) Components of a mortgage amortization table
  - B Adjustable rate
    - 1) Mechanics of an adjustable rate mortgage
    - 2) Components of an ARM
      - (a) Index
      - (b) Margin
        - (1) Calculated interest rate
      - (c) Adjustment interval
      - (d) Interest rate caps
        - (1) Periodic caps
        - (2) Lifetime cap
      - (e) Payment caps
        - (1) Negative amortization
        - (2) How negative amortization can result from payment caps
      - (f) Teaser rates
- IV) Custom mortgages
  - A Partially amortized mortgage
    - 1) Balloon payment
  - B Biweekly mortgage
  - C Package mortgage
  - D Home equity loans



- 1) Home equity line of credit (HELOC)
- E Purchase money mortgage
  - 1) Seller financing for part of purchase price
  - 2) Seller takes back loan from buyer
- F Home equity conversion mortgage (HECM) or reverse mortgage loan
- V) Government Insured FHA Program
  - A Purpose of FHA
  - B Characteristics of FHA mortgage loans
    - 1) Loan insurance
    - 2) Lending source
    - 3) Discount points
    - 4) Down payment
    - 5) Loan limit
    - 6) Insured commitment
    - 7) Insurance premium
      - (a) UFMIP
      - (b) MIP
    - 8) Qualifying ratios
      - (a) HER
      - (b) TOR
    - 9) Interest rate
    - 10) Appraisal
    - 11) Closing costs
    - 12) Assumption
    - 13) Prepayment
  - C Common FHA loan programs
    - 1) Section 203(b); homeownership; fixed rate
      - (a) Loan assumption criteria
    - 2) Condominium units
    - 3) Homeownership; adjustable rate
- VI) VA Loan Guarantee Program
  - A The guarantee feature
  - B Characteristics of VA mortgage loans
    - 1) Qualifications
    - 2) Eligibility
      - (a) Licensees should rely on the VA lender to determine eligibility
    - 3) Lending source
    - 4) Eligible property
    - 5) Discount points
    - 6) Qualifying ratios
      - (a) TOR
    - 7) Loan limits
    - 8) Loan guarantee
    - 9) Amount of down payment
    - 10) Entitlement
    - 11) Reusing the entitlement
    - 12) Appraisal
    - 13) VA funding fee
    - 14) Loan origination fee

- 15) Prepayment
- 16) Assumption
- 17) Interest rate
- VII) Primary sources of home financing
  - A Depository Lenders
    - 1) Savings associations
      - (a) Types of loans offered
    - 2) Commercial banks
      - (a) Types of loans offered
    - 3) Credit unions
      - (a) Types of loans offered
  - B Nondepository primary lenders
    - 1) Mortgage lender
    - 2) Mortgage loan originator (MLO)
  - C Seller financing
    - 1) Contract for deed (land contract)
    - 2) Amortized mortgage
- VIII) Secondary Mortgage Market
  - A Effects of the mortgage market
    - 1) Circulate the mortgage money supply
      - (a) Intermediation and disintermediation
    - 2) Standardize loan requirements
      - (a) Conforming loans
      - (b) Portfolio lenders
  - B Fannie Mae
    - 1) Government sponsored enterprise (GSE)
    - 2) Regulated under conservatorship authority of the Federal Financing Housing Agency
    - 3) Secondary market for VA, FHA and conventional loans
    - 4) Issues mortgage-back securities to investors
    - 5) Largest secondary market participant
  - C Government National Mortgage Association (GNMA)
    - 1) Government corporation with the Department of Housing and Urban Development (HUD)
    - 2) Provides a secondary market for VA and FHA loans
    - 3) Only secondary participant backed by full faith and credit guarantee of the federal government
    - 4) Mortgage-backed securities program
  - D Freddie Mac
    - 1) Secondary market for conforming conventional mortgages
    - 2) Smaller banks, credit unions, and savings associations
    - 3) Purchase mortgages that meet underwriting standards
    - 4) Pools loans together and sells to investors as MBSs
- IX) Mortgage Fraud
  - A Common types of mortgage fraud
    - 1) Straw borrowers
    - 2) No document loans
  - B Red flags
    - 1) Inflated appraisal

- 2) Inflated contract prices
- C Ethical practices
- X) Laws regarding fair credit and lending procedures
  - A Equal Credit Opportunity Act (ECOA)
    - 1) Prohibits discrimination in loan underwriting on the basis of sex, marital status, race, religion, age, or national origin. (A lender cannot require an applicant's spouse to join in (sign) a loan application)
    - 2) Prohibits discriminatory treatment of income from alimony, child support, public assistance, or part-time employment
    - 3) Prohibits inquiry about, or consideration of, child bearing plans or potential for child bearing
  - B Consumer Credit Protection Act (Truth in Lending Act)
    - 1) Implemented by Federal Reserve Regulation Z
    - 2) Requires disclosure of full credit costs
    - 3) Requires disclosure of annual percentage rate (APR)
      - (a) Bait and switch advertising
      - (b) Triggering terms
      - (c) Right of rescission
  - C Real Estate Settlement Procedures Act (RESPA)
    - 1) Applies to closings where a federally related mortgage loan is secured by a one-to four-family residence
    - 2) Affiliated business relationships
    - 3) Purchase of title insurance
    - 4) Escrow for taxes and insurance
    - 5) Kickbacks, fee-splitting, and unearned fees
  - D TILA-RESPA Integrated Disclosure Rule (TRID)
    - 1) Loan estimate timing
    - 2) Closing disclosure
      - (a) Timing
      - (b) Required disclosures
    - 3) Information booklet
    - 4) Covered loans
    - 5) Comparison of TILA, RESPA, and TRID

## **SECTION 14**

### **REAL ESTATE RELATED COMPUTATIONS AND CLOSING OF TRANSACTIONS**

#### ***Learning Objectives:***

- Compute the sales commission
- Calculate the percent of profit or loss, given the original cost of the investment, the sale price and the dollar amount of profit or loss
- Define settlement and title closing
- List the preliminary steps to a closing
- Prorate the buyer's and seller's expenses
- Calculate the dollar amount of transfer taxes on deeds, mortgages and notes
- Allocate taxes and fees to the proper parties and compute individual costs
- Explain the rules of thumb for Closing Disclosure entries
- Explain the major sections of the Closing Disclosure
- Demonstrate ability to read and check the Closing Disclosure for errors

#### **Key Terms:**

- arrear
- credit
- debit
- preclosing inspection
- profit
- proration

#### **Outline**

- I) Basic Real Estate Computations
  - A Sales commissions
  - B Calculating selling price, cost and profit
- II) Preliminary steps to a closing
  - A Earnest money deposited
  - B Additional deposit, if required
  - C Loan application
  - D Contingencies
  - E Appraisal
  - F Loan approval
  - G Survey ordered
  - H Title insurance
  - I Termite inspection
  - J Home inspection
  - K Required repairs ordered
  - L Buyer hazard insurance
    - 1) Hazard insurance policy to closing agent
    - 2) Flood insurance
  - M Buyer/seller contact for closing appointment
  - N Preclosing inspection
  - O Closing documents reviewed by parties prior to closing

- P Buyer informed of funds needed to close
- Q Earnest money transferred to closing agent
- III) Prorated Expenses
  - A Prepaid rent
  - B County and/or city property taxes
  - C Mortgage interest on assumed mortgages
  - D Prorating considerations
    - 1) Period over which item is prorated
    - 2) Period allocated to buyer and period allocated to seller
    - 3) Prorating methods: 360 vs. 365 days
- IV) State Transfer Taxes
  - A State documentary stamp tax on deeds
  - B State intangible tax on new mortgages
  - C State documentary stamp tax on notes
- V) Other Charges
  - A Preparation of documents
  - B Recording fees
  - C Broker's commission
  - D Title insurance
- VI) Rules of Thumb
  - A General rule of thumb
    - 1) Items credited to seller
    - 2) Items debited to seller
    - 3) Items credited to buyer
    - 4) Items debited to buyer
- VII) Key Concepts Regarding Closing Disclosure
  - A Buyer's Transaction Entries
  - B Seller's Transaction Entries
  - C Settlement Charges for both Buyer and Seller
  - D Real Estate Closing Disclosure example

## SECTION 15

### THE REAL ESTATE MARKETS AND ANALYSIS

#### *Learning Objectives:*

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

#### Key Terms:

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

#### Outline

- I) Physical Characteristics of Real Estate
  - A Immobility and importance of location in determining value
    - 1) The value of real estate is heavily influenced by changes in the surrounding area
  - B Indestructibility (durability) of land and fixed location
    - 1) Real estate investment tends to be long term
    - 2) Land does not depreciate
    - 3) Property insurance insures improvements only, not land
  - C Nonstandardized; nonhomogeneous
    - 1) No two parcels are exactly alike
- II) Economic Characteristics of Real Estate
  - A Governmental controls influence the market through zoning, building codes, taxes, etc.
  - B Relationship between supply, demand and price
  - C Area preference (situs)
  - D Slow to respond to change in supply and demand
  - E Demand factors:
    - 1) Price of real estate
    - 2) Population and household composition
    - 3) Income of consumers
    - 4) Availability of mortgage credit
    - 5) Consumer tastes or preferences
  - F Supply factors:
    - 1) Availability of skilled labor
    - 2) Availability of construction loans and financing
    - 3) Availability of land
    - 4) Availability of materials
  - G Interpreting market conditions and market indicators

- 1) Price levels
- 2) Vacancy rates
  - (a) Calculate occupancy and vacancy rates
- 3) Sales volume
- 4) Building permits
- 5) Area preference–situs
- 6) Market adjustment
  - (a) Buyer's market
  - (b) Seller's market

## **SECTION 16**

### **REAL ESTATE APPRAISAL**

#### ***Learning Objectives:***

- Describe federal and state regulations pertaining to appraising
- Identify the appraisers fiduciary relationship
- Identify the economic and physical characteristics of real estate that affect market value
- Explain what the Uniform Standards of Professional Appraisal Practice (USPAP) is and how it affects the appraisal process of real property
- Distinguish among the various types of value
- Define market value and describe its underlying assumptions
- Distinguish among value, price and cost
- Describe the four characteristics of value
- Distinguish among the principles of value
- Differentiate among the three approaches to estimating the value of real property
- Estimate value of subject property using Comparable Sales Approach
- Estimate value of subject property using Cost Approach
- Estimate value of subject property using Income Approach
- Reconcile three approaches to establish final value estimate
- Calculate value using gross multiplier analysis
- Explain how to prepare a Comparative Market Analysis (CMA), comparing and contrasting with sales comparison approach

#### **Key Terms:**

- appraisal
- assemblage
- automated valuation models
- comparative market analysis (CMA)
- cost-depreciation approach
- curable
- depreciation
- economic life
- federally related transaction
- gross income multiplier (GIM)
- gross rent multiplier (GRM)
- highest and best use
- income approach
- incurable
- market value
- over-improvement
- plottage
- principle of substitution
- progression
- reconciliation
- regression
- replacement cost
- reproduction cost



- sales comparison approach
- situs
- subject property
- Uniform Standards of Professional Appraisal Practice (USPAP)
- valuation

### Outline

- I) Regulation of Appraising – FIRREA
  - A Appraisal Foundation
  - B Appraisal Qualifications Board
  - C Appraisal Standards Board
  - D Appraisal Subcommittee
  - E State certified appraisers
    - 1) Requirements for federally related transactions
    - 2) Certified appraisal reports
  - F Appraisal service of real estate
    - 1) Part I, Chapter 475, F.S.
    - 2) Appraisal reports must conform to USPAP
    - 3) Comparative Market Analysis (CMA)
    - 4) Broker Price Opinion (BPO)
- II) Concept of Value
  - A Concepts of market cost/price/value
  - B Many types of value apply to real estate
    - 1) Assessed value for property tax purposes
    - 2) Insurance value
    - 3) Going-concern value
    - 4) Liquidation value
    - 5) Investment value
    - 6) Salvage value
  - C Market value
    - 1) Definition of market value
    - 2) Assumptions associated with market value
  - D Characteristics of value
    - 1) Demand
    - 2) Utility
    - 3) Scarcity
    - 4) Transferability
- III) Principles of Value
  - A Substitution
  - B Highest and best use
    - 1) Highest and best use is fundamentally determined by alternate types of potential users bidding for a site in accordance with the locational and environmental value of the site in each use
    - 2) If the value of a site in its current highest and best use declines relative to competing uses, highest and best use may change and land use transition will begin
    - 3) As if vacant
    - 4) As improved
  - C Increasing and decreasing returns

- 1) Over-improvement
  - D Conformity
  - E Other valuation terminology
    - 1) Assemblage
    - 2) Plottage
    - 3) Progression
    - 4) Regression
- IV) Introduction to the Three Approaches to Value
- A Sales comparison approach
    - 1) Theory of method
    - 2) Steps in the approach
      - (a) Making adjustments
      - (b) Adjusted sale price
    - 3) Types of property best suited for this approach
  - B Cost approach
    - 1) Theory of method
    - 2) Steps in the approach
      - (a) Reproduction vs. replacement cost
        - (1) Comparative square-foot method
      - (b) Three types of depreciation
      - (c) Calculating accrued depreciation using age-life method
    - 3) Applications of approach
  - C Income approach
    - 1) Theory of method
    - 2) Steps in the approach
      - (a) Potential gross income
      - (b) Effective gross income
      - (c) Net operating income
        - (1) Fixed variable, reserve for replacements
      - (d) Overall capitalization rate
    - 3) Applications of approach
    - 4) Gross rent multiplier (GRM) and Gross income multiplier (GIM)
      - (a) Steps in the multiplier analysis
      - (b) Does not act as a substitute for the income approach to valuation
- V) Preparing a Comparative Market Analysis (CMA)
- A Gathering appropriate data
    - 1) MLS
    - 2) Property appraisers office
    - 3) Clerk of Courts
  - B Selecting similar comparables
    - 1) Recently sold
    - 2) Currently on the market
    - 3) Recently expired listings
  - C Common elements of comparison
  - D Adjusting for differences
  - E Computer generated CMAs
  - F Automated Valuation Models (AVM)

## SECTION 17

### REAL ESTATE INVESTMENTS AND BUSINESS OPPORTUNITY BROKERAGE

#### *Learning Objectives:*

- Distinguish among the different types of real estate investments
- Identify the advantages and disadvantages of investing in real estate
- Distinguish among the various types of risk
- Explain the importance of investment analysis
- Describe the similarities and differences between real estate brokerage and business brokerage
- Describe the types of expertise required in business brokerage
- Distinguish among the methods of appraising businesses
- Describe the steps in the sale of a business

#### Key Terms:

- appreciation
- asset
- basis
- capital gain (loss)
- cash flow
- equity
- going concern value
- goodwill
- leverage
- liquidation analysis
- liquidity
- Real estate investment trust (REIT)
- risk
- tax shelter

#### Outline

- I) Investment Real Estate Terminology
  - A Cash flow
  - B Leverage
  - C Capital gain (loss)
  - D Basis
  - E Appreciation
  - F Equity
  - G Liquidity
  - H Risk
  - I Tax shelter
- II) Types of investments
  - A Residential
  - B Commercial
  - C Industrial
  - D Agricultural
  - E Business opportunities
- III) Advantages of Real Estate Investments

- A Rate of return
  - B Tax advantages
  - C Hedge against inflation
  - D Leverage
  - E Equity build up
- IV) Disadvantages of Investing in Real Estate
- A Illiquidity
  - B Market is local in nature
  - C Need for expert help
  - D Management
  - E Risk
- V) Assessment of Risk
- A Risks associated with general business conditions
    - 1) Business risk
    - 2) Financial risk
    - 3) Purchasing-power risk
    - 4) Interest-rate risk
  - B Risks that affect return
    - 1) Liquidity risk
    - 2) Safety risk
      - (a) Market risk
      - (b) Risk of default
- VI) Nature of Business Brokerage
- A Similarities to real estate brokerage
    - 1) Almost always a sale of real property or an assignment of a long-term lease is involved
    - 2) Must be licensed pursuant to Chapter 475, F.S., Part I
  - B Differences from real estate brokerage
    - 1) Usually involve transactions containing assets other than real estate
      - (a) Personal property
      - (b) Goodwill
    - 2) The value of the business may be less than, equal to, or greater than the value of the real estate. That is, the “going concern” value may be different than the real estate value
    - 3) Markets for business enterprises are typically wider in geographic scope than markets for individual parcels of real estate
  - C Expertise required in business brokerage
    - 1) Corporate finance
    - 2) Business accounting
    - 3) Valuation of businesses
      - (a) Comparable sales analysis
      - (b) Cost approach
      - (c) Income analysis
      - (d) Liquidation analysis
  - D Steps in the sale of a business

## SECTION 18

### TAXES AFFECTING REAL ESTATE

#### *Learning Objectives:*

- Distinguish among immune, exempt and partially exempt property
- Describe the various personal exemptions available to qualified owners of homestead property
- Compute the property tax on a specific parcel, given the current tax rate, assessed value, eligible exemptions and transfer of assessment limitation difference (save our homes portability) if applicable
- List the steps involved in the tax appeal procedure
- Describe the purpose of Florida's Green Belt Law
- Calculate the cost of a special assessment, given the conditions and amounts involved
- Describe the tax advantages of home ownership
- Explain how to determine taxable income of investment real estate
- Distinguish between installment sales and like-kind exchange

#### Key Terms:

- ad valorem
- assessment limitation (save our homes benefit)
- assessed value
- capital gains
- community development districts
- debt service
- exempt properties
- installment sale
- immune properties
- just value
- like-kind exchange
- mill
- special assessment
- tax rate
- taxable income
- taxable value

#### Outline

- I) Real Property Taxation
  - A City and County property taxes
    - 1) Primary source of revenue
    - 2) Property tax schedule
  - B Determining "just value"
    - 1) General procedure
      - (a) Provisions under Amendment I
      - (b) Notice of proposed property taxes (TRIM) notice
    - 2) Protest procedure (Chapter 194, F.S.)
      - (a) Property owner contacts property appraiser within legislated time frame
      - (b) File an appeal with the Value Adjustment Board
      - (c) Litigation in the courts
        - (1) Certiorari proceeding

- C Exemptions from property taxes
  - 1) Immune property
  - 2) Exempt or partially exempt property
  - 3) Homestead tax exemption (Chapter 196, F.S.)
    - (a) Assessment limitation (save our homes benefit, portability)
    - (b) Surviving spouse exemption
    - (c) Disability exemption
    - (d) Blind persons exemption
    - (e) Cumulative homestead tax exemption
    - (f) Military service-connected total and permanent disability tax exemption
    - (g) Tax exemption for certain totally and permanently disabled persons
  - 4) Greenbelt law exemption
    - (a) Nature
    - (b) Purpose
    - (c) Provisions
- D Calculating taxable value
- E Calculating property taxes
- F Special Assessments
  - 1) Purpose of special assessments
  - 2) Limitations on use
  - 3) Computation of special assessment
  - 4) Special assessment liens
- G Nonpayment of real property taxes (Chapter 197, F.S.)
- H Purchasing tax certificates
- II) Federal Income Taxes
  - A Sale of real property
    - 1) Amount realized
    - 2) Capital gain (loss)
  - B Principal residence
    - 1) Tax advantages
      - (a) Mortgage interest deduction on principal residence and second home
      - (b) Deduction of property taxes on principal residence and second home
      - (c) IRA withdrawal for first time home buyers
      - (d) Exclusion of gain from sale of principal residence
        - (1) Up to \$250,000
        - (2) \$500,000 for married couples filing joint return
    - 2) Interest on home equity loans is deductible (used for improvements on the home)
    - 3) Mortgage loan origination fees and points are deductible (in year paid)
    - 4) Disposition of real property from foreign sellers
      - (a) Foreign Investment in Real Property Tax Act (FIRPTA)
  - C Investment real estate
    - 1) Types of income and cash flows
      - (a) Potential gross income
      - (b) Effective gross income
      - (c) Net operating income
    - 2) Determining taxable income
      - (a) Reserve for replacements
      - (b) Interest

- (c) Straight-line method depreciation
- 3) Tax from operations
  - (a) Capital gain (loss)
    - (1) Short-term gain
    - (2) Long-term gain
- 4) Installment sales method
- 5) Like-kind exchange

## **SECTION 19**

### **PLANNING, ZONING AND ENVIRONMENTAL HAZARDS**

#### ***Learning Objectives:***

- Describe the composition and authority of the local planning agency
- Explain the purpose of land-use controls and the role of zoning ordinances
- Identify the provisions of Florida's comprehensive plan and the Growth Management Act
- Distinguish among the five general zoning classifications
- Distinguish among zoning ordinances, building codes and health ordinances
- Explain the purpose of a variance, special exception and a nonconforming use
- Calculate the number of lots available for development, given the total number of acres contained in a parcel, the percentage of land reserved for streets and other facilities and the minimum number of square feet per lot
- Describe the characteristics of a planned unit development
- Understand the basic provisions of the national flood insurance program
- Describe the impact Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
- Explain the various environmental hazards associated with real estate

#### **Key Terms:**

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

#### **Outline**

- I) Planning and Zoning
  - A City planning
    - A. Historical
      - (a) Philosophy of laissez faire
      - (b) Protecting residential property
    - B. Goals of planning include, for example:
      - (a) Savings of tax money by preventing sprawl
      - (b) Adequate provision of services



- (c) Providing for road rights-of-way and set backs
  - (d) Protection against costly drainage, flooding or environmental problems
  - (e) Reduction in political and equity problems in siting landfills, prisons, etc.
- II) Local planning agency
  - A Composition
  - B Authority
    - 1) Subdivision plat approval
    - 2) Site plan approval
    - 3) Sign control
  - C Support staff
- III) Florida's Growth policy and Community Planning Act (CPA)
  - A Chapter 163, F.S. Growth Policy Act
    - 1) Under the CPA, state-mandated concurrency is not required for
      - (a) Transportation
      - (b) Schools
      - (c) Parks
    - 2) Department of Economic Opportunity (DEO)
  - B Plan must contain certain elements to be coordinated with plans of surrounding areas
    - 1) Future land use
    - 2) Traffic circulation
    - 3) Water, sanitary and storm sewers, and solid waste
    - 4) Conservation of natural resources
    - 5) Recreation
    - 6) Housing
    - 7) Coastal zone protection, where relevant
    - 8) Intergovernmental coordination
    - 9) Utilities
      - (a) Plan must be implemented by adopting sufficient land use control ordinances and capital improvement programs (concurrency requirements)
      - (b) Optional elements may include: historical, scenic preservation, economic and public buildings
      - (c) Concurrency allows new development only after a minimum level of public infrastructure is in place around the development site
- IV) Zoning, land use restrictions and building codes
  - A Zoning ordinance and classifications
    - A. Residential—control of density
      - (a) Lot size
      - (b) Set backs
      - (c) Lot coverage
    - B. Commercial—control of intensity of use
      - (a) Parking requirements
      - (b) Height and size limitations
    - C. Industrial—control of emission and effluents
      - (a) Control of by-products such as noise, odor, smoke congestion and chemicals
    - D. Agricultural
    - E. Special use
  - B Building codes

- 1) Building permits
- 2) Building inspections
- 3) R-Value
- 4) Certificate of occupancy
- C Health ordinances
- V) Appeals and Exceptions
  - A Zoning Board of Adjustment
    - 1) Variance
    - 2) Special exception
      - (a) Special purpose property
    - 3) Legally nonconforming use
  - B Developments of Regional Impact
  - C Planned Unit Development
- VI) Environmental Requirements
  - A Environmental impact statement
  - B National flood insurance program (NFIP)
    - 1) Qualifying for flood insurance
    - 2) Flood insurance rate maps (FIRM)
      - (a) Special flood hazard area (SFHA)
      - (b) High-risk coastal areas
    - 3) Development within SFHAs
    - 4) Mortgage loan requirements
- VII) Flood zones
  - A National Flood Insurance Program (NFIP)
    - 1) Can qualify for Federal Flood insurance program
    - 2) "Special Flood Hazard Areas" are delineated according to NFIP criteria
    - 3) Development within SFHAs must be restricted in a manner so as not to obstruct the natural flow of flood waters
  - B Residential structures in the SFHA must have the first floor above the "Base Flood Elevation"
  - C Non-residential structures must meet the residential requirement, or be water-tight below the Base Flood Elevation
  - D Over 40 percent of purchasers of National Flood Insurance are in Florida
- VIII) Indoor and outdoor environmental hazards
  - A Water supply
    - 1) Well (adequacy, quality)
    - 2) Public (quality)
  - B Septic tank
  - C Asbestos
  - D Radon
  - E Toxic waste in soil
  - F Underground storage tanks
  - G Lead paint
  - H Mold
  - I Chemical contamination
  - J Structural damage
    - 1) Wood-destroying organisms
      - (a) Termites
      - (b) Carpenter ants

(c) Decay