



Memphis Area Real Estate School
National Exam Study Guide
2026 Edition

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Chapter 1: Law of Agency

OVERVIEW

- The agent, the principal, the broker, and the third party
- The relationship between agency and client
- Types of listing agreements
- Buyer agency agreements
- Termination of agency/agreements
- Commissions
- Disclosures
- Fiduciary responsibilities of agents
- Puffing, misrepresentation, and fraud

INTRODUCTION

Someone who has never taken a basic real estate course might think this chapter is about laws related to running a real estate agency. That's only partly true. While there are laws about how a real estate agency is formed and operates, the "law of agency" refers specifically to the body of law that regulates the relationship between a buyer or seller and their real estate broker or agent. It is the legal foundation for this professional relationship.

THE AGENT, THE PRINCIPAL, THE BROKER, AND THE THIRD PARTY

A few terms are important to understand when reviewing this material. An agent is a person authorized to act on behalf of another, known as the principal. In real estate, the principal is the buyer or seller of property, depending on whom the agent represents. The agent is a licensed salesperson working for a real estate broker, or the broker themselves acting in an agent capacity.

A broker is a licensed owner-manager of a real estate company who hires agents or sales associates. A real estate agent must be licensed by the state and work under a broker. All listings come into the brokerage in the name of the broker, not the individual agent.

In a typical real estate transaction, you have:

- The agent
- The principal (your client)

- The third party (often the buyer, if the seller is your client)

Each of these parties plays a specific role, and all are regulated by federal and state laws to ensure the legality of the transaction.

RELATIONSHIP BETWEEN AGENCY AND CLIENT

An agency relationship is established when one party (the agent) agrees to represent the interests of another party (the principal) in dealings with third parties. This relationship is based on trust and is often created by a written agreement, although it can also be implied through actions.

In real estate, the agency relationship begins when a broker or agent starts representing a buyer or seller. This relationship means the agent owes certain legal duties to the client. These duties are known by the acronym OLD CAR:

- Obedience
- Loyalty
- Disclosure
- Confidentiality
- Accounting
- Reasonable Care and Diligence

These fiduciary duties form the core of the agent's responsibilities and must be upheld at all times during the transaction.

The agency relationship can be:

- Expressed: Clearly stated in words (written or spoken)
- Implied: Created by actions or conduct
- Ratified: Approved after the fact

It's important that agents disclose their agency status early in any dealings. Most states require written disclosure to potential clients before confidential information is shared.

Failure to establish or disclose agency properly can lead to legal liability for the agent and the broker.

TYPES OF LISTING AGREEMENTS

A listing agreement is a contract between a property owner and a real estate broker authorizing the broker to find a buyer or tenant for a specific property. These agreements outline the terms of the relationship, including commission, length of time, and obligations of both parties.

1. Exclusive Right to Sell Listing

- Most common type
- Broker gets paid no matter who sells the property (even the owner)
- Offers the highest level of protection for the broker

2. Exclusive Agency Listing

- Broker is the exclusive agent, but the owner retains the right to sell the property themselves without owing commission
- Broker is paid only if they or another broker produce the buyer

3. Open Listing

- Non-exclusive
- Property can be listed with multiple brokers
- Only the broker who brings a ready, willing, and able buyer gets paid

4. Net Listing (illegal in many states)

- The seller sets a net price they want to receive
- Broker keeps anything above that amount as commission
- Prone to abuse and conflict of interest

BUYER AGENCY AGREEMENTS

These agreements are similar to listing agreements but for buyers. They formalize the relationship between a buyer and the broker/agent who represents them.

Types include:

- **Exclusive Buyer Agency:** Broker exclusively represents the buyer
- **Non-Exclusive Buyer Agency:** Buyer may work with multiple brokers

Just like sellers, buyers must be informed of agency relationships and fiduciary duties.

TERMINATION OF AGENCY/AGREEMENTS

Agency relationships can be terminated by:

- Fulfillment of purpose (property sold)
- Expiration of the agreement
- Mutual agreement
- Revocation by the principal
- Renunciation by the agent
- Death or incapacity of either party
- Destruction of the property
- Bankruptcy of the principal

Agents must follow state laws regarding notice and documentation when ending an agency relationship.

COMMISSIONS

Real estate commissions are negotiable. They are typically based on a percentage of the selling price or a flat fee. The broker earns the commission and then pays the agent per their agreement.

Important notes:

- Commission is earned when a ready, willing, and able buyer is found
- Payment often occurs at closing, but is not contingent upon closing
- Commission disputes are handled by brokers, not agents
- Price fixing or setting minimum commission rates violates antitrust laws

DISCLOSURES

Agents must disclose material facts that affect the value or desirability of the property. This includes defects the agent knows or should have known about.

Disclosure requirements vary by state but commonly include:

- Agency disclosure
- Property condition disclosure

- Lead-based paint (for homes built before 1978)

FIDUCIARY RESPONSIBILITIES OF AGENTS

The fiduciary duties agents owe their clients (OLDCAR) are critical. Breaching these duties can result in disciplinary action or civil liability. Agents must act in the best interest of the client at all times.

PUFFING, MISREPRESENTATION, AND FRAUD

- **Puffing:** Exaggerated opinion or sales talk (e.g., "This is the best view in town!") — legal but not advisable
- **Misrepresentation:** Stating false facts, whether intentionally or unintentionally
 - *Negligent misrepresentation:* false info due to lack of reasonable care
 - *Intentional misrepresentation (fraud):* knowingly providing false information with intent to deceive

Agents are expected to verify facts and avoid misleading clients or third parties.

Chapter 2: Interests, Estates, and Ownership

OVERVIEW

- Freehold and leasehold estates
- Fee simple, life estate, and future interests
- Forms of ownership: severalty, joint tenancy, tenancy in common
- Community property and tenancy by the entirety
- Condominiums, cooperatives, and time-shares

ESTATES IN REAL PROPERTY

An estate in real property is the degree, quantity, nature, and extent of interest a person has in real property. Estates are divided into two main categories:

1. **Freehold Estates:** Ownership interests of indefinite duration.
2. **Leasehold Estates:** Interests held by tenants for a fixed term.

FREEHOLD ESTATES

- **Fee Simple Absolute:** The highest form of ownership. The owner has all legal rights and the estate is of indefinite duration. It is inheritable and freely transferable.
- **Fee Simple Defeasible:** Ownership that may be voided if a condition is violated.
 - *Fee Simple Determinable:* Automatically ends if a condition is breached.
 - *Fee Simple Subject to Condition Subsequent:* Does not automatically end—grantor must take action.
- **Life Estate:** Ownership limited to the duration of a specific person's life. After that, the estate passes to a remainderman or reverts to the grantor.
 - *Life Tenant:* Holds the estate for their life.
 - *Remainderman:* Person who inherits the property after the life estate ends.
 - *Reversion:* Ownership returns to the grantor if no remainderman is named.

FUTURE INTERESTS

These are interests that become possessory at a future date:

- **Remainder Interest:** Goes to a third party.

- **Reversionary Interest:** Returns to the grantor.

LEASEHOLD ESTATES

- **Estate for Years:** Lease for a fixed period with a definite beginning and end.
- **Periodic Tenancy:** Renews automatically (e.g., month-to-month).
- **Tenancy at Will:** Can be ended at any time by either party.
- **Tenancy at Sufferance:** Tenant remains after the lease expires without the landlord's consent.

FORMS OF OWNERSHIP

1. **Ownership in Severalty:** Owned by one person or entity. Sole ownership.
2. **Tenancy in Common:** Two or more owners with separate interests, possibly unequal. No right of survivorship.
3. **Joint Tenancy:** Co-owners with equal interests and right of survivorship. Must acquire interest at the same time, with the same title and possession.
4. **Tenancy by the Entirety:** Ownership form for married couples. Includes right of survivorship. Neither spouse can sell without the other's consent.
5. **Community Property:** In some states, property acquired during marriage is owned equally by both spouses. Separate property includes inheritance and gifts.

COMMON INTEREST OWNERSHIP

- **Condominiums:** Individual ownership of units, with shared ownership of common areas.
- **Cooperatives (Co-ops):** Ownership of shares in a corporation that owns the building. The owner receives a proprietary lease to occupy a unit.
- **Time-Shares:** Right to use a property for a specific time period each year. Can be fee simple or right-to-use.

TRUSTS AND OTHER OWNERSHIP STRUCTURES

- **Trusts:** Property held by one party for the benefit of another.
 - *Living Trust:* Created during the property owner's lifetime.
 - *Testamentary Trust:* Created through a will after death.

- **Land Trusts:** Typically used for privacy; the identity of the owner is not publicly disclosed.
- **Real Estate Investment Trusts (REITs):** Company that owns, operates, or finances real estate and offers shares to investors.

Chapter 3: Contracts and Agency Agreements

OVERVIEW

- Types of contracts
- Elements of a valid contract
- Contract performance and discharge
- Breach of contract and remedies
- Common agency agreements

TYPES OF CONTRACTS

A contract is a legally enforceable agreement between two or more parties. In real estate, contracts are essential in every part of the transaction. Types of contracts commonly used include:

- **Listing Agreements:** Between seller and broker
- **Buyer Representation Agreements:** Between buyer and broker
- **Purchase Agreements:** Between buyer and seller
- **Lease Agreements:** Between landlord and tenant
- **Option Contracts:** Gives one party the right to buy at a set price within a specific time
- **Land Contracts:** Seller financing arrangement

CONTRACT CLASSIFICATIONS

Contracts can also be described in terms of their formation and enforceability:

- **Express Contract:** Terms are clearly stated (written or oral)
- **Implied Contract:** Formed by actions or conduct
- **Bilateral Contract:** Both parties make promises (e.g., sales contract)
- **Unilateral Contract:** Only one party makes a promise (e.g., open listing)
- **Executed Contract:** All terms have been fulfilled
- **Executory Contract:** Terms are still being carried out

ELEMENTS OF A VALID CONTRACT

To be valid and enforceable, a real estate contract must include the following elements:

1. **Competent Parties:** All parties must be legally competent (age, mental capacity)
2. **Mutual Consent:** Also called “meeting of the minds” — offer and acceptance must be clear
3. **Legal Purpose:** The contract must not be for illegal purposes
4. **Consideration:** Something of value must be exchanged
5. **In Writing:** Per the Statute of Frauds, most real estate contracts must be in writing to be enforceable

CONTRACT PERFORMANCE AND DISCHARGE

Contracts can be discharged (ended) in several ways:

- **Performance:** All parties fulfill their obligations
- **Mutual Agreement:** All parties agree to cancel
- **Impossibility of Performance:** The contract cannot be completed due to unforeseen events
- **Operation of Law:** Bankruptcy, death, or other legal reasons
- **Breach of Contract:** One party fails to perform as agreed

BREACH OF CONTRACT AND REMEDIES

If a party breaches the contract, the injured party may seek one or more legal remedies:

- **Specific Performance:** Court order requiring the breaching party to perform as promised
- **Rescission:** Cancel the contract and return all parties to original positions
- **Damages:** Financial compensation
- **Liquidated Damages:** Amount specified in the contract in case of breach (e.g., earnest money)

AGENCY AGREEMENTS

Common types of agency agreements include:

- **Exclusive Right to Sell Listing:** Broker receives commission regardless of who sells the property

- **Exclusive Agency Listing:** Seller retains right to sell without paying a commission
- **Open Listing:** Seller may use multiple brokers; only the procuring cause broker earns commission
- **Net Listing:** Commission is any amount above a set price — illegal in many states
- **Buyer Representation Agreement:** Contract between buyer and broker. May be exclusive or non-exclusive.

These agreements should clearly outline the duties of the agent, duration, commission, and any disclosures required by law.

Chapter 4: Transfer of Title

OVERVIEW

- Voluntary and involuntary alienation
- Types of deeds
- Essential elements of a deed
- Title insurance and marketable title
- Recording and constructive notice
- Transfer by will or intestate succession
- Involuntary transfer by law

TRANSFER OF TITLE (ALIENATION)

"Alienation" is the act of transferring title to real estate. It can be voluntary or involuntary:

- **Voluntary Alienation:** Owner intentionally transfers title.
 - Through sale, gift, or will.
- **Involuntary Alienation:** Title transferred without owner's consent.
 - Due to foreclosure, eminent domain, adverse possession, etc.

TYPES OF DEEDS

A deed is the written document used to transfer title to real property.

1. General Warranty Deed

- Provides the most protection to the grantee.
- Includes covenants of seisin, quiet enjoyment, further assurance, warranty forever, and no encumbrances.

2. Special Warranty Deed

- Limits the warranty to the period during which the grantor owned the property.
- Promises no title defects during the grantor's ownership.

3. Bargain and Sale Deed

- Implies the grantor has title and right to convey but provides no warranties.

4. Quitclaim Deed

- Offers no warranties; simply releases any interest the grantor may have.
- Often used to clear clouds on title.

5. Trustee's Deed

- Used when a property is transferred by a trustee (e.g., after foreclosure).

6. Deed in Lieu of Foreclosure

- Given by a borrower to a lender to avoid foreclosure.

ESSENTIAL ELEMENTS OF A DEED

- Must be in writing
- Grantor (seller) must be legally competent
- Grantee (buyer) must be named
- Consideration (money or value) must be stated
- Words of conveyance (granting clause)
- Legal description of the property
- Acknowledgment (notarization)
- Delivery and acceptance

TITLE AND TITLE INSURANCE

- **Title** refers to the legal ownership of property.
- **Marketable Title** is one that is free from major defects or litigation risk.
- **Cloud on Title** is an encumbrance or claim that may impair title.
- **Title Insurance** protects the insured from losses due to title defects.
 - *Owner's Policy*: For buyer
 - *Lender's Policy*: For mortgage lender

RECORDING AND NOTICE

Recording a deed in public records protects ownership rights.

- **Constructive Notice**: Public knowledge via recorded documents.

- **Actual Notice:** Direct knowledge through disclosure or observation.

Deeds should be recorded to give constructive notice and protect against claims.

TRANSFER BY WILL OR INTESTATE SUCCESSION

- **Testate:** Died with a valid will
 - *Devise:* Transfer of real property by will
 - *Bequest/Legacy:* Transfer of personal property by will
- **Intestate:** Died without a will
 - Property is distributed by the state's laws of descent and distribution

INVOLUNTARY TRANSFER BY LAW

1. Eminent Domain

- Government's right to take private land for public use with just compensation.

2. Escheat

- Property reverts to the state when owner dies without a will or heirs.

3. Adverse Possession

- Gaining title by continuous, hostile, open, and notorious possession for a statutory period.

4. Foreclosure

- Lender takes ownership due to nonpayment of mortgage.

5. Tax Sale

- Government sells property due to unpaid property taxes.

Chapter 5: Financing

OVERVIEW

- Types of loans and lenders
- Mortgage clauses and instruments
- Government-backed vs. conventional loans
- Loan underwriting and qualifying
- Financing laws and regulations

MORTGAGES AND LIENS

A **mortgage** is a legal agreement in which property is pledged as security for a loan. When a borrower defaults, the lender may foreclose.

- **Lien:** A financial claim against property.
 - *Voluntary Lien:* Created with consent (e.g., mortgage).
 - *Involuntary Lien:* Created without consent (e.g., tax lien).
 - *Specific Lien:* Affects one property.
 - *General Lien:* Affects all property of a debtor.

Types of liens:

- **Mortgage Lien** – Voluntary, specific
- **Tax Lien** – Involuntary, can be specific or general
- **Mechanic's Lien** – For unpaid labor or materials
- **Judgment Lien** – Court-ordered, general lien

LOAN TYPES

1. Conventional Loans

- Not insured or guaranteed by the government
- Require higher credit scores and down payments
- May require PMI (Private Mortgage Insurance) if LTV exceeds 80%

2. FHA Loans

- Insured by the Federal Housing Administration
- Low down payment (as low as 3.5%)
- For low to moderate income buyers

3. **VA Loans**

- Guaranteed by the Department of Veterans Affairs
- No down payment required
- Only available to eligible veterans and service members

4. **USDA Loans**

- For rural properties
- No down payment
- Income limits apply

MORTGAGE INSTRUMENTS

- **Promissory Note:** Borrower's promise to repay loan
- **Mortgage or Deed of Trust:** Secures the note with property
 - *Trust Deed States:* Use trustee as third party
 - *Mortgage States:* Use lien theory (borrower holds title)

Key clauses:

- **Acceleration Clause:** Lender can demand full repayment on default
- **Alienation Clause:** Full repayment required upon sale (due-on-sale)
- **Defeasance Clause:** Voids lender's interest once loan is paid
- **Prepayment Clause:** May allow or penalize early payoff

LOAN ORIGINATION AND UNDERWRITING

The underwriting process evaluates the borrower's ability to repay the loan. Lenders review:

- Credit score and report
- Debt-to-income ratio (DTI)
- Employment and income verification

- Property appraisal

Loan-to-Value Ratio (LTV) = $\text{Loan} \div \text{Property Value}$

- Higher LTV = higher risk for lender
- Loans above 80% LTV often require mortgage insurance

POINTS AND COSTS

- **Origination Points:** Fees for processing the loan (1 point = 1% of loan amount)
- **Discount Points:** Used to lower the interest rate. Buyer pays upfront.

GOVERNMENT REGULATION

1. **Truth in Lending Act (TILA)** – Requires disclosure of loan terms, APR, total costs
2. **RESPA (Real Estate Settlement Procedures Act)** – Governs closing disclosures and prohibits kickbacks
3. **Equal Credit Opportunity Act (ECOA)** – Prohibits credit discrimination
4. **Fair Credit Reporting Act (FCRA)** – Regulates use of consumer credit reports

FORECLOSURE

When a borrower defaults, the lender may initiate foreclosure. Two main types:

- **Judicial Foreclosure:** Requires court action
- **Non-Judicial Foreclosure:** Allowed in trust deed states

Alternatives to foreclosure:

- Loan modification
- Short sale
- Deed in lieu of foreclosure

Chapter 6: Valuation and Market Analysis

OVERVIEW

- Purpose and principles of valuation
- Market value vs. other types of value
- Forces influencing value
- Appraisal approaches
- Comparative Market Analysis (CMA)
- Broker Price Opinion (BPO)

BASICS OF VALUE

Value in real estate refers to the present worth of future benefits arising from ownership.

Four essential elements of value (DUST):

1. **Demand:** Desire and ability to purchase
2. **Utility:** Property's usefulness
3. **Scarcity:** Limited supply
4. **Transferability:** Ease of transferring ownership

Types of value:

- **Market Value:** Most probable price a property will sell for in an open market
- **Market Price:** Actual sales price
- **Cost:** What it would take to reproduce or replace the property
- **Assessed Value:** For tax purposes
- **Investment Value:** Value to a specific investor based on investment goals

PRINCIPLES OF VALUE

1. **Substitution:** A buyer won't pay more than what a comparable substitute would cost
2. **Conformity:** Property value is maximized when it fits with surrounding properties
3. **Regression:** A higher-value property's value declines when surrounded by lower-value properties

4. **Progression:** A lower-value property's value increases when surrounded by higher-value properties
5. **Anticipation:** Value is affected by expected future benefits
6. **Contribution:** Improvements are valued based on their contribution to value
7. **Highest and Best Use:** The use that yields the highest value

FORCES INFLUENCING VALUE

1. **Economic:** Interest rates, inflation, employment
2. **Social:** Demographics, population growth, lifestyle trends
3. **Governmental:** Zoning, taxes, building codes
4. **Environmental/Physical:** Climate, location, topography

APPRAISAL PROCESS

An appraisal is an independent, objective opinion of value, typically prepared by a licensed appraiser.

Steps in the process:

1. Define the problem
2. Determine scope of work
3. Gather and analyze data
4. Apply approaches to value
5. Reconcile results
6. Report the value opinion

APPROACHES TO VALUE

1. **Sales Comparison Approach** (Market Data)
 - Compares subject property to similar properties (comparables)
 - Adjusts for differences (e.g., size, condition, location)
 - Most reliable for residential property
2. **Cost Approach**
 - Used for unique or special-use properties (churches, schools)

- Steps:
 - a. Estimate land value
 - b. Estimate replacement/reproduction cost
 - c. Deduct depreciation
 - d. Add land value

Types of depreciation:

- Physical deterioration
- Functional obsolescence
- External (economic) obsolescence

3. Income Approach

- Used for income-producing properties
- Capitalization Formula:

$$\text{Value} = \text{Net Operating Income (NOI)} \div \text{Capitalization Rate (Cap Rate)}$$
- Gross Rent Multiplier (GRM) may be used for 1-4 unit properties

COMPARATIVE MARKET ANALYSIS (CMA)

Prepared by real estate licensees to help sellers set listing prices or buyers make offers.
 Not an appraisal.

Includes:

- Recently sold properties (indicates market value)
- Currently listed properties (competition)
- Expired listings (likely overpriced)

BROKER PRICE OPINION (BPO)

BPO is a less formal alternative to an appraisal, often used by lenders or relocation companies.

- Includes property condition, market trends, and suggested pricing
- May be interior or drive-by

Chapter 7: Land Use Controls and Regulations

OVERVIEW

- Public and private controls on land use
- Zoning ordinances and variances
- Building codes and master planning
- Subdivision regulations
- Private restrictions (CC&Rs)
- Environmental and safety concerns

PUBLIC LAND USE CONTROLS

Police Power: Government's authority to regulate for the health, safety, and welfare of the public. This includes zoning, building codes, and environmental regulations.

ZONING

Zoning laws regulate land use within jurisdictions.

- **Residential:** Homes, apartments
- **Commercial:** Businesses
- **Industrial:** Manufacturing
- **Agricultural:** Farming
- **Mixed-Use:** Combination of zones

Key Zoning Terms:

- **Setback:** Distance between property line and structure
- **Buffer Zone:** Area separating different zoning districts (e.g., park between residential and commercial)
- **Downzoning:** Reducing density or permitted use
- **Nonconforming Use:** A use that existed before zoning rules changed; may be grandfathered in
- **Variance:** Permission to violate zoning due to hardship

- **Conditional Use Permit (Special Exception):** Allows a specific use if conditions are met

MASTER PLANS

Also called a Comprehensive Plan. Guides long-term development of a community, covering:

- Land use
- Housing
- Transportation
- Utilities
- Recreation

ENABLING ACT

Federal or state laws that grant local governments the power to enact land use regulations.

BUILDING CODES

Set standards for construction methods, materials, and safety.

- Ensure structural integrity, fire protection, plumbing, electrical, and HVAC standards
- Require permits and inspections
- Certificate of Occupancy issued when construction meets code

SUBDIVISION REGULATIONS

- Control how land is divided for development
- Require streets, utilities, drainage, and public areas
- Developer may need to dedicate land for schools, parks

PRIVATE LAND USE CONTROLS

1. Deed Restrictions

- Placed by developers or property owners
- Limit future use (e.g., no RVs, no fences over 6 ft)
- Enforceable by courts

2. **Covenants, Conditions & Restrictions (CC&Rs)**

- Found in HOAs or subdivision declarations
- Enforceable rules regarding property use and appearance

3. **Easements**

- Right to use part of another's land
- *Appurtenant*: Benefits adjacent land
- *In Gross*: Benefits a company or individual (e.g., utility company)

4. **Encroachments**

- Unauthorized intrusion (e.g., fence or tree limb over the line)
- May affect property value or title

TAKING AND EMINENT DOMAIN

- **Eminent Domain**: Government can take private land for public use with just compensation
- **Condemnation**: The legal process of taking
- **Inverse Condemnation**: Owner sues the government for loss of property value due to regulation

Chapter 8: Environmental Issues in Real Estate

OVERVIEW

- Common hazardous materials
- Disclosure requirements
- Federal environmental laws
- Environmental impact on property value

AGENT RESPONSIBILITIES

Real estate licensees must:

- Be aware of environmental hazards that can affect a property's value or desirability
- Disclose known hazards to all parties
- Inform sellers of their legal disclosure obligations
- Recognize situations where expert investigation is required

COMMON ENVIRONMENTAL HAZARDS

1. **Lead-Based Paint**

- Banned in residential properties after 1978
- Disclosure required for homes built before 1978
- Buyers must receive EPA pamphlet and have a 10-day inspection period (unless waived)

2. **Asbestos**

- Used in insulation and fireproofing before 1978
- Dangerous when disturbed — can cause mesothelioma
- Removal must be done by licensed professionals

3. **Radon**

- Naturally occurring radioactive gas from soil
- Can cause lung cancer
- Acceptable level: 4 picocuries per liter or lower

- Mitigation systems can reduce levels

4. Mold

- Grows in damp environments
- May cause respiratory issues
- Sellers must disclose known water damage or mold problems

5. Carbon Monoxide (CO)

- Odorless, colorless gas from combustion
- CO detectors required in many residential buildings

6. Underground Storage Tanks (USTs)

- Often found on older properties or farms
- Risk of leakage and groundwater contamination

7. Groundwater Contamination

- From leaking septic systems, landfills, or hazardous waste
- Can significantly impact value and use of property

8. Electromagnetic Fields (EMFs)

- Found near power lines or electrical substations
- Health concerns remain debated

9. Formaldehyde

- Found in some insulation and building products
- Potential respiratory and cancer risks

10. Meth Labs / Toxic Residue

- Former meth production sites require full remediation

FEDERAL ENVIRONMENTAL LAWS

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

- Also called Superfund

- Identifies responsible parties for hazardous waste cleanup
- Liability may include current and previous owners

2. **SARA (Superfund Amendments and Reauthorization Act)**

- Expanded CERCLA with stronger cleanup standards and protections

3. **Clean Air Act**

- Regulates emissions of pollutants, including asbestos fibers

4. **Clean Water Act**

- Regulates discharge into U.S. waters

5. **Safe Drinking Water Act**

- Ensures the quality of public water systems

6. **Resource Conservation and Recovery Act (RCRA)**

- Governs disposal of solid and hazardous waste

ENVIRONMENTAL SITE ASSESSMENTS (ESAs)

Often required by lenders or commercial buyers:

- **Phase I ESA:** Historical review and site inspection
- **Phase II ESA:** Soil and water testing if risks are found

Failure to perform due diligence can result in liability under CERCLA.

Chapter 9: Real Estate Practice

OVERVIEW

- Duties of a real estate licensee
- Agency relationships and disclosures
- Listing presentations and agreements
- Property marketing and prospecting
- Handling offers and negotiations
- Trust accounts and document handling

AGENCY DUTIES AND RELATIONSHIPS

Fiduciary Duties of an agent to the client:

1. **Obedience** – Follow lawful instructions
2. **Loyalty** – Act in client's best interest
3. **Disclosure** – Reveal all material facts
4. **Confidentiality** – Do not share private client info
5. **Accounting** – Handle money and documents accurately
6. **Reasonable Care** – Perform with competence

Types of Agency:

- **Seller's Agent:** Represents seller
- **Buyer's Agent:** Represents buyer
- **Dual Agent:** Represents both (requires written consent)
- **Designated Agent:** Two licensees in the same firm represent different parties

Agency Disclosure: Required at the first substantive contact. Must explain:

- Whom the agent represents
- Client vs. customer status

CREATING AND ENDING AGENCY

Agency is created by:

- Express Agreement (written or oral)
- Implied Agreement (actions create relationship)

Agency ends by:

- Completion
- Expiration
- Mutual agreement
- Death or incapacity
- Destruction of property
- Breach by either party

LISTING PRESENTATIONS

Purpose: Secure a listing agreement with a seller.

Includes:

- Explaining market data (CMA)
- Outlining marketing plan
- Discussing listing price and terms
- Explaining agency and disclosure forms
- Reviewing seller's net proceeds

Types of Listings:

- **Exclusive Right to Sell:** Agent gets paid regardless of who sells
- **Exclusive Agency:** Agent paid only if they procure the buyer
- **Open Listing:** Seller can hire multiple agents
- **Net Listing** (illegal in many states): Agent keeps anything over a target net price

PROPERTY MARKETING & PROSPECTING

Effective marketing includes:

- Yard signs, flyers, open houses
- MLS entry

- Digital advertising and social media
- Virtual tours and staging

Prospecting: Finding new leads through cold calling, referrals, door-knocking, expired listings, FSBOs, and networking

SHOWINGS AND OFFERS

When showing properties:

- Disclose known defects
- Respect fair housing laws
- Follow showing instructions

Handling offers:

- Present all offers promptly
- Review terms with client
- Negotiate counteroffers and contingencies
- Ensure acceptance is communicated

TRUST ACCOUNTS

- Client funds must be placed in a designated **escrow or trust account**
- Commingling (mixing client and personal funds) is illegal
- Conversion (using client funds for personal use) is fraud

DOCUMENT HANDLING

- Maintain complete transaction records
- Ensure all required signatures
- Distribute copies to all parties
- Comply with retention laws (e.g., 3–5 years depending on jurisdiction)

Chapter 10: Real Estate Calculations

OVERVIEW

- Commission and net-to-seller math
- Prorations for taxes, rents, and insurance
- Loan and interest formulas
- Area and volume
- Property tax and assessment calculations
- Investment metrics like ROI and cap rate

COMMISSION CALCULATIONS

Commission = Sale Price × Commission Rate

- Example: \$300,000 sale × 6% = \$18,000 commission

Split commissions:

- Total commission × broker split % × agent split %

Net-to-Seller:

- Sale Price – (Sale Price × Commission Rate) – Closing Costs = Seller Net
- Or work backwards using:
$$\text{Net} \div (1 - \text{Commission Rate}) = \text{Required Sale Price}$$

PRORATIONS

Used to divide expenses or income (e.g., taxes, rent, insurance) between buyer and seller.

Methods:

- **360-day year (banker's year) or 365-day calendar year**
- Determine daily rate: Total amount ÷ days in period

Examples:

- Prepaid rent: credit buyer / debit seller
- Unpaid taxes: credit buyer / debit seller

LOAN CALCULATIONS

Loan-to-Value Ratio (LTV):

- $LTV = \text{Loan Amount} \div \text{Appraised Value (or Purchase Price, whichever is less)}$

Points:

- 1 point = 1% of loan amount
- Discount points lower interest rate; origination points are lender fees

Monthly Interest:

- $\text{Interest} = \text{Principal} \times \text{Rate} \times \text{Time (annual interest)}$
- $\text{Monthly} = (\text{Loan} \times \text{Rate}) \div 12$

Principal and Interest (P&I) Payment:

- Use amortization schedule or mortgage factor chart

PROPERTY TAXES**Tax Bill = Assessed Value × Tax Rate**

- Mill Rate: Tax per \$1,000 (e.g., 25 mills = \$25 per \$1,000 of assessed value)

Assessment example:

- $\text{Assessed Value} = \text{Market Value} \times \text{Assessment Rate}$

AREA & VOLUME**Area:**

- Rectangle: $\text{Length} \times \text{Width}$
- Triangle: $(\text{Base} \times \text{Height}) \div 2$
- Circle: $\pi \times \text{radius}^2$ ($\pi \approx 3.14$)

Acre = 43,560 square feet

Volume:

- Rectangular solid: $\text{Length} \times \text{Width} \times \text{Height}$

INVESTMENT FORMULAS**Capitalization Rate (Cap Rate):**

- $\text{Value} = \text{NOI} \div \text{Cap Rate}$

- $\text{NOI} = \text{Income} - \text{Expenses (excluding debt service)}$

Gross Rent Multiplier (GRM):

- $\text{GRM} = \text{Price} \div \text{Gross Monthly Rent}$
- $\text{Value} = \text{GRM} \times \text{Rent}$

Return on Investment (ROI):

- $\text{ROI} = \text{Profit} \div \text{Investment}$

APPRECIATION/DEPRECIATION

Appreciation:

- $\text{New Value} = \text{Original Value} \times (1 + \text{Appreciation Rate})$

Depreciation:

- $\text{Annual Depreciation} = (\text{Cost} - \text{Land Value}) \div \text{Useful Life}$

Straight-line depreciation used for tax purposes:

- 27.5 years for residential
- 39 years for commercial

