TEXAS REAL ESTATE SALES EXAM

Fourth Edition
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Regarding the Information in This Book
We attempt to verify the information presented in our books prior to publication. It is always a good idea, however, to double-check such important information as deadlines and application and testing procedures, as such information can change from time to time.

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As you have probably already learned in your real estate pre-licensing course, every real estate salesperson in the state of Texas—or in any other state, for that matter—must be licensed. But obtaining a license is more than passing an exam. First, to be eligible to apply for a salesperson license in Texas, you must:

- be a citizen of the United States, or a lawfully admitted alien
- be at least 18 years of age
- be a legal resident of Texas at the time of application
The Application Process

In addition to the previous requirements, you must successfully complete the following courses:

- Principles of Real Estate core real estate course (60 classroom hours)
- Laws of Agency core real estate course (30 classroom hours)
- Laws of Contracts core real estate course (30 classroom hours)
- An additional core real estate course (30 classroom hours)
- An additional four semesters (60 classroom hours) of core courses or of related courses accepted by TREC

There’s one more requirement. After you complete your education, you are responsible for obtaining a letter from TREC verifying you have completed your education. To achieve this, you must request that TREC evaluate your education documents. You can download a “Request for Evaluation of Education Documents” from www.trec.state.tx.us/licenses/salesapp.asp. The cost of the evaluation is $20.

Only after satisfying all of these requirements can you complete your application. You can obtain an application at www.trec.state.tx.us or by calling TREC at 800-250-8732. The total fee is $79.50; that’s $69.50 for an original application, and an additional $10.00 for the Recovery Fund. When TREC receives your application, it will be processed and hopefully accepted. Within 48 hours of that time, TREC will send you a Candidate Information Brochure (CIB) with your identification number. You will need this number before you can take the test. The CIB provides detailed information about test-taking procedures. You can also download a sample CIB from www.psiexams.com.

The Sales Exam

Once you have applied to TREC, you must pass the exam within six months of the date your application was filed. There are two parts of the exam, the national portion and the Texas portion. You must pass both parts of the exam,
Note

You do not need to have a sponsoring broker in order to apply for a salesperson license. Without a sponsoring broker, you will receive an “inactive” license, which means you will not be able to practice until you have a sponsoring broker. You will only receive an “active” license when you have secured sponsorship.

but there is no limit to the number of times you can take either or both parts of the exam within the six months. For example, if you pass the national portion, but not the Texas portion, you can take the Texas portion of the exam over again. If you fail to pass both parts within the given timeframe, you will have to reapply with TREC and repeat the application and examination process.

EXAM FEES

<table>
<thead>
<tr>
<th>Examination</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Complete examination (National and Texas)</td>
<td>$59</td>
</tr>
<tr>
<td>National portion</td>
<td>$59</td>
</tr>
<tr>
<td>Texas portion</td>
<td>$59</td>
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TREC has hired PSI Examination Services to develop and administer the Texas Real Estate Salesperson Exam. Any questions about the exam should be directed to PSI.

Remember, the exam is given on computer, but you will be shown how to use the computer to complete your exam.

Exam Content

The real estate sales exam is divided into two sections. Part 1 covers Real Estate Principles and Practices and Part 2 covers Texas Real Estate. There are 80 questions in Part 1, and 30 questions in Part 2. You will have 150 minutes (2 1/2 hours) to complete all 110 questions. If you take the parts separately, you will have 105 minutes (1 hour, 45 minutes) to complete the 80 national questions, and you will have 45 minutes to complete the 30 state questions. To pass, you must answer at least 56 (out of 80) questions correctly on the national portion, and at least 21 (out of 30) questions correctly on the Texas portion. That means you can miss 24 national questions and 9 state questions.

Texas Real Estate Sales Exam at a Glance

<table>
<thead>
<tr>
<th></th>
<th>Number of Questions</th>
<th>Time Limit</th>
<th>Passing Score</th>
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<tbody>
<tr>
<td>National Portion</td>
<td>80</td>
<td>105 minutes</td>
<td>56</td>
</tr>
<tr>
<td>Texas Portion</td>
<td>30</td>
<td>45 minutes</td>
<td>21</td>
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</table>
The exam tests both your knowledge and your ability to apply that knowledge. To be well prepared to answer the questions on the exam, you will need to be thoroughly familiar with real estate concepts, the terminology of real estate, and basic math calculations.

Here is an outline of the topics covered on the exam:

**NATIONAL PORTION CONTENT OUTLINE—80 QUESTIONS**

**Real Estate Principles and Practices**

**Property Ownership—7 questions**
- Classes of Property
- Land Characteristics
- Encumbrances
- Types of Ownership
- Property Descriptions

**Land Use Controls and Regulations—7 questions**
- Government Rights in Land
- Public Controls Based in Police Power
- Private Controls

**Valuation and Market Analysis—7 questions**
- Value
- Methods of Estimating Value (Applicability, Key Elements)
- Competitive Market Analysis
- Transactions Requiring Formal Appraisal

**Financing—8 questions**
- General Concepts
- Types of Loans
- Sources
- Government Programs
- Mortgages/Deeds of Trust
- Financing/Credit Laws

**Laws of Agency—10 questions**
- Law, Definition, and Nature of Agency Relationships
- Common Types of Agency Agreements in Real Estate
- Agency Duties
- Disclosure of Agency (General)
- Commission and Fees

**Mandated Disclosures—6 questions**
- Property Condition Disclosure Forms
- Need for Inspection and Obtaining/Verifying Information
- Material Facts

**Contracts—10 questions**
- General Knowledge of Contract Law
- Offers/Purchase Agreements
- Counteroffers/Multiple Counteroffers
- Leases as Contracts
- Rescission and Cancellation Agreements/Other Contract Terminations

**Transfer of Property—7 questions**
- Title Insurance
- Deeds
- Escrow or Closing
- Tax Aspects
Practice of Real Estate—10 questions
Fair Housing Laws
Advertising and Misrepresentation
Ethical Issues
Broker/Salesperson Agreements

Real Estate Calculations—5 questions
General Math Concepts
Property Tax Calculations (not prorations)
Lending Calculations
Calculations for Transactions
Calculations for Valuation
Mortgage Calculations

Specialty Areas—3 questions
Property Management and Landlord/Tenant
Subdivisions
Commercial Property/Income Property

STATE PORTION CONTENT OUTLINE—30 QUESTIONS

Texas Real Estate

Commission Duties and Powers—3 questions
General Powers: Composition, Duties, and Powers; Real Estate Broker-Lawyer Committee
Investigations and Subpoena Power: Investigations; Subpoena Power Investigations; Subpoena Power Hearings
Penalties for Violation: Unlicensed Activity; Authority for Disciplinary Actions; Penalties; Recovery Fund

Licensing—3 questions
Activities Requiring License: Scope of Practice; Exemptions; Corporations/Limited Liability Companies; Non-Resident Broker; Inspectors and Appraisers
Licensing Process: General Requirements (age, moral character, residency, sponsor, etc.);
Education; Examination; Grounds to Reject Application; Appeals
License Maintenance and Renewal: Continuing Education; Place of Business; Change of Salesperson Sponsorship; Inactive Status

Standards of Conduct—6 questions
Professional Ethics and Conduct
Single Act
Grounds for Suspension and Revocation
Unlawful Practice of Law
Trust Accounts
Splitting Fees

Agency/Brokerage—8 questions
Disclosure
Intermediary Practice
Duties to Client
Broker-Salesperson Relationships; Broker’s Responsibility for Acts of Salesperson

Contracts—6 questions
Use of Standard Contract Forms
Statute of Frauds

Special Topics—4 questions
Community Property
Homestead
Deceptive Trade Practices Act
Descent and Distribution
Intestate Succession
Seller Disclosure Requirements
Landlord-Tenant Issues
Foreclosures
Recording Statutes
Mechanic’s and Materialman’s Liens
Real Estate Math

Before you start to panic about the math on the exam, remember, there are only five math questions on the exam. So keep things in perspective.

You are allowed to bring a calculator to the exam (you must check with PSI about which calculators are permitted). Be sure to take a calculator that you are familiar and comfortable with. When you come to a math problem, read it carefully and then use the scratch paper provided to set up the problem before punching buttons on the calculator. Finally, the math on the exam will not be overly complicated. If you feel you need to review your math skills, see Chapter 5 of this book.

Registering for the Exam

There are four ways to register for the Texas Real Estate Sales Exam. You can register by:

1. Mail
2. Telephone
3. Fax
4. Internet

Here is some information you will need to know about each method.

Mail

You will need to fill out the registration form (found in the Candidate Information Brochure) and include your fee. When registering by mail, you **must** pay your fee using a money order or cashier’s check. Cash, credit cards or other types of checks are **not** accepted. The mailing address is

PSI Examination Services
Attn: Examination Registration TX RE
100 West Broadway, Suite 1100
Glendale, CA 91210

Within two weeks, you should receive a Confirmation Notice. If you do not receive the notice, call PSI at 800-733-9267.

Telephone

To register by phone, you will need a touchtone phone and a valid Visa or MasterCard. You should also fill out the Examination Registration Form before you call so that you will have all the information you need available when you call. The number is 800-733-9267. The automated system (you will not be speaking with a live person) is open 24 hours per day, seven days per week. To speak with a registrar, you need to call Monday through Friday, between 8:00 A.M. and 7:00 P.M. (Central Time).
Fax
To register via fax, you will need a valid Visa or MasterCard. You will need to fill out the Examination Registration Form completely. You must include your credit card number and expiration date. Fax the completed form to 818-247-3853. Faxes are accepted 24 hours per day, 7 days per week. After 1:00 P.M. (Central Standard Time) on the next business day, you can call PSI (800-733-9267) to schedule your exam.

Internet
To register online, go to www.psiexams.com. You can download the form, print it, and mail or fax it. You also have the option to complete the registration form online and send it via the Internet. You will fill out the form and within two business days, you will receive a Registration Confirmation Notice via e-mail.

Scheduling an Exam
Once you have registered, you will also have to schedule your exam. You will need to call PSI to schedule your exam. The number is 800-733-9267. The automated system is open 24 hours per day, seven days per week. To speak with a registrar, you need to call Monday through Friday, between 8:00 A.M. and 7:00 P.M. (Central Time). Provided there is space at the exam site of your choice, you can register for an exam as soon as one full business day after you call. Note: The day you call is not considered a full business day.

Exam Locations

<table>
<thead>
<tr>
<th>Abilene</th>
<th>Houston (North)</th>
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<tr>
<td>Amarillo</td>
<td>Houston (East)</td>
</tr>
<tr>
<td>Arlington</td>
<td>Houston (Southwest)</td>
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<td>Austin</td>
<td>Lubbock</td>
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<td>Corpus Christi</td>
<td>Midland</td>
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<td>Dallas</td>
<td>San Antonio</td>
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<td>El Paso</td>
<td>Tyler</td>
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<td>Fort Worth</td>
<td>Waco</td>
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Note: There are two exam sites in Louisiana that offer the Texas Real Estate Sales Exam. These are:

1. Lake Charles, LA
2. Shreveport, LA
**Canceling an Appointment**

If you choose not to take the exam and you want to get your money back, you must cancel your exam appointment at least two full business days before your exam. There is no refund of the fee if the exam appointment is canceled less than two full business days in advance. Other reasons why your fee would not be refunded include:

- failure to appear for your examination
- arrival after the exam has begun
- failure to provide correct identification

**Exam Day**

You should plan to arrive at the exam site at least a half hour before the exam is scheduled to begin. You will need to sign-in, provide identification, and become familiar with the testing conditions. You must bring the following items with you:

- two valid forms of ID (e.g. passport, driver’s license, state ID)
- a calculator (see Chapter 5 for more information about the type of calculators allowed)

At the exam site, you will be provided with:

- scratch paper
- review sheet

You may NOT bring:

- books/notes
- cell phones/pagers
- food/drink
- bags/purses
- children

If you have any questions about what you can and can’t bring to the exam, contact PSI.

**Using a Computer**

Computer-based exams are becoming more popular. One of the reasons for their popularity is that they are easier to score, and you can get your results immediately after the exam. Do not be concerned if you are not familiar with computers. You are not being tested on your knowledge of computers nor your typing skills. Before the exam, you will have a complete 15-minute tutorial about taking the exam on a computer. You will learn exactly how to use the computer. For more information about using the computer, you can refer to the Candidate Information Brochure.
Score Reporting
Your score will appear on screen immediately after you finish your exam. In addition, you will receive an official score report at the exam site.

How to Prepare
By diligently studying your course text, notes, and other study materials (such as this book), you can expect to achieve sufficient mastery of the subject matter to be able to pass your real estate exam.

Relearning Some Old Skills
You’ve already taken and passed countless quizzes, tests, and examinations of all sorts as you made your way through grade school, high school, and college-level courses. You may even have taken vocational training courses or other programs. So why should you need any tips for studying for a real estate sales exam?

The answer lies in your present status. Most likely, you are no longer a full-time student, so you probably are out of the habit of studying and test taking. And not only are you out of practice in test taking, you probably have many more responsibilities and distractions to pull you from your studies than you ever did back in the days when you had well-defined school hours and homework assignments. And, when you were a full-time student, you may never have taken an examination as comprehensive as the one you now face.

But don’t despair. You are also a lot more experienced now than you were when you were a high school student. You have successfully completed your real estate courses, and now you’ve picked up this book to give you what you need to review and prepare. Here’s how this book can help you.

Test-Taking Techniques
The LearningExpress Test Preparation System presented in Chapter 2 of this book will help you overcome test anxiety, set up a workable study plan, and learn test-taking skills that will enable you to use your examination time most effectively. Above all, you must set aside a regular study time. If you rely on a final-day cram session, you will only make the exam process more stressful than it needs to be.

This book also provides four complete practice exams, based on the official exam sponsored by TREC and prepared by PSI. These practice exams will give you a chance to hone your knowledge of real estate concepts, as well as provide valuable practice in exam-taking techniques. You might start with Chapter 3, the first practice exam, before going on to the review and study materials in Chapters 4, 5, and 6. This exam will help you determine the areas in which you need to concentrate your study.

You may prefer to take your practice exams on computer, since that’s the way you’ll have to take the real exam. In that case, use the CD-ROM at the back of the book. You can take complete exams or review a specific subject area, whichever you prefer. You’ll find the software easy to use, but if you have any difficulties, be sure to consult the “How to Use the CD-ROM” section at the end of this book.
Important Note

While the materials in this book include many terms, key concepts, and explanations, it would be impossible to include every possible term that could be included in the real estate exam in a single study guide. In addition, real estate law changes over time, so some rules or laws may not apply when you take the exam. Remember, this book is designed to be an additional study aid to help you learn and remember what you need in order to pass the examination.

Study Materials

Chapter 4 of this book, the Texas Real Estate Refresher Course, will help you focus on the topics and terms of greatest importance for your licensing exam. It follows the content outline for both the national and state portions of the PSI exam. This refresher course is meant to be concise so that you can review more quickly and focus your attention on specific facts or terms.

Chapter 5, Real Estate Math Review, will provide you with practice in the math skills you are likely to need for the exam.

Chapter 6 is a Real Estate Glossary that is an excellent review of real estate terminology.

You will find that some of the terms defined in the glossary are also defined in the refresher course, some terms appear in both the refresher course and math review, and some terms appear only in the glossary. Thus, each part of this book will benefit you and help reinforce what you have learned earlier.

The Path to Success

By reading this far, you have already shown that you are serious about taking the Texas Real Estate Sales Exam. Now, you have to show that you are ready to do what it takes to receive a passing score on the exam. By making good use of this book, you will be well on your way to reaching your goal—and your new career.
The LearningExpress Test Preparation System

CHAPTER SUMMARY
Taking the Texas Real Estate Sales Exam can be tough. It demands a lot of preparation if you want to achieve a top score. Your career depends on your passing the exam. The LearningExpress Test Preparation System, developed exclusively for LearningExpress by leading test experts, gives you the discipline and attitude you need to be a winner.

FACT: TAKING THE real estate licensing exam is not easy, and neither is getting ready for it. Your future career as a real estate salesperson depends on your getting a passing score, but there are all sorts of pitfalls that can keep you from doing your best on this exam. Here are some of the obstacles that can stand in the way of your success:

- being unfamiliar with the format of the exam
- being paralyzed by test anxiety
- leaving your preparation to the last minute
- not preparing at all!
- not knowing vital test taking skills: how to pace yourself through the exam, how to use the process of elimination, and when to guess
- not being in tip-top mental and physical shape
- arriving late at the test site, having to work on an empty stomach, or shivering through the exam because the room is cold
What’s the common denominator in all these test taking pitfalls? One word: control. Who’s in control, you or the exam?

Here’s some good news: The LearningExpress Test Preparation System puts you in control. In nine easy-to-follow steps, you will learn everything you need to know to make sure that you are in charge of your preparation and your performance on the exam. Other test takers may let the test get the better of them; other test takers may be unprepared or out of shape, but not you. You will have taken all the steps you need to take to get a high score on the real estate licensing exam.

Here’s how the LearningExpress Test Preparation System works: Nine easy steps lead you through everything you need to know and do to get ready to master your exam. Each step discussed in this chapter includes both reading about the step and one or more activities. It’s important that you do the activities along with the reading, or you won’t be getting the full benefit of the system. Each step tells you approximately how much time that step will take you to complete.

Step 1. Get Information 50 minutes
Step 2. Conquer Test Anxiety 20 minutes
Step 3. Make a Plan 30 minutes
Step 4. Learn to Manage Your Time 10 minutes
Step 5. Learn to Use the Process of Elimination 20 minutes
Step 6. Know When to Guess 20 minutes
Step 7. Reach Your Peak Performance Zone 10 minutes
Step 8. Get Your Act Together 10 minutes
Step 9. Do It! 10 minutes
Total 3 hours

We estimate that working through the entire system will take you approximately three hours, though it’s perfectly OK if you work faster or slower. If you take an afternoon or evening, you can work through the whole LearningExpress Test Preparation System in one sitting. Otherwise, you can break it up, and do just one or two steps a day for the next several days. It’s up to you—remember, you are in control.

➤ Step 1: Get Information

Time to complete: 50 minutes
Activity: Read Chapter 1, “The Texas Real Estate Sales Exam”

Knowledge is power. The first step in the LearningExpress Test Preparation System is finding out everything you can about the Texas Real Estate Sales Exam. Once you have your information, the other steps in the LearningExpress Test Preparation System will show you what to do about it.
Part A: Straight Talk about the Texas Real Estate Sales Exam

Why do you have to take this exam, anyway? You have already been through your pre-license course; why should you have to go through a rigorous exam? It’s simply an attempt on the part of your state to be sure you have the knowledge and skills necessary for a licensed real estate agent. Every profession that requires practitioners to exercise financial and fiduciary responsibility to clients also requires practitioners to be licensed—and licensure requires an exam. Real estate is no exception.

It’s important for you to remember that your score on the Texas Real Estate Sales Exam does not determine how smart you are, or even whether you will make a good real estate agent. There are all kinds of things an exam like this can’t test: whether you have the drive and determination to be a top salesperson, whether you will faithfully exercise your responsibilities to your clients, or whether you can be trusted with confidential information about people’s finances. Those kinds of things are hard to evaluate, while a computer-based test is easy to evaluate.

This is not to say that the exam is not important! The knowledge tested on the exam is knowledge you will need to do your job. And your ability to enter the profession you’ve trained for depends on your passing this exam. And that’s why you are here—using the LearningExpress Test Preparation System to achieve control over the exam.

Part B: What’s on the Test

If you haven’t already done so, stop here and read Chapter 1 of this book, which gives you an overview of the Texas Real Estate Sales Exam. Then, go to www.psiexams.com and read the most up-to-date information from the test developers.

▶ Step 2: Conquer Test Anxiety

Time to complete: 20 minutes
Activity: Take the Test Stress Quiz

Having complete information about the exam is the first step in getting control of the exam. Next, you have to overcome one of the biggest obstacles to test success: test anxiety. Test anxiety not only impairs your performance on the exam itself, but also keeps you from preparing! In Step 2, you will learn stress management techniques that will help you succeed on your exam. Learn these strategies now, and practice them as you work through the exams in this book, so they will be second nature to you by exam day.

Combating Test Anxiety

The first thing you need to know is that a little test anxiety is a good thing. Everyone gets nervous before a big exam—and if that nervousness motivates you to prepare thoroughly, so much the better. It’s said that Sir Laurence Olivier, one of the foremost British actors of this century, felt ill before every performance. His stage fright didn’t impair his performance; in fact, it probably gave him a little extra edge—just the kind of edge you need to do well, whether on a stage or in an examination room.
Test Stress Quiz

You only need to worry about test anxiety if it is extreme enough to impair your performance. The following questionnaire will provide a diagnosis of your level of test anxiety. In the blank before each statement, write the number that most accurately describes your experience.

0 = Never  1 = Once or twice  2 = Sometimes  3 = Often

___ I have gotten so nervous before an exam that I simply put down the books and didn’t study for it.
___ I have experienced disabling physical symptoms such as vomiting and severe headaches because I was nervous about an exam.
___ I did not show up for an exam because I was scared to take it.
___ I have experienced dizziness and disorientation while taking an exam.
___ I have had trouble filling in the little circles because my hands were shaking too hard.
___ I have failed an exam because I was too nervous to complete it.

___ Total: Add up the numbers in the blanks above.

Your Test Stress Score

Here are the steps you should take, depending on your score. If you scored:

0–2: your level of test anxiety is nothing to worry about; it’s probably just enough to give you that little extra edge.

3–6: your test anxiety may be enough to impair your performance, and you should practice the stress management techniques listed in this section to try to bring your test anxiety down to manageable levels.

7+: your level of test anxiety is a serious concern. In addition to practicing the stress management techniques listed in this section, you may want to seek additional help.

Above is the Test Stress Quiz. Stop and answer the questions to find out whether your level of test anxiety is something you should worry about.

Stress Management before the Test

If you feel your level of anxiety getting the best of you in the weeks before the test, here is what you need to do to bring the level down again:

- **Get prepared.** There’s nothing like knowing what to expect and being prepared for it to put you in control of test anxiety. That’s why you are reading this book. Use it faithfully, and remind yourself that you are better prepared than most of the people taking the test.

- **Practice self-confidence.** A positive attitude is a great way to combat test anxiety. This is no time to be humble or shy. Stand in front of the mirror and say to your reflection, “I am prepared. I am full of self-confidence. I am going to ace this test. I know I can do it.” Say it into a tape recorder and play it back once a day. If you hear it often enough, you will believe it.
- **Fight negative messages.** Every time someone starts telling you how hard the exam is or how it’s almost impossible to get a high score, start saying your self-confidence messages above. Don’t listen to the negative messages. Turn on your tape recorder and listen to your self-confidence messages.

- **Visualize.** Imagine yourself reporting for duty on your first day as a real estate salesperson. Think of yourself talking with clients, showing homes, and best of all, making your first sale. Visualizing success can help make it happen—and it reminds you of why you are going to all this work in preparing for the exam.

- **Exercise.** Physical activity helps calm your body down and focus your mind. Besides, being in good physical shape can actually help you do well on the exam. Go for a run, lift weights, go swimming—and do it regularly.

**Stress Management on Test Day**
There are several ways you can bring down your level of test anxiety on test day. They will work best if you practice them in the weeks before the test, so you know which ones work best for you.

- **Deep breathing.** Take a deep breath while you count to five. Hold it for a count of one, then let it out on a count of five. Repeat several times.

- **Move your body.** Try rolling your head in a circle. Rotate your shoulders. Shake your hands from the wrist. Many people find these movements very relaxing.

- **Visualize again.** Think of the place where you are most relaxed: lying on the beach in the sun, walking through the park, or whatever. Now close your eyes and imagine you are actually there. If you practice in advance, you will find that you only need a few seconds of this exercise to experience a significant increase in your sense of well-being.

When anxiety threatens to overwhelm you right there during the exam, there are still things you can do to manage the stress level:

- **Repeat your self-confidence messages.** You should have them memorized by now. Say them silently to yourself, and believe them!

- **Visualize one more time.** This time, visualize yourself moving smoothly and quickly through the test answering every question right and finishing just before time is up. Like most visualization techniques, this one works best if you have practiced it ahead of time.

- **Find an easy question.** Find an easy question, and answer it. Getting even one question finished gets you into the test taking groove.

- **Take a mental break.** Everyone loses concentration once in a while during a long test. It’s normal, so you shouldn’t worry about it. Instead, accept what has happened. Say to yourself, “Hey, I lost it there for a minute. My brain is taking a break.” Put down your pencil, close your eyes, and do some deep breathing for a few seconds. Then you will be ready to go back to work.

Try these techniques ahead of time, and see if they work for you!
Step 3: Make a Plan

Time to complete: 30 minutes
Activity: Construct a study plan

Maybe the most important thing you can do to get control of yourself and your exam is to make a study plan. Too many people fail to prepare simply because they fail to plan. Spending hours on the day before the exam poring over sample test questions not only raises your level of test anxiety, it also is simply no substitute for careful preparation and practice over time.

Don’t fall into the cram trap. Take control of your preparation time by mapping out a study schedule. On the following pages are two sample schedules, based on the amount of time you have before you take the Texas Real Estate Sales Exam. If you are the kind of person who needs deadlines and assignments to motivate you for a project, here they are. If you are the kind of person who doesn’t like to follow other people’s plans, you can use the suggested schedules here to construct your own.

Even more important than making a plan is making a commitment. You can’t review everything you learned in your real estate courses in one night. You have to set aside some time every day for study and practice. Try for at least 20 minutes a day. Twenty minutes daily will do you much more good than two hours on Saturday.

Don’t put off your study until the day before the exam. Start now. A few minutes a day, with half an hour or more on weekends, can make a big difference in your score.
## Schedule A: The 30-Day Plan

If you have at least a month before you take the Texas Real Estate Sales Exam, you have plenty of time to prepare—as long as you don’t waste it! If you have less than a month, turn to Schedule B.

<table>
<thead>
<tr>
<th>Time</th>
<th>Preparation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days 1–4</td>
<td>Skim over the written materials from your training program, particularly noting 1) areas you expect to be emphasized on the exam and 2) areas you don’t remember well. On Day 4, concentrate on those areas.</td>
</tr>
<tr>
<td>Day 5</td>
<td>Take the first practice exam in Chapter 3.</td>
</tr>
<tr>
<td>Day 6</td>
<td>Score the first practice exam. Use “Exam 1 for Review” on page 55 to see which topics you need to review most. Identify two areas that you will concentrate on before you take the second practice exam.</td>
</tr>
<tr>
<td>Days 7–10</td>
<td>Study the two areas you identified as your weak points. Don’t forget, there is the Texas Real Estate Refresher Course in Chapter 4, the Real Estate Math Review in Chapter 5, and the Real Estate Glossary in Chapter 6. Use these chapters to improve your score on the next practice test.</td>
</tr>
<tr>
<td>Day 11</td>
<td>Take the second practice exam in Chapter 7.</td>
</tr>
<tr>
<td>Day 12</td>
<td>Score the second practice exam. Identify one area to concentrate on before you take the third practice exam.</td>
</tr>
<tr>
<td>Days 13–18</td>
<td>Study the one area you identified for review. Again, use the Refresher Course, Math Review, and Glossary for help.</td>
</tr>
<tr>
<td>Day 19</td>
<td>Take the third practice exam in Chapter 8.</td>
</tr>
<tr>
<td>Day 20</td>
<td>Once again, identify one area to review, based on your score on the third practice exam.</td>
</tr>
<tr>
<td>Days 20–21</td>
<td>Study the one area you identified for review. Use the Refresher Course, Math Review, and Glossary for help.</td>
</tr>
<tr>
<td>Days 22–25</td>
<td>Take an overview of all your training materials, consolidating your strengths and improving on your weaknesses.</td>
</tr>
<tr>
<td>Days 26–27</td>
<td>Review all the areas that have given you the most trouble in the three practice exams you have taken so far.</td>
</tr>
<tr>
<td>Day 28</td>
<td>Take the fourth practice exam in Chapter 9. Note how much you have improved!</td>
</tr>
<tr>
<td>Day 29</td>
<td>Review one or two weak areas by studying the Refresher Course, Math Review, and Glossary.</td>
</tr>
<tr>
<td>Day before the exam</td>
<td>Relax. Do something unrelated to the exam and go to bed at a reasonable hour.</td>
</tr>
</tbody>
</table>
Schedule B: The 10-Day Plan

If you have two weeks or less before you take the exam, use this ten-day schedule to help you make the most of your time.

<table>
<thead>
<tr>
<th>Time</th>
<th>Preparation</th>
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</thead>
<tbody>
<tr>
<td>Day 1</td>
<td>Take the first practice exam in Chapter 3 and score it using the answer key at the end. Use “Exam 1 for Review” on page 55 to see which topics you need to review most.</td>
</tr>
<tr>
<td>Day 2</td>
<td>Review one area that gave you trouble on the first practice exam. Use the Texas Real Estate Refresher Course in Chapter 4, the Real Estate Math Review in Chapter 5, and the Real Estate Glossary in Chapter 6 for extra practice in these areas.</td>
</tr>
<tr>
<td>Day 3</td>
<td>Review another area that gave you trouble on the first practice exam. Again, use the Refresher Course, Math Review, and Glossary for extra practice.</td>
</tr>
<tr>
<td>Day 4</td>
<td>Take the second practice exam in Chapter 7 and score it.</td>
</tr>
<tr>
<td>Day 5</td>
<td>If your score on the second practice exam doesn’t show improvement on the two areas you studied, review them. If you did improve in those areas, choose a new weak area to study today.</td>
</tr>
<tr>
<td>Day 6</td>
<td>Take the third practice exam in Chapter 8 and score it.</td>
</tr>
<tr>
<td>Day 7</td>
<td>Choose your weakest area from the third practice exam to review. Use the Refresher Course, Math Review, and Glossary for extra practice.</td>
</tr>
<tr>
<td>Day 8</td>
<td>Review any areas that you have not yet reviewed in this schedule.</td>
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<tr>
<td>Day 9</td>
<td>Take the fourth practice exam in Chapter 9 and score it.</td>
</tr>
<tr>
<td>Day 10</td>
<td>Use your last study day to brush up on any areas that are still giving you trouble. Use the Refresher Course, Math Review, and Glossary.</td>
</tr>
<tr>
<td>Day before the exam</td>
<td>Relax. Do something unrelated to the exam and go to bed at a reasonable hour.</td>
</tr>
</tbody>
</table>
Step 4: Learn to Manage Your Time

Time to complete: 10 minutes to read, many hours of practice!
Activity: Practice these strategies as you take the sample tests in this book

Steps 4, 5, and 6 of the LearningExpress Test Preparation System put you in charge of your exam by showing you test taking strategies that work. Practice these strategies as you take the sample tests in this book, and then you will be ready to use them on test day.

First, you will take control of your time on the exam. It’s terrible to know there are only five minutes left when you are only three-quarters of the way through the test. Here are some tips to keep that from happening to you.

- **Follow directions.** Since the Texas Real Estate Sales Exam is given on the computer, you should take your time taking the tutorial before the exam. Read the directions carefully and ask questions before the exam begins if there’s anything you don’t understand.
- **Pace yourself.** There is a timer on the screen as you take the exam. This will help you pace yourself. For example, when one-quarter of the time has elapsed, you should be a quarter of the way through the test, and so on. If you are falling behind, pick up the pace a bit.
- **Keep moving.** Don’t waste time on one question. If you don’t know the answer, skip the question and move on. You can always go back to it later.
- **Don’t rush.** Though you should keep moving, rushing won’t help. Try to keep calm and work methodically and quickly.

Step 5: Learn to Use the Process of Elimination

Time to complete: 20 minutes
Activity: Complete worksheet on Using the Process of Elimination

After time management, your next most important tool for taking control of your exam is using the process of elimination wisely. It’s standard test taking wisdom that you should always read all the answer choices before choosing your answer. This helps you find the right answer by eliminating wrong answer choices. And, sure enough, that standard wisdom applies to your exam, too.

Let’s say you are facing a question that goes like this:

Alicia died, leaving her residence in town and a separate parcel of undeveloped rural land to her brother Brian and her sister Carrie, with Brian owning one-quarter interest and Carrie owning three-quarters interest. How do Brian and Carrie hold title?

a. as tenants in survivorship  
b. as tenants in common  
c. as joint tenants  
d. as tenants by the entirety
You should always use the process of elimination on a question like this, even if the right answer jumps out at you. Sometimes, the answer that jumps out isn’t right after all. Let’s assume, for the purpose of this exercise, that you are a little rusty on property ownership terminology, so you need to use a little intuition to make up for what you don’t remember. Proceed through the answer choices in order.

So you start with answer a. This one is pretty easy to eliminate; this tenancy doesn’t have to do with survivorship. Since the Texas Real Estate Sales Exam is given on a computer, you won’t be able to cross out answer choices; instead, make a mental note that answer choice a is incorrect.

Choice b seems reasonable; it’s a kind of ownership that two people can share. Even if you don’t remember much about tenancy in common, you could tell it’s about having something “in common.” Make a mental note, “Good answer, I might use this one.”

Choice c is also a possibility. Joint tenants also share something in common. If you happen to remember that joint tenancy always involves equal ownership rights, you mentally eliminate this choice. If you don’t, make a mental note, “Good answer” or “Well, maybe,” depending on how attractive this answer looks to you.

Choice d strikes you as a little less likely. Tenancy by the entirety doesn’t necessarily have to do with two people sharing ownership. This doesn’t sound right, and you have already got a better answer picked out in choice b. If you are feeling sure of yourself, you can mentally eliminate this choice.

If you’re pressed for time, you should choose answer b. If you have got the time to be extra careful, you could compare your answer choices again. Then, choose one and move on.

If you are taking a test on paper, like the practice exams in this book, it’s good to have a system for marking good, bad, and maybe answers. We’re recommending this one:

X = bad
✓ = good
? = maybe

If you don’t like these marks, devise your own system. Just make sure you do it long before test day—while you’re working through the practice exams in this book—so you won’t have to worry about it just before the exam.

Even when you think you are absolutely clueless about a question, you can often use process of elimination to get rid of one answer choice. If so, you are better prepared to make an educated guess, as you will see in Step 6. More often, the process of elimination allows you to get down to only two possibly right answers. Then, you are in a strong position to guess. And sometimes, even though you don’t know the right answer, you find it simply by getting rid of the wrong ones, as you just did.

Try using your powers of elimination on the questions in the worksheet Using the Process of Elimination. The questions aren’t about real estate work; they’re just designed to show you how the process of elimination works. The answer explanations for this worksheet show one possible way you might use the process to arrive at the right answer.

The process of elimination is your tool for the next step, which is knowing when to guess.
Using the Process of Elimination

Use the process of elimination to answer the following questions.

1. Ilsa is as old as Meghan will be in five years. The difference between Ed's age and Meghan's age is twice the difference between Ilsa's age and Meghan's age. Ed is 29. How old is Ilsa?
   a. 4
   b. 10
   c. 19
   d. 24

2. “All drivers of commercial vehicles must carry a valid commercial driver's license whenever operating a commercial vehicle.” According to this sentence, which of the following people need NOT carry a commercial driver's license?
   a. a truck driver idling his engine while waiting to be directed to a loading dock
   b. a bus operator backing her bus out of the way of another bus in the bus lot
   c. a taxi driver driving his personal car to the grocery store
   d. a limousine driver taking the limousine to her home after dropping off her last passenger of the evening

3. Smoking tobacco has been linked to
   a. increased risk of stroke and heart attack.
   b. all forms of respiratory disease.
   c. increasing mortality rates over the past ten years.
   d. juvenile delinquency.

4. Which of the following words is spelled correctly?
   a. incorrigible
   b. outrageous
   c. domestickated
   d. understandible

Answers

Here are the answers, as well as some suggestions as to how you might have used the process of elimination to find them.

1. d. You should have eliminated answer a right away. Ilsa can’t be four years old if Meghan is going to be Ilsa’s age in five years. The best way to eliminate other answer choices is to try plugging them in to the information given in the problem. For instance, for answer b, if Ilsa is 10, then Meghan must be 5. The difference in their ages is 5. The difference between Ed's age, 29, and Meghan’s age, 5, is 24. Does 24 = 2 times 5? No. Then answer b is wrong. You could eliminate answer c in the same way and be left with answer d.
Using the Process of Elimination (continued)

2. c. Note the word *not* in the question, and go through the answers one by one. Is the truck driver in choice a "operating a commercial vehicle"? Yes, idling counts as “operating,” so he needs to have a commercial driver’s license. Likewise, the bus operator in answer b is operating a commercial vehicle; the question doesn’t say the operator has to be on the street. The limo driver in d is operating a commercial vehicle, even if it doesn’t have passenger in it. However, the cabbie in answer c is *not* operating a commercial vehicle, but his own private car.

3. a. You could eliminate answer b simply because of the presence of the word *all*. Such absolutes hardly ever appear in correct answer choices. Choice c looks attractive until you think a little about what you know—aren’t fewer people smoking these days, rather than more? So how could smoking be responsible for a higher mortality rate? (If you didn’t know that *mortality rate* means the rate at which people die, you might keep this choice as a possibility, but you would still be able to eliminate two answers and have only two to choose from.) And choice d is not logical, so you could eliminate that one, too. And you are left with the correct choice, a.

4. a. How you used the process of elimination here depends on which words you recognized as being spelled incorrectly. If you knew that the correct spellings were *outrageous*, *domesticated*, and *understandable*, then you were home free. You probably knew that at least one of those words was wrong!

► Step 6: Know When to Guess

Time to complete: 20 minutes
Activity: Complete worksheet on Your Guessing Ability

Armed with the process of elimination, you are ready to take control of one of the big questions in test taking: Should I guess? The first and main answer is *yes*. Some exams have what’s called a “guessing penalty,” in which a fraction of your wrong answers is subtracted from your right answers—but the Texas Real Estate Sales Exam doesn’t work like that. The number of questions you answer correctly yields your raw score. So you have nothing to lose and everything to gain by guessing.
The more complicated answer to the question “Should I guess?” depends on you—your personality and your “guessing intuition.” There are two things you need to know about yourself before you go into the exam:

- Are you a risk-taker?
- Are you a good guesser?

You will have to decide about your risk-taking quotient on your own. To find out if you are a good guesser, complete the worksheet Your Guessing Ability. Frankly, even if you are a play-it-safe person with lousy intuition, you’re still safe in guessing every time. The best thing would be if you could overcome your anxieties and go ahead and mark an answer. But you may want to have a sense of how good your intuition is before you go into the exam.

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### Your Guessing Ability

The following are ten really hard questions. You are not supposed to know the answers. Rather, this is an assessment of your ability to guess when you don’t have a clue. Read each question carefully, just as if you did expect to answer it. If you have any knowledge at all of the subject of the question, use that knowledge to help you eliminate wrong answer choices.

1. September 7 is Independence Day in
   a. India.
   b. Costa Rica.
   c. Brazil.
   d. Australia.

2. Which of the following is the formula for determining the momentum of an object?
   a. \( p = mv \)
   b. \( F = ma \)
   c. \( P = IV \)
   d. \( E = mc^2 \)

3. Because of the expansion of the universe, the stars and other celestial bodies are all moving away from each other. This phenomenon is known as
   a. Newton’s first law.
   b. the big bang.
   c. gravitational collapse.
   d. Hubble flow.

4. American author Gertrude Stein was born in
   a. 1713.
   b. 1830.
   c. 1874.
   d. 1901.

5. Which of the following is NOT one of the Five Classics attributed to Confucius?
   a. the I Ching
   b. the Book of Holiness
   c. the Spring and Autumn Annals
   d. the Book of History

6. The religious and philosophical doctrine that holds that the universe is constantly in a struggle between good and evil is known as
   a. Pelagianism.
   b. Manichaeanism.
   c. neo-Hegelianism.
   d. Epicureanism.
7. The third Chief Justice of the U.S. Supreme Court was
   a. John Blair.
   b. William Cushing.
   d. John Jay.

8. Which of the following is the poisonous portion of a daffodil?
   a. the bulb
   b. the leaves
   c. the stem
   d. the flowers

9. The winner of the Masters golf tournament in 1953 was
   a. Sam Snead.
   b. Cary Middlecoff.
   c. Arnold Palmer.
   d. Ben Hogan.

10. The state with the highest per capita personal income in 1980 was
    a. Alaska.
    b. Connecticut.
    c. New York.
    d. Texas.

Answers
Check your answers against the correct answers below.
1. c.
2. a.
3. d.
4. c.
5. b.
6. b.
7. b.
8. a.
9. d.
10. a.

▶ How Did You Do?

You may have simply gotten lucky and actually known the answer to one or two questions. In addition, your guessing was more successful if you were able to use the process of elimination on any of the questions. Maybe you didn't know who the third Chief Justice was (question 7), but you knew that John Jay was the first. In that case, you would have eliminated answer d and therefore improved your odds of guessing right from one in four to one in three.

According to probability, you should get $2\frac{1}{2}$ answers correct, so getting either two or three right would be average. If you got four or more right, you may be a really terrific guesser. If you got one or none right, you may be a really bad guesser.

Keep in mind, though, that this is only a small sample. You should continue to keep track of your guessing ability as you work through the sample questions in this book. Circle the numbers of questions you guess on as you make your guesses; or, if you don't have time while you take the practice exams, go back afterward and try to remember which questions you guessed on. Remember, on an exam with four answer choices, your chances of getting a right answer is one in four. So keep a separate “guessing” score for each exam. How many questions did you guess on? How many did you get right? If the number you got right is at least one-fourth of the number of questions you guessed on, you are at least an average guesser, maybe better—and you should always go ahead and guess on the
real exam. If the number you got right is significantly lower than one-fourth of the number you guessed on, you would, frankly, be safe in guessing anyway, but maybe you would feel more comfortable if you guessed only selectively, when you can eliminate a wrong answer or at least have a good feeling about one of the answer choices.

**Step 7: Reach Your Peak Performance Zone**

**Time to complete:** 10 minutes to read; weeks to complete!
**Activity:** Complete the Physical Preparation Checklist

To get ready for a challenge like a big exam, you have to take control of your physical, as well as your mental, state. Exercise, proper diet, and rest will ensure that your body works with, rather than against, your mind on test day, as well as during your preparation.

**Exercise**
If you don’t already have a regular exercise program going, the time during which you are preparing for an exam is actually an excellent time to start one. And if you are already keeping fit—or trying to get that way—don’t let the pressure of preparing for an exam fool you into quitting now. Exercise helps reduce stress by pumping wonderful good-feeling hormones called endorphins into your system. It also increases the oxygen supply throughout your body, including your brain, so you will be at peak performance on test day.

A half hour of vigorous activity—enough to raise a sweat—every day should be your aim. If you are really pressed for time, every other day is OK. Choose an activity you like, and get out there and do it. Jogging with a friend always makes the time go faster, or take a radio.

But don’t overdo it. You don’t want to exhaust yourself. Moderation is the key.

**Diet**
First of all, cut out the junk. Go easy on caffeine and nicotine, and eliminate alcohol and any other drugs from your system at least two weeks before the exam. Promise yourself a binge the night after the exam, if need be.

What your body needs for peak performance is simply a balanced diet. Eat plenty of fruits and vegetables, along with protein and carbohydrates. Foods high in lecithin (an amino acid), such as fish and beans, are especially good “brain foods.”

The night before the exam, you might “carbo-load” the way athletes do before a contest. Eat a big plate of spaghetti, rice and beans, or your favorite carbohydrate.

**Rest**
You probably know how much sleep you need every night to be at your best, even if you don’t always get it. Make sure you do get that much sleep, though, for at least a week before the exam. Moderation is important here, too. Extra sleep will just make you groggy.
If you are not a morning person and your exam will be given in the morning, you should reset your internal clock so that your body doesn’t think you are taking an exam at 3:00 A.M. You have to start this process well before the exam. The way it works is to get up half an hour earlier each morning, and then go to bed half an hour earlier that night. Don’t try it the other way around; you will just toss and turn if you go to bed early without having gotten up early. The next morning, get up another half an hour earlier, and so on. How long you will have to do this depends on how late you are used to getting up. Use the Physical Preparation Checklist on the next page to make sure you are in tip-top form.

**Step 8: Get Your Act Together**

*Time to complete: 10 minutes to read; time to complete will vary*

**Activity: Complete Final Preparations worksheet**

You are in control of your mind and body; you are in charge of test anxiety, your preparation, and your test-taking strategies. Now it’s time to take charge of external factors, like the testing site and the materials you need to take the exam.

**Find Out Where the Exam Is and Make a Trial Run**

Do you know how to get to the testing site? Do you know how long it will take to get there? If not, make a trial run, preferably on the same day of the week at the same time of day. Make note, on the Final Preparations worksheet on page 28, of the amount of time it will take you to get to the exam site. Plan on arriving 30–45 minutes early so you can get the lay of the land, use the bathroom, and calm down. Then, figure out how early you will have to get up that morning, and make sure you get up that early every day for a week before the exam.

**Gather Your Materials**

The night before the exam, lay out the clothes you will wear and the materials you have to bring with you to the exam. Plan on dressing in layers; you won’t have any control over the temperature of the examination room. Have a sweater or jacket you can take off if it’s warm. Use the checklist on the Final Preparations worksheet to help you pull together what you will need.

**Don’t Skip Breakfast**

Even if you don’t usually eat breakfast, do so on exam morning. A cup of coffee doesn’t count. Don’t do doughnuts or other sweet foods, either. A sugar high will leave you with a sugar low in the middle of the exam. A mix of protein and carbohydrates is best: Cereal with milk and just a little sugar, or eggs with toast, will do your body a world of good.
For the week before the exam, write down 1) what physical exercise you engaged in and for how long and 2) what you ate for each meal. Remember, you are trying for at least half an hour of exercise every other day (preferably every day) and a balanced diet that's light on junk food.

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<thead>
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<tbody>
<tr>
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**Step 9: Do It!**

Time to complete: 10 minutes, plus test taking time
Activity: Ace the Texas Real Estate Sales Exam!

Fast-forward to exam day. You are ready. You made a study plan and followed through. You practiced your test-taking strategies while working through this book. You are in control of your physical, mental, and emotional state.
You know when and where to show up and what to bring with you. In other words, you are better prepared than most of the other people taking the Texas Real Estate Sales Exam with you. You are psyched.

Just one more thing. When you are done with the exam, you will have earned a reward. Plan a celebration. Call up your friends and plan a party, or have a nice dinner for two—whatever your heart desires. Give yourself something to look forward to.

And then do it. Go into the exam, full of confidence, armed with test taking strategies you have practiced until they’re second nature. You are in control of yourself, your environment, and your performance on the exam. You are ready to succeed. So do it. Go in there and ace the exam. And look forward to your future career as a real estate salesperson!
Like the other practice tests in this book, this test is based on the actual Texas Real Estate Sales Exam, sponsored by the Texas Real Estate Commission (TREC) and developed by Psychological Services, Inc. (PSI). See Chapter 1 for a complete description of this exam.

If you prefer to take a practice test on a computer, use the CD-ROM included at the back of this book. Taking the tests on a computer is good practice for the real exam. On the other hand, if using a computer isn’t convenient, taking the tests on paper will accomplish the same goal—letting you know what areas of national and Texas real estate concepts you’re strong in and which areas need more work.

Take this exam in as relaxed a manner as possible, without worrying about timing. You can time yourself on the other three exams. You should, however, make sure that you have enough time to take the entire exam in one sitting. Find a quiet place where you can work without interruptions.

The answer sheet you should use is on the following page, and then comes the exam. After you have finished, use the answer key and explanations to learn your strengths and your weakness. Then, use the scoring section at the end of this chapter to see how you did overall.

Chapter Summary
This is the first of four practice tests in this book based on the Texas Real Estate Sales Exam. Take this first test to see how you would do if you took the exam today and to find out what your strengths and weaknesses are.
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1. Personal property may become real property by the process of
   a. devise.
   b. reliction.
   c. attachment.
   d. alienation.

2. If a property generates a negative cash flow, in order to be an attractive investment to a prospective purchaser
   a. there must be a substantial down payment.
   b. there must be a large depreciable base.
   c. there must be a substantial increase in property value.
   d. there must be little deferred maintenance.

3. The closed sales price of an income property divided by its gross monthly rent equals the
   a. estimated market value.
   b. capitalization rate.
   c. gross income multiplier.
   d. gross rent multiplier.

4. What is 75% of $250,000?
   a. $187,500
   b. $182,500
   c. $62,500
   d. none of the above

5. Racial discrimination under the Civil Rights Act of 1866 is enforced by
   a. local jurisdiction.
   b. state court.
   c. federal court.
   d. justice of the peace court.

6. Under eminent domain, if the parties cannot agree to property value, which type of lawsuit will be filed by a city to take the property for public use?
   a. annexation
   b. injunction
   c. condemnation
   d. specific performance

7. The term that describes the percentage of the appraised value of a property that a lender will finance is called
   a. loan-to-value ratio.
   b. owner’s equity.
   c. certificate of reasonable value.
   d. capital investment.

8. Abby is purchasing a home with a mortgage loan and is paying for an appraisal of the property. The appraisal is made to determine
   a. if Abby got a good deal.
   b. if the seller had the house priced right.
   c. if the value of the collateral satisfies the lender’s underwriting guidelines for the loan.
   d. whether the buyer’s financing requirements meet the underwriting guidelines for the loan.

9. The best definition of a material fact is that it
   a. reveals only information about the physical condition of a property.
   b. is an agreed upon condition of the purchase agreement.
   c. is a factor a builder considers when selecting building materials.
   d. is anything important to any person making a decision.
10. Which of the following is a government right in land?
   a. eminent domain by a retail center
   b. eminent domain by a public utility company
   c. inheritance by the state when a person dies without a will
   d. taking a property by condemnation

11. Market data approach appraising may require adjustments of sold comparables by an appraiser for all of the following EXCEPT
   a. sale date of comparable.
   b. replacement cost of structure.
   c. financing made available by seller.
   d. lot size and location.

12. A contract that was signed by a minor is
   a. voidable by the minor, but not by the other party.
   b. voidable by either party.
   c. void.
   d. invalid and unenforceable.

13. Under the federal tax code, a broker/salesperson agreement must contain all of the following EXCEPT
   a. the commission arrangements between the broker and the salesperson.
   b. that the salesperson must pay his or her own licensing fees.
   c. that the salesperson is free to work on his or her own work schedule.
   d. that the salesperson is responsible for paying quarterly federal income tax payments.

14. Which of the following statements concerning an easement is true?
   a. An easement is always appurtenant.
   b. An easement is an estate at sufferance.
   c. An easement can only be created by a deed.
   d. An easement appurtenant runs with the land.

15. A comprehensive buyer representation agreement would address the
   a. buyer’s desired property description.
   b. duties of the agent, termination date, and compensation agreement.
   c. agent’s contact information.
   d. family contact names and numbers.

16. Which of the following phrases is NOT discriminatory in an advertisement to lease a non-exempt one hundred-unit apartment complex under the current Federal Fair Housing Act?
   a. no handicapped alterations will be made
   b. adults only, no children
   c. no smoking on premises
   d. females only

17. Which of the following is NOT an example of a public land use control?
   a. spacing between residential and commercial properties
   b. gas water heater exhaust system
   c. percentage of brick veneer on home exterior
   d. easements for wetland drainage
18. In an independent contractor agreement, the broker must make clear to the agent
   a. his working hours.
   b. all company policies and procedures.
   c. the agent's responsibility for paying his own income taxes.
   d. the agent's income tax rate.

19. The most accurate way to uniquely locate and bound a parcel of real property is to use
   a. a topographical map.
   b. latitude and longitude bearings.
   c. the assessor parcel number.
   d. a metes and bounds survey.

20. Broker A represents a seller. Broker B shows this same seller's home to an unrepresented buyer. What kind of agency exists in this scenario?
   a. subagency
   b. cooperating brokerage
   c. cooperation
   d. fiduciary agency

21. A loan in which the borrower pays interest only over the life of the loan and then pays the entire principal at maturity of the loan is called
   a. a balloon loan.
   b. an amortized loan.
   c. a term loan.
   d. a package loan.

22. If a salesperson dies, his listings
   a. remain intact with the broker.
   b. continue.
   c. belong to his family.
   d. terminate with the broker.

23. Commercial building site value is commonly quoted to a buyer by price per
   a. square foot.
   b. front foot.
   c. acre.
   d. parcel or tract.

24. Which is true of owner’s title insurance?
   a. It guarantees ownership in perpetuity.
   b. It is transferable to the next property owner.
   c. It will reimburse for title losses up to the face amount of the policy.
   d. It protects the lender against loss of lien rights.

25. What are the buyer’s choices upon presentation of a counteroffer?
   a. accept or reject
   b. counteroffer or accept
   c. think about it for a while
   d. accept, reject, consider, or counteroffer

26. When money is escrowed each month to cover annual payments of insurance and taxes, the mortgage is called
   a. a blanket mortgage.
   b. a budget mortgage.
   c. a graduated payment mortgage.
   d. a growing equity mortgage.

27. When a broker represents a buyer, this means that the sponsored salesperson
   a. represents the seller.
   b. represents the buyer.
   c. represents either the buyer or the seller.
   d. is an intermediary between the broker and the buyer.
28. When dealing with a prospective buyer, the listing agent must reveal which of the following?
   a. The previous owner had AIDS.
   b. The property has been rezoned.
   c. The principal of the nearby school has just been fired.
   d. The previous owner committed suicide.

29. Steering prospective buyers to a certain area because of their national origin is also known as
   a. less favorable treatment.
   b. blockbusting.
   c. channeling.
   d. redlining.

30. Under Regulation Z of the TILA, which of the following must be disclosed when a “trigger term” is used in advertising a mortgage loan?
   a. the exact monthly payment
   b. the total amount of payback
   c. the right of rescission
   d. the APR

31. The Federal Housing Administration (FHA), which operates under the Department of Housing and Urban Development (HUD), encourages lenders to make home loans by
   a. lending money to private lenders.
   b. insuring qualified loans.
   c. purchasing loans from primary lenders.
   d. guaranteeing a portion of the loan.

32. If there is some question about an item being real property or personal property, the best determinant is
   a. the value of the item.
   b. the agreement of the parties.
   c. the appraiser’s opinion.
   d. the title company’s ruling.

33. A listing agreement should define the agent’s obligations and the client’s
   a. showing instructions.
   b. preferred closing date.
   c. negotiating concessions.
   d. representations regarding the seller’s right to sell the property.

34. Which phrase in a lender advertisement to secure borrowers would be in violation of the Equal Credit Opportunity Act?
   a. low interest rates and fast loan approvals
   b. assumable note for future ease of selling
   c. must be under 60 years of age for 30-year term loans
   d. rates will be adjusted according to number of minor children

35. A lender is providing 90% of the financing for a new house. If the house appraises for $75,000, what is the buyer’s down payment?
   a. $7,500
   b. $67,500
   c. $9,000
   d. $750

36. When an agent uses the word we when talking to a buyer, the buyer might believe that the agent
   a. represents him/her.
   b. represents the seller.
   c. is just chatting.
   d. understands what the buyer wants or needs in a home.
37. When dealing with third parties, whom the salesperson does not represent, which of the following is NOT owed to those third parties?
   a. disclosure of repaired slab foundation
   b. fiduciary duties
   c. fair treatment
   d. advice to have thorough home inspections

38. Property taxes are assessed annually at $4.05/100 of value. If the assessed value of a property is $100,000, how much are the taxes for the year?
   a. $4,000
   b. $5,040
   c. $4,050
   d. $405

39. A borrower can expect to pay a mortgage insurance premium (MIP) for
   a. an 80% LTV conventional loan.
   b. a VA (Department of Veterans Affairs) loan.
   c. a graduated payment loan.
   d. an FHA 203(b) loan.

40. A broker may define the sponsored agent’s general duties and authority, but not
   a. the scope of his activities.
   b. the scope of his authority.
   c. company policies and procedures.
   d. how the agent does his business.

41. An encumbrance that states a monetary interest in someone’s property is called
   a. an encroachment.
   b. a deed restriction.
   c. an estate at sufferance.
   d. a lien.

42. Which of the following will terminate an agency relationship?
   a. death of the customer
   b. death of the salesperson
   c. death of the client
   d. divorce of spouses in a common agency

43. The Residential Lead Base Paint Hazard Reduction Act allows tenants to have prospective residential lease property inspected by certified professionals if the property was constructed prior to which year?
   a. 1978
   b. 1980
   c. 1990
   d. 2001

44. Truth-in-Lending laws were created primarily to protect
   a. the lenders.
   b. real estate brokers.
   c. consumers.
   d. property owners.

45. Which of the following deeds provides the purchaser with the least protection in regards to covenants and/or warranties given by the seller?
   a. trustee’s
   b. special warranty
   c. general warranty
   d. quitclaim
46. Which of the following is NOT an annual operating expense used in income approach appraising?
   a. real estate taxes
   b. debt service to fund outstanding loan balances
   c. property casualty insurance
   d. property management and leasing fees

47. An accrued charge on a closing statement is paid
   a. in advance.
   b. in arrears.
   c. always by buyer.
   d. always by seller.

48. A salesperson receives an offer on his listing from a salesperson with another broker representing a buyer who is a previous client of the listing salesperson. Which, if any, of the fiduciary duties does the salesperson owe the previous client?
   a. The salesperson owes no duty to any previous client.
   b. The salesperson owes full fiduciary duties to a previous client.
   c. The salesperson owes only the duty of full disclosure to a previous client.
   d. The salesperson owes the duty of confidentiality to the previous client.

49. When a property owner leases his property, at the end of the lease he has
   a. a reversionary interest in the property.
   b. a remainderman interest in the property.
   c. 30 days to terminate the lease.
   d. a possessory right to the property.

50. *Ad valorem* real estate tax is which type of lien?
   a. specific/voluntary
   b. general/voluntary
   c. specific/involuntary
   d. general/involuntary

51. Under the Truth-in-Lending Act, the cost of credit extended must be expressed as
   a. the discount rate.
   b. the prime interest rate.
   c. the actual percentage rate.
   d. the annual percentage rate.

52. Which method of foreclosure is used in a deed of trust mortgage lien?
   a. non-judicial power of sale
   b. judicial court ordered sale
   c. sheriff’s sale at the courthouse
   d. deed in lieu of accepted by lender

53. If a seller receives multiple offers
   a. he must consider the offers in the order in which they were received.
   b. he must negotiate the first offer before he can see the others.
   c. he may accept any one of them regardless of when it was received “in time.”
   d. he must disclose to all parties the existence of the other offers.

54. The entity that loses ownership through a deed of trust mortgage foreclosure is the
   a. lender.
   b. beneficiary.
   c. mortgagee.
   d. mortgagor.
55. One advantage of condominium ownership over cooperative ownership is that
   a. condominium owners pay no maintenance fees.
   b. condominium owners can mortgage their units individually.
   c. cooperative owners have no choice in which unit they occupy.
   d. there is basically no difference in the two forms of ownership.

56. Unauthorized disturbance of established wetlands may result in
   a. a suit for condemnation.
   b. justice of the peace court fines.
   c. county court civil actions.
   d. federal felony charges.

57. The form of ownership that would give an investor the greatest flexibility when selling his or her interest would be
   a. a general partnership.
   b. ownership in severalty.
   c. joint tenancy.
   d. a limited partnership.

58. What is the indicated value of a home if the others in the neighborhood sold recently for between $160,000 and $167,000, and the subject house has a pool (valued at $8,000 by the appraiser) that the others do not have?
   a. $168,000
   b. $175,000
   c. between $168,000–$175,000
   d. between $160,000–$175,000

59. Commercial banks prefer to make short-term loans like construction loans and 90-day business loans. The reason for their preference is
   a. the source of their funds is primarily from CDs (Certificates of Deposit).
   b. the source of their funds is primarily from savings accounts.
   c. the source of their funds is primarily from checking accounts.
   d. the source of their funds is primarily from issuing bonds.

60. What is the difference between a competitive market analysis and a comparative market analysis?
   a. sold comparables used
   b. amenity differences between the comparables
   c. adjustments for time of sale, such as location and property condition
   d. properties currently for sale in the same market area

61. A signed sales contract generally can be cancelled between the parties if
   a. fraud can be proved.
   b. one party changes his mind.
   c. other offers are received.
   d. the seller is out of town on the closing date.

62. Under which federal law is “blockbusting” illegal?
   a. Sherman Anti-Trust Act
   b. Fair Housing Act
   c. Equal Credit Opportunity Act
   d. Community Reinvestment Act
63. If Bob and Sally own a property together and the deed to the property gives no indication as to what tenancy exists, they would own the property as
   a. tenants in common.
   b. stockholders in a corporation.
   c. joint tenants.
   d. general partners.

64. What is the purpose of the Truth-in-Lending Act (TILA)?
   a. The TILA enforces Regulation Z.
   b. The TILA ensures disclosure of clear and full information regarding the true cost of credit.
   c. The TILA regulates the APR.
   d. The TILA ensures that lenders receive full disclosure of credit and income information from borrowers.

65. For there to be a valid right to purchase or terminate, an option contract must contain
   a. notice to terminate.
   b. at least seven days to back out of the agreement.
   c. dollar consideration.
   d. a right of rescission.

66. A listing agent wanting to give a seller maximum protection from subsequent claims by the buyer would strongly recommend
   a. that the seller cover all obvious property defects with cosmetic treatments.
   b. that the buyer have the property thoroughly inspected prior to closing.
   c. that the seller offer the property “as is.”
   d. that the buyer sign a “hold harmless” agreement against the seller.

67. Which of the following actions by a landlord is NOT discriminatory under the Federal Fair Housing Act?
   a. refusing to lease in regards to age of children
   b. refusing to lease based on the fact that the tenant has a pet
   c. not showing property to tenants because of their country of origin
   d. not leasing to people with certain physical handicaps

68. Every broker in town has a listing with the commercial property at the corner of Main and Elm. What type of agreements do they have?
   a. exclusive agency listings
   b. open listings
   c. net listings
   d. exclusive right to sell listings

69. A seller is not in possession of an inspection report from a buyer who recently terminated an option to purchase. However, the seller is aware that the report noted a faulty heating system in need of repair. The seller is
   a. not obligated to disclose this information because the report belongs to the previous buyer.
   b. not obligated to disclose this information because he does not actually have the written report in his possession.
   c. obligated to disclose this information as a material fact.
   d. obligated to disclose this information to his agent who will determine the necessity of disclosure.
70. Regarding the landlord’s duties under a residential lease agreement, current legal thinking holds that
   a. only written agreements may be pursued in court.
   b. the tenant is obligated to keep the premises in good repair.
   c. the owner is obligated to keep the premises in good repair.
   d. the owner is obligated to repair only those items required by law.

71. When a buyer is your customer, which of the following services would you NOT provide him/her?
   a. loyalty
   b. honesty
   c. fairness
   d. material disclosures about the property

72. Accretions or soil deposits added to property adjoining a river may also be referred to as
   a. avulsion.
   b. alluvion.
   c. alodial.
   d. erosion.

73. If a material fact concerning the condition of a residential property is known by the listing broker but intentionally not disclosed to the buyer, the broker may be
   a. guilty of fraud.
   b. subject to litigation.
   c. subject to license revocation.
   d. all of the above

74. Which of the following commission schedules are illegal?
   a. fee for service
   b. hourly rate
   c. percentage of sales price
   d. none of the above

75. To qualify for innocent landowner status, a purchaser under federal law must have the property environmentally inspected
   a. prior to taking title.
   b. within 30 days of ownership.
   c. in the first year of ownership.
   d. when economically feasible.

76. A competitive market analysis usually contains all of the following EXCEPT
   a. average price per square foot.
   b. contract sales price of pending sales in market area.
   c. closing date of sold comparables.
   d. days on market of comparables.

77. How may express agency be created?
   a. only by written and signed agreements
   b. by using state promulgated forms
   c. by specific written or verbal agreements
   d. by the actions of the agent

78. Fines for non-compliance under Regulation Z are imposed by which jurisdiction?
   a. municipal court
   b. county court
   c. state attorney general’s office
   d. Federal Reserve
79. If a homeowner has a first mortgage loan balance of $63,250, a second mortgage loan balance of $12,000, and unpaid taxes of $3,015, how much equity does he have in his $100,000 home?
   a. $25,000  
   b. $21,735  
   c. $100,000  
   d. $24,750

80. Which of the following instruments is used to transfer real property ownership?
   a. conveyance  
   b. title  
   c. deed  
   d. devisee

81. Which of the following is the Texas Real Estate Commission NOT empowered to do?
   a. suspend or revoke the license of a broker found guilty of giving legal advice  
   b. make a payment from the Recovery Fund to pay the legal fees of a salesperson that was found to be innocent  
   c. contract with a national firm to write and administer an exam to determine competency of a licensee applicant  
   d. publish forms for mandatory use by those to whom it issues a broker or salesperson license

82. Pamela, who lives in a suburb in which many homes are rented, decides to open a rental agency in order to assist her friends in finding suitable renters. Pamela’s conduct is
   a. acceptable because it is relatively small in scope.  
   b. acceptable because it involved only Pamela’s friends.  
   c. unacceptable because it involves an activity for which a real estate license is required.  
   d. unacceptable unless she makes a voluntary contribution to the Recovery Account.

83. A hairdresser told a broker about a client who was looking for a new house. The broker contacted the hairdresser’s client and sold him a home. May the broker pay the hairdresser for the lead?
   a. absolutely not  
   b. yes, but not more than $50  
   c. a gift with a value of not more than $50 may be given  
   d. only a thank you note is permitted

84. According to the provisions of the Texas Real Estate License Act, which of the following must be included in every listing agreement or buyer representation agreement?
   a. the marital status of the sellers or buyers  
   b. the geographic market area of representation  
   c. a termination date that is not subject to prior notice  
   d. a proposed sales price and description of settlement costs
85. What state agency is responsible for licensing and regulating professional real estate inspectors and their apprentice inspectors?
   a. the Texas Department of Licensing and Regulations
   b. the Texas Real Estate Commission
   c. the Texas Real Estate Inspectors Agency
   d. the Texas Attorney General’s office

86. Upon obtaining the seller’s signature on a listing agreement, the broker or salesperson is obligated to
   a. advertise the property in the local paper or on the broker’s website.
   b. set up a listing file and obtain an identification number from the broker’s preferred title company.
   c. cooperate with other brokers in the area who might have a ready, willing, and able buyer for the property.
   d. provide the seller with a copy of the agreement that is legible, true, signed, and correct.

87. For a document to be eligible for recording at the county courthouse, the document must be
   a. drafted by a Texas-licensed attorney.
   b. witnessed by two persons with legal capacity.
   c. in English and acknowledged in the presence of a public official.
   d. in any language as long as it is witnessed by two lawful citizens and is notarized.

88. The rules of the Texas Real Estate Commission prohibit a licensee from creating language and entering it in contract forms that define the legal rights and remedies of the parties. Which of the following would be acceptable language to enter in the “special provision” paragraph of a Texas Real Estate Commission promulgated contract form?
   a. “This transaction is contingent upon the sale of the purchaser’s present home.”
   b. “Buyer reserves the right to terminate this contract for any reason within eight (8) days of the effective date.”
   c. “Buyer will do a walk-through inspection during the four (4) hours immediately preceding closing.”
   d. “This contract is contingent upon satisfactory appraisal in the amount of the sale price.”

89. What term identifies a broker who has written authority to represent both the buyer and the seller in a real estate transaction?
   a. facilitator
   b. mediator
   c. intermediary
   d. general agent

90. What state law requires leases for more than one year to be reduced to writing and to include a legal description of the property to be occupied by the tenant?
   a. Truth-in-Lending Law
   b. Hardness Tenant Act
   c. Statute of Frauds
   d. Sherman and Clayton Acts
91. Salesperson Judy Jones is employed by A to Z Realty, Inc. Judy learns that A to Z's broker of record missed her licensing renewal deadline. When Judy questions the broker about this, the broker laughs and says, “Don’t worry. There is always a grace period to renew.” Judy knows that this is not true, but decides not to say any more about it. Judy’s conduct is
a. acceptable because she was following the advice of her broker.
b. acceptable because the license at issue is not her own.
c. unacceptable because upon expiration of her sponsoring broker’s license, Judy’s salesperson license is inactive.
d. unacceptable because Judy, as a real estate licensee, must conduct an independent investigation of any disputed fact.

92. What must a broker do to comply with the Texas Real Estate License Act when placing a sign on a property offering it for sale?
   a. have written authorization from the owner of the property before placing the sign
   b. have an exclusive agency listing agreement from the owner before placing the sign
   c. identify the broker as a licensed agent on the sign
   d. both a and c

93. If the effective date on a contract was June 26, 2005 and it granted the buyer an option period of eight days, on what date at midnight did the option period end?
   a. July 4, 2005
   b. July 3, 2005
   c. July 5, 2005
   d. July 2, 2005

94. May a broker decide to offer cooperation with other brokers through subagency when placing a listing in the Multiple Listing System (MLS) of the local REALTOR® association?
   a. yes, always
   b. no, never
   c. yes, but only when the broker feels that it is in the client’s best interest
   d. yes, but only upon receiving written authorization from the client to do so

95. Which of the following would be considered a part of community property owned by a married couple that are legal residents of the state of Texas?
   a. two rent houses owned free and clear by the husband prior to marriage
   b. the $200,000 settlement that the wife received from her employer’s insurance company for an injury sustained last year at work
   c. the interest income from the certificates of deposit owned by the wife and purchased with the proceeds of her personal injury settlement
   d. a $500,000 inheritance received by the husband from the estate of his grandmother

96. Which of the following is NOT an addendum promulgated by the Texas Real Estate Commission?
   a. Addendum for Sale of Other Property by Buyer
   b. Seller’s Temporary Lease
   c. Addendum for Seller’s Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards
   d. Release of Liability on Assumption of FHA, VA or Conventional Loan, Restoration of Seller’s Entitlement for VA Guaranteed Loan
97. Salesperson Sidney failed to complete his Mandatory Continuing Education (MCE) prior to the expiration date of his current license. On the fifth of the month following, he brokered a deal worth a $30,000 commission to him after the brokerage company gets its share. Which of the following statements is true?
   a. Even though Sidney sent his license fee to the state before the expiration date of the current license, he committed an illegal act because he had not completed the required education.
   b. Fortunately, Sidney paid his license fee before the deadline and was issued a new license with a requirement to pay an additional $200 and complete the education within 60 days.
   c. Sidney committed an illegal act and is subject to a fine and denial of an ability to reapply for a new salesperson license.
   d. None of the statements are true.

98. Which of the following actions could leave a broker open to a charge of practicing law without a license?
   a. advising a seller that property is overpriced and therefore unlikely to sell
   b. advising a seller that, in the broker’s opinion, title to the subject property is not valid
   c. advising a purchaser to obtain a lawyer’s opinion of title or a title insurance policy
   d. adding factual statements and business details requested by the principals to standard forms promulgated by The Texas Real Estate Commission

99. Parties can be compelled to take a dispute to mediation prior to being able to initiate litigation by
   a. a judge.
   b. The Texas Real Estate Commission.
   c. a broker.
   d. either party.

100. A real estate salesperson decides to sell his own property without using a broker. In offering his property for sale, what must the salesperson do?
   a. He must disclose the name, address, and telephone number of his sponsoring broker.
   b. He is prohibited by law from selling his own property without using his broker.
   c. He must disclose to the buyer that he holds a real estate license.
   d. He is exempt from the need to disclose anything since he is acting solely as a private citizen.

101. Which of the following is a statutory authority given to the Texas Real Estate Commission?
   a. license and regulate developers of condominium communities
   b. inspect and accredit providers of acceptable education programs to provide pre-licensure real estate education
   c. regulate the work of appraisers who perform appraisals for loans that are federally related
   d. regulate the size, duration, frequency, and medium for ads promoting real property offered for sale
102. For which of the following is there NO promulgated form?
   a. Contract for Deed
   b. lease for 60 days of occupancy by seller after closing
   c. sale of an unimproved residential building lot
   d. addendum to establish terms and conditions of a seller financing arrangement

103. Sam and Sally are occupying an apartment on a month-to-month lease with rent due and payable on the fifteenth day of each month. How much notice must they give their landlord to terminate their tenancy-at-will?
   a. 30 days unless otherwise stipulated in the rental agreement
   b. one month plus 15 days
   c. one month plus 30 days
   d. Since it is a tenancy-at-will, no notice is required.

104. Which of the following is true when an applicant for licensure has failed to pass the competency examination within the prescribed six-month period?
   a. The applicant must petition The Texas Real Estate Commission for an extension.
   b. The applicant may exercise the three-day grace period to retake the exam.
   c. The applicant may submit a new application with no additional fees.
   d. The applicant must submit a new application meeting all current requirements.

105. Which of the following actions does NOT constitute a violation of the Texas Real Estate License Act?
   a. receiving a commission without the knowledge and consent of the licensee's client
   b. paying $50 to an unlicensed person as an act of appreciation for referring a buyer to the salesperson
   c. placing a “For Sale” sign on the property after receiving the owner’s written permission to do so
   d. failing to disclose previous flooding that occurred on the property 15 years ago

106. The Texas Real Estate License Act requires the use of which of the following addenda to be used with all promulgated contract forms?
   a. Environmental Assessment
   b. Seller’s Disclosure of Property Condition
   c. neither a or b
   d. both a and b

107. In Texas, real estate brokerage fees or sales commissions are
   a. negotiated between the client and the broker.
   b. negotiable up to a maximum amount set by the Texas Real Estate Commission.
   c. determined by the local association of REALTORS®.
   d. set by federal law to bring standardization to the real estate transactions funded by loans to be sold to the secondary money market.
108. The Texas Homestead Law provides for a reduction in *ad valorem* tax liability on a principal residence for all but which of the following individuals?

a. a single parent who owns and lives in a duplex  

b. a married couple who own and occupy a luxury condominium unit  

c. a retiree who occupies the residence with his young girlfriend  

d. a couple who own a condominium in Corpus Christi and claim a homestead in Colorado

109. A broker has listed a property for sale and will earn a commission upon producing a ready, willing, and able buyer according to the terms of the listing agreement. However, if the seller finds a buyer without the broker’s assistance, the broker will earn no fee. This agreement is

a. an open listing.  

b. an exclusive agency listing.  

c. a net listing.  

d. none of the above.

110. Upon receiving and reviewing the statutory “Information about Brokerage Services,” a buyer decides that he does not want to sign a buyer representation agreement and that he is willing to be treated as a customer. Which of the following would the licensee working with the buyer NOT be required to do?

a. Tell him about the flood that occurred last summer and flooded every house in the neighborhood that he is considering.  

b. Advise him that he should consider having inspections performed on the structural and mechanical components of a house on which he is considering.  

c. Tell him that the seller is about to file for bankruptcy and must sell by next Tuesday or the home will be posted for foreclosure.  

d. Inform the buyer that the deed restrictions have just expired and that the city is holding hearings in preparation for a rezoning of the area.
Answers

1. c. An item of personal property, like a door-knob bought at a hardware store, becomes part of the real estate when it is attached to the property.

2. c. A negative cash flow can be offset by a substantial increase in property value. Even in ownership of a personal residence where there is a negative cash flow, the house could be a good investment if it is sold at a substantial gain over the original purchase price.

3. d. The gross rent multiplier is a number derived from a sold comparable to determine the value of an income property being appraised. The gross rent multiplier is multiplied by object property monthly rent to determine its current market value.

4. a. Convert 75% to a decimal and multiply. 
   \[ \$250,000 \times 0.75 = \$187,500 \]

5. c. Racial discrimination by federal law must be tried in federal court unless a settlement is reached between the parties.

6. c. When an eminent domain offer is not accepted by the private property owner, the public entity taking the realty must file a suit to condemn the property for public use. The suit will require the court of jurisdiction to settle the dispute between the parties.

7. a. The lender will divide the loan amount by the appraised value (or purchase price, whichever is lower). This is called the loan-to-value ratio. If a property is appraised at $100,000 and the lender will lend $90,000, this would be a 90% loan-to-value.

8. c. The collateral for a mortgage loan is the property pledged as security for the loan. An appraisal is an estimate of value made by an appraiser of the lender’s choosing to determine if the property value justifies the loan-to-value based on the sales price or appraised value, whichever is less.

9. d. A material fact is anything that would make a difference to anyone in making a decision. It is not limited to physical facts, contract details, or building materials.

10. b. Fee simple is the highest form of private ownership; however, it is still subject to taking at a reasonable value for public use through eminent domain.

11. b. Sales date, seller financing, lot size, and location of a property are adjustments to sold comparables an appraiser must consider in determining market value of an object property. Replacement cost of a structure is used to determine value in a cost approach appraisal.

12. a. A minor may terminate a legal obligation. The non-minor party does not have the right to terminate.

13. a. The federal tax code required those items regarding the payment of taxes. The commission arrangement should be in the contract, but it is not required by the federal tax code.

14. d. An easement appurtenant runs with the land, which means that if the property is transferred, the easement goes with it to the new owner.

15. b. A buyer’s representation agreement should be a specific outline of what is expected of the broker and of the buyer.

16. c. Smoking rights are not protected under Fair Housing Laws. Landlords may enforce no smoking as a lease provision.

17. c. Public land use controls don’t affect building designs, such as the percentage of brick siding on a home. Public land use controls can
set forth spacing between property types, construction standards, and required water drainage easements.

18. c. The lack of the agreement or language about income taxes may leave the broker open to IRS interpretation that the agent is an employee rather than an independent contractor, thus subject to income and social security taxes, benefits, etc.

19. d. A metes and bounds survey is the most accurate way to uniquely locate and bound a parcel of real property.

20. a. Broker B is the sub-agent of Broker A’s seller client, and owes him the same fiduciary duties as Broker A. The buyer has no representation.

21. c. A term loan is a loan in which the borrower pays interest only until the end of the loan when the entire principle balance is due.

22. a. The death of an agent has no legal effect on the broker-client relationship.

23. a. In putting the high cost of commercial land in prospective, sellers and brokers commonly quote the price per square foot to compare property costs for buyers.

24. c. Buyer’s title insurance covers monetary losses due to a covered loss of title up to the face amount of the policy. It does not guarantee ownership, nor is it transferable.

25. d. A party is not obligated to respond to an offer when presented. He or she runs the risk of having the offer withdrawn by the other party, but that is his or her choice.

26. b. A budget mortgage is a mortgage wherein the lender will escrow money from the borrower’s monthly payment to pay annual taxes and insurance.

27. b. A sponsored salesperson is an extension of the broker and has all of the same legal relationships with the parties that the broker does.

28. b. The fact that the property has been rezoned is a material fact and must be disclosed. The fact that the previous owner had AIDS must not be disclosed in compliance with Fair Housing Laws. The other facts do not have to be disclosed, but many brokers might feel that it would be prudent to reveal them anyway.

29. c. Channeling is directing buyers or tenants to a certain neighborhood, for example, based on their ethnicity. Channeling is an illegal housing practice under Federal Fair Housing Laws.

30. d. The annual percentage rate (APR) must always be disclosed when a trigger term is used in any advertisement of a home loan.

31. b. FHA through HUD encourages wider home ownership by insuring loans, making lenders more willing to make loans with small down payments and easier qualifying guidelines.

32. b. The best determinant of whether an item is real or personal property is the intent of the parties. For example, a garage door opener remote control is not attached to the property, but the parties would most likely agree that it stays with the property.

33. d. The seller makes promises (or representations) to the broker (i.e. that he has the right to sell the property, that he will not further encumber the property, etc.).

34. c. Age discrimination is protected under the Equal Credit Opportunity Act. A lender must offer all loan programs in its portfolio to any prospective borrower of legal age who applies for a loan.
35. a. 100% – 90% = 10% down payment. Convert 10% to a decimal and multiply; $75,000 × .10 = $7,500. The down payment is the difference between the sales price and the loan amount.

36. a. An implied agency relationship can be created simply by the buyer’s belief that the agent is acting on his behalf. The word we indicates that the agent and the buyer are a team, thus an implied agency relationship has been created in the mind of the buyer.

37. b. Fiduciary duties are owned only to clients, not to customers who the agent does not represent.

38. c. $4.05 ÷ 100 = $.0405; .0405 × $100,000 = $4,050.

39. d. The premium paid to purchase mortgage insurance provided by FHA is referred to as MIP, or mortgage insurance premium.

40. d. The agent’s authority to practice real estate “flows” through the broker, but as an independent contractor, the agent is free to conduct his business however he chooses.

41. d. A lien states that there is a monetary obligation implied by the encumbrance.

42. c. An agency relationship consists of an agent and a client. The agent of the client is the broker. The salesperson represents the broker who represents the client. If clients divorce, they still remain clients of the agent.

43. a. Federal law requires notification to tenant that property may contain lead-based paint hazards if constructed prior to 1978.

44. c. Like so many federal laws, Truth-in-Lending Laws were enacted to protect the consumer.

45. d. A quitclaim deed grants no covenants or warranties from the seller to the buyer. If the seller has no ownership rights, then the buyer will not acquire any title; also the buyer will not have any claim against the seller.

46. b. Debt service or repayment of a loan is not an operating expense. An income approach appraisal is a cash on cash return and does not include debt service. To compute market value, divide net operating income by the appraiser’s capitalization rate.

47. b. Accrued means owed but not paid; therefore, an account is paid after charges were made, such as real estate property taxes or credit cards.

48. d. The law of agency requires that all confidences be kept even beyond the term of the agency. It would be both illegal and unethical to reveal any confidential information the salesperson may have. The listing salesperson owes only disclosure of material facts about the physical property to the buyer.

49. a. A lease is a temporary condition. Ownership remains with the owner. Revert means to “bounce back” to the owner.

50. c. An ad valorem tax lien is created by statutory property tax laws and is levied against a specific legal address. Property tax liens are involuntary, since non-payment by a property owner will result in a tax foreclosure sale.

51. d. The annual percentage rate includes “all” costs involved in the loan and must therefore be disclosed to the borrower/consumer under the Truth-in-Lending Act.

52. a. A deed of trust mortgage permits the trustee/fiduciary to sell the property at public auction to protect the lender’s/beneficiary’s lien position without a judicial court hearing.

53. c. An offeree is not obligated to consider or respond to offers in any order. He is free to accept whichever is the most appealing to him, for whatever reason.
54. d. The mortgagor (borrower) who deeds the property into trust for the mortgagee (lender) will lose ownership through foreclosure.

55. b. Condominium owners can borrow money by pledging their individual unit giving them the opportunity to structure the financing to suit their individual needs. Likewise, they can purchase their unit without any debt.

56. d. Unauthorized use of declared wetlands can result in a federal felony under the Federal Clean Water Act.

57. b. Ownership in severality, that is, severed from anyone else’s interest, would give the individual owner complete freedom to dispose of the property.

58. c. If the value of the pool is $8,000, the adjustment is a direct addition to the range of the current sales in the neighborhood that did not have pools.

59. c. Since a bank’s funds are by definition short term, that is, from checking accounts also known as “demand deposits,” the banks prefer to make short-term loans.

60. d. A competitive market analysis includes both sold comparables and the asking price of current properties on the market to determine a range of value for marketing purposes. This is used to determine the best listing price for a property. A comparative market analysis evaluates only sold comparables in property valuation.

61. a. The defrauded party generally has the right to terminate the contract. This makes it a voidable contract.

62. b. Federal Fair Housing Laws prohibit “block-busting,” a method used to induce homeowners to sell their properties by representing that minorities may be moving into the area and lowering the property values.

63. a. If the deed is silent as to the form of ownership, the law assumes that the parties are tenants in common.

64. b. The TILA is a consumer protection law stating that borrowers must be given full, complete, and clear information regarding the true cost of credit.

65. c. The lack of dollar consideration may invalidate an option. The courts want “something at risk” for the right to purchase/terminate at a later time.

66. b. Insisting on a thorough property inspection by the buyer protects the seller from subsequent civil liability because the buyer will have been given every opportunity to assess the integrity of the property.

67. b. A landlord may refuse to lease property if the prospective tenant has a pet. Pets and pet owners are not protected under Fair Housing Laws.

68. b. If more than one broker has a listing with the same seller, it is not an exclusive listing. An open listing means that only the broker who procures the buyer will be entitled to any part of the commission.

69. c. The seller is obligated under deceptive trade practices laws to disclose any information he knows about his property. When the agent has such knowledge, he also must make the disclosure.

70. d. Current legal thinking with regard to owner’s obligations under a residential rental contract holds that the owner is obligated to repair only those items required by law.

71. a. While a buyer customer is entitled to honest business dealings, he does not get the same undivided loyalty that is owed to a buyer client.
72. b. Alluvion is an addition of land to an owner along rivers and streams. An example of this addition would be a sand bar developing on a river bed.

73. d. If a material fact concerning the condition of a residential property is known by the listing broker, but intentionally not disclosed to the buyer, the broker may be guilty of fraud, subject to litigation, and subject to license revocation.

74. d. Commissions are legally negotiable, not set by law or broker-to-broker agreement. There is no requirement that a commission be a percentage of sales price. Any agreed upon fee is legally acceptable.

75. a. Under federal law to qualify as an innocent land owner, a purchaser must have the property professionally inspected for environmental hazards prior to taking ownership. If the property is not inspected prior to ownership, the owner is responsible for all previous environmental hazards.

76. b. Contract pending sales price information is not available to networking brokers until those pending contracts close in order not to violate broker-client agency duties with sellers.

77. c. Agency relationships may be created by either specific verbal or written agreement. It is always best to have a written agreement, which may be used to enforce payment of a fee. A verbal agreement to represent a party may result in liability for the agent.

78. d. Regulation Z, which is part of the Truth-in-Lending Act, is under the supervision of the Federal Reserve, which would impose fines for non-compliance.

79. d. $63,250 loan balance + $12,000 loan balance = $75,250 total debt; $100,000 value of home – $75,250 debt = $24,750 equity. Taxes are an expense prorated at closing, and are not considered a debt.

80. c. A deed signed by a grantor to a grantee conveys or transfers real property ownership. When a person owns real property, they have “title.” A devise is transfer of real property to a person, the devisee, under the provisions of a will.

81. b. Payments from the Recovery Fund can only be made to members of the public and only pursuant to an order of a court of competent jurisdiction.

82. c. Any act that would constitute procuring prospects for property owners or procuring properties for a prospective buyer or tenant is an act of brokerage as defined by Chapter 1101.002 of the Texas Real Estate License Act.

83. c. Texas Real Estate Commission rule 535.20(2) permits a gift with a value of up to $50 but does not permit the payment of any valuable consideration. The payment of any amount of cash to an unlicensed third party is an illegal act.

84. c. The Texas Real Estate License Act requires that all agency representation agreements contain a definite ending date that requires no prior notice. A buyer representation agreement requires a defined market area but not a listing agreement. Other laws may call for marital status information.

85. b. As established by the Texas Real Estate License Act, Chapter 1102 of the Texas Occupations Code, the Texas Real Estate Commission has regulatory authority over professional real estate inspectors in Texas.
86. d. A licensee has the duty to provide a customer or client with a legible, true, signed, and correct copy of any agreement signed by them upon the customer’s or client’s request. Failure to do so breaches fiduciary obligations of accounting to the client and makes the licensee subject to possible disciplinary action if the consumer files a complaint with the Texas Real Estate Commission.

87. c. The Public Recording Act requires that instruments must be in English and acknowledged in the presence of a notary, a judge, or the clerk of the District Court before they can be recorded at the County Clerk’s Office.

88. c. This is a pure business detail. It states what someone is going to do. All of the others attempt to create language that gives the buyer an opportunity to terminate the agreement.

89. c. Under the Texas Real Estate License Act, a broker may represent both the buyer and seller in a transaction under specific regulations and when all appropriate disclosures are made.

90. c. The Texas Statute of Frauds requires that all documents affecting title to or interests in real property be reduced to writing and contain a legal description of the property except for a lease of one year or less. A street address and apartment unit number is a sufficient description for an apartment in a multifamily apartment complex. All other types of property must be described by an adequate, recognized legal description.

91. c. To be able to practice real estate, a salesperson must be sponsored by a broker who is responsible for the occupational acts of the salesperson. When a sponsoring broker’s license expires, the salesperson no longer has a broker.

92. d. The Texas Real Estate License Act requires that before placing a sign on a property, a broker must have written authorization from the owner. It also requires that all advertising state the fact that a licensed broker or agent caused the advertisement to be published or placed the sign.

93. a. All time frames in the Texas Real Estate Commission promulgated contracts are established as so many days after the effective date of the contract. The effective date of June 26 is not included in the eight days. June 27 is day one; days two through eight are June 28, 29, 30 and July 1, 2, 3, and 4. Even though July 4 is a national holiday, it still counts as a day.

94. d. Agency appointments can only be shared with others upon receiving the express authorization of the client.

95. c. Property acquired before marriage and property acquired after marriage by gift, devise, decent, or personal injury settlement can be held and maintained as separate property. Income produced by any separate property during the marriage is presumed to be community property.

96. c. Federal law permits the use of the HUD version of the Lead-Based Notice and Addendum. The Texas Real Estate Commission cannot prohibit a licensee from using the HUD form, but it does publish the TREC OP-L form for voluntary use by licensees and their clients.

97. b. As long as the license fee is paid timely, the salesperson can “purchase” an additional 60 days to complete the needed Mandatory Continuing Education (MCE). If he/she fails to complete it or to pay the license fee, the Texas Real Estate Commission will revoke the newly issued license. This does not apply
for the first year of licensure when an additional 60 hours of core real estate courses are required to be completed before the expiration of the current license.

**98. b.** Offering opinions as to the status of title or the sufficiency of provisions in a legal document constitute the unauthorized practice of law as defined by the Texas Real Estate License Act, Chapter 1102.654 of the Texas Occupations Code.

**99. a.** Under the 1987 Alternative Dispute Resolution Act, only a judge can compel parties to take a dispute to mediation. Others can encourage parties to submit voluntarily to mediation prior to resorting to litigation, but only a judge can compel.

**100. c.** A licensee must always disclose licensure status when acquiring property for himself/herself or when selling his/her own property.

**101. b.** The legislature has empowered the Texas Real Estate Commission to inspect and accredit educational programs of study in real estate or real estate inspections and to establish standards of accreditation for said courses.

**102. a.** Although not prohibited, Texas laws and courts do not favor or encourage the sale of property through the use of a Contract for Deed. Sellers and buyers wanting to use the arrangement should each consult legal counsel to represent their interests.

**103. a.** Unless otherwise agreed upon by the parties, a tenancy-at-will may be terminated by giving notice equal to one rental period.

**104. d.** An application expires six months from the date it is issued. Any new requirements that have gone into effect during that time must be met in order to file a new application.

**105. c.** A broker must obtain written permission of the owner before placing a sign on the property. Failure to do so would be cause for disciplinary action by the Texas Real Estate Commission. Receiving undisclosed commission or rebates, paying a fee to or splitting a fee with an unlicensed person, and failing to disclose material facts about the property would all be violations of the Texas Real Estate License Act.

**106. c.** There is no requirement by Texas Real Estate License Act for any addendum to be part of a contract. The parties to the contract determine what, if any, addenda are to be attached to meet the requirements of their agreement. While the Environmental Assessment is a promulgated addendum, the Seller’s Disclosure Notice is not an addendum and should never be made a part of the agreement.

**107. a.** Brokerage fees and/or commissions are always negotiated between the party paying and the party receiving. Federal anti-trust laws prohibit price-fixing.

**108. d.** An individual or couple may claim only one homestead at a time. The Colorado homestead would cancel the opportunity to claim one in Texas.

**109. b.** In an exclusive agency listing, the broker is the only broker entitled to sell the property, but the owner retains the right to sell and owe no fee.

**110. c.** All material facts about the property must be disclosed to buyer customers as well as buyer clients. The licensee may not legally disclose personal information about the seller client’s personal finances.
Scoring
Evaluate how you did on this practice exam by first finding the number of questions you got right. Only the number of correct answers is important—questions you skipped or got wrong don’t count against your score. At the time this book was printed, a passing score for the exam was 56 out of 80 on the national portion, and 21 out of 30 on the state portion.

Use your scores in conjunction with the Learning-Express Test Preparation System in Chapter 2 of this book to help devise a study plan using the Texas Real Estate Refresher Course in Chapter 4, the Real Estate Math Review in Chapter 5, and the Real Estate Glossary in Chapter 6. You should plan to spend more time on the sections that correspond to the questions you found hardest, and less time on the lessons that correspond to areas in which you did well.

What’s much more important than your overall score, for now, is how you did on each of the areas tested by the exam. You need to diagnose your strengths and weaknesses so that you can concentrate your efforts as you prepare. The question types are mixed in the practice exam, so in order to tell where your strengths and weaknesses lie, you will need to compare your answer sheet with the following table, which shows the categories each question falls into.

Once you have spent some time in reviewing, take the second practice exam in Chapter 7 to see how much you have improved.

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How you use this chapter is up to you. You may want to proceed through the entire outline in order, or perhaps, after taking the first practice exam, you know that you need to brush up on just one or two areas. In that case, you can concentrate only on those areas.

Following are the major sections of the Texas Real Estate Sales Exam and the page on which you can begin your review of each one.

**Real Estate Principles and Practices**

- **Property Ownership**
  - Classes of Property
  - Land Characteristics
  - Encumbrances
  - Types of Ownership
  - Descriptions of Property

- **Real Estate Principles and Practices**
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Transfer of Property
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- Special Processes (e.g. Probate, Foreclosure)

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Note: Mathematics will be covered in Chapter 5.

Texas Real Estate

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### Real Estate Principles and Practices

**Property Ownership**

#### Classes of Property

All property that can be owned and subsequently inherited is legally known as **hereditaments**. Land and that which is permanently attached to the land is identified as **real property**. Items not attached to land are known as **personal property** or **chattels**.

When an item of personal property or a chattel is permanently attached to real estate, it becomes real property and is identified as a fixture. Fixtures become appurtenances and remain with the property when ownership transfers to a new owner. An exception occurs when a commercial tenant installs a business fixture to be used in the business for which the space has been leased. **Trade fixtures** remain the property of the tenant and may be removed by the tenant at the end of the lease. The tenant is obligated to repair any damage caused by the removal of a trade fixture.

The determination of a fixture is made by asking and answering the following questions.

1. How is the item attached?
2. Have the improvements been modified to accommodate the item?
3. What was the intent of the attachor?
4. Is there a contractual agreement that defines the item as a fixture or as a chattel?

**Land Characteristics**

Land is the earth’s surface (surface rights), the minerals and water below the surface (subsurface rights), and the air space above the surface (air rights). Ownership of land has long been regarded as the basis of all wealth.

From a physical standpoint, each parcel of land is unique. It cannot be moved. It is immobile. One must go to the land. It cannot be brought to him or her. Although its features can be modified by man and by the forces of nature, it is indestructible. Each parcel is unique and unlike any other which makes it non-homogeneous.

Land also has four economic characteristics.

1. **Scarcity.** There is a limited amount of the earth’s surface. Value comes to land when people want to live on it, work on it, or develop it for recreational purposes.
2. **Modification.** The value of land is increased or decreased by the changes made to surrounding parcels of land.
3. **Fixity.** Investment permanence is created by the fact that land and improvements require long periods of time to pay for themselves.
4. **Situs.** Location preference is the single most important economic characteristic that influences the value of any given parcel of land.

**Encumbrances**

Anything that obstructs or impairs the use of a property is known as an encumbrance and creates a cloud on title of the fee simple holder’s rights in the property. Common encumbrances include but are not limited to encroachments, easements, or liens.

**Encroachments** are unauthorized intrusions of the improvements of one property on the surface or in the air space of an adjoining parcel.

**Easements** grant a right to use a portion of a property owner’s land for a specific purpose. An easement appurtenant may grant ingress and egress to an adjoining parcel of land thus creating a dominant estate (the parcel that benefits from the easement) and a servient estate (the parcel across which the easement passes).

An easement in gross does not benefit any one parcel of real estate but rather benefits a number of parcels to bring such things as utilities.
An easement in gross does not benefit any one parcel of real estate but rather benefits a number of parcels to bring such things as utilities.

Liens are claims against property that secure payment of a financial obligation owed by the property or the property owner. They come in many varieties.

Liens may be created voluntarily or by operation of law. A lien on real property is voluntary if it is imposed with the consent of the property owner. It is involuntary if it can be imposed without the consent of the property owner.

A mechanic’s lien is an example of an involuntary lien. State law specifies the requirements for creating and enforcing a mechanic’s lien. In general, a mechanic’s lien is available to anyone who provides material or labor for an improvement to real estate, including design services. An architect, surveyor, contractor, carpenter, plumber, electrician, landscaper, and many other participants in the construction process are all entitled to a mechanic’s lien if they have not been paid for their services or materials.

There are statutory time periods for:

- providing notice to the property owner of the right to file a mechanic’s lien
- filing the lien
- foreclosing on the lien in the event that the underlying debt is not repaid

When a mechanic’s lien is properly created, it takes priority over all other subsequent liens, except for tax liens.

Foreclosure (sale) of the real estate may be postponed by the property owner during a court hearing on the merits of the case, provided the property owner posts a bond to ensure payment to the claimant. Foreclosure will also be covered in “Financing.”

A judgment is a determination of a court that may impose an obligation for payment on a property owner. If the judgment is unpaid, a writ of attachment specifies the property that the sheriff will be ordered to sell by a writ of execution.

Tax liens are available to federal, state, and local taxing authorities. Enforcement is usually by tax sale; after the sale, the purchaser receives a tax deed. Tax liens take precedence over all other liens.

A federal tax lien is imposed by the Internal Revenue Service for non-payment of federal income tax, gift tax, or other taxes.

A state tax lien is imposed for non-payment of state income tax, sales tax, use tax, or other tax.

A property tax or special assessment tax lien is imposed for non-payment of state or local tax.
Other encumbrances might include:

- marital rights
- rights of parties in possession
- outstanding option to purchase
- judgments against the owner
- unpaid tax liens

**Types of Ownership**

The primary responsibility of a property seller is to convey **marketable title**, an ownership interest that a well-informed buyer can reasonably be expected to accept and that the buyer can transfer in a future transaction. There are several ways in which the buyer can be assured of acceptable title.

A **title search** will reveal the **chain of title**, the history of conveyances and encumbrances that can be found in the public records. The title search begins with the name of the present owner and the instrument that establishes title in that owner as the grantee. Working back through what is called the **grantee index**, the name of the grantor to the present owner is found on the deed in which that owner is the grantee. In this way, the person examining the title can go back to the first recorded document of the property. Then, as a method of checking the validity of the search through the grantee index, the searcher moves forward through the **grantor index** from the first recorded document, verifying that the chain is complete and accurate.

Many different entities can acquire ownership in real property: an individual, a group of individuals, a large corporation, a government entity (at any level of government), and more. In addition, there are many different forms of ownership. **Estate in severalty (sole ownership)** occurs when property is held by one person or a single legal entity. The individual's interest is **severed** from everyone else's. **Tenancy in common** involves two or more individuals who own an undivided interest in real property without rights to survivorship (the right of a surviving joint tenant to receive a co-owner's share of interest upon the death of the co-owner). **Undivided** means that each tenant has an interest in the entire property.

The interest in the estate can vary among the tenants. One party can have 40%, another 25%, and another 35%. If a deed conveying property is made out to two people but does not stipulate their relationship, they are presumed (in Texas, as in most other states) to be tenants in common with equal interest. A party can freely dispose of his or her interest by sale, gift, devise, or descent.

**Joint tenancy** also involves two or more people but includes a right of survivorship. Four unities must exist to create a valid joint tenancy.

1. **Unity of time.** All tenants must acquire their interest at the same moment. Thus, no new tenants can be added at a later time.
2. **Unity of title.** All tenants must acquire their interest from the same source—the same deed, will, or other conveyance.
3. **Unity of interest.** Each tenant has an equal percentage ownership.
4. **Unity of possession.** Each tenant enjoys the same undivided interest in the whole property and right to occupy the property.

Joint tenancy also includes the **right of survivorship.** On the death of a joint tenant, the tenant’s interest in the property is extinguished and is absorbed by the remaining joint tenant(s). The last survivor becomes the sole owner.

**Tenancy by the entirety** is a form of joint tenancy specifically for married couples in non-community property states. Though this form of ownership is not recognized in Texas, it is important to understand the concept. Tenancy by the entirety requires the four unities and one more: **unity of person.** The legal premise is that a husband and wife are an indivisible legal unit. Thus, neither can dispose of the property independently; both must sign the deed in order to transfer the property. Tenancy by the entirety, like tenancy in common, provides the right of survivorship for the remaining spouse.

**Community Property** is also a form of ownership specifically for married couples. It is based on the legal theory that each spouse has an equal interest in property acquired by the couple through the efforts of either spouse. It also recognizes **Separate Property** as that property owned by either spouse prior to the marriage or acquired with separate funds after the marriage. In Texas, a married person owns property either as Community Property or as Separate Property.

**Partnerships** are very popular forms of ownership, especially for properties held as investments. There are two main types of partnerships.

In a **general partnership** (or **regular partnership**), all the partners have joint and severable liability for any and all debts of the partnership.

In a **limited partnership,** the limited partners are not liable for the obligations of the partnership. However, one or more general partners must carry the personal liability for the financial obligations of the partnership. In both types of partnerships, the partners may have differing interests depending on their contribution to the partnership.

A partnership is different from a **joint venture.** In a joint venture, two or more entities join together to develop a real estate project. For example, a landowner, a developer, a lender, and a major tenant participate in a joint venture to develop an office building or a shopping center. A joint venture is created to accomplish a single business venture. Partnerships are created to pool resources and conduct business for profit on an ongoing basis.

Corporations can hold title to real estate, but a corporation is not a popular vehicle for holding investment property because the income is effectively taxed twice. The corporation pays taxes on any income from the property, and then the stockholders pay taxes again when the after-tax income is distributed to them in the form of dividends. Partnerships, on the other hand, do not pay income taxes. They simply file an information return and distribute all of the pre-tax income to the partners. The partners then pay taxes according to their individual tax brackets.

To avoid double taxation but retain some of the benefits of a corporation, investors may use a **Real Estate Investment Trust (REIT).** Passive investors—those who do not participate in the management of their properties—are likely to use REITs. A REIT will typically hold a wide variety of investment properties: office buildings, shopping centers, apartments, warehouses, and even raw land.
There are other important types of trusts. For instance, an *inter vivos* trust is created during the lifetime of one individual for the benefit of another. (*Inter vivos* means *during the lifetime* in Latin.)

A *land trust* is often created to conceal the identity of the owner(s). Land is the only asset of the trust; the title is conveyed to the trustee. A land trust is usually used when investors want to speculate on land but would prefer that their identity not be revealed. When you acquire real estate, you get a **bundle of rights** that constitute your interest in real property. The highest and best form of ownership in real property is called a **fee simple estate**. The owner of a fee simple estate has the right to:

- occupy, rent, or mortgage the property
- sell, dispose of, or transfer ownership of the property
- build on the property (or destroy buildings already part of the property)
- mine or extract oil, gas, and minerals
- restrict or allow the use of the property to others

A **leasehold estate** gives the holder of the estate a right to occupy the property until the end of the lease when the right will revert to the fee simple holder.

**Descriptions of Property**

To convey real property, the deed must include an unmistakable description of the property. To satisfy the requirement for legal description in the deed, one of four methods may be used.

1. **Metes and Bounds.** A **metes and bounds** land description identifies a parcel by specifying its shape and boundaries. Typically, a convenient natural or artificial object is identified to locate the beginning corner of the subject tract, and a compass direction is specified. The surveyor, moving in a clockwise direction from the point of beginning, sets the center of a circle compass on each corner of the parcel to find the direction of travel to each successive corner of the subject tract.

   A legal description of a property using the metes and bounds method might read something like: “From the pecan tree ten inches in diameter on the west bank of Salado Creek N4° 11’ 18”E, 139.58’ to a point of beginning.” This description would instruct the surveyor on how to begin the metes and bounds survey.

   A reference like the pecan tree is seldom used any more. Surveyors now use permanent monuments. At the corner where the survey begins, a monument in the form of an iron pipe or bar one or two inches in diameter is driven into the ground. Concrete or stone monuments may also be used.

   To guard against the possibility that the monument might later be destroyed or removed, it is referenced by means of a connection line to a nearby permanent reference mark established by a government survey agency.

2. **Rectangular Survey System.** The **rectangular survey system** (also known as the **government survey system** or **U.S. public lands survey system**) was authorized by Congress to systematically divide the land north and west of the Ohio River into six-mile squares, now called **congressional townships**.
This method is based on the system of mapping lines first imagined by ancient geographers and navigators: the east-west latitude lines and the north-south longitude lines that encircle the earth.

Certain longitude lines were selected to act as **principal meridians**. For each of these, an intercepting latitude line was selected as a **base line**. Land is referenced to a principal meridian and a base line. Every six miles east and west of each principal meridian, parallel survey lines are drawn. The resulting six-mile wide columns are called **ranges** and are numbered consecutively east and west of the principal meridian.

Every six miles north and south of a base line, township lines are drawn. They intersect with the range lines and produce six-mile by six-mile mapped squares called **townships**. Each tier or row of townships thus created is numbered with respect to the base line. Each 36-square mile township is divided into 36 one-square mile units called **sections**, which are numbered 1 through 36, starting in the upper-right corner of the township. Any two sections with consecutive numbers share a common boundary.

Each square mile section contains 640 acres (43,560 square feet). Any parcel of land smaller than a full 640-acre section is identified by its position in the section. This is done by dividing the section into quarters and halves.

This is an example of a legal description using the rectangular survey system method: “The E $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 28.”

3. **Recorded Plat.** Reference by recorded plat provides the simplest and most convenient method of land description. The vast majority of residential properties are described by this method. When a tract of land is ready for subdividing into lots for homes and businesses, a **plat**, or map, that shows the location and boundaries of individual building lots is filed in the map records at the county court house of the county where the property is located.

When the surveyor’s plat is filed in the public recorder’s office, this becomes notice that a metes and bounds survey has been made and a map prepared to show in detail the boundaries of each parcel of land. Each parcel is
then assigned a lot number. Each block in the tract is given a block number, and the tract itself is given a name or number. A large subdivision may be further divided into sections.

The following is an example of a legal description using the recorded plat method: “Lot 13, Blk. 4, Sec 3 of Briargrove Hills Subdivision.”

Land can also be described by reference to documents other than maps. For instance, if a tract of land was conveyed by deed some years ago and the deed was recorded, the reference can be made to that recorded deed when the property is to be conveyed again. An example of this kind of legal description is, “All the land described in the deed from Abraham Jacobs to Regina Murrow recorded in Book 5106, page 146, county of Kent, state of Texas, at the public recorder’s office for said county and state.”

4. Assessor’s Parcel Number. In Texas, the assessor’s parcel number, also known as the appraisal district’s account number, is used to describe land. Every Texas county has an appraisal district that is responsible for determining the appraised (or market) value of every parcel of real estate in the county. The appraisal district assigns a parcel number to each parcel of land in the county to aid in the assessment of property for tax purposes. These parcel numbers are public information, so real estate brokers, appraisers, and investors can and do use them extensively to assist in identifying real properties.

Though the appraiser’s maps are public records, they should not be relied upon as the final authority. The appraisal district’s parcel number is never used as a legal description in a deed.

▶ Land Use Controls and Regulations

Government Rights in Land

Escheat
When a person dies and leaves no heirs and no instructions as to how to dispose of his or her real and personal property, or when property is abandoned, the ownership of the property reverts to the state. This reversion to the state is called escheat from the Anglo-French word meaning to fall back.

Taxation
The government has the right to collect property taxes from property owners to provide funds for services such as schools, fire and police protection, parks, and libraries. The federal government does not tax property, relying on income taxes for operating revenues, but cities, counties, and in some cases, the state levy taxes on real property. These taxes are levied according to the value of the property and are called ad valorem taxes.

To encourage property owners to pay their taxes in full and on time, the government retains the right to seize ownership of real estate upon which taxes are delinquent and to sell the property to recover the unpaid taxes. The taxing authority must depend upon a judicial foreclosure to collect delinquent taxes.

Property taxes are calculated as

\[
\text{Taxes} = \frac{\text{Assessed value}}{\$100} \times \text{tax rate}
\]
Tax rates in Texas are established as an amount per $100 of assessed valuation. The assessed value is established by the County Appraisal District (CAD).

The federal government (and, in some cases, state governments and even city governments) raises money through income taxes. Real property is affected by these taxes in several ways:

- taxation of cash flows from investment properties (passive activity income)
- taxation of profits from the sale of real properties (capital gains income)
- depreciation deductions on investment properties

Capital gains on the sale of a principal residence are treated differently from profits on the sale of investment property. The first $250,000 ($500,000 for a married couple filing jointly) of capital gain on the sale of a principal residence is tax exempt. The owner must occupy the home two out of five years preceding the date of sale to qualify. A homeowner could sell a residence every two years, and, as long as no sale produced more than $250,000 in profits, no capital gains tax would be due.

Depreciation, a loss in the estimated value of a property, is another factor that affects property taxes. If you own an investment property, you deduct all operating expenses and interest on the mortgage from your income. Then you also are allowed to take another deduction for depreciation, which is now called cost recovery in the tax code. The premise is that the real property’s improvements are deteriorating and losing value. If the property is an apartment or residential property, you can deduct the value of the structure over a life of $27\frac{1}{2}$ years. Only the building and other improvements can be depreciated; land cannot be depreciated, because the land does not deteriorate physically. Assuming the building is valued at $850,000, one year’s depreciation would be $850,000 divided by 27.5 years, or $30,909 per year. Suppose you had an income (minus expenses and interest) of $20,000 last year. Your investment lost value in the amount of $30,909 and only netted you $20,000. $30,909 – $20,000 = $10,909 negative income. You owe no taxes. In fact, you can even carry over the negative amount into subsequent tax years. To review your math skills, see Chapter 5.

When the property is sold, you will have to recapture cost recovery deductions taken. The recapture will be subtracted from the adjusted basis and affect the capital gains calculation.

The cost recovery deduction is allowed on investment properties, but not on residences. However, if you changed your residence and rented your old house, you could then consider it an investment property.

Public Controls

**Police Power**

The government’s right to control the owner’s use of private property is called police power. The government may enact laws and enforce them to protect the safety, health, morals, and general welfare of the public. Examples of the government’s exercise of police power applied to real estate include:

- planning and zoning laws
- building, health, and fire codes
- rent controls
These laws restrict the property owner’s use of their land but do not constitute a taking (see “Eminent Domain”). Consequently, there is no payment to the property owner who suffers a loss of value through the exercise of police power.

**Eminent Domain**
The right of government to take ownership of privately held land is called *eminent domain*. Typically, land is taken for schools, freeways, parks, public housing, urban renewal, and other social and public purposes. Certain non-government entities, such as public utilities, may also take ownership of private property for public benefit.

When direct negotiations with the property owner are unsuccessful, the legal proceeding involved in exercising the right of eminent domain is called *condemnation*. The property owner must be paid the fair market value of the property taken.

When only a portion of a parcel of land is being taken, *severance damages* may be awarded in addition to payment for land actually being taken.

An *inverse condemnation* is a proceeding brought about by a property owner demanding that a government entity purchase his land. A property owner might choose this proceeding if his or her land has been adversely affected by the taking of neighboring land. For instance, homeowners at the ends of airport runways may try to force airport authorities to buy their homes because of the noise of aircraft during takeoffs.

Damage awards may also be made when land is not taken but its usefulness is reduced because of a nearby condemnation. The award would be considered *consequential damages*. An example of this would be when land is taken for a sewage treatment plant. Privately owned land downwind suffers a loss in value owing to the prevalence of foul odors, so the property owner might be awarded consequential damages.

**Environmental Hazards and Regulations**
Environmental regulations exist at both federal and state levels. Some of the most important federal laws in this area include:

- Clean Water Act
- Clean Air Act
- National Environmental Policy Act
- Toxic Substances Control Act
- Safe Drinking Water Act
- Residential Lead-Based Paint Hazard Reduction Act

**Private Controls**
The government is not the only entity that can control land. Developers often create *restrictive covenants* or *deed restrictions* to control everything from the type and size of the homes built in a subdivision to landscaping requirements. Developers can also control what can be parked in a driveway, how high a fence can be built, and whether a property owner can run a home-based business on the premises.
Homeowner associations may be created that require every homeowner to maintain membership. Homeowners can be required to pay assessments to the association and may be subject to foreclosure if they become delinquent.

Private restrictions are designed to preserve a quality of life and to enhance the value of residential properties. Many of the issues addressed in zoning laws, such as building lines and single-family occupancy versus multi-family occupancy, may be addressed by the Deed Restrictions or Restrictive Covenants placed on the property by the developer. Restrictions are also termed conditions, covenants, and restrictions (CC&Rs). In practice, the term restriction can refer to any a condition, covenant, or restriction.

- A condition stipulates an action that a property owner must perform, or refrain from performing.
- A covenant is a promise of a property owner.
- A restriction stipulates a forbidden activity or property use.

**Water Rights**

Water rights are defined by state law and depend on the water source and use. On a navigable body of water, the property owner’s boundary will extend to the water’s edge or the mean (average) high water line. On a non-navigable body of water, the property owner’s boundary will extend to the center of the body of water.

Littoral rights are defined as the rights of a landowner whose property borders on a non-flowing body of water, such as a lake, ocean, or other body of still water. Owners of riparian land (property bordering a flowing stream) may have riparian rights, the rights to use the flowing water.

According to the natural flow doctrine, the owner of riparian land is entitled to the ordinary flow of water but may not impede the use of the ordinary flow by a downstream owner.

According to the doctrine of reasonable use, individual owners of riparian land have the right to reasonable use of the water that does not prevent use by other owners. States following this principle usually assign a higher priority to some uses, such as the domestic use of water on a residential property.

The doctrine of prior appropriation has been used by many western states to give priority to the first users of water for economic reasons. Texas has practiced it since July 1, 1897.

The doctrine of beneficial use allows the first users of a body of water to retain their priority, but imposes the limitation that the water be used for beneficial purpose within a reasonable time.

Water permits issued by the state are used to ration scarce water resources in areas of growing population, particularly in western states.

Use of underground (subterranean) water is vital in many states that have insufficient water from surface sources for residential, agricultural, and commercial uses.

Percolating water drains from the surface to underground strata. The states have modified the traditional English rule that there was no limitation on the amount of water a landowner could remove.

The doctrine of correlative rights limits the amount of water that can be taken to a proportionate share based on each owner’s share of the surface area.
Underground streams confined to well-defined channels can be difficult to establish. If the location of an underground stream can be determined by a non-invasive method, the type of distribution applied to surface water will be followed.

**Valuation and Market Analysis**

**Value**
Value is ever changing and its movement up and down is influenced by basic economic truths. The actions of buyers and sellers dictate values.

**Value, Price, and Cost**
Appraisals are most often used to estimate a property’s market value. Market value can be defined as the price that a buyer will be likely to pay and that a seller will be likely to accept, when:

- both parties are aware of the condition of the property
- neither party is acting under duress
- financing for the transaction is typical of what is available locally

Market value is an estimate of value only, not necessarily what a property will actually sell for.

A property’s cost is the expense to its owner of buying or improving it. A property’s sales price is what someone else pays for it. The sales price can be less than the cost of the land and improvements. This happens when a property owner over-customizes or over-improves a property, failing to take into account the likely needs of a prospective purchaser.

A number of other types of property value include those listed as follows:

- **Assessed value**: determination by the County Appraisal District (CAD) for property tax purposes.
- **Book value**: depreciated cost basis used for accounting and tax purposes.
- **Insurance value**: the maximum amount that an insurer will be willing to pay for an insured loss.
- **Investment value**: the amount that an investor is willing to pay for the right to receive the cash flow produced by the property.
- **Loan value**: the maximum loan that can be secured by the property.
- **Salvage value**: what the component parts of a building or other improvements will be worth following demolition or removal.

**Characteristics of Property That Affect Value**
Any factor in the climate, terrain, or other natural feature of an area that affects value is called an environmental factor. The effects of environmental factors, such as high pollution from fires following a drought, can be global or local.
Externalities are factors outside of the property that affect property value. An example of an externality is any government action, such as the mortgage interest deduction for homeowners, taken to increase housing affordability, and thus purchases. The life cycle of a property also affects value. The term life cycle applies both to individual properties and to neighborhoods.

The initial period of development (growth or integration) becomes a period of equilibrium (when properties are at their highest and best use). Equilibrium is followed by decline (disintegration) when property values go down as maintenance requirements increase and are not met. In areas that undergo the substantial expense of building renovation, a period of revitalization may occur.

Finally, value is affected by supply and demand. As the number of properties available for sale goes up relative to the number of potential buyers, prices will fall. As the number of properties declines while the number of potential buyers remains the same or increases, prices will rise.

Principles of Value
Many principles of value underlie the appraisal process, including the following:

- **Anticipation**: the expectation that property value will rise over time.
- **Assemblage (plottage)**: bringing a group of adjoining parcels under the same ownership, which may make them more valuable for a particular purpose, such as construction of a residential or commercial development.
- **Change**: forces to which all property is subject, including:
  - **Physical**: changes caused by the elements, which can occur gradually or over a brief period of time.
  - **Political**: regulations that affect property use.
  - **Economic**: employment level, business start-ups, expansions and failures, and other factors that influence the level of prosperity of a region.
  - **Social**: demographic and other trends that affect the demand for property.
- **Conformity**: individual properties in a residential neighborhood tend to have a higher value when they are of similar architecture, design, age, and size; the same principle applies generally to commercial properties.
- **Competition**: a result of increased demand as well as a cause of increased demand. For example, even though a regional mall may offer many stores selling similar products, it will benefit all store owners by bringing more shoppers to the area.
- **Highest and best use**: the legally allowed property use that makes maximum physical use of a site and generates the highest income.
- **Law of decreasing returns**: in effect when property improvements no longer bring a corresponding increase in property value.
- **Law of increasing returns**: in effect as long as property improvements bring a corresponding increase in property value.
- **Progression**: the benefit to a property of being located in an area of more desirable properties; a small, plain house on a street of mansions will benefit from proximity to them.
Regression: the detriment to a property of being located in a neighborhood of less desirable properties; a large, over-improved house on a street of small, plain houses will have a lower value than it would in a neighborhood of comparable houses.

Substitution: the principle that the typical buyer will want to pay no more for a property than would be required to buy another, equivalent property; this principle, when applied to income-producing property, is called opportunity cost. In addition, an investor will want to pay no more for real estate than for another investment offering the same likely risk and potential reward.

Theory of distribution: consideration of the contribution to value of each of the four factors of production—land (rent), labor (salaries), capital (interest), and management (profit). When these factors are in balance, property value will be at its highest.

Methods of Estimating Value/Appraisal Process
Typically, an appraiser uses three different approaches in developing a final estimate of the value of a property: market data approach, cost approach, and income approach. In the final reconciliation, the appraiser gives the most weight to the value that would be most appropriate for that property.

Market Data Approach (Direct Sales Comparison)
If the property being appraised is a single-family residence, the most important determinant of value is the price that other similar properties have commanded in the open market. In using the market data approach, the appraiser will select comparables (comps) to compare to the subject property (the property being appraised). For example, if several comparable properties sold for $100,000, the subject would most likely sell for about $100,000 as well. An appraiser would prefer to have at least three comps for a market data appraisal.

Features to consider when choosing comps include:

- size
- proximity to the subject
- quality of construction
- age
- number of bedrooms, bathrooms, and total rooms
- date of sale, preferably within the last six months
- similarity of features such as fireplaces, pools, spas, patios, and so on

The ideal comparable would be a house that sold very recently and is the same size; in the same condition; the same age; on the same block in the same subdivision; with the same number of bedrooms, bathrooms, and total rooms; and with all of the same features as the subject. Typically, an appraiser will use only sales within the last six months.

Obviously, the chances of finding such a comparable are not very good, so the appraiser must secure the best comparables available and make adjustments to bring the comparables as close to the subject as possible. For example, Comparable A has three bedrooms and sold for $100,000. The subject has four bedrooms. In this
subdivision, historically, one more bedroom has added $6,000 to the purchase price of a home. So the appraiser would assume that Comparable A, if it had had four bedrooms instead of three, would have sold for $6,000 more, or $106,000.

In analyzing the adjusted comparable sales, the appraiser would give the most weight to the comparable with the fewest adjustments.

**Cost Approach**

When the property is not an income-producing property and it is difficult to find a market comparables, the *cost approach* to value is often used. This approach is most often used with unique properties. For instance, if you had to appraise a mosque located in Nagodoches, Texas, you would have a hard time finding three comparable properties in the same area. The cost approach would also be useful in appraising properties such as a college campus, an abandoned fire station, or a state capitol building.

The formula for determining value using the cost approach is:

\[
\text{Value} = \text{Replacement or Reproduction Cost} - \text{Accrued Depreciation} + \text{Land Value}
\]

The appraiser begins by estimating the *replacement cost* of the improvements. Replacement cost is the cost, at today’s prices and using today’s methods of construction, for an improvement having the same or equivalent usefulness as the subject property. Or, the appraiser may estimate the *reproduction cost*, the cost of creating an exact replica of the improvements.

This would show the value of a new building. Since the subject property is not new, adjustments must be made for depreciation. The amount of adjustment depends on the amount and type of depreciation. There are three types of depreciation.

1. **Physical deterioration** results from wear and tear through use, such as wall-to-wall carpet that has been worn thin, or a dishwasher, garbage disposal, or water heater that must be replaced. Nature, neglect, vandalism, and other factors contribute to physical deterioration.

2. **Functional obsolescence** results from outmoded equipment, faulty or outmoded design, inadequate structural facilities, or over-adequate structural facilities.

3. **Environmental** or **economic depreciation** results from factors outside of the property over which the owner has no control.

Physical and functional obsolescence can be either *curable* or *incurable*. *Curable obsolescence* can be fixed at reasonable cost. Examples include worn carpeting, or outdated kitchen appliances. *Incurable obsolescence* cannot be fixed at a reasonable cost. For example, an illogical room layout or a kitchen that is too small for the size of the house would be considered incurable obsolescence.

The value of the land must also be considered in determining value by the cost approach. The value of the land is established as though it were vacant, using the market data approach. While land value can decrease, land does not depreciate in the sense that it is subject to physical or functional obsolescence.
**Income Approach**

If a property produces income in the form of rent and other revenues, its value is estimated by analyzing the amount and stability of the income it can produce. The **income approach**, used to value properties such as apartment projects, shopping centers, and office buildings, considers the monetary returns a property can be expected to produce and then converts that amount into a value the property should sell for if placed on the market. This is called **capitalization** of the income stream. To **capitalize** means to convert future cash flows to a present value.

The formula for determining value by the income approach is:

\[ \text{Value} = \frac{\text{Net Operating Income}}{\text{Capitalization Rate}} \]

The income is the net income that the property produces after paying all maintenance and operating expenses of the building. The **capitalization rate** (cap rate) is determined by the appraiser as a function of the market and the type and location of the property.

**Purpose and Use of Appraisal**

An **appraisal** is defined under federal law as “a written statement used in connection with a federally related transaction that is independent and impartially prepared by a licensed, certified appraiser that states an opinion of the defined value of an adequately described property as of a specific date that is supported by the presentation and analysis of relevant market information.” The real estate practitioner defines appraisal more simply as “the act or process of estimating value.”

**Market value** or **fair market value** is the highest price that a property will bring if all of the following apply:

1. The payment is made in cash or its equivalent.
2. The property is exposed on the open market for a reasonable length of time.
3. The buyer and seller are fully informed as to market conditions and the uses to which the property may be put.
4. Neither buyer nor seller is under abnormal pressure to conclude a transaction.
5. The seller is capable of conveying marketable title.

**Role of Appraiser**

The appraisal process consists of seven major steps:

1. **State the problem.** The nature of the appraisal assignment must be clearly understood. The assignment may be to find a market value of the subject property. If so, that should be stated.
2. **Determine the kinds and sources of data necessary.**
   - What are the characteristics of the subject property?
   - What economic or other factors will play a role in determining property value?
   - What approach(es) will be most appropriate in this appraisal, and what kind of data will be necessary?
3. Determine the highest and best use of the site.
4. Estimate the value of the site.
5. Estimate the property’s value by each of the appropriate approaches (market data, cost, and/or income).
6. **Reconcile the different values reached** by the different approaches to estimate the property’s most probable market value. This process is called reconciliation or correlation.
7. **Report the estimate of value to the client in writing.** There are several types of documents that may be prepared.
   - The **narrative appraisal report** provides a lengthy discussion of the factors considered in the appraisal and the reasons for the conclusion of value.
   - The **form report** is used most often for single-family residential appraisals. A **Uniform Residential Appraisal Report (URAR)** is required by various agencies and organizations. Computerized appraisal generation and delivery by modem is possible and is increasingly expected by banks and other lenders.
   - Reports may be written in other formats, which are defined by the **Uniform Standards of Professional Appraisal Practice (USPAP)**. The **self-contained report** is as complete as the narrative appraisal report and should include explanations of the methods used during appraisal and the appraiser’s conclusion. The **summary report** is less detailed than the self-contained report, and the **restricted report**, which reveals only minimal information and should be used only by clients, is less detailed than the summary report. Using either of the two latter types of reports will require the consent of the client.

**Competitive Market Analysis**
Real estate licensees do not generally prepare appraisals, although licensed brokers are permitted to do so provided they follow the uniform standards. Licensees must be careful to state that a Comparative Market Analysis (CMA) is not an appraisal and should not be regarded as such. All CMAs must include a notice to this effect.

The CMA is a tool used by the licensee to enable prospective sellers or buyers to identify a range of value in a given neighborhood. It identifies the properties currently listed, those that have been on the market without success and have expired, and those that have sold.

The client can then choose an asking or offering price that is realistic and within the range. Sellers who establish an asking price above the upper end of the range will make their property invisible to many of the best potential buyers for their properties. Buyers who offer too little, to “low ball,” will often insult the sellers and make it impossible to negotiate with them.
Financing

General Concepts

Mortgages, Deeds of Trust, and Their Provisions

A mortgage is a pledge of property to secure the repayment of a debt. If the debt is not repaid as agreed between the lender and borrower, the lender can force the sale of the pledged property and apply the proceeds to repayment of the debt.

Leaving the borrower in possession of the pledged property is known as hypothecation. The borrower conveys title to the lender but retains the use of the property. This conveyance of title in the mortgage agreement is conditional. The mortgage states that if the debt is repaid on time, title returns to the borrower. This is known as a defeasance clause.

Lenders require that borrowers pledge the real estate as collateral for a mortgage loan. If the borrower defaults on the loan, the lender can terminate the borrower’s interest in a property through a judicial process called foreclosure. Traditionally, because the borrower had possession of the property, this process was the only way for a lender to seek satisfaction in the event of a default. However, a judicial foreclosure requiring court action can be time-consuming and very costly.

Some states, including Texas, provide for an alternative to traditional foreclosure in order to avoid the typical drawbacks of the process. In Texas, the most popular form of mortgage document is the deed of trust, sometimes called a trust deed. In a deed of trust, a third party is given the power of sale by the borrower. The deed provides for a non-judicial foreclosure when all statutory requirements are followed. The process of non-judicial foreclosure is smoother and less time-consuming than traditional foreclosure, and is therefore appealing to a lender.

The other major document that a borrower signs, besides the deed of trust, is the promissory note. This is a promise to pay the loan off according to a schedule of payments at a certain interest rate over a specified period of time.

The two documents are closely related. The deed of trust stipulates what will happen in the event of a default in the terms of the promissory note. In fact, it is standard practice to record only the deed of trust because it is tied so closely to the promissory note.

Real estate can be pledged as collateral for a loan using any of the following four methods.

1. The standard or regular mortgage is the most common type used today. The borrower conveys title to the lender as security for the debt. The mortgage contains a statement that the mortgage will become void if the debt it secures is paid in full and on time.
2. An equitable mortgage is a written agreement that does not follow the form of a regular mortgage, but is still considered by the courts to be one. An equitable mortgage can arise in a number of ways. For example, a prospective buyer generally gives the seller a money deposit along with an offer to purchase property. If the seller refuses the offer and also refuses to return the deposit, the court will hold that the purchaser has an equitable mortgage in the amount of the deposit against the seller’s property.
3. In some cases, the borrower may convey the deed to the pledged property to the lender as a **deed as security** for a loan. If the loan is repaid in full and on time, the borrower can force the lender to convey the real property back to him or her. Like the equitable mortgage, a deed used as security is treated according to its intent, not its label.

4. A **deed of trust** is a three-party agreement including a borrower, a lender, and a neutral third party. The key aspect of this method is that the borrower executes a deed to the trustee rather than to the lender. If the borrower pays the debt in full and on time, the trustee delivers a **release of liability** to the borrower.

### Qualifying the Buyer for Financing

In commercial loans, lenders look only to the income from the property for repayment, so they are not particularly concerned about the borrower’s income. However, in residential loans, the borrower’s income is of prime importance because that is what will be used to repay the loan. The lender calculates the **back ratio** of housing costs plus other fixed obligations to gross monthly income. Also, the borrower’s willingness to pay is of prime importance.

To evaluate the borrower’s quantity of income, the lender calculates the **front ratio**: the ratio of the requested monthly payment to the borrower’s gross income. The monthly payment is the sum of all housing costs: principal, interest, taxes, and insurance (PITI). Most conventional lenders will not let the front ratio exceed 28%. For example, if a borrower’s monthly income is $5,000, the monthly housing costs could not be more than 28% of $5,000, or $1,400.

The lender is also concerned about other fixed obligations the borrower may already have. **Fixed obligations** include any payments that the borrower is required to make on a regular basis, such as car payments, bank loans, credit cards, open charge accounts, and so on. The lender calculates the ratio of housing cost plus other fixed obligations to gross monthly income. Most lenders will not let this ratio exceed 36%. So if the borrower makes $5,000 a month, the amount of housing costs plus fixed obligations could not exceed 36% of $5,000, or $1,800.

Lenders want to be assured that a borrower will be able to pay back the loan in a timely manner. Depending on the kind of property for which the loan is being sought, lenders make various analyses to determine the creditworthiness of the borrower.

Unimproved land is the most difficult loan to underwrite because it produces little or no income to use to pay back the loan. Also, since the borrower does not occupy the property, there may be little incentive to pay back the loan in the event of financial difficulties.

Income producing properties are analyzed on their ability to generate enough cash flow to pay back the loan. The property’s net operating income must cover the **debt service** (the amount of money required to make regular payments on the loan).

The lender typically requires a certain **debt coverage ratio**, depending on the type of property and the quality of the income. The **debt coverage ratio** is equal to the net operating income of the property divided by the debt service on the loan. For instance, if a property had a net operating income of $120,000 and the lender required a debt coverage ratio of 1.2, the maximum debt service the lender would allow would be $100,000.

\[
120,000 \div 1.2 = 100,000
\]

To review your math skills, see Chapter 5.
Types of Loans

The most common residential loan is amortized, or paid off, in equal monthly installments that include principal and interest. During a time of reasonable interest rates, the borrower will most often choose a fixed interest rate for the life of the loan.

The most popular time period for fixed rate loans is 15 or 30 years; however, other loan terms are also available. Borrowers who choose a shorter time frame save a sizable amount of money in interest payments.

In some instances, a loan will be structured as an amortized loan with a term of 30 years, but the loan will balloon after a certain period. That is, the loan becomes due and payable before the end of the amortization term. The loan may balloon in five, seven, or ten years, or however long the lender stipulates. A balloon loan usually charges a lower interest rate than a regular fixed rate loan. Since the lenders don’t have to wait 30 years to get their money back, they can afford to charge a lower interest rate because the inflation risk is reduced.

Balloon loans are frequently used in seller financing, since the seller typically does not want to wait for 30 years to be paid in full. Buyers may find a balloon loan attractive if they know that they are going to be selling the property before the loan is due.

During times of high interest rates, a borrower may prefer an adjustable rate loan. The lender will give the borrowers a lower-than-market interest rate for a certain period of time, typically a year. Then the rate is adjusted each year (or whatever time period is agreed upon) to adjust for inflation. The most common type of adjustable rate loan is a one-year adjustable plan.

The rate is adjusted at the specified time based on some predetermined indicator, such as Treasury Bill rates. For the borrower’s protection, there is usually a cap, or limit, on the amount the rate can be increased in any given year or over the life of the loan.

Interest Only loans are used to keep payments low and when the borrower is likely to pay off the loan in a short time. Also known as Term Loans or Straight Loans, the entire principal is due at the end of the term.

Sources

The sources of loanable funds and the financing arrangements available to a prospective borrower increase each year. Loans can even be arranged on the Internet and by brokers and real estate salespersons.

There are two major types of loans:

1. loans that are insured or guaranteed by an agency of government
2. loans that are funded in the private sector

Loans that are neither insured nor guaranteed by an agency of government (loans funded in the private sector) are known as conventional loans.

A significant number of residential loans are originated by mortgage bankers and mortgage brokers. Regulated financial institutions, including commercial banks, savings and loans, mutual savings banks, and credit unions, provide a significant amount of funds for residential loans.

Whether the loan is from a bank or a mortgage company, the loan will most likely be sold to investors through the secondary mortgage market. The major purchasers of home loans are:
Federal National Mortgage Association (FNMA or Fannie Mae)
Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac)

These entities buy so many loans that they virtually control how the loan origination or primary market operates. A loan that meets Fannie Mae’s guidelines is called a conforming loan. Most conventional loans will use uniform instruments for:

- loan applications
- income, employment, and funds verifications
- appraisal reporting forms
- closing forms

In addition, there is a limit to the loan amount of a conforming loan. This limit changes from year to year. In 2005, the maximum amount of a conforming loan was $357,650.

The Government National Mortgage Association (GNMA or Ginnie Mae) cannot purchase mortgage loans but issues guarantee certificates on pools of loans purchased by large financial institutions. These loans are limited to FHA, VA, and some FMHA loans. Ginnie Mae provides most of the funding for these loans through these guarantees.

Government Programs
Decades ago, the federal government established a number of programs to get as many people into homes as possible. Two examples are the Federal Housing Administration (FHA) and the Department of Veteran Affairs (VA) loans. Both are designed to reduce the lender’s risk when low down payment loans are made.

FHA mortgage insurance requires the payment of a premium, a sum of money paid in addition to the amount of the loan. In 2005, the premium was 1.5% of the loan amount, payable at the time the loan is funded either in cash or financed with the loan. In addition, an annual premium of 0.5% of the loan balance is payable over the life of the loan. FHA insurance covers the entire loan balance for the life of the loan.

The VA program is designed to encourage lenders to make loans to veterans. Basically, the VA guarantees a portion of the loan in sufficient amount to entice lenders to make loans. Depending on eligibility, a veteran may be able to borrow 100% of the purchase price. The VA uses the Fannie Mae loan maximum as an index to determine the maximum amount of the loan guarantee. The VA guarantee maximum is 25% of the current Fannie Mae loan maximum. The VA charges a funding fee. The amount of the funding fee ranges from 1.25% to 3.30% depending on the amount of down payment.

Mortgages
A mortgage is a pledge of property made by a mortgagor (the borrower) to pledge collateral (the property) that may be sold at auction (foreclosure) when the borrower defaults and fails to fulfill the promises made in the mortgage instrument. The mortgage (pledge of the collateral) is given for the benefit of the mortgagee (the lender). Caution: Remember that in real estate terminology, words ending in “or” refer to the person giving something (the borrower gives the pledge) and the words ending in “ee” refer to the person receiving something (the lender receives
the benefit of the pledge of the collateral). Forget about the fact that the lender gives the money, it is the pledge of collateral that is important in this discussion.

When a lender makes a loan, the borrower signs a **promissory note** that promises to repay the loan and defines the terms of the repayment.

A **mortgage**, usually a Deed of Trust in Texas, pledges the property as collateral when duly executed by the borrower. When all payments have been made per the terms of the note, the lender (mortgagor) will issue a **Release of Lien** that should be recorded to remove the encumbrance affecting the title to the property.

A defaulting borrower faces penalties of varying severity. **Late charges** will be incurred if the borrower is late in making a payment. If the borrower remains in default, an **acceleration clause** may be invoked by the lender. An acceleration clause gives the lender the right to collect the balance of the loan immediately. Finally, if the debt remains unpaid, the formal process of foreclosure will begin.

The process of foreclosure will depend on the terms of the mortgage instrument. If it contains a “Power of Sale” clause, a non-judicial foreclosure may take place providing all statutory requirements are followed. In the absence of a “Power of Sale” clause, a judicial process will be required.

On a default by the borrower, the traditional remedy for the holder of a mortgage was **strict foreclosure** in which the property could be sold immediately. The modern requirement is a foreclosure action that must be brought in court following statutory notice and other requirements unless a deed of trust instrument provides for a non-judicial foreclosure.

If the security instrument is a **mortgage with power of sale** (deed of trust), the property may be sold without a court hearing. In this case, state law still applies, and there will be specific notice and procedural requirements. Even after the property has been sold at public auction, there may be a right of redemption for the borrower within a statutory time period. There is no statutory redemption period in Texas.

If the proceeds of the foreclosure sale do not cover the amount owed on the loan, some states allow the lender to obtain a **deficiency judgment** against the borrower. This means that other assets can be claimed by the lender to satisfy the remaining indebtedness. Other states provide homeowners with anti-deficiency protection in the event that the proceeds of sale on loan default do not cover the amount owed. This means that the lender has no recourse except the real estate.

In the case of a deed of trust, the trustee is authorized to sell the property in the event of a default, to pay off the remaining debt. When the property is sold, a **trustee’s deed** is given to the new owner. As with a **mortgage foreclosure**, state law will dictate whether the lender is entitled to seek a **deficiency judgment** in the event that the proceeds of a forced sale do not cover the amount owed.

### Financing/Credit Laws

**Truth-in-Lending Act and Regulation Z**

The **Federal Consumer Credit Protection Act**, also known as the **Truth-in-Lending Act** (TIL), went into effect in 1969. It is implemented by the Federal Reserve Board. Also known as **Regulation Z**, the act requires that borrowers be clearly shown how much they are paying for credit in both dollar terms and percentage terms before committing to the loan. The borrower is also given the right to rescind the transaction under certain conditions.
The act requires certain disclosures in advertising anything that involves financing. If an advertisement contains any one of the TIL list of financing terms (called trigger terms), the ad must also include five disclosures. The following are some of the trigger terms:

- amount of down payment
- amount of any additional payments
- number of payments
- period of payments
- dollar amount of any finance charge
- statement that there is no financing

If the ad contains any of these trigger terms, then the ad must also include these disclosures:

- cash price or the amount of the loan
- amount of down payment or a statement that none is required
- number, amount, and frequency of repayments
- annual percentage rate
- deferred payment price or total payments

**Equal Credit Opportunity Act**

The Equal Credit Opportunity Act, a federal law that has been in effect since 1975, prohibits discrimination in the granting of credit on the basis of age, sex, race, color, marital status, religion, and national origin. It also prohibits discrimination against applicants who receive all or part of their income from public assistance.

Factors that can legitimately be considered are the applicant’s income, stability of the source of the income, total assets and liabilities, and credit rating (past history of use of credit).

**Fair Credit Reporting Act**

Congress enacted the Fair Credit Reporting Act in 1970 to protect consumers from the reporting of inaccurate credit information to credit reporting agencies. This legislation is administered by the Federal Trade Commission. It requires that, if a buyer of real estate is denied credit because of an unfavorable credit report, the lender refusing to make the loan must reveal to the buyer the identity of the credit agency reporting the information that was the basis of the rejection. Most negative items are to be dropped from the report after a period of seven years; an exception is bankruptcy information, which may be held for ten years.
Laws of Agency

Law, Definition and Nature of Agency Relationships, Type of Agencies, and Agents

When one person agrees to act on behalf of another, an agency relationship is established. Agency relationships are regulated by a body of law collectively known as the Law of Agency. An agency is a legal, fiduciary relationship where the agent works for and under the direction and control of a principal or client. Two kinds of agency relationships are common in real estate practice.

1. General agency: Real estate brokers typically have licensees who act as their agents in working with their principals.

2. Special agency: A principal to a transaction (the seller or buyer) secures the advice and assistance of a real estate broker and the broker’s associates.

Creation of Agency and Agency Agreements

An agency relationship is established when a buyer or seller delegates authority to a broker, and the broker accepts the authority to act on behalf of the principal. Although the delegation may be given orally, the best method of establishing an agency relationship is by an express written agreement called a listing agreement or a buyer representation agreement. There will be more information about listing agreements under “Contracts.”

Four basic types of listing agreements are in common use:

1. Exclusive right to sell, from the broker’s point of view, is the best type of listing. During the period set out in the listing agreement, the listing broker has the exclusive right to produce a ready, willing, and able buyer at the price and terms agreed upon in the listing agreement. If any other person—including the seller or another broker—procures a buyer, the listing broker is still entitled to the commission stipulated in the listing agreement. However, if another broker procures a buyer, most listing brokers are happy to share the commission with the procuring broker. With this type of listing, brokers will exert maximum effort in marketing property, since they have strong assurance that they will be compensated.

   Under the exclusive right to sell agreement, the listing broker is entitled to a commission when the broker procures a buyer who will meet the seller’s price and terms even if the seller then refuses to sell the property.

2. An exclusive agency listing is similar to an exclusive right to sell listing except that it gives the seller the right to sell the property without paying the broker a commission. This agreement is nevertheless an exclusive agency agreement because the seller cannot give the listing to another broker.
3. An **open listing** is simply an agreement that a commission will be paid if the broker is the procuring cause in producing a ready, willing, and able buyer. A seller may enter into an open listing with an unlimited number of brokers. The only real benefit to the brokers is that they know they will be compensated if they are the procuring cause of the sale.

In residential transactions, brokers rarely accept open listings, since there is a strong possibility that another broker or the seller will find a buyer. However, the seller of a multi-million dollar commercial property is not as likely to give an exclusive listing. So a commercial real estate broker would be more likely to accept an open listing, since such a broker typically has a group of clients with whom he or she has worked in the past to whom the broker can present the property.
4. A **net listing** can be an exclusive or a non-exclusive listing. It offers the property owner a guaranteed net amount at closing, with the listing broker taking any part of the purchase price over that amount. Net listings often leave brokers open to charges of fraud or misconduct, and should therefore be avoided if possible.

For example, the owner might say to a broker, “I want $100,000 for my property. You can keep anything over that amount that the property sells for.” The broker knows that the property will sell for $120,000 in this market, so he feels he has a great opportunity. But when the broker brings in an offer for $120,000 and the transaction closes, the broker may be sued for violating his fiduciary duty of loyalty to the client. The broker should have informed the seller of the true market value of the property.

So the broker might instead present the property at $106,000, thinking he will then earn a reasonable commission. A prospective buyer offers $98,000. Complying with the legal requirement to present all offers, the broker submits the offer and the seller accepts. The broker is then left without a commission and wondering why he ever took a net listing.
Listing Procedures

**Disclosing Agency Relationships**

The law requires that when an agent first has substantive dialogue with a prospective buyer or seller for the purposes of discussing, listing, or showing property, the agent must present the statutory information concerning possible agency relationships and available brokerage services. This is critical if the agent is acting as a sub-agent of the seller, so that the buyer will not reveal any information that would give an advantage to the seller.

**Evaluating Property**

An agent needs to be totally honest with the client who is getting ready to sell or purchase a property. A **Competitive Market Analysis** (CMA) should be prepared to help the seller client or buyer client identify the “right” asking or offering price. The agent should advise the seller on how to get the property ready to show to its best advantage and to be attractive to buyers. Although the agent must never take on the role of property inspector, an agent should also point out potential problem areas relating to the structural and mechanical systems of the property improvements.

**Disclosure of Property Conditions**

Both property owners and real estate licensees are required to reveal any material facts about the property that may be known to one or the other but may not easily be observed by an untrained person. These deficiencies are known as **latent structural defects** or **property defects**.

Although not required in Texas, in a growing number of states, the real estate licensee is responsible for conducting a reasonable visual inspection of property to be listed, noting any defects or conditions that could affect the property’s value or desirability (termed “red flags”) and revealing those facts to prospective buyers. Part of this process includes questioning the property owner about conditions that may not be apparent in a visual inspection.

In Texas, the owner of a previously occupied single-family residential dwelling unit must complete a statement disclosing the condition of the property to the best of the owner’s knowledge.

**Fraud and Misrepresentation**

A broker or salesperson commits **fraud** when the licensee deliberately deceives the consumer. For instance, a broker might encourage a consumer to part with something of value or to enter into a contract that the consumer would not have entered into had truthful information been provided. **Misrepresentation**, more correctly called **innocent misrepresentation**, is unintentional rather than deliberate.

Often, real estate professionals are found guilty of one of the above because of what they fail to reveal. Failure to disclose a property defect constitutes fraud or **misrepresentation by omission**. Giving wrong information constitutes fraud or **misrepresentation by commission**.

Brokers and salespersons must avoid making any representation when they do not have the correct answer. Instead, real estate professionals should guide buyers and sellers to a source from which the buyer or seller may obtain the information they need to make an intelligent and informed decision.
Authority

Ostensible authority or apparent authority may establish an agency relationship. This occurs when a principal gives a third party reason to believe that another person is the principal’s agent even though that person is unaware of the appointment. If the third party accepts the principal’s representation as true, the principal may have established ostensible authority and may therefore be bound by the acts of his agent.

Agency can also be established by ratification. For example, a broker might bring an offer to a property owner who had no knowledge of the broker’s attempt to sell his property. If the owner accepts the offer (which generally entitles the broker to a commission), then it could be held that an agency was created when negotiations started.

An agency by estoppel can result when a principal fails to maintain due diligence over an agent and the agent exercises powers not granted to her. If this causes a third party to believe the agent has these powers, an agency by estoppel has been created.

Within any agency relationship, implied authority can sometimes be exercised. Implied authority can arise, for example, from custom in the industry. If a broker lists a house, there may not be an express agreement concerning advertising the property in the newspaper. However, because this is a customary practice, the broker may have the implied authority to advertise. In Texas, express authority in writing is required to be able to erect a “For Sale” sign or to share one’s agency with another licensee.

Responsibilities of the Agent to the Seller/Buyer as Principal

Accepting an appointment as a seller’s or buyer’s agent imposes obligations and creates liabilities. A licensee who fails to fulfill his or her fiduciary duties or oversteps the bounds of the agent’s authority may face disciplinary action by the state’s licensing authority or even a civil suit brought by an unhappy buyer or seller. The agent appointed by a listing agreement or a buyer representation agreement is a special agent and has not been granted the authority to speak or sign on behalf of the principal or client.

It is very important to know when and if an agency relationship has been created. When someone becomes an agent for another person, a dramatic change in duties and obligation occurs. The agency creates a fiduciary relationship, requiring that the agent exhibit trust, honesty, and good business judgment when working on behalf of the principal. This fiduciary relationship imposes the following duties:

- **Obedience** (also called faithful performance). The agent must obey all legal instructions given by the principal, applying best efforts and diligence in carrying out the objectives of the agency (for example, selling the property).
- **Loyalty.** The agent must put the interests of the principal above his or her own interests. This is perhaps the most difficult duty for the agent, which may be why failure of the agent to uphold this duty causes so many lawsuits.
- **Disclosure.** The agent must keep the principal informed on all pertinent facts. Since just about anything relating to the transaction could be pertinent to a principal, the agent basically is obligated to investigate and disclose everything related to the situation.
- **Confidentiality.** The agent must keep confidential information about the principal and the principal’s motivations and financial interests.
Accounting. The agent may not place the principal’s funds in the agent’s own account. This practice, called **commingling**, is grounds for suspension or revocation of the broker’s real estate license.

**Reasonable care.** The agent must exercise competence and expertise. The agent must not be party to any fraud or misrepresentation likely to affect the sound judgment of the principal.

**Termination of Agency**

Agencies are created when the principal or client delegates authority to the agent and the agent accepts the appointment. Most agencies come to a successful, happy conclusion through completion of the purpose of the agency—the property sells and the transaction closes. On occasion, the agent is not successful within the time established in the listing or buyer representation agreement, and the agency ends because the agreement expires. Other events that can terminate an agency are:

- destruction of the property
- condemnation of the property
- mutual agreement (**rescission**) by the parties
- bankruptcy of the owner
- death or incapacity of the principal or the agent (NOTE: The death of a sub-agent would not affect the status of the agency.)

**Commission and Fees**

Compensation paid by sellers and buyers is always negotiable between the parties and can be calculated and paid in a variety of ways.

1. **Success fees** (**contingent fees**) are usually paid at the closing of the transaction and are usually a percentage of the sales price or a flat fee. The agent gets paid only if the transaction closes.
2. **Non-contingent fees** may be calculated on an hourly basis or on a fee for specific or limited services basis. Some brokers are requiring a non-refundable retainer fee before beginning work for the principal.

Federal antitrust laws prohibit price fixing! Licensees should exercise caution to make certain that they do not say anything about fees that might give someone the idea that fees are standard or fixed in a particular market.

▶ **Mandated Disclosures**

**Property Condition Disclosure Forms**

Many states have adopted various property disclosure forms that real estate sellers and their agents are required to furnish to prospective buyers either prior to signing a purchase agreement or at some point prior to closing. Failure to provide the required disclosure may result in a voidable or unenforceable purchase contract. Section
5.008 of the Texas Property Code has very specific requirements for single-family, previously occupied residential dwelling units.

Licensees should always remember to refrain from making any representations about the physical condition of the property and should always recommend that purchasers have the property evaluated by professional inspectors selected and hired by the purchaser.

**Need for Inspection and Obtaining/Verifying Information**

Many conditions (latent structural defects) can exist and may go undetected by the untrained eye. At a minimum, a purchaser should have a professional evaluation done to determine the condition of the structure and the mechanical systems of the property. Failure to do so could result in a buyer facing expensive unexpected repairs soon after closing and a seller and the real estate agents facing legal action brought by an unhappy buyer.

**Material Facts**

In every jurisdiction, agents have a duty to disclose all known material facts about a property being offered for sale. A material fact is any bit of information that a purchaser would take into consideration when making a decision to purchase or not to purchase or when making decisions about how much to pay.

**Contracts**

**General**

A contract is a legally enforceable agreement between two parties to do something (performance) or to refrain from certain acts (forbearance). To create a real estate contract, there are seven requirements. A contract must:

1. involve legally competent parties
2. be in writing as required by the Statute of Frauds (one notable exception is a lease for one year or less)
3. be signed by the parties to the agreement
4. have a lawful objective
5. include consideration (does not need to be money)
6. mention offer and acceptance, and notification of the acceptance
7. contain a legal description of the property

**Listing Agreements**

A real estate transaction that makes use of the services of one or more real estate licensees usually begins with an agreement between property owner and licensee to list the property for sale, lease, or trade.

The listing agreement includes:

- identity of the parties
- legal description of the property
- object of the agreement (property sale, exchange, lease)
- term (length of time) of the agreement (All agreements in Texas must have a specific termination date not subject to prior notice.)
- definition of the agent's role and list of the agent's obligations
- statement of compensation to which the agent is entitled on fulfilling his or her obligations
- safety clause stipulating that the agent’s compensation is to be paid if a sale is transacted with a buyer who was introduced to the property owner by the agent, within a stated period after termination of the listing agreement
- authorization for the agent to use the local multiple listing system, Internet listing system, or other marketing forum
- authorization for the use of sub-agents or for the broker to function as an intermediary
- authorization for the agent to retain a key to the property or to use a lock box or other means of property entry in the owner’s absence
- authorization to receive a deposit or other funds on behalf of the buyer and stipulation as to how those funds are to be handled
- arbitration or mediation provision to be used in the event of a contract dispute
- statement of compliance with all applicable fair housing laws
- any other provision required by law
- signature of seller and signature of broker or the broker's sales associate (general agent)

Legal Requirements
In order to be enforceable, a listing agreement must be signed by both the real estate licensee and the property owner (or the property owner's representative acting under a power of attorney or a court order).

Fiduciary Duties and Representations
Once a listing is signed, the broker is obligated to all of the fiduciary duties that an agent owes to a principal. The owner owes the agent honesty, availability, indemnification, and compensation.

Terminating a Listing
A listing agreement is terminated under the same conditions as other contracts. Those conditions include:

- performance of the agreed-upon terms
- mutual rescission of the parties
- passage of the agreed-upon time
- death of the seller or broker
- abandonment
- breach of a fiduciary duty
Buyer-Broker Agreements

In recent years, it has become common for buyers to appoint exclusive agents to represent them in real estate transactions. The contract that appoints an **Exclusive Buyer Agent** should contain the basic elements found in a listing agreement with a few minor changes. The subjects to be addressed include but are not limited to:

- the name of the client and the agent
- a definition of the market area
- how the agent will be compensated
- the term of the agreement
- the authority of the agent
- the duties of the agent
- the duties of the client
- provisions for dispute resolution
- notices relating to Fair Housing, Anti-trust, etc.
- signatures of the parties

Offers/Purchase Agreements

The **sales contract** (sometimes called an **earnest money contract**) is arguably the most important document used in a real estate transaction. Since a defective contract can allow either buyer or seller to end the transaction, real estate practitioners must be thoroughly familiar with contract law.

A **contract** is a legally enforceable agreement to do or not do a certain thing. Most contracts are based on promises by the parties involved to act in some manner. Examples of such acts would be to pay money, to provide services, or to deliver title. However, a contract can also contain a promise to **forbear** (not to act) by one or more of its parties. For example, a lender may agree not to foreclose on a delinquent mortgage loan if the borrower agrees to a new payment schedule.

A contract may be either **express** or **implied**.

- An **express contract** occurs when the parties to the contract declare their intentions either orally or in writing. Leases and contracts to purchase real estate are examples of express contracts. The Statute of Frauds requires that all documents affecting title to or an interest in real estate be expressed in writing except for a lease of one year or less.
- An **implied contract** is created by the actions of the parties rather than by words. An example of an implied contract is the agreement between you and a restaurant when you walk in and sit down. The presence of tables, silverware, and menus implies that you will be served food. When you order, you imply that you are going to pay the bill.

A contract may be **bilateral** or **unilateral**.

- A **bilateral contract** results when a promise is exchanged for a promise. A bilateral contract is essentially an agreement that says, “I will do this and you will do that.” A real estate sales contract is a good example of a bilateral contract.
- A **unilateral contract** results when a promise is exchanged for performance. It is essentially an agreement that says, “I will do this if you do that.” If the sales manager offers a bonus if you sell $3,000,000 worth of
real estate, you are not obligated to sell $3,000,000 worth of real estate—but the sales manager is obligated to pay you the bonus if you do.

A contract can be construed by the courts to be valid, void, voidable, or unenforceable.

- A **valid contract** meets all the requirements of law. It is binding upon its parties and legally enforceable in a court of law.

- A **void contract** has no legal effect and, in fact, is not a contract at all. Even though the parties may have intended to enter into a contract, no legal rights are created and no party is bound. The word *void* means the absence of something.

- A **voidable contract** binds one party but not the other. For example, when one party is guilty of fraud, the other party may void the contract. But if the offended party wishes to fulfill the contract, then the party who committed fraud is still bound to the terms of the contract. A contract with a minor is voidable at the option of the minor party. Buyers may void a contract when the seller of a previously occupied single-family residence fails to deliver the Seller’s Disclosure Notice as required by Section 5.008 of the Texas Property Code.

- An **unenforceable contract** is one that may once have been valid, but its enforcement is barred by a statute of limitations or a change of law.

**Counteroffers/Multiple Counteroffers**

**Purpose of Offer and Counteroffer**
The real estate sales contract begins as a written offer from buyer to seller and will typically include:

- identity of all parties to the transaction
- full legal description of the real estate, as well as a listing of any personal property to be included
- sales price, including the amount of down payment and an indication of how the remainder of the price will be paid at closing
- financing contingency giving details of the type of financing the buyer hopes to obtain and stipulating a deadline for release of the contingency
- statement that the transaction is contingent on a sale of other property of the buyer (The seller will want a deadline for release of the contingency, particularly if a non-contingent offer is made while the transaction is pending.)
- name of the escrow agent for the transaction and by whom the fee for this service will be paid
- list of property inspections to be made and by whom, including deadlines for the inspections as well as the appropriate notifications to buyer and/or seller (The seller will want a limit on expenditures for any pest control treatment or necessary repairs.)
- list of applicable categories of disclosure required by state and federal law, which may include location in a flood, earthquake or other zone, and the presence of hazardous materials, such as lead-based paint
- provision for arbitration or mediation of disputes that may arise between the parties
- remedies, including suit for specific performance, money damages, or acceptance of liquidated damages, in the event one of the parties breaches the agreement
- statement of compliance with the federal Foreign Investment in Real Property Tax Act (FIRPTA)
- statement of compliance with all applicable Fair Housing Laws
- statement of compliance with any other state or federal law not already mentioned
- provision for a final walk-through by the buyer to insure that the property has been adequately maintained before closing
- statement of who will bear the risk of loss in the event of property damage or destruction between the time the contract is signed and the transaction is closed
- statement of the agency representation and commission owed
- signature of the buyer(s) and space for signature of the seller(s)

An offer will expire (end) if it is not accepted by the deadline specified in its terms. If no deadline is specified, a reasonable time period will be implied. An offer can be withdrawn at any time prior to the offeror being notified of its acceptance.

Any change to the terms of an offer is a counteroffer and has the effect of rejecting the initial offer and making a new offer. The offer and acceptance must both be made voluntarily (without coercion) and without misrepresentation.

Valid Methods of Communicating Offers
Although verbal negotiations may appear to save time and be efficient, a licensee needs to remember that agreements for the sale of real estate must be reduced to writing to be enforceable. The Statute of Frauds requires that there be a written offer and written acceptance. As soon as the written acceptance is obtained, the offeror must be notified of the acceptance. The notification is accomplished by delivering a copy of the accepted document to the offeror.

Remember that a party making an offer or a counteroffer may revoke that offer or counteroffer at any time prior to acceptance by the other party. Revocation of a written offer or counteroffer must be made in writing to be effective.

When one party fails to perform as required by the contract, a breach of contract or default has occurred. The wronged or innocent party has six possible remedies.

1. Accept partial performance. If the purchaser was expecting 25 acres to be conveyed, but the survey showed that there were only 23.57 acres in the tract, the purchaser may accept the property as is.
2. Rescind the contract unilaterally. The wronged party can simply rescind or cancel the contract and return to the status prior to executing the contract.
3. Sue for specific performance. Specific performance means doing exactly what the contract requires. The party seeking specific performance must have acted in good faith and not committed a material breach of the contract.
4. Sue for money damages. For example, if a seller cannot perform, but the buyer has already spent a large amount of money on inspections, appraisals, and so on, the buyer could sue to recover the money spent.
5. Accept liquidated money damages. This remedy, available only to the seller, means retaining the earnest money. If accepted in Texas, no other remedy can be sought.
6. **Mutually rescind the contract.** Sometimes, both parties are better off just walking away from the contract and canceling the agreement. A mutual rescission must be expressed in writing.

Before closing a real estate transaction, the parties involved must be assured that certain conditions are met. By signing a contract, the parties affirm their mutual agreement. Once they are bound to the terms of the agreement, they can then take the time to ensure that these conditions are met. If there was no contract, and the parties were not bound to honor their agreement, one or both of the parties might spend considerable time and money on a transaction that could fall through.

Forms promulgated by the Texas Real Estate Commission provide for three basic contingencies:

1. **Buyer’s ability to obtain suitable financing.** When buyers start looking at properties, they typically meet with a lender to determine what loan amount they would likely qualify for. But once they have selected a specific property, they must get lender approval for a loan on that property. This takes time, so it is important to have the property tied to a specific contractual agreement.

2. **Buyer’s approval of title matters.** Buyers generally will not take the time and effort to examine the title until they have a firm agreement from the seller.

3. **Buyer’s acceptance of the property condition.** A property may appear to be in good condition when the buyer initially views it, but the buyer will likely require a thorough inspection of the property after negotiating with the seller. The inspection, too, will take time to complete.

**Leases as Contracts**

A lease is a contract wherein a property owner (lessor) transfers the rights of possession, quiet enjoyment, and use to the tenant (lessee) for a period of time thus creating a leasehold estate. When property ownership transfers during the term of a lease, the lease remains binding upon the new owner.

This topic will be discussed in more detail under “Specialty Areas” on page 104.

**Options**

An option is a unilateral contract. An option to purchase enables a purchaser to purchase a property at a set price within a given time frame. An option to terminate grants a purchaser the unrestricted right to terminate a contract without penalty within a given time frame.

To create a valid option, the property owner must be paid some cash (valuable consideration) and **time is of the essence.**

**Rescission and Cancellation Agreements**

Contracts usually come to an end by completion of the objective of the contract or by expiration of the term specified in the agreement. On occasion, the parties will decide to end the agreement and to restore each other to the position enjoyed prior to entering into the agreement. This is identified in legal terms as **mutual rescission.**

Agency appointments may be ended early by termination or withdrawal. If a property owner has entered into an exclusive right-to-sell listing agreement and decides to terminate, he or she may withdraw the listing and
request that the agent stop marketing the property. If the owner then sells the property during the term of the listing, the broker is still entitled to receive the agreed upon compensation.

The seller may terminate with the agreement and consent of the agent. To affect a termination, the broker may require some compensation to cover expenses incurred through the date of the termination. If all parties can reach agreement, the termination becomes a mutual rescission. When an agreement cannot be reached, the property owner should seek legal counsel before attempting to fire the agent and the agent should seek legal counsel before quitting or renouncing the agency appointment.

With regard to leases and purchase agreements, the parties may cancel an agreement through mutual rescission or may create a substitute agreement to replace the original contract. The substitution of a new agreement for an existing contract is known as a **novation**. The new agreement should reference the agreement that it is replacing and clearly state that it replaces the original agreement.

### Transfer of Property

The real estate agent does not create the instruments that transfer title. The real estate agent does assist the buyer and the seller in defining and setting down what, when, and how the title of the property will be transferred in an agreement of purchase. Most real estate closings involve transferring title from the seller (grantor) to the buyer (grantee) by the delivery of a **general warranty deed**, executed by the seller and delivered to the buyer. A **general warranty deed** is an instrument in which the grantor guarantees the grantee that the title being conveyed is free of other claims or encumbrances.

### Title Insurance

**Title insurance** has become the most common method of protecting the property buyer. A **title company** issues a **preliminary title report** or **title commitment**. It will indicate the present condition of the title based on examination of the documents contained in the public records as well as any exceptions to the coverage that the title company is willing to provide. The title company will defend the buyer’s title in a title dispute covered by the policy.

Title insurance is necessary to indemnify the new owner against financial loss in the event an error was made when the title was searched and examined. There is no guarantee that the finished abstract, or its certification, is completely accurate. Many problems can arise in the recorded chain of ownership. For example:

- What if a recorded deed in the title chain is a forgery?
- What if a minor or an otherwise legally incompetent person executed a deed?
- What if a document was misfiled, or there were undisclosed heirs, or a missing will later came to light, or there was confusion because of similar names on documents?

These situations can result in substantial losses to property owners and lenders, yet the fault may not lie with the title closer, abstracter, or attorney, so there is no one to sue for damages. The solution has been the organization of private companies to sell insurance against losses arising from title defects such as these as well as from errors in title examination.
Essentials of Title Insurance
Numerous details must be handled between the time a buyer and seller sign a sales contract and the day title is conveyed to the buyer. Ask yourself:

- What is the status of the title? It must be checked thoroughly.
- What is the property tax status? Are the taxes up to date? Are there any special assessments? What is the tax bill for the current year?
- Are there any judgments against the seller that may encumber the property? Are there any liens that must be paid off?

The most expeditious method of preparing for the closing is to place all of these matters in the hands of a neutral third party. Since the title insurance provider has a high level of interest in having these matters handled correctly, it makes sense that it should be chosen as the closing agent or escrow agent, as noted above.

Deeds
A deed is a written document that conveys property from the grantor (owner) to the grantee (buyer). State law dictates the form that a deed must take. There are a number of requirements for a valid deed:

- It must be in writing.
- The grantor(s) must be of sound mind (legally capable).
- It must identify the parties, preferably by full name and marital status (single, married, widow, and so on).
- It must identify the property by legal description.
- It must contain a granting clause—also called words of conveyance—that contains the appropriate words (“I hereby grant and convey”).
- It must be signed by the grantor(s).
- It must be delivered to the grantee and accepted by the grantee. A deed held by a third party until the grantor dies, for instance, will have no effect during the grantor’s life and on the grantor’s death will be invalid. Even after a valid delivery, the fact that the deed is in the hands of the grantee does not mean that it is accepted. Many charitable donations of real estate have ultimately been rejected because of the high cost of their maintenance or remediation (as in the case of contaminated property).

There are many different types of deeds:

- A bargain and sale deed states the consideration paid by the grantee. There may or may not be a warranty that the grantor actually has an interest in the described property.
- A gift deed requires no consideration to be paid by the grantee.
- A grant deed (using the words “I grant and convey” or similar) carries three implied promises of the grantor
  1. The grantor has good title.
2. There are no encumbrances other than those noted.
3. The grantor will convey any after-acquired title (ownership interest received after the grant deed is delivered) to the grantee.

- A **quitclaim deed** transfers whatever interest the grantor may own but does not warrant that the grantor actually has any interest in the described property.
- A **sheriff’s deed** conveys title to property sold at public auction following a judicial foreclosure sale or other court action.
- A **tax deed** conveys title to property sold at public auction to cover unpaid taxes.
- A **trust deed** (deed of trust) is used to make real estate security for the repayment of a debt. The trust deed conveys conditional title from the **trustor** (property owner) to the **trustee** to be held for the benefit of the named **beneficiary** (the lender).

**Recording Title**
In most states, a deed must be **acknowledged** (signed before a notary public or other official) in order to be **recorded** (made a part of the public records of the county in which the property is located).

A recorded deed provides **constructive notice** or **legal notice** of the conveyance. Recording establishes the priority of interests in or claims against a property.

**Settlement Procedures**
Each person attending the **closing**, the point in a real estate transaction when the buyer receives a deed and the seller receives the purchase price, is responsible for bringing certain documents.

The seller is typically responsible for some or all of the following:

- deed
- recent property tax certificates
- insurance policies
- termite inspections
- survey maps
- keys, garage door openers, and the like

If an income-producing property is being sold, then the seller may also need to bring:

- leases
- operating statements
- estoppel letters from the tenants
- maintenance contracts

The buyer needs to bring adequate monies in the form of a cashier’s check or other form of good funds and may need to provide a(n):
As the closing proceeds, many signatures are required. Both the buyer and the seller sign a closing statement. The seller signs the deed, and the buyer signs the note, the deed of trust, and numerous other documents required by the lender.

The closing agent or closing officer has several responsibilities at the closing or settlement meeting, including:

- monitoring all the signatures and making copies of the documents for the buyer, seller, and brokers
- distributing checks, if so authorized by the lender (in a process called table funding, since funds are distributed at the closing table); table funding is now authorized in the majority of real estate closings
- sending the deed and deed of trust to the county court house of the county where the property is located for recording

Most lenders require that termite inspections be made prior to closing. Since the property is their collateral, they want to be assured that the property will not be destroyed by termites. Lenders also insist on an appraisal to ensure that their collateral is sufficient value to cover the loan. Finally, lenders typically require insurance policies to cover the property from fire, casualty, flood, or wind damage.

Also, at the closing, documents may have to be presented on mandatory disclosures, such as the presence of lead-based paint in a house built before 1978.

**Purpose of Closing/Settlement**

Immediately before closing, buyers typically do a final walk-through of the property they are about to purchase. The buyer’s broker (if any) will typically accompany the client. The purpose of the walk-through is to verify the condition of the property after the sellers have moved out and to determine if any items have been improperly removed.

In addition to the buyer and seller, the following people usually attend a closing:

- attorneys for the seller and buyer, to ascertain that everything promised in the sales contract has been carried out
- real estate brokers
- title company closer (serving as the escrow agent), who will conduct the closing

**Legal Requirement (includes RESPA)**

Congress passed the Real Estate Settlement and Procedures Act (RESPA) in response to consumer complaints regarding real estate closing costs and procedures. The purpose of RESPA is to regulate and standardize real estate
settlement practices when federally related first-mortgage loans are made on one- to four-family residences, condominiums, and cooperatives.

Almost all residential transactions come under RESPA because most home loans are sold to, or guaranteed by, a federally related organization in the second any mortgage market. The most important of these are:

- Federal National Mortgage Association (FNMA or Fannie Mae)
- Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mac) or
- Government National Mortgage Association (GNMA or Ginnie Mae)

One of the most important provisions of RESPA is a prohibition of kickbacks and fees for services not performed during the closing. Prior to the act, attorneys and closing agents in some areas routinely channeled title business to certain title companies in return for a fee. This increased closing costs to the buyer without adding services. RESPA requires that there must be a justifiable service rendered for each closing fee charged.

The act also prohibits the seller from requiring that the buyer purchase title insurance from a particular title company.

Finally, RESPA places restrictions on the amount of advance property tax and insurance payments a lender can collect and place in an impound or reserve account. The amount that may be collected in advance is limited to one-sixth of annual property taxes or two months’ worth.

**Tax Aspects**

In many jurisdictions, a transfer tax is assessed when ownership of real estate occurs. The tax is based on the sales price and is calculated in mills or dollars per $100, $500, or $1,000. Texas does not assess a transfer tax.

**Legal vs. Equitable Title**

Equitable title is an interest held by a purchaser (vendee) under a purchase contract or a contract for deed. The vendee may demand that legal title be transferred upon full payment of the contract purchase price.

Legal title is title that is fully vested in the owner as evidenced by a deed, will, or court document. Legal title to land and its appurtenances encompasses the entire bundle of rights that an owner possesses. The best title or greatest bundle of rights that an individual can own and hold is **fee simple** ownership.

**Special Processes**

**Probate**

Probate is the legal process of finalizing the affairs of a deceased person and distributing the real and personal property left by the decedent. A person who dies with a will, **testate**, will have his or her property distributed as specified in a will. A person who dies without having written a will, **intestate**, will have his or her property administered and distributed by the probate court under the provisions of the state’s Law of Decent and Intestate Succession.

**Foreclosure**

Foreclosure is covered in “Financing.”
Fair Housing and Anti-Discrimination Laws

In addition to the U.S. Constitution, two major federal laws prohibit discrimination in housing.

The Civil Rights Act of 1866 states that “all citizens of the United States shall have the same right in every State and every Territory, as is enjoyed by the white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.” In 1968, the Supreme Court affirmed that the 1866 act prohibits “all racial discrimination, private as well as public, in the sale of real property.” The 1866 law prohibits discrimination based on skin color. Later laws and rulings prohibit discrimination based on race.

The Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968) makes it illegal to discriminate on the basis of race, color, religion, sex, or national origin in connection with the sale or rental of housing or vacant land offered for residential construction or use. The law specifically prohibits the following discriminatory acts:

- **refusing to sell** to, rent to, or negotiate with any person who is a member of a protected class, or otherwise making a dwelling unavailable to such a person
- **changing terms**, conditions, or services for different individuals as a means of discrimination against a member of a protected class
- practicing discrimination through any statement or **advertisement** that restricts the sale or rental of residential property
- representing to any person, as a means of discrimination, that a dwelling is **unavailable** for sale or rental
- making a profit by inducing owners of housing to sell or rent by representing that persons of a protected category are moving into the neighborhood
- altering the conditions of a home loan to any person, or otherwise denying such a loan as a means of discrimination
- denying persons membership or limiting their participation in any multiple listing service, real estate broker’s organization, or other facility related to the sale or rental of dwellings

A **protected class** is any group of people designated as such by the Department of Housing and Urban Development (HUD) in consideration of federal and state civil rights legislation. Protected classes currently include color, race, religion or creed, ancestry or national origin, gender, handicap, and familial status.

The Fair Housing Amendment defines a handicapped person as one who meets one of the following criteria:

- has a physical or mental impairment that substantially limits one or more major life activities
- has a record of having such an impairment
- is regarded as having such an impairment

The current use of illegal substances is not considered a handicap under the law. However, a person undergoing treatment for drug abuse is considered handicapped. AIDS and HIV-positive status are defined as handicaps.
Protected familial status applies to any household with one or more individuals under the age of 18 living with a parent or legal guardian. This status also applies to anyone who is pregnant or is in the process of obtaining legal custody of an individual under the age of 18. In other words, it is illegal to discriminate against families with children.

The most common violations of Federal Fair Housing Laws involve steering, blockbusting, advertising, and less favorable treatment.

Steering (also called channeling) is the practice of directing home seekers to or away from particular neighborhoods based on race, color, religion, sex, national origin, handicap, or familial status. Steering includes both efforts to exclude minorities from one area of a city and efforts to direct minorities to minority or changing areas. Steering accounts for many of the complaints filed against real estate agents under the Fair Housing Act.

Examples of steering include:

- showing only certain neighborhoods
- slanting property descriptions
- downgrading neighborhoods
- implying that certain properties are no longer available when, in reality, they are available

Blockbusting (also called panic peddling) is the illegal practice of inducing panic selling in a neighborhood for financial gain. Blockbusting typically starts when someone induces one homeowner to sell cheaply by implying that an impending change in the racial or religious composition of the neighborhood will cause property values to fall. The first home thus acquired is sold at a mark-up to a minority family. The process quickly snowballs as residents panic and sell at progressively lower prices. For information about advertising and misrepresentation, see page 103.

Less favorable treatment occurs when members of a protected category are provided with fewer services and less information than other people. This violation involves the claim that a minority client received inferior service, was unable to negotiate, or was offered different terms and conditions than a comparable non-minority client. Less favorable treatment is often very subtle, but it has the same discriminatory effects as steering or blockbusting.

Two types of housing are covered by the 1968 Fair Housing Act: single-family houses and multi-family dwellings.

A single-family house is covered if one of the following is true:

- It is owned by a private individual who uses a real estate broker or other person in the business of selling or renting dwellings or who advertises the dwelling.
- It is not owned by private individuals.
- It is owned by a private individual who owns more than three such houses or who, in any two-year period, sells more than one dwelling in which the individual was not the most recent resident.
A **multi-family dwelling** is covered if one of the following is true:

- It consists of five units or more.
- It consists of four or fewer units, and the owner does not reside in one of the units.

The act does not cover:

- rentals of rooms or units in owner-occupied multi-family dwellings of two to four units, as long as discriminatory advertising and the services of a real estate agent are not used
- restricting the sale, rental, or occupancy of dwellings owned or operated by a religious organization for a non-commercial purpose to persons of the same religion, as long as membership in that religion is not restricted on account of race, color, or national origin
- restricting the rental or occupancy of lodgings operated by a private club for its members for other than commercial purposes
- housing for the elderly that meets certain Department of Housing and Urban Development (HUD) guidelines

A person who believes he or she has been discriminated against can pursue one of three avenues:

1. file a written complaint with HUD
2. file a civil action directly in a U.S. District Court or state or local court
3. file a complaint with the U.S. Attorney General

The burden of proof is on the person filing the complaint. A person found guilty of a Fair Housing violation may face:

- an injunction to stop the sale or rental of the property to someone else, making it available to the complainant
- monetary fines for actual damages caused by the discrimination
- unlimited punitive damages
- court costs
- criminal penalties against those who coerce, intimidate, threaten, or interfere with a person’s buying, renting, or selling of housing
- state penalties including the loss of the real estate license

**Antitrust Compliance**

The **Sherman Antitrust Act** prohibits certain business practices that could place unfair restrictions on free competition in the marketplace. Prohibitions against restraint of trade that directly affect the real estate industry include the following:
- There can be no price fixing. Agency fees or commission are always subject to negotiation between a principal and an agent. Agents for different companies are not allowed to agree to predetermined fees, or to agree on a range of fees for specific services. Even discussion of such matters could subject licensees to civil and criminal penalties including fines and/or imprisonment.
- Realty firms cannot agree to provide service only in a designated geographic area.
- Realty firms cannot agree to boycott (direct business away from) certain companies or other realty firms.
- Agents are not to form exclusive organizations (such as property listing services) that arbitrarily prevent non-members from gaining access to sales and marketing information. Membership criteria must be designed so as not to unfairly exclude otherwise qualified brokers from participation.

Advertising and Misrepresentation
At all times, real estate licensees must make a diligent effort to make certain that all of their advertising creates an accurate and truthful picture. There is no place in the real estate business for falsehoods and inaccuracies. All advertising must contain the name of the agent or broker causing the publication of the advertisement. All media is included—print, radio, television, and the Internet.

When advertising credit terms, be sure to comply with the federal Truth-in-Lending law and give complete information including the Annual Percentage Rate (APR) whenever any trigger term is used. The Texas Deceptive Trade Practices Act (DTPA) covers the presentation of property to the public and requires accurate representation in property and financing advertising.

Ethical Issues
Relationships between agents and clients, associates and brokers, and brokers with other brokers require ethical behavior. It is important to pay special attention to the fiduciary duties covered in the Law of Agency segments, the TREC Canons of Professional Ethics and Conduct, and the Texas Deceptive Trade Practices Act.

Broker-Salesperson Agreements
Most salespersons function as Independent Contractors rather than as employees of the broker. The federal tax code requires that the broker and salesperson enter into a written contract to create the working relationship. The agreement should clearly stipulate that the salesperson is an independent contractor and that:

- he or she has paid his or her own licensing fees
- he or she is free to work on his or her own time schedule
- he or she may perform the tasks of the business where he or she wishes
- compensation is based solely on production and that no salary, hourly wages, or benefits are paid or provided
- the salesperson is responsible for paying quarterly federal income tax payments and the full 15.3% of gross wages for F.I.C.A. taxes
The agreement also needs to define compensation amounts and issues such as payment of commission generated prior to termination of the agreement but not yet paid.

A broker has the responsibility to maintain salesperson compliance with state licensing commissions and other laws relating to real estate brokerage.

► Specialty Areas

Property Management and Landlord/Tenant or Commercial/Income Property

Tenancies and Leasehold Estates
A lease is a contract that transfers a possessory interest in real estate. The leasehold estate conveys to the tenant a right to occupy the property for the term of the lease.

Leases may be oral or written, but the Statute of Frauds requires that leases of real estate, except for residential leases of one year or less, be in writing to be enforceable.

Leases must be signed by the landlord and the tenant but need not be recorded to be enforceable. An individual who wishes to notify the public of a leasehold interest may record a memorandum of lease.

A lease must include a sufficient property description. A legal description as used in a deed is appropriate, though in certain residential leases, a street address and apartment number are sufficient.

There are several kinds of leases:

- A gross lease specifies that the landlord pay all expenses: property taxes, insurance, maintenance. This kind of lease is often used for apartments and other residential properties.
- A net lease specifies that the tenant pay certain expenses. The most common arrangement requires the tenant to pay property taxes, insurance, and maintenance. This is called a net, net, net or triple net lease.
- An office-building lease is a hybrid of a gross and a net lease. The landlord pays the first portion of the expenses, and each tenant pays a pro rata share of all expenses over that.
- A percentage lease requires the tenant to pay a percentage of gross sales as rent in addition to a base rental amount specified in the lease.

Several types of tenancies can be created by a lease:

- An estate for years is given for a specified term. This common type of lease agreement includes all leaseholds that continue for a specific period of time and have a definite termination date, such as a five-year office lease or a 20-year retail lease.
- A periodic estate is initially given for a specific term and then renews automatically until notice of termination is given. It does not have a definite termination date but runs from month to month or year to
year. A periodic estate is generally created when the landlord and tenant contract to rent month to month, without specifying the number of months or years the lease will run.

- A **tenancy at will** extends indefinitely and may be terminated at any time by either the landlord or tenant by giving a notice equal to one rental period’s notice.

- **Tenancy at sufferance** is created when a tenant takes possession of a property lawfully and continues to hold possession of the property after the right to remain has expired. However, if the holdover tenancy exists with the consent of the landlord, then a periodic tenancy is created. When a lease is **assigned** to a third party, the third party assumes all the obligations of the lessee (tenant). The right of the tenant to assign the lease must be granted in writing by the landlord.

- If a tenant **subleases** some or all of the leased space (commonly referred to as the **demised premises**) to a third party, the original tenant’s relationship with the landlord does not change. All of the tenant’s obligations remain binding even though the tenant no longer occupies the premises. The sublease is created between the tenant (who now acts as the landlord) and the third party (who now becomes the tenant). The original lease should specify whether a sublet is allowed. The Texas Property Code stipulates that an assignment or subletting may occur only with the property owner’s (landlord’s) express written permission.

### Property Manager and Owner Relationships

The range of services that the **property manager** can perform for the landlord (property owner) includes marketing, leasing, maintenance, and rent collection.

A major activity of the property manager will be the cost-effective marketing of vacant units, primarily by ongoing advertising in selected publications. This usually will include classified ads in local newspapers, but may also include specialty publications as well as Internet rental listing services. Use of rental listing agencies, particularly for residential property, will require compliance with specific state laws intended to safeguard the consumer. On-site posting of unit availability will help attract the drive-by prospect.

The **law of supply and demand** applies in the leasing as well as the sale of real estate. Continuing surveys of the number of units and vacancies available on the market and rents charged will help the property remain competitive.

Advertising through newspapers, use of billboards, and posting on Internet and other listing services should attract a steady flow of prospective tenants, provided the units have been competitively priced and offer amenities expected in the area. The applicant review process should be conducted in a personal interview on-site, for the benefit of both property manager and prospective tenant.

### Laws Affecting Property Management

All or part of the wording of the rental application, as well as the time frame in which the applicant must be notified of acceptance or non-acceptance, may be mandated by state law. Federal law regarding the use of a credit report may also apply.

A property manager must comply with all federal and state fair housing laws to avoid charges of unlawful discrimination.
State law governs many of the provisions in a residential lease (or rental agreement). The typical lease will include:

- the identity of the lessor (landlord) and lessee (tenant)
- a description of the premises to be leased
- the terms of the lease, including beginning and ending times
- the amount of rent to be paid and when payment is due—a grace period may be specified, as well as the penalty for late payment due after that time
- the obligations of the lessor, which will include compliance with an express or implied warranty of habitability
- the obligations of the lessee, which will include payment of the stated rent as well as maintenance of the premises
- a provision for arbitration or mediation clause to be enforced in the event of a dispute in the terms of the agreement
- the signature of the lessee and signature of the lessor (or agent)

In most states, the Statute of Frauds requires that a lease that will terminate one year or more from the date of its signing must be in writing.

Federal law now requires compliance with the Lead-Based Paint Disclosure Law. This law is applicable for a new or renewal lease on residential property constructed prior to 1978.

The state may require specific disclosures as part of the rental agreement, such as whether a smoke alarm has been installed in the rental unit. The state may require dead-bolt locks on exterior doors of rental units. A sprinkler system may be a requirement in a commercial building or a fire hazard area.

**Common Interest Ownership Properties**

Many properties are owned by multiple owners. Here are three types of these properties.

1. **Cooperatives** are apartments owned by a corporation that holds titles to the entire cooperative property and is liable for the mortgage obligations and the ad valorem taxes for the entire property.

   Each purchaser of an apartment unit is a stockholder in the corporation and obtains the right to occupy through a proprietary lease. Each block of stock is tied to a specific right to occupy and carries a lease payment financial obligation that represents a pro rata share of the total cost of the operations expense and mortgage payments on the building.

2. **Condominiums** are created under state laws that permit a multi-tenant building to be divided into air lots and that are declared as separate parcels of real estate by recording a vertical and horizontal plot. The condominium declaration identifies each condominium and the percentage ownership that the individual owns in the land and the common elements of the structures. Some of the common elements will be defined as limited common elements and will be designated as for the exclusive use of a specific unit.
An advantage of condominium ownership over cooperative ownership is that default in payment of taxes, mortgage payment, or monthly assessment affects only the specific unit. Each unit is defined as a separate parcel of real estate and is owned fee simple.

3. **Time-Shares** are when multiple owners own a proportional interest in a single condominium unit with the exclusive right to use and occupy the unit for a specified period of time each year. The individual owners pay common expense and maintenance costs based on the ratio between the ownership period and the total number of ownership periods available in the property. This type of ownership can be either a fee simple or leasehold interest.

**Subdivisions**

When larger tracts of land are divided into smaller parcels that will be owned by multiple owners, the tract will be converted into a subdivision. The *subdivider* divides the tract into smaller lots for sale. The *developer* will improve the land by installing utilities, building roads, and preparing the sites for the activities of the builders who will construct the buildings.

The subdivision of the tract may be regulated by local, state, and federal regulations. The subdivision will be evidenced by the recording of a plat that shows lots, blocks, streets, and common amenities. The plat will also identify easements on each lot, easements in gross, for the purpose of bringing necessary utilities to the lots.

When the lots are offered for sale across state lines, the Federal Interstate Land Sales Full Disclosure Act enforced by HUD will require the filing of various reports. This law applies only to subdivisions with more than 25 lots and lots in excess of 20 acres.

Subdividers and developers will frequently place restrictive covenants on the lots that will control use of the land and establish standards for the improvements to be constructed on the lots.

**Texas Real Estate Commission Duties and Powers**

**General Powers**

**Composition, Duties, and Powers**

The [Texas Real Estate License Act (TRELA)](https://www.trec.state.tx.us) establishes the [Texas Real Estate Commission (TREC)](https://www.trec.state.tx.us) to carry out the provisions of TRELA. TREC consists of nine members. The governor (with the approval of the senate) appoints all for six-year terms with two brokers and one public member being appointed during each legislative session. The governor appoints a chair, who must be a licensed broker. The other officers are elected by their fellow commissioners.

Members of TREC must be citizens of Texas and qualified voters. Six must be licensed brokers engaged in real estate as their major occupation for at least five years prior to the appointment. The other three commissioners must be from the general public, not licensed, and not having a financial interest in a real estate firm.
An easy way to remember this is 3/6/9.

- 3 members from the general public
- 6 licensed real estate brokers
- 9 total members

The commissioners hire an administrator who acts as executive secretary and handles the day-to-day business of the office through a staff of employees. The commissioner, with the assistance of this staff, is responsible for enforcing TRELA and its related rules and regulations. The staff issues licenses to qualified applicants after investigating their backgrounds.

**Real Estate Broker-Lawyer Committee**

The Broker-Lawyer Committee is made up of thirteen members. TREC appoints six broker members. Six members are attorneys appointed by the President of the State Bar of Texas. The thirteenth person is a member of the public, not a broker or an attorney, and is appointed by the governor of Texas.

The broker and attorney members of the Broker-Lawyer Committee serve staggered terms of six years, with the terms of two TREC appointees and two State Bar appointees expiring every two years. The public member’s term expires every six years.

The primary duty of the Broker-Lawyer Committee is to draft and revise the real estate contract forms and addenda to be approved or promulgated by TREC. Only TREC can promulgate a form.

**Investigations and Subpoena Power**

**Investigations**

TREC investigates formal complaints filed against real estate licensees, and any person can file a complaint:

- submitted within four years of the date of the incident that is the subject of the complaint
- in writing
- signed by the complainant

When TREC receives a complaint, it notifies the licensee, unless the commission determines that there is good reason, within the purposes of TRELA, to investigate secretly. TREC must expressly authorize any covert investigations.

**Subpoena Power Investigations**

TREC has the power to request documents and issue subpoenas. Failure to comply with such a request by TRELA may cause the matter to be brought to the district court.
**Subpoena Power Hearings**

If, after investigation, TREC determines that a license is to be suspended or revoked, the licensee is entitled to a hearing. The hearing should take place within 30 days of the decision by the commission. The decision reached at a hearing may be appealed to a district court in the county where the hearing was held.

If the licensee requests a hearing, the TREC administrator calls the hearing and designates a hearing examiner. The hearing examiner makes findings of fact and conclusions of law and submits a report to TREC along with recommendations as to proposed penalties, if any.

If a licensee fails to pay penalties or post bond in a timely manner, the licensee loses his or her right to judicial review. The TREC administrator can submit the case to the Attorney General of Texas.

**Penalties for Violation**

As a result of action by the Texas Legislature in 1999, a violation of TRELA is a class A misdemeanor punishable by fine and/or time in the county jail.

**Unlicensed Activity**

Acting as a real estate salesperson or broker without a license is a class A misdemeanor punishable by a fine of up to $1,000 per day. If a corporation or a limited liability company acts as a licensee without a license, the fines and penalties become more severe.

**Authority for Disciplinary Actions**

The legislature has charged TREC with the responsibility of protecting the public from licensees who commit illegal acts. Chapters 1101.151 and 1101.202 of the Texas Occupations Code (TRELA) specifically give TREC the power to investigate complaints against real estate licensees and to take disciplinary action appropriate to the severity of the illegal activity. TREC, and only TREC, has the authority to suspend or revoke a real estate license issued by it. The legislature has not given the power to suspend or revoke licenses to judges, courts, or any other entity.

**Penalties**

A licensee who violates TRELA or one of the TREC related rules and regulations is subject to suspension or revocation of the license or may be assessed an administrative penalty of up to $1,000. The TREC administrator sets the penalty, keeping in mind the seriousness of the violation, and is responsible for notifying the licensee of the penalty.

**Recovery Fund**

The Recovery Fund was established to reimburse persons who suffer actual monetary damages because of certain acts committed by Texas licensees or by unlicensed employees or agents of Texas licensees. A court must have made a final money judgment that has remained unpaid for six months and ordered payment by the fund in order for the Recovery Fund to be tapped.
A claim on the Recovery Fund is paid only if the licensee has no assets that can be used to satisfy the judgment. The maximum payment from the Recovery Fund for a single transaction is $50,000, with a maximum of $100,000 for any one licensee, no matter how many transactions.

License applicants pay $10 to the fund. If on December 31 of any year, the balance in the fund is less than $1 million, each licensee pays a pro rata share, not to exceed $10, to replenish and bring the fund to $1.7 million. If the fund has a balance greater than $3.5 million, or contains more than the amount of money paid out of the fund in the preceding four years, whichever is greater, the excess is transferred to the state’s general revenue fund.

### Licensing

#### Activities Requiring a License

**Scope of Practice**

One who receives compensation to sell, exchange, purchase, rent, or lease real estate for others must be licensed. A license is required even if the person expects compensation but never actually receives it. TREA requires that those who merely offer, negotiate, list, auction, appraise, deal in options, advertise, or hold themselves out as brokers dealing in real estate be licensed.

Individuals who sell unimproved real estate in lots or parcels for others must be licensed by TREC. In this instance, it does not matter if the salesperson is employed at a salary, for a fee, or on straight commission.

**Exemptions**

Chapter 1101.005 of the Texas Occupations Code (TRELA) exempts the following from the need to obtain a license to perform certain acts of brokerage:

- owners acting for themselves
- employees who rent or lease property for their employer
- attorney-in-fact
- attorney-at-law licensed by this or any other state
- public officials
- people acting with the approval or upon appointment by a court as receivers, trustees, administrators, executors, or guardians
- persons acting under a court order, will, or trust
- individuals employed by a builder to sell structures erected by the builder on the builder’s land
- on-site managers of apartment complexes
- people who sell, lease, or transfer any mineral or mining interest in real property
- people who sell, lease, or transfer cemetery lots
- appraisers certified by the Texas Appraiser Licensing and Certification Board
- state licensed auctioneers who “call” the auction of real estate
Corporations/Limited Liability Companies
The Texas Real Estate License Act requires a corporation or a limited liability company (LLC) to be licensed as a real estate broker to perform brokerage services or represent that it provides such services.

Corporations that conduct real estate business must designate an officer of the corporation who holds a real estate broker’s license to act for the corporation and function as the corporation’s designated broker. LLCs that conduct real estate business must designate a partner of the company who holds a real estate broker’s license to act for the company. A complaint against a corporation or an LLC is deemed to be a complaint against the designated broker.

Non-Resident Broker
A broker licensed in Texas may pay compensation to a broker licensed in another state provided the outside broker is not being compensated for negotiations conducted in Texas unless the broker holds a Texas non-resident broker’s license. This provision typically refers to the payment of referral fees to brokers in other states or foreign countries.

Inspectors and Appraisers
A real estate inspection is a written or oral opinion as to the condition of the improvements to real property, including structural items, and mechanical systems. Licensed inspectors must meet state-mandated requirements established in TRELA. TREC-licensed inspectors have designated obligations to the public they serve and must conform to TREC rules.

Electricians, plumbers, carpenters, or people engaged in structural pest control in compliance with the Texas Structural Pest Control Act operate under licenses issued by other state agencies and may inspect specific components of a structure.

A Real Estate Inspector Recovery Fund is used for reimbursement to people who suffer monetary damages as a result of certain acts committed by a licensed inspector. The Texas Real Estate Commission (TREC) is responsible for monitoring this area of the real estate industry. Education, application, testing, and enforcement are separate from real estate salesperson and broker licensure.

Licensing Process

General Requirements
To obtain a real estate salesperson’s license in Texas, an applicant must:

- be a U.S. citizen or legally admitted alien
- be at least 18 years of age
- be a Texas resident at the time of application
- show proof of completion of the educational requirements (see “Education”)
- have shown competence in real estate by passing the state salesperson licensing examination
To obtain a broker’s license, an applicant must:

- be a U.S. citizen or legally admitted alien
- be at least 18 years of age
- be a Texas resident at the time of application
- maintain a fixed place of business within the state
- show proof of completion of the educational requirements (see “Education”)
- show competence by passing the state broker licensing examination
- have at least two years’ experience as a licensed salesperson during the 36 months immediately preceding the filing of the application
- demonstrate honesty, trustworthiness, integrity, and competence

Competency is judged solely on the basis of the licensing examination. TREC may ask for additional information to satisfy the requirements for honesty, trustworthiness, and integrity.

**Education**

**Salesperson**
An applicant for a salesperson license must show evidence of completion of 210 clock hours (14 semester hours) of post-secondary courses. Those 210 hours must include the following minimum requirements:

- Principles of Real Estate, 60 hours
- Law of Agency, 30 hours
- Law of Contracts, 30 hours
- An elective core real estate course, 30 hours

The remaining 60 hours may be either in additional core real estate courses or in related courses. TRELA outlines specific courses deemed core courses. TREC may also accept certain other courses as being closely related to the real estate industry.

**Broker**
To apply for a broker’s license, a licensee holding a salesperson license must show evidence of completion of 900 clock hours (60 semester hours) of post-secondary courses. These hours must include at least 270 classroom hours of core real estate courses and three classroom hours on federal, state, and local laws governing housing discrimination, housing credit discrimination, and community reinvestment.

**Examination**
An applicant must pass the **state licensing examination** within six months after the application is filed with TREC. If the exam is not successfully completed within the six-month period, the applicant must submit a new
application. However, applicants who reapply must meet the licensing requirements in effect at the time of the new application. If changes have occurred, applicants must meet the new provisions of the law.

**Grounds to Reject Applications**
An applicant may be rejected by TREC if he or she does not meet the requirements established by the legislature in the Texas Occupations Code 1101 Subchapter H of TREA.

**Appeals**
If TREC declines an application, it will notify the applicant in writing. The applicant then has ten days to appeal the ruling and request a hearing before the commission. TREC will set a hearing date and give the applicant ten days notice of the hearing. If the application is denied at the hearing, the applicant may appeal to a district court. If the applicant does not request a hearing within the ten-day period, the ruling of the commission becomes final and is not subject to appeal.

**License Maintenance and Renewal**

**Continuing Education**

**Salesperson Annual Education (SAE)**
Salespersons must complete an additional 60 classroom hours in core real estate courses to renew their salesperson license during the first year of licensure.

Once they have satisfied the 60-hour requirement, they will receive a two-year license. Beginning with the next annual renewal, licensees must satisfy the following MCE requirements for subsequent license renewals.

**Mandatory Continuing Education (MCE)**
To renew an active real estate broker license or an active real estate salesperson license that is not subject to SAE requirements, the licensee must complete 15 classroom hours of Mandatory Continuing Education (MCE) courses approved by TREC. These hours must be taken during the term of the license being renewed.

Six hours of that instruction must be the mandatory three hours of legal and three hours of ethics promulgated by TREC. The curriculum for the six hours is developed by the Texas Real Estate Center at A&M University. TREC must approve the remaining nine elective hours. Examinations are not required for MCE except in the cases of courses offered by alternative delivery systems such as computer-based learning programs and correspondence courses.

**Place of Business**
TREA requires that a broker maintain a definite place of business in the state of Texas. A broker may not use a post office box as an address on the license unless a physical address is also listed. A broker may use his or her home as an office. Brokers must notify TREC within ten days of any change of address. The office location should not violate any local laws or deed restrictions. A broker maintaining more than one place of business must obtain a branch office license for each location.
Change of Salesperson Sponsorship
When a broker terminates sponsorship of a salesperson, the broker must notify the salesperson in writing and immediately return the salesperson’s license to TREC. Unless another broker has sponsored the salesperson, that salesperson will be placed on inactive status. A broker is not charged a fee for terminating sponsorship of a salesperson. To be actively licensed, a salesperson changing sponsorship must submit a form signed by the new broker and a fee to TREC within ten days of notification of termination by the previous broker.

Inactive Status
A salesperson may go from active to inactive by having the sponsoring broker send a Notice of Salesperson Sponsorship Termination form. Brokers may apply for inactive status by filing the proper request with TREC. Brokers who are sponsoring salespersons must terminate sponsorship by giving all salespeople at least 30 days written notice before applying for inactive status.

While on inactive status, licensees:

- may not perform any acts of brokerage regulated by TREL A
- must pay renewal fees to TREC
- are not required to complete MCE hours until wishing to return to active status (A salesperson subject to SAE requirements must complete the 60-hour requirement to remain on inactive status.)

In order to activate a license, the licensee must complete an application, pay any required fees, and complete any continuing education requirements.

➤ Standards of Conduct

Professional Ethics and Conduct
Broker responsibility in the state of Texas has been guided mainly by the Canons of Professional Ethics and Conduct for real estate licensees as established by TRELA and TREC regulations. The following are three of the most important articles of the Canons of Professional Ethics and Conduct as stated at the beginning of TREC’s published rules for brokers and their salespersons.

Article 1: Fidelity
A real estate broker or salesperson, while acting as an agent for another, is a fiduciary. Special obligations are imposed when such fiduciary relationships are created. They demand:

- that the primary duty of the real estate agent is to represent the interests of his or her client, and his or her position, in this respect, should be clear to all parties concerned in a real estate transaction;
- that however, the agent, in performing his or her duties to the client, shall treat other parties to a transaction fairly;
that the real estate agent be faithful and observant to trust placed in him or her, and be scrupulous and meticulous in performing functions;
that the real estate agent place no personal interest above that of his or her client.

**Article 2: Integrity**

A real estate broker or salesperson has a special obligation to exercise integrity in the discharge of his or her responsibilities, including employment of prudence and caution so as to avoid misrepresentation, in any ways, by acts of commission or omission.

**Article 3: Competency**

It is the obligation of a real estate agent to be knowledgeable as a real estate brokerage practitioner. He or she should:

- be informed on market conditions affecting the real estate business and pledged to continuing education in the intricacies involved in marketing real estate for others;
- be informed on national, state, and local issues and developments in the real estate industry; exercise judgment and skill in the performance of his or her work.

**Fiduciary Duties**

The fiduciary duties incumbent upon licensees, as outlined in the Canons and by the courts, include the following:

- Faithful performance. Sometimes referred to as the duty of obedience, faithful performance means that agents must obey all legal instructions given by their principal, applying their best efforts and diligence to carry out the objectives of the agency relationship.
- Loyalty. This means simply that agents must put the interests of the principal above all other interests, including their own. If representing the property owner, the agent is legally bound to keep the owner fully informed on all matters that might affect the sale of the listed property and to promote and protect the owner's interests.

Similarly, when representing the buyer, the agent must keep the buyer informed of any negative features that may be material to the buyer. This may cause the agent to lose a sale while protecting the interests of the client.

TRELA prohibits and identifies as cause for disciplinary action certain misplaced loyalties, such as:

1. conduct that constitutes dishonest dealings, bad faith, or untrustworthiness
2. the offering of real property for sale or lease without the knowledge and consent of the owner, or on terms other than those authorized by the owner or their agent
3. accepting, receiving, or charging an undisclosed commission rebate or making a direct profit on expenditures made for the principal
4. failing to make clear to all parties to a transaction, which party the agent is acting for, or receiving compensation from more than one party, except with the full knowledge and consent of all parties
■ **Reasonable care.** This duty implies competence and expertise on the part of the agent. Agents must disclose all knowledge and material facts concerning a property to their principal. Also, the agent must not become a party to any fraud or misrepresentation likely to affect the sound judgment of the principal. Since it is virtually impossible to predict what may be considered a material fact, it is important that agents disclose everything they know about a property or transaction. The agent has the duty to have current information about current market conditions, financing, and legal issues, and to advise the client to seek the advice of experts.

■ **Accounting.** For the purpose of holding clients’ and customers’ money, laws in nearly all states require brokers to maintain a **trust account** or deposit the money with an escrow officer. All monies received by a broker as agent for a principal are to be promptly deposited in this account or in the trust account of the attorney, escrow, or title company handling the transaction. TREC rules require that earnest money be deposited with the named escrow agent by the close of the second business day of the escrow agent.

The broker’s trust account must be separate from his or her own bank account, and the broker is required by law to accurately account for all funds received into and paid out of the trust account.

A broker who places money belonging to a client or customer in his or her own account has engaged in what is called **commingling.** This practice is grounds for suspension or revocation of a broker’s or salesperson’s real estate license.

**Single Act**

An unlicensed person who commits a single act of brokerage violates the TREA. This provision simply clarifies that one act is just as actionable as a pattern of continuous violations. One found guilty of unlicensed activity is subject to significant penalties imposed by the TREA as well as the possibility of a civil suit for treble (three times) damages.

**Grounds for Suspension and Revocation**


TREC can suspend or revoke the real estate license of a licensee who:

- is found guilty of a felony involving fraud, even if the licensee has been granted probation
- makes a fraudulent or material misrepresentation of fact on the license application
- makes a fraudulent or material misrepresentation of fact in dealing with his or her own property
- fails to cover a bad check to TREC
- disregards or violates a provision of TREALA

The license may also be suspended or revoked if the licensee has been found guilty of any of the following while acting as a licensee:
- failing to disclose or misrepresenting a material defect
- making promises that the licensee could not or would not keep (even in ads)
- failing to make clear to all parties whom the licensee represents and who is compensating the licensee
- failing to account for the funds of others or commingling those funds with the licensee’s own funds
- paying a commission or fee for services in a real estate transaction to anyone who is not licensed
- failing to include a termination date in a listing or buyer representation agreement
- accepting undisclosed commissions or making undisclosed profits on expenditures made for a principal
- not disclosing the licensee’s status as a real estate licensee when acting as a principal in a transaction
- guaranteeing future profits from the resale of real property
- placing a “For Sale” or “For Lease” sign on a property, or offering a property for sale or lease, without the owner’s written consent
- attempting to induce a party to break a real estate contract
- negotiating with an owner or lessor of real property, knowing that the owner or lessor had a written agency agreement with another broker
- presenting misleading advertising
- submitting an inaccurate statement of account or invoice
- threatening unjustified legal action
- employing or associating with an unlicensed person who is acting as or expected to act as a licensee
- failing to furnish copies of documents pertaining to a transaction to a person who signed those documents
- failing to advise a buyer in writing to either have the abstract examined by an attorney or obtain title insurance
- acting dishonestly, in bad faith, negligently, or incompetently in a real estate transaction
- failing to deposit escrow money with a title company or in a custodial, trust, or escrow account by the close of the second business day after the signing of an executory contract, or disbursing money deposited in such an account before the appropriate time
- failing to produce any document concerning a real estate transaction or other information requested by TREC
- failing to surrender a document or instrument to its rightful owner without just cause
- discriminating against anyone in a real estate transaction on the basis of race, color, religion, sex, national origin, or ancestry

**Unlawful Practice of Law (Review TRELA, Texas Occupations Code 1101.654)**

Real estate licensees may not practice law by giving legal advice or creating documents that define legal rights and remedies, unless licensed and authorized to practice law in Texas. Completing contract forms promulgated or approved by TREC is not considered practicing law. Altering the contracts or drawing up a deed, deed of trust, will, or other written instrument that may transfer or affect the title to real estate is considered practicing law.
Trust Accounts
Licensees must timely deposit customer and client money coming into the licensee’s possession with an escrow officer named by the parties or deposit it in a trust account maintained by the broker exclusively for purpose of holding client and customer funds. Security deposits and earnest money are examples of the types of deposit money that a broker may hold for a customer or client. Only a broker may maintain an escrow account. Salespersons must deposit any escrow funds in the broker’s escrow account. A salesperson licensee may not maintain such an account.

A broker found guilty of placing client funds in the company operating account or a personal account is guilty of commingling and subject to disciplinary action upon being proven guilty.

TREC rules require that a broker maintain financial records relating to trust accounts for a minimum of four years.

Splitting Fees
Licensees may not split fees or commissions resulting from a real estate transaction with anyone who is not licensed. A broker may pay a fee or commission to a broker licensed in another state, as long as the other broker does not conduct negotiations in Texas. A broker may present a gift with a value of not more than $50 to an unlicensed person but may not give an unlicensed person cash. A broker may rebate a fee to a principal to the transaction with the permission of the client.

Agency/Brokerage

Disclosure
A real estate broker may not act as an agent for more than one party to a transaction unless the broker has disclosed all agency relationships to all parties and has emphasized the duties of the broker and the potential conflicts of interest that may develop. Legislation passed in 2005 states that a broker must agree to act as an intermediary under TRELA if the broker represents a buyer and a seller in the same transaction. All regulations for acting as an intermediary apply.

Intermediary Practice
When a broker represents both buyer and seller, the broker must seek written permission from each of the parties to become the intermediary. Because acting as an intermediary may produce conflicts of interest and duties to each principal, TREA, Texas Occupations Code 1101.558, 1101.559, 1101.560, and 1101.561 are quite specific about regulating what a broker acting as an intermediary must and must not do.

If the broker chooses to act as an intermediary, the broker must have written consent from all parties to the transaction. The written authorization must stipulate the source of the broker’s compensation.

A real estate broker who acts as an intermediary may not disclose to the buyer or tenant that the seller or landlord will accept a price less than the asking price unless otherwise instructed by the seller or landlord in writing. Similarly, the broker may not disclose to the seller or landlord that the buyer or tenant will pay a price greater than the offering price unless otherwise instructed by the buyer or tenant in writing.
In addition, a broker acting as an intermediary must treat all parties honestly. The intermediary may not disclose any confidential information or any information a party specifically instructs the broker in writing not to disclose unless disclosure is required by TRELRA or a court order, or unless the information materially relates to the condition of the property.

A broker acting as an intermediary may appoint one or more licensees associated with the broker to communicate with and carry out instructions of each party, as long as all parties consent in writing. During negotiations, an appointed licensee may provide opinions and advice to the party to whom the licensee is appointed. The appointed licensee may not reveal confidential information about the other party involved in the transaction. If appointments are made, each principal must receive written notice of the respective appointments and the appointees.

Only a broker may act as an intermediary. The broker/intermediary may not give advice and opinions or appoint him or herself to work with either of the parties as an appointed licensee. If no appointments are authorized by the written consent of the parties, all licensees associated with the broker must remain neutral and refrain from offering advice or opinions to either party.

**Duties to Client**

Agents have the duty to put the interest of the client first. The duties owed to clients are known as fiduciary duties and can easily be remembered by using the acronym that follows.

- Obedience
- Loyalty
- Disclosure
- Confidentiality
- Accounting
- Reasonable care and due diligence

The TREC Canons of Professional Conduct summarize the duties in three words.

- Fidelity
- Integrity
- Competency

**Broker-Salesperson Relationships**

Salespersons may work under a sponsoring broker as an employee or may associate with a broker as an independent contractor. A broker may exercise a great amount of control over the activities of an employee. An independent contractor can be directed of what to do but cannot be told how, when, or where to do it. The amount of control that a broker may exercise is determined by the working relationship. Salespersons should enter into a written working agreement that clearly established the type of working relationship and how and when the salesperson will be compensated.
Broker’s Responsibility for Acts of Salesperson
Brokers are responsible for their own acts and the acts of salespersons sponsored by them. Brokers are generally not responsible for the acts of other licensees, such as sub-agents working for other brokerage firms. However, a broker is responsible if he or she has knowledge of falsity, misrepresentation, or concealment of material facts on the part of any licensee and does not report it.

Contracts

Use of Standard Contract Forms
Real estate licensees are required to use forms promulgated for mandatory use or approved by the TREC except when an attorney or a principal prepares the forms. When principals prepare their own contracts, licensees are not allowed to give legal advice regarding any aspect of the contract preparation or the legal sufficiency of the form. Licensees must refrain from giving advice or opinions about the status of title.

Statute of Frauds
Every state has a statute of frauds. The purpose of such a law is to prevent fraud by requiring that all contracts for the sale of land, or an interest in land, be in writing and signed in order to be enforceable in a court of law. This includes:

- offers
- acceptances
- binders
- land contracts
- deeds
- escrows
- options to purchase

Verbal negotiations may save time, but verbal agreements are not binding upon the parties and cannot be enforced in a court of law.

Special Topics

Community Property
In Texas, spouses are treated as equal partners with each owning a one-half, undivided interest in all real and personal property. Community property rights do not come into effect until marriage and, similarly, end with the dissolution of marriage. The law in Texas presumes that all property acquired after marriage is community property including income earned by separate property.

Property that is not community property is referred to as separate property. Separate property includes property acquired and owned before marriage, and property acquired after marriage by gift, devise, descent, or through a personal injury settlement.
Spouses can agree in writing, before or during marriage, that property can be separate rather than community. Courts have held that property purchased after marriage with separate funds can also be established as separate property. However, rents and revenues from separate property are construed as community property, unless the spouses agree otherwise. Legal counsel must be obtained for those wishing to partition community property.

**Homestead**
The concept of the homestead is taken from early Spanish law and is intended to protect the home in which a family lives. The homestead in Texas is exempt from most creditors and cannot be taken for ordinary debt. The only valid liens against a homestead are:

- tax liens
- purchase money mortgages
- properly created Mechanic’s and Materialman’s liens
- homeowners’ association liens
- properly created home equity liens

Texas law does not require a formal declaration to create a homestead. Real property owned and occupied by one or more people is considered a homestead. A homeowner cannot avoid the homestead status by executing a disclaimer.

A rural homestead can contain a maximum of 100 acres for a single person and a maximum of 200 acres for a family. The property must not have been in an incorporated area when acquired.

An urban homestead is a tract of no more than 10 acres, including all improvements in an incorporated or unincorporated city, town, or village. To be considered a homestead, the property must be used as a principal residence.

In addition to exempt real property (such as a homestead), a family or a single person may have certain items of exempt personal property. The total value of all personal homestead property may not exceed $15,000 for a single person or $30,000 for a family.

**Deceptive Trade Practices Act**
The Deceptive Trade Practices Act (DTPA) was passed in 1973. DTPA is a powerful consumer protection law designed to protect the public against false, misleading, and deceptive business practices; unconscionable actions; and breaches of warranty. Consumers who purchase or lease goods (including both personal and real property) and services are protected by the law. Many legal actions brought against real estate licensees involve violations of DTPA.

DTPA lists 25 specific violations, often referred to as the “laundry list.” Many of them have direct application in real estate transactions. One important provision of DTPA gives the consumer the ability to recover damages in excess of actual economic loss—up to three times the amount of the actual damages as determined by the court.

A court cannot suspend or revoke a real estate license for violations of the DTPA. TRELA contains a similar list of violations that can result in suspension or revocation of the real estate license, in addition to the monetary penalties assessed under DTPA. Only TREC has the power to suspend or revoke a real estate license.
Descent and Distribution
If a person dies without leaving a will, or leaves one that is subsequently ruled invalid by the probate court because it was improperly prepared, that person is said to have died intestate. When this happens, state law directs how the deceased's assets are distributed. This is known as title by descent or intestate succession and specifies who is eligible to receive what in what proportion.

Intestate Succession
Under Texas law, when a person dies intestate, that person's real and personal property passes, at the direction of the probate court in the county where the decedent resided, to the person's heirs or beneficiaries, subject to the payments of any debts, except those exempted by law.

When a person dies intestate, the surviving spouse and children are usually the dominant recipients of the deceased's assets. If there is no spouse or children, the deceased's grandchildren receive the assets. If there are no lineal descendants, the deceased's parents, brothers and sisters, and their children receive largest share. If there are no heirs, the deceased's property reverts to the state under the doctrine of escheat.

Seller Disclosure Requirements
In 1993, the Texas legislature added Section 5.008 to the Texas Property Code. It requires the seller of a previously occupied single-family residential property to give the purchaser of the property written notice of the condition of the property. The seller must give this notice to the buyer by the time the sales contract is signed. If the seller has not received the notice prior to signing the sales contract, the purchaser can terminate the contract within seven days of receiving the notice. If the notice is never delivered, the buyer may terminate up to and including the day of closing.

The following transactions are exempt from the provisions of Section 5.008 of the Texas Property code:

1. pursuant to a court order or foreclosure sale;
2. by a trustee in bankruptcy;
3. to a mortgage by a mortgagor or successor in interest, or to a beneficiary of a deed of trust by a trustor or successor in interest;
4. by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust or a sale pursuant to a court ordered foreclosure or has acquired the real property by a deed in lieu of foreclosure;
5. by a fiduciary in the course of the administration of a decedent’s estate, guardianship, conservatorship, or trust;
6. from one co-owner to one or more other co-owners;
7. made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;
8. between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;
9. to or from any governmental entity;
10. transfers of new residences of not more than one dwelling unit that has not previously been occupied for residential purposes; or
11. transfers of real property where the value of any dwelling does not exceed five percent (5%) of the value of the property.
Landlord-Tenant Issues

A relatively new statute (Section 411.118, Government Code) allows employers operating residential dwelling units to access an employee’s Driving While Intoxicated (DWI) conviction history if the employee will be operating company vehicles.

The new statute also allows a notice to vacate to be affixed to the outside of the main entry of a dwelling. If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises, a notice to vacate may be left on the inside of the main entry door.

With respect to a writ of possession, the new statute requires the court to notify the tenant in writing of a default judgment for possession by sending a copy of the judgment to the premises by first class mail. The officer executing the writ of possession must post a written warning on the outside of the front door of the rental unit, notifying the tenant that the writ will be executed on or after a specific date and time stated in the warning, but not sooner than 24 hours after the warning is posted.

The statute also imposes on commercial and residential landlords a duty to mitigate damages if a tenant abandons the leased premises in violation of a lease.

A tenant’s right to deduct rent for repairs not made by the landlord on a timely basis is enhanced by the statute, which sets the limit on deductible rent equal to the amount of one month’s rent under the lease or $500, whichever is greater. The previous law imposed a cap of one month’s rent. A tenant may deduct rent only if every required detail of the statute is met. Failure to pay the rent on time terminates most tenant rights.

Foreclosures

In Texas, when a buyer borrows money to purchase real property, the buyer acquires title to the property. This is different from other types of financing, such as automobile financing, in which the lender acquires title and holds it until the debt is paid off. Since the borrower has title to and possession of the mortgaged property, it can be difficult for the lender to foreclose on the mortgage. Judicial (or strict) foreclosure requires a court proceeding and therefore can take considerable time and be costly.

A popular method of avoiding the inconvenience of a judicial foreclosure is a deed of trust. A third party, called a trustee, is empowered by the borrower to step in and sell mortgaged property in the event of a default in the payment of the promissory note. The procedure is effective and efficient.

A non-judicial foreclosure may be accomplished under the “Power of Sale” clause in a deed of trust by following procedures created by statute.

1. The lender will notify the borrower via a certified letter that the loan is in default and gives the borrower 20 days to cure the deficiency and reinstate the loan.
2. If step 1 does not produce results, the lender will notify the trustee to accelerate the note and post for foreclosure.
3. The trustee will notify the defaulting borrower and post notice at the county court house that the property will be sold at public auction. This notice must be posted at least 21 days prior to the trustee sale.
4. The sale takes place between the hours of 10:00 A.M. and 4:00 P.M. on the first Tuesday of the month following the posting of the notice that the property will be sold.
5. The proceeds of the sale are used to pay all legal fees, the trustee’s fees, and other costs of sale. The balance is applied to the outstanding interest and unpaid loan balance.

6. If there is any money left over, it goes to the property owner.

**Recording Statutes**

All documents relating to real property may be recorded at the courthouse in the county in which the property is located. Documents must be in English and acknowledged before they can be recorded. The purpose of recording documents is to give constructive notice or legal notice to the public of some interest in real property. By having access to recorded documents, the public has some degree of protection against fraudulent sales.

**Mechanic’s and Materialman’s Liens**

**Mechanic’s Liens** and **Materialman’s Liens** are statutory liens created to secure payment for those who supply labor or materials for the construction of an improvement to land.

There have been some significant changes in the Mechanic’s and Materialman’s Lien laws.

Before a property owner signs a residential construction contract, the original contractor must give the owner a disclosure statement that informs the owner of his or her rights under the Mechanic’s and Materialman’s Liens statutes.

The original contractor must deliver to the owner, before construction begins a written list of the subcontractors and suppliers the contractor intends to use.

If the owner is obtaining third-party financing for the construction, the lenders must make sure all the documents related to the closing of the loan are in the owner’s hands at least one business day before the closing.

The original contractor must periodically give the owner a signed statement listing all the bills for which the original contractor is seeking payment.

If the owner has obtained a loan and if the lender makes payments directly to the original contractor, then the lender must periodically give the owner a statement of funds the lender has disbursed.

Before the original contractor can receive final payment under the construction contract, the original contractor must give the property owner an affidavit stating that the original contractor has paid the subcontractor in full.

The penalty for non-compliance is a fine of up to $4,000, a jail term not to exceed one year, or both.
CHAPTER SUMMARY
Real estate mathematics accounts for almost 10% of the Texas Real Estate Sales Exam, so you should take this topic seriously. But even if math is not your favorite subject, this chapter will help you do your best. It not only covers arithmetic, algebra, geometry, and word problems, but also has practice problems for each of the real estate math topics.

HERE ARE THE types of math questions you will encounter on the exam:

- Percents
- Areas
- Property Tax
- Loan-to-Value Ratios
- Points
- Equity
- Qualifying Buyers
- Prorations
- Commissions
Sale Proceeds  
Transfer Tax/Conveyance Tax/Revenue Stamps  
Competitive Market Analyses (CMA)  
Income Properties  
Depreciation

Keep in mind that although the math topics are varied, you will be using the same math skills to complete each question. But before you review your math skills, take a look at some helpful strategies for doing your best.

▶ Strategies for Math Questions

Answer Every Question
You should answer every single question, even if you don’t know the answer. There is no penalty for a wrong answer, and you have a 25% chance of guessing correctly. If one or two answers are obviously wrong, the odds of selecting the correct one may be even higher.

Bring a Calculator
You are allowed to bring a calculator to your exam. You must check with your exam center to find out exactly what type of calculator is permitted. In general, permissible calculators are battery-operated, do not print, are not programmable, and do not have a keypad with letters. As a precaution, you should bring an extra battery with you to your exam. Try not to rely entirely on the calculator. Although using one can prevent simple adding and subtracting errors, it may take longer for you to use the calculator than to figure it out yourself.

Use Scratch Paper
Resist the temptation to “save time” by doing all your work on your calculator. The main pitfall with calculators is the temptation to work the problem all the way through to the end on the calculator. At this point, if none of the answers provided is correct, there is no way to know where the mistake lies. Use scratch paper to avoid this problem.

Check Your Work
Checking your work is always good practice, and it’s usually quite simple. Even if you come up with an answer that is one of the answer choices, you should check your work. Test writers often include answer choices that are the results of common errors, which you may have made.
**Real Estate Math Review**

Here’s a quick review of some basic arithmetic, algebra, geometry, and word problem skills you will need for your exam.

**Arithmetic Review**

**Symbols of Multiplication**

When two or more numbers are being multiplied, they are called **factors**. The answer that results is called the **product**.

*Example:*

\[ 5 \times 6 = 30 \]

5 and 6 are **factors** and 30 is the **product**.

There are several ways to represent multiplication in the above mathematical statement.

- **A dot between factors indicates multiplication:**
  \[ 5 \cdot 6 = 30 \]

- **Parentheses around one or more factors indicates multiplication:**
  \[ (5)6 = 30, 5(6) = 30, \text{ and } (5)(6) = 30 \]

- **Multiplication is also indicated when a number is placed next to a variable:**
  \[ 5a = 30 \quad \text{In this equation, } 5 \text{ is being multiplied by } a. \]

**Divisibility**

Like multiplication, division can be represented in a few different ways:

\[ 8 \div 3 \rightarrow \overset{8}{3} \]

In each of the above, 3 is the divisor and 8 is the dividend.
How to Round

If the number after the one you need to round to is 5 or more, make the preceding number one higher. If it is less than 5, drop it and leave the preceding number the same. (Information about rounding is usually provided in the exam instructions or in the exam bulletin.)

Example:

0.0135 = .014 or .01

Decimals

The most important thing to remember about decimals is that the first place value to the right begins with tenths. The place values are as follows:

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>6</th>
<th>8</th>
<th>·</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>7</th>
</tr>
</thead>
</table>

In expanded form, this number can also be expressed as . . .

\[ 1268.3457 = (1\times1,000) + (2\times100) + (6\times10) + (8\times1) + (3\times.1) + (4\times.01) + (5\times.001) + (7\times.0001) \]

Fractions

To do well when working with fractions, it is necessary to understand some basic concepts. Here are some math rules for fractions using variables:

\[
\frac{a}{b} \times \frac{c}{d} = \frac{a\times c}{b\times d}
\]

\[
\frac{a}{b} + \frac{c}{b} = \frac{a + c}{b}
\]

\[
\frac{a}{b} \div \frac{c}{d} = \frac{a}{b} \times \frac{d}{c} = \frac{a\times d}{b\times c}
\]

\[
\frac{a}{b} + \frac{c}{d} = \frac{ad + bc}{bd}
\]
**Multiplication of Fractions**

Multiplying fractions is one of the easiest operations to perform. To multiply fractions, simply multiply the numerators and the denominators, writing each in the respective place over or under the fraction bar.

*Example:*

\[
\frac{4}{5} \times \frac{6}{7} = \frac{24}{35}
\]

**Dividing of Fractions**

Dividing fractions is the same thing as multiplying fractions by their **reciprocals**. To find the reciprocal of any number, switch its numerator and denominator. For example, the reciprocals of the following numbers are:

\[
\frac{1}{3} \rightarrow \frac{3}{1} = 3
\]

\[
x \rightarrow \frac{1}{x}
\]

\[
\frac{4}{3} \rightarrow \frac{5}{4}
\]

\[
5 \rightarrow \frac{1}{5}
\]

When dividing fractions, simply multiply the dividend (the number being divided) by the divisor’s (the number doing the dividing) reciprocal to get the answer.

*Example:*

\[
\frac{12}{21} \div \frac{3}{4} = \frac{12}{21} \times \frac{4}{3} = \frac{48}{63} = \frac{16}{21}
\]

**Adding and Subtracting Fractions**

To add or subtract fractions with like denominators, just add or subtract the numerators and leave the denominator as it is. For example,

\[
\frac{1}{7} + \frac{5}{7} = \frac{6}{7} \quad \text{and} \quad \frac{5}{8} - \frac{2}{8} = \frac{3}{8}
\]

To add or subtract fractions with unlike denominators, you must find the **least common denominator**, or LCD.

For example, if given the denominators 8 and 12, 24 would be the LCD because \(8 \times 3 = 24\), and \(12 \times 2 = 24\). In other words, the LCD is the smallest number divisible by each of the denominators.

Once you know the LCD, convert each fraction to its new form by multiplying both the numerator and denominator by the necessary number to get the LCD, and then add or subtract the new numerators.

*Example:*

\[
\frac{1}{3} + \frac{2}{5} = \frac{5(1)}{3(5)} + \frac{3(2)}{3(5)} = \frac{5}{15} + \frac{6}{15} = \frac{11}{15}
\]
Percent
A percent is a measure of a part to a whole, with the whole being equal to 100.

- To change a decimal to a percentage, move the decimal point two units to the right and add a percentage symbol.

  Example:
  \( 0.45 = 45\% \quad 0.07 = 7\% \quad 0.9 = 90\% \)

- To change a fraction to a percentage, first change the fraction to a decimal. To do this, divide the numerator by the denominator. Then, change the decimal to a percentage.

  Example:
  \( \frac{4}{5} = 0.80 = 80\% \)
  \( \frac{2}{5} = 0.4 = 40\% \)
  \( \frac{1}{8} = 0.125 = 12.5\% \)

- To change a decimal to a percentage, move the decimal point two units to the right and add a percentage symbol.

- To change a percentage to a decimal, simply move the decimal point two places to the left and eliminate the percentage symbol.

  Example:
  \( 64\% = 0.64 \quad 87\% = 0.87 \quad 7\% = 0.07 \)

- To change a percentage to a fraction, divide by 100 and reduce.

  Example:
  \( 64\% = \frac{64}{100} = \frac{16}{25} \)
  \( 75\% = \frac{75}{100} = \frac{3}{4} \)
  \( 82\% = \frac{82}{100} = \frac{41}{50} \)

- Keep in mind that any percentage that is 100 or greater will need to reflect a whole number or mixed number when converted.

  Example:
  \( 125\% = 1.25 \text{ or } 1\frac{1}{4} \)
  \( 350\% = 3.5 \text{ or } 3\frac{1}{2} \)
Here are some conversions you should be familiar with:

<table>
<thead>
<tr>
<th>Fraction</th>
<th>Decimal</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/2</td>
<td>.5</td>
<td>50%</td>
</tr>
<tr>
<td>1/4</td>
<td>.25</td>
<td>25%</td>
</tr>
<tr>
<td>1/3</td>
<td>.333...</td>
<td>33.3%</td>
</tr>
<tr>
<td>2/3</td>
<td>.666...</td>
<td>66.6%</td>
</tr>
<tr>
<td>1/10</td>
<td>.1</td>
<td>10%</td>
</tr>
<tr>
<td>1/8</td>
<td>.125</td>
<td>12.5%</td>
</tr>
<tr>
<td>1/6</td>
<td>.166...</td>
<td>16.6%</td>
</tr>
<tr>
<td>1/5</td>
<td>.2</td>
<td>20%</td>
</tr>
</tbody>
</table>

**Algebra Review**

**Equations**

An equation is solved by finding a number that is equal to an unknown variable.

**Simple Rules for Working with Equations**

1. The equal sign separates an equation into two sides.
2. Whenever an operation is performed on one side, the same operation must be performed on the other side.
3. Your first goal is to get all of the variables on one side and all of the numbers on the other.
4. The final step often will be to divide each side by the coefficient, leaving the variable equal to a number.

**Checking Equations**

To check an equation, substitute the number equal to the variable in the original equation.

**Example:**

To check the equation below, substitute the number 10 for the variable x.

\[
\frac{x}{6} = \frac{x + 10}{12}
\]

\[
\frac{10}{6} = \frac{10 + 10}{12}
\]

\[
\frac{10}{6} = \frac{20}{12}
\]

\[
1\frac{2}{3} = 1\frac{2}{3} \quad \frac{10}{6} = \frac{10}{6}
\]

Because this statement is true, you know the answer \(x = 10\) must be correct.
**Special Tips for Checking Equations**

1. If time permits, be sure to check all equations.
2. Be careful to answer the question that is being asked. Sometimes, this involves solving for a variable and then performing an operation.

*Example:*
If the question asks the value of $x - 2$, and you find $x = 2$, the answer is not 2, but $2 - 2$. Thus, the answer is 0.

**Algebraic Fractions**

Algebraic fractions are very similar to fractions in arithmetic.

*Example:*
Write $\frac{x}{5} - \frac{x}{10}$ as a single fraction.

*Solution:*
Just like in arithmetic, you need to find the LCD of 5 and 10, which is 10. Then change each fraction into an equivalent fraction that has 10 as a denominator.

\[
\frac{x}{5} - \frac{x}{10} = \frac{x(2)}{10(2)} - \frac{x}{10} = \frac{2x}{10} - \frac{x}{10} = \frac{x}{10}
\]

**Geometry Review**

<table>
<thead>
<tr>
<th>Area</th>
<th>the space inside a 2-dimensional figure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circumference</td>
<td>the distance around a circle</td>
</tr>
<tr>
<td>Perimeter</td>
<td>the distance around a figure</td>
</tr>
<tr>
<td>Radius</td>
<td>the distance from the center point of a circle to any point on the circle</td>
</tr>
</tbody>
</table>

**Area**

Area is the space inside of the lines defining the shape.
This geometry review will focus on the area formula for three main shapes: circles, rectangles/squares, and triangles.

Circle

![Circle Diagram]

\[ C = 2\pi r \]
\[ A = \pi r^2 \]

Rectangle

![Rectangle Diagram]

\[ l \]
\[ w \]
\[ A = lw \]

Triangle

![Triangle Diagram]

\[ b \]
\[ h \]
\[ A = \frac{1}{2}bh \]

### Perimeter

The perimeter of an object is simply the sum of all of its sides.

![Perimeter Diagram]

Perimeter = 6 + 7 + 4 + 10 = 27

The circumference is the perimeter of a circle.

\[ C = 2\pi r \]
Word Problem Review
Since many of the math problems on the Texas Real Estate Sales Exam will be word problems, pay extra attention to the following review.

Translating Words into Numbers
The most important skill needed for word problems is being able to translate words into mathematical operations. The following will assist you by giving you some common examples of English phrases and their mathematical equivalents.

- “Increase” means add.

  Example:
  A number increased by five = \( x + 5 \).

- “Less than” means subtract.

  Example:
  10 less than a number = \( x - 10 \).

- “Times” or “product” means multiply.

  Example:
  Three times a number = \( 3x \).

- “Times the sum” means to multiply a number by a quantity.

  Example:
  Five times the sum of a number and three = \( 5(x + 3) \).

- Two variables are sometimes used together.

  Example:
  A number \( y \) exceeds five times a number \( x \) by ten = \( y = 5x + 10 \).

- “Of” means multiply.

  Example:
  10% of 100 is \( 10 = 10\% \times 100 = 10 \).
“Is” means equals.

Example:
15 is 14 plus 1 becomes $15 = 14 + 1$.

**Assigning Variables in Word Problems**

It may be necessary to create and assign variables in a word problem. To do this, first identify an unknown and a known. You may not actually know the exact value of the “known,” but you will know at least something about its value.

Examples:
Max is three years older than Ricky.
Unknown = Ricky’s age = $x$.
Known = Max’s age is three years older.
Therefore,
Ricky’s age = $x$ and Max’s age = $x + 3$.

Heidi made twice as many cookies as Rebecca.
Unknown = number of cookies Rebecca made = $x$.
Known = number of cookies Heidi made = $2x$.

Jessica has five more than three times the number of books that Becky has.
Unknown = the number of books Becky has = $x$.
Known = the number of books Jessica has = $3x + 5$.

**Percentage Problems**

There is one formula that is useful for solving the three types of percentage problems:

$$\frac{\text{part}}{\text{whole}} = \frac{\%}{100}$$

When reading a percentage problem, substitute the necessary information into the above formula based on
the following:

- 100 is always written in the denominator of the percentage sign column.
- If given a percentage, write it in the numerator position of the number column. If you are not given a percentage, then the variable should be placed there.
- The denominator of the number column represents the number that is equal to the whole, or 100%. This number always follows the word of in a word problem.
The numerator of the number column represents the number that is the percent.
In the formula, the equal sign can be interchanged with the word *is*.

**Examples:**

■ Finding a percentage of a given number:
What number is equal to 40% of 50?

\[
\begin{align*}
\# & = \% \\
x & = 40 \\
50 & = 100
\end{align*}
\]

Cross multiply:
\[
100(x) = (40)(50)
\]
\[
100x = 2,000
\]
\[
\frac{100x}{100} = \frac{2,000}{100}
\]
\[
x = 20 \text{ Therefore, 20 is 40% of 50.}
\]

■ Finding a number when a percentage is given:

40% of what number is 24?

\[
\begin{align*}
\# & = \% \\
24 & = 40 \\
x & = 100
\end{align*}
\]

Cross multiply:
\[
(24)(100) = (40)(x)
\]
\[
2,400 = 40x
\]
\[
\frac{2,400}{40} = \frac{40x}{40}
\]
\[
60 = x \text{ Therefore, 40% of 60 is 24.}
\]

■ Finding what percentage one number is of another:

What percentage of 75 is 15?

\[
\begin{align*}
\# & = \% \\
15 & = x \\
75 & = 100
\end{align*}
\]
How Are Rate Problems Defined?

A percentage problem simply means that $y$ units is equal to 100. This is important to remember that a percentage problem may be worded using the word rate.

Cross multiply:

$15(100) = (75)(x)$

$1,500 = 75x$

$\frac{1,500}{75} = \frac{75x}{75}$

$20 = x$  Therefore, 20% of 75 is 15.

**Rate Problems**
You may encounter a couple of different types of rate problems on the Texas Real Estate Sales Exam: cost per unit, interest rate, and tax rate. Rate is defined as a comparison of two quantities with different units of measure.

$Rate = \frac{x \text{ units}}{y \text{ units}}$

**Examples:** dollars, year

**Cost Per Unit**
Some problems on your exam may require that you calculate the cost per unit.

*Example:*
If 100 square feet cost $1,000, how much does 1 square foot cost?

*Solution:*

$\frac{\text{Total Cost}}{\# \text{ of square feet}} = \frac{1,000}{100} = $10 \text{ per square foot}$

**Interest Rate**
The formula for simple interest is $Interest = Principal \times Rate \times Time$ or $I = PRT$. If you know certain values, but not others, you can still find the answer using algebra. In simple interest problems, the value of $T$ is usually 1, as in 1 year. There are three basic kinds of interest problems, depending on which number is missing.
**Equivalencies**

Here are some equivalencies you may need to use to complete some questions. Generally, any equivalencies you will need to know for your exam are provided to you.

**Equivalencies**
- 12 inches (in. or “) = 1 foot (ft. or ’)
- 3 feet or 36 inches = 1 yard (yd.)
- 1,760 yards = 1 mile (mi)
- 5,280 feet = 1 mile
- 144 square inches (sq. in. or in.²) = 1 square foot (sq. ft. or ft.²)
- 9 square feet = 1 square yard
- 43,560 feet = 1 acre
- 640 acres = 1 square mile

**Percents**

You may be asked a basic percentage problem.

*Example:*

What is 86% of 1,750?

*Solution:*

Start by translating words into math terms.

\[ x = (86\%) \times 1,750 \]

Change the percent into a decimal by moving the decimal point two spaces to the left.

86% = .86

Now you can solve.

\[ x = (.86) \times 1,750 \]

\[ x = 1,505 \]

Other percentage problems you may find on the Texas Real Estate Sales Exam will come in the form of rate problems. Keep reading for more examples of these problems.

**Interest Problems**

Let’s take a look at a problem in which you have to calculate the interest rate \( R \). Remember, the rate is the same as the percentage.

*Example:*

Mary Valencia borrowed $5,000, for which she is paying $600 interest per year. What is the rate of interest being charged?
Solution:
Start with the values you know.
Principal = $5,000
Interest = $600
Rate = x
Time = 1 year
Using the formula $I = PRT$, insert the values you know, and solve for $x$.

\[
\frac{600}{5,000} = \frac{x}{1}
\]

\[
.12 = x
\]

To convert .12 to a percent, move the decimal point two places to the right.

\[
.12 = 12\%
\]

Area
Some of the problems on your exam may ask you to calculate the area of a piece of land, a building, or some other figure. Here are some formulas and how to use them.

Rectangles
Remember the formula: Area = (length)(width).

Example:
A man purchased a lot that is 50 feet by 10 feet for a garden. How many square feet of land does he have?

Solution:
Using the formula, Area = (length)(width), you have:

\[
A = (50)(10) = 500 \text{ square feet}
\]

Example:
The Meyers family bought a piece of land for a summer home that was 2.75 acres. The lake frontage was 150 feet. What was the length of the lot?

Solution:
When you take your salesperson exam, you may be provided with certain equivalencies. You will need to refer to the “Equivalencies” list on the previous page to answer this question. First, find the area of the land in square feet.

\[
(2.75)(43,560) = 119,790 \text{ square feet}
\]
In the previous example, you were given the length and the width. In this example, you are given the area and the width, so you are solving for the length. Since you know the area and the width of the lot, use the formula to solve.

\[
\text{Area} = (\text{length})(\text{width})
\]
\[
119,790 = (x)(150)
\]

Divide both sides by 150.

\[
\frac{119,790}{150} = \frac{(x)(150)}{150}
\]
\[
x = \frac{119,790}{150}
\]
\[
x = 798.6 \text{ feet}
\]

**Triangles**

Although it may not be as common, you may be asked to find the area of a triangle. If you don’t remember the formula, see page 133.

*Example:*
The Baron family is buying a triangular piece of land for a gas station. It is 200 feet at the base, and the side perpendicular to the base is 200 feet. They are paying $2.00 per square foot for the property. What will it cost?

*Solution:*
Start with the formula \( \text{Area} = \frac{1}{2}(\text{base})(\text{height}) \).

Now, write down the values you know.

Area = \( x \)

Base = 200

Height = 200

If it’s easier, you can change \( \frac{1}{2} \) to a decimal.

\( \frac{1}{2} = .5 \)

Now you can plug these values into the formula.

\( x = (.5)(200)(200) \)
\[
x = (.5)(40,000)
\]
\[
x = 20,000 \text{ square feet}
\]

Don’t forget that the question is not asking for the number of square feet, but for the cost of the property per square foot. This is a rate problem, so you need to complete one more step: \((20,000 \text{ square feet})(\$2 \text{ per square foot}) = \$40,000\).
Example:

Victor and Evelyn Robinson have an outlot that a neighbor wants to buy. The side of the outlot next to their property is 86 feet. The rear line is perpendicular to their side lot, and the road frontage is 111 feet. Their plat shows they own 3,000 square feet in the outlot. What is the length of the rear line of the outlot? Round your answer to the nearest whole number.

Solution:

It helps to draw the figure to conceive shapes. The rear lot line is perpendicular to the side lot line. This makes the side lot line the base and the rear lot line the height (altitude).

\[ \text{Area} = \frac{1}{2} \times \text{base} \times \text{height} \]

Area = 3,000 square feet
Base = 86 feet
Height = x

If it’s easier, you can change \( \frac{1}{2} \) to a decimal.

\( \frac{1}{2} = .5 \)

Now you can plug these values into the formula.

\[ 3,000 = (.5)(86)(x) \]

\[ 3,000 = (43)(x) \]

Divide both sides by 43.

\[ \frac{3,000}{43} = \frac{(43)(x)}{43} \]

\[ x = 69.767 \text{ feet} \]

Don’t forget the question says to round your answer to the nearest whole number. The answer is 70 feet.

Circles

Remember the formula \( \text{Area} = \pi r^2 \).

Example:

Murray Brodman, a contractor, has been awarded the job to put up a circular bandstand in the town square. The radius of the circular area for the bandstand is 15 feet. What is the area of the bandstand? Use 3.14 for \( \pi \).
Solution:
Area = \pi r^2
Start with the values you know.
Area = x
\pi = 3.14
radius = 15
Now plug these values into the formula.
Area = (3.14)(15)(15) = 706.5 sq. ft.

**Property Tax**

To solve property tax questions, you will be using percents and rates.

*Example:*
The tax rate in your county is $4.17 per hundred of assessed valuation, and Mr. Brown, a possible client, has told you his taxes are $1,100. What is his property assessment? (Round your answer to the nearest 10 cents.)

*Solution:*
Start off with the values you know.
Taxes = $1,100
Assessment = x
Tax rate = $4.17 per hundred (%)
If you remember the definition of percent as being an amount per hundred, then $4.17 per hundred is actually 4.17%. To make this equation more manageable, convert this percent to a decimal by moving the decimal point two spaces to the left. Now the tax rate is .0417.
.0417 of the assessed value of the house is $1,100. Translate the words into math terms. This means:
\[(.0417)(x) = 1,100.\]
To solve the equation, divide both sides by .0417.
\[
\frac{.0417x}{.0417} = \frac{1,100}{.0417}
\]
x = $26,378.896
Remember, the question asks you round to the nearest 10 cents. That means that .896 needs to be rounded up to 90. So the answer is $26,378.90.

*Example:*
Mr. Smith knew his own taxes were $975 and his property assessment was $17,000 for the house and $6,000 for the land. He wanted to know the tax rate (%).
**Tip**

Note that you may be asked for monthly amounts in certain problems. Most calculations are on an annual basis—unless you divide by 12.

---

**Solution:**

Start with the values you know.

- Tax = $975
- Assessment for house = $17,000 plus assessment for land = $6,000. Therefore, total = $23,000.
- Rate (%) = $x$

According to the question, $23,000 at a rate of $x$ is $975. Convert this statement into an equation.

\[(23,000)(x) = 975.\]

Solve the equation by dividing both sides by 23,000.

\[
x = \frac{975}{23,000} = .0423913\]

To make this equation more simple, round the answer to .0424.

Remember that you are looking for the rate. Therefore, you need to convert this decimal to a percent by moving the decimal point two places to the right. The rate is 4.24%. (This can also be expressed as $4.24$ per hundred.)

---

**Loan-to-Value Ratios**

These problems often deal with percentages.

**Example:**

A mortgage loan for 10% is at a 75% loan-to-value ratio. The interest on the original balance for the first year is $6,590. What is the value of the property securing the loan? Round to the nearest one cent.

**Solution:**

First, find out the loan amount.

- $6,590 is 10% of the loan amount. Let $x$ equal the loan amount. Now, translate these words into math terms.
- $6,590 = (10\%)(x)$

Change 10% into a decimal by moving the decimal point two places to the left.

- $10\% = .1$

Now you have:

- $6,590 = (.1)(x)$

Divide both sides by (.1).

- $x = 65,900$
Now that you know the loan amount ($65,900), use this information to find the value of the property.

Write down the values you know.
Loan amount = $65,900
Loan-to-value ratio = 75%
Value = \( x \)

We know that 75% of the value is $65,900.
Translate this into math terms.
\[
(75\%)(x) = 65,900
\]
Change the percent into a decimal (75\% = .75) and solve.
\[
(.75)(x) = 65,900
\]
Divide both sides by .75.
\[
\frac{(75\%)(x)}{(75\%)} = \frac{65,900}{(75\%)}
\]
\[
x = 87,866.66666
\]
When rounded to the nearest one cent, the answer is $87,866.67.

**Points**

Loan discounts are often called **points**, or loan placement fees, one point meaning 1% of the face amount of the loan. The service fee of one percent paid by buyers of government backed loans is called a **loan origination fee**.

*Example:*
A homebuyer may obtain a $50,000 FHA mortgage loan, provided the seller pays a discount of five points. What is the amount of the discount?

*Solution:*
The definition of one point is 1% of the face amount of the loan.
Therefore, 5 points = 5% of the face of the loan. First, change the percent to a decimal.
5% = .05
Now you can use these values to solve.
Amount of discount = \( x \)
Points = .05
Amount of loan = $50,000
So, \( x = (.05)(50,000) \).
\[
x = 2,500
\]

*Example:*
A property is listed at $74,000. An offer is made for $72,000, provided the seller pays three points on a loan for 80% of the purchase price. The brokerage commission rate is 7%. How much less will the
seller receive if he accepts the offer than he would have received if he sold at all cash at the original terms?

Solution:
Here are the values you know:
Sold for original terms—price $74,000
Less 7% commission $5,180 (.07)(74,000) = 5,180
Seller’s net $68,820

This question becomes more difficult, because in order to find the seller’s net on the offered price, you must calculate the discount. The provision is that the seller pays 3 points (or .03) on a loan for 80% (or .8) of the price.
Start by finding 80% of the price.
(.8)(72,000) = $57,600
Now, the points are applied to this amount. This means .03 of $57,600 is the discount.
So, (.03)(57,600) = discount = 1,728.

You know these values:
Sold at offered terms—price $72,000
Less 7% Commission $5,040 (.07)(72,000) = 5,040
Less discount 1,728
Seller’s net $65,232

$72,000 Sales price Net at original $68,820
× .80 Loan-to-value ratio Net at offered $65,232
$57,600 Loan amount Difference $3,588
× .03 Points
$1,728 Discount

Equity

Example:
If a homeowner has a first mortgage loan balance of $48,350, a second mortgage loan balance of $18,200, and $26,300 equity, what is the value of her home?

Solution:
In this case, the value of the home is determined by the total loan balance plus the equity. Add the three numbers to find the value of the home.
$48,350 loan balance + $18,200 loan balance + $26,300 = value of the home
$92,850 = value of the home
Qualifying Buyers

Example:
A buyer is obtaining a conventional loan that requires 29/33 ratios. He earns $66,000 a year, and has a $1,350 car payment. What is his maximum PITI payment?

a. $1,612.50
b. $1,812.50
c. $21,750.00
d. $2,475.00

Solution:
$66,000 divided by 12 = $5,500 monthly income
($5,500)(.29) = $1,595 front end qualifier
($5,500)(.33) = $1,850 – $1,350 debt = $500 back end qualifier
Maximum PITI (Principal, Interest, Taxes, and Insurance) is the lower of these two qualifiers, $500.

Prorations
At the time of settlement, there must be a reconciliation or adjustment of any monies owed by either party as of that date. The important fact to bear in mind is that the party who used the service pays for it. If you will keep this firmly in mind you will not have any difficulty deciding who to credit and who to debit.

Example:
Mr. Seller’s taxes are $1,200 a year paid in advance on a calendar year. He is settling on the sale of his house to Mr. Buyer on August 1. Which of them owes how much to the other?

Solution:
Ask yourself some questions:
How many months has the seller paid for? 12 ($1,200)
How many months has the seller used? 7 ($700)
How many months should the seller be reimbursed for? 5 ($500)
How many months will the buyer use? 5 ($500)
How many months has he paid for? 0 ($0)
How many months should he reimburse the seller for? 5 ($500)
Credit Mr. Seller $500
Debit Mr. Buyer $500

What would the answer be if the taxes were paid in arrears? In other words, the seller has used the service for seven months but hasn’t paid anything. The buyer will have to pay it all at the end of the year. In that case, the seller owes the buyer for seven months, or $700.
Tip

In working proration problems, be sure you have the right dates when you subtract. Sometimes, the termination date for the policy is not given, and the tendency is to subtract the date the policy was written from the date of settlement. This will not give you the unused portion. You must subtract the date of settlement from the date of termination of the policy, which will be exactly the same date, one, three, or five years after written, depending on the term of the policy. Most problems use either a one- or three-year term.

Remember!

Use a 30-day month and a 360-day year in all calculations unless you are told otherwise. Assume a calendar year, unless a fiscal or school year is specified.

Commissions

Let’s look at a commission problem. They are typically rate (percentage) problems.

Example:
Broker Jones sold the Smith house for $65,000. The total commission came to $4,000. What was Jones’s commission rate? Round to the nearest whole percent.

Solution:
You see the word rate and decide this is solved using percentages.
Start with the values you know.
Price of house = 65,000
Commission Rate = x
Commission = 4,000

Now, translate the word problem into an equation.
65,000x = 4,000

Divide both sides by 65,000.
x = \frac{4,000}{65,000}
x = 0.061
Convert the decimal to a percent by moving the decimal two places to the right. 0.061 becomes 6.1%.

Example:
An agent received a 3% commission on \( \frac{1}{3} \) of her total sales. On the remainder, she received a 6% commission. What was her average commission for all of her sales?
**Solution:**

Start off by asking yourself: How many fourths (parts) were there? Four, naturally.

3% 6% 6% 6%

To find the average, you add up all the numbers, and divide by the number of items you add together. In this case, there are four numbers.

So, 3 + 6 + 6 + 6 = 21.
And 21% ÷ 4 = 5.25%.

**Sale Proceeds**

**Example:**

Salesman Garcia was trying to list a house. The owner said he wanted to clear (net) $12,000 from the sale of the house. The balance of the mortgage was $37,000. It would cost about $1,200 to fix up the house to sell. How much would the owner have to sell the house for if the 7% commission was included? (Round your answer to the nearest cent.)

**Solution:**

Use a chart to clarify the problem.

<table>
<thead>
<tr>
<th>Expenses</th>
<th>In Dollars</th>
<th>In Percents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seller’s net</td>
<td>12,000</td>
<td></td>
</tr>
<tr>
<td>Loan balance</td>
<td>37,000</td>
<td></td>
</tr>
<tr>
<td>Repairs</td>
<td>1,200</td>
<td></td>
</tr>
<tr>
<td>Commission</td>
<td>7%</td>
<td>7%</td>
</tr>
<tr>
<td></td>
<td>50,200</td>
<td></td>
</tr>
</tbody>
</table>

If the sales price is 100% and the commission is 7% of the sales price, all the remaining items added together must make 93% of the sales price. The place where most people go wrong is in not including the seller’s net when they add the expenses. The seller’s net has to come out of the sales price. (Where else would it come from?) Therefore, it is part of the remaining 93%. You now have a percentage problem. As always, convert your percents to decimals.

Start with the values you know:

Expenses = $50,200
Sales price = $x
Seller’s net, loan balance, repairs = .93 of sales price
.93 of the sales price is $50,200.

Convert this statement into an equation.
(.93)(x) = $50,200

Divide both sides by .93.

\[
\frac{.93}{.93} \cdot \frac{x}{.93} = \frac{50,200}{.93}
\]

\[x = \frac{50,200}{.93}
\]

\[x = \$53,978.4945
\]

Don’t forget to round to the nearest cent!

\[x = \$53,978.49
\]

**Transfer Tax/Conveyance Tax/Revenue Stamps**

Here is a transfer tax question.

*Example:*

A property is sold for $135,800 in cash. The transfer tax is $441.35. If transfer taxes are calculated per $200 of value, what was the rate (per $200) of the transfer tax?

*Solution:*

Start with the values you know.

Selling price = $135,800

Transfer tax rate = \(x\) per $200

Transfer tax = $441.35

It’s probably easiest to begin by dividing by $200 since the rate is calculated per $200 of value.

So, \(\frac{135,800}{200} = \$679\).

You know that $441.35 is produced by multiplying $679 by some rate. Translate this into math terms.

\[441.35 = (x)(679)\]

Divide both sides by $679 to get

\[\frac{441.35}{679} = \frac{(x)(679)}{679} .\]

\[.65 = x\]

Therefore, the transfer tax rate is $0.65 per $200.

**Competitive Market Analyses (CMA)**

To solve these problems, you will use measurements and other hypothetical features of the comparable property to arrive at a value. Remember, a CMA is not an appraisal.

*Example:*

If Building A measures 52' by 106' and Building B measures 75' by 85', how much will B cost if A costs $140,000 and both cost the same per square foot to build?
Solution:
Area = (length)(width)
Area of Building A = (52)(106) = 5,512 square feet
Area of Building B = (75)(85) = 6,375 square feet
Cost of Building A per square foot = \( \frac{140,000}{5,512} \) = $25.40
Cost of Building B = (6,375)($25.40) = $161,925

Example:
Carson’s house (B), which is being appraised, is an exact twin of the houses on either side of it, built by the same builder at the same time. House A was appraised for $45,000, but it has a 14 × 20 foot garage which was added at a cost of about $18 per square foot. House C was recently sold for $43,000, with central air valued at $3,000. What would be a fair estimate of the value of Carson’s house?

Solution:
Comparable C $43,000
– Air Conditioning $-3,000
$40,000

Comparable A $45,000
– Cost of Garage $-5,040
$39,960

Answer: $40,000

Income Properties
Example:
An investor is considering the purchase of an income property generating a gross income of $350,000. Operating expenses constitute 70% of gross income. If the investor wants a return of 14%, what is the maximum he can pay?

Solution:
Gross income = $350,000
Expenses = 70% of gross income
Net income = Gross income – Expenses
Desired return = 14%
Maximum buyer can pay = x

This is a multi-step problem. Start by calculating the expenses, but remember you will need to stop to calculate the net income. First, change the percent to a decimal.

70% = .70
Now, you know that expenses are 70% of the gross income of $350,000. Change the words to mathematical terms.

Expenses = (.7)(350,000) = $245,000

Gross income – Expenses = Net income

$350,000 – $245,000 = $105,000

The buyer wants the net income ($105,000) to be 14% of what he pays for the property.

Change the percent to a decimal (14% = .14) and then convert this statement to an equation.

$105,000 = (.14)(x)$

Divide both sides by .14.

$\frac{105,000}{.14} = \frac{(.14)(x)}{.14}$

$105,000 \div .14 = x$

$750,000 = x$

**Depreciation**

There are several methods of depreciation, but the only one you are likely to meet on your exam is the straight-line method. This method spreads the total depreciation over the useful life of the building in equal annual amounts. It is calculated by dividing the replacement cost by the years of useful life left.

$$\frac{\text{replacement cost}}{\text{years of useful life}} = \text{annual depreciation}$$

The depreciation rate may be given or may have to be calculated by the straight-line method. This means dividing the total depreciation (100%) by the estimated useful life given for the building.

$$\frac{100\%}{\text{years of useful life}} = \text{depreciated rate}$$

If a building has 50 years of useful life left, the depreciation rate would be computed as follows:

$$\frac{100\%}{50} = 2\%$$

In other words, it has a 2% depreciation rate annually.

**Example:**

The replacement cost of a building has been estimated at $80,000. The building is 12 years old and has an estimated 40 years of useful life left. What can be charged to annual depreciation? What is the total depreciation for 12 years? What is the present value of this building?

**Solution:**

Calculate the annual depreciation.
Annual depreciation = \( \frac{\text{replacement cost}}{\text{years of useful life}} \)

\[
\frac{\$80,000}{40} = \$2,000
\]

Find the total depreciation over the 12 years.
Annual depreciation of \( \$2,000 \times 12 \text{ years} = \$24,000 \).
Find the current value: replacement – depreciation = current value.
\[
\$80,000 - \$24,000 = \$56,000
\]

**Summary**

Hopefully, with this review, you have realized that real estate math is not as bad as it seems. If you feel you need more practice, check out LearningExpress’s *Practical Math Success in 20 Minutes a Day* or *1001 Math Problems*. Use the exams in the books to practice even more real estate math.
CHAPTER SUMMARY

One of the most basic components in preparing for the Texas Real Estate Sales Exam is making sure you know all the terminology. This glossary provides a list of the most commonly used real estate terms and their definitions.

THESE TERMS WILL help you not only as you study for the Texas Real Estate Sales Exam, but also after you pass your exam and are practicing in the field. The terms are listed in alphabetical order for easy reference.

**A**

- **abandonment** the voluntary surrender of a right, claim, or interest in a piece of property without naming a successor as owner or tenant.
- **abstract of title** a certified summary of the history of a title to a particular parcel of real estate that includes the original grant and all subsequent transfers, encumbrances, and releases.
- **abutting** sharing a common boundary; adjoining.
acceleration clause a clause in a note, mortgage, or deed of trust that permits the lender to declare the entire amount of principal and accrued interest due and payable immediately in the event of default.

acceptance the indication by a party receiving an offer that they agree to the terms of the offer. In most states the offer and acceptance must be reduced to writing when real property is involved.

accretion the increase or addition of land resulting from the natural deposit of sand or soil by streams, lakes, or rivers.

accreted depreciation (1) the amount of depreciation, or loss in value, that has accumulated since initial construction; (2) the difference between the current appraised value and the cost to replace the building new.

accreted items a list of expenses that have been incurred but have not yet been paid, such as interest on a mortgage loan, which are included on a closing statement.

acknowledgment a formal declaration before a public official, usually a notary public, by a person who has signed a deed, contract, or other document that the execution was a voluntary act.

acre a measure of land equal to 43,560 square feet or 4,840 square yards.

actual eviction the result of legal action brought by a landlord against a defaulted tenant, whereby the tenant is physically removed from rented or leased property by a court order.

actual notice the actual knowledge that a person has of a particular fact.

addendum any provision added to a contract, or an addition to a contract that expands, modifies, or enhances the clarity of the agreement. To be a part of the contract and legally enforceable, an addendum must be referenced within the contract.

adjacent lying near to but not necessarily in actual contact with.

adjoining contiguous or attached; in actual contact with.

adjustable-rate mortgage (ARM) a mortgage in which the interest changes periodically, according to corresponding fluctuations in an index. All ARMs are tied to indexes. For example, a seven-year, adjustable-rate mortgage is a loan where the rate remains fixed for the first seven years, then fluctuates according to the index to which it is tied.

adjusted basis the original cost of a property, plus acquisition costs, plus the value of added improvements to the property, minus accrued depreciation.

adjustment date the date the interest rate changes on an adjustable-rate mortgage.

administrator a person appointed by a court to settle the estate of a person who has died without leaving a will.

ad valorem tax tax in proportion to the value of a property.

adverse possession a method of acquiring title to another person’s property through court action after taking actual, open, hostile, and continuous possession for a statutory period of time; may require payment of property taxes during the period of possession.

affidavit a written statement made under oath and signed before a licensed public official, usually a notary public.

agency the legal relationship between principal and agent that arises out of a contract wherein an agent is employed to do certain acts on behalf of the principal who has retained the agent to deal with a third party.
**agent** one who has been granted the authority to act on behalf of another.

**agreement of sale** a written agreement between a seller and a purchaser whereby the purchaser agrees to buy a certain piece of property from the seller for a specified price.

**air rights** the right to use the open space above a particular property.

**alienation** the transfer of ownership of a property to another, either voluntarily or involuntarily.

**alienation clause** the clause in a mortgage or deed of trust that permits the lender to declare all unpaid principal and accrued interest due and payable if the borrower transfers title to the property.

**allodial system** in the United States, a system of land ownership in which land is held free and clear of any rent or services due to the government; commonly contrasted with the feudal system, in which ownership is held by a monarch.

**amenities** features or benefits of a particular property that enhance the property's desirability and value, such as a scenic view or a pool.

**amortization** the method of repaying a loan or debt by making periodic installment payments composed of both principal and interest. When all principal has been repaid, it is considered fully amortized.

**amortization schedule** a table that shows how much of each loan payment will be applied toward principal and how much toward interest over the lifespan of the loan. It also shows the gradual decrease of the outstanding loan balance until it reaches zero.

**amortize** to repay a loan through regular payments that are comprised of principal and interest.

**annual percentage rate (APR)** the total or effective amount of interest charged on a loan, expressed as a percentage, on a yearly basis. This value is created according to a government formula intended to reflect the true annual cost of borrowing.

**anti-deficiency law** laws used in some states to limit the claim of a lender on default on payment of a purchase money mortgage on owner-occupied residential property to the value of the collateral.

**anti-trust laws** laws designed to protect free enterprise and the open marketplace by prohibiting certain business practices that restrict competition. In reference to real estate, these laws would prevent such practices as price-fixing or agreements by brokers to limit their areas of trade.

**apportionments** adjustment of income, expenses, or carrying charges related to real estate, usually computed to the date of closing so that the seller pays all expenses to date, then the buyer pays all expenses beginning on the closing date.

**appraisal** an estimate or opinion of the value of an adequately described property, as of a specific date.

**appraised value** an opinion of a property’s fair market value, based on an appraiser's knowledge, experience, and analysis of the property, based on comparable sales.

**appraiser** an individual qualified by education, training, and experience to estimate the value of real property. Appraisers may work directly for mortgage lenders, or they may be independent contractors.

**appreciation** an increase in the market value of a property.

**appurtenance** something that transfers with the title to land even if not an actual part of the property, such as an easement.

**arbitration** the process of settling a dispute in which the parties submit their differences to an impartial third party, on whose decision on the matter is binding.
ARELLO  the Association of Real Estate License Law Officials.

classified value  the value of a property used to calculate real estate taxes.

classified assessor  a public official who establishes the value of a property for taxation purposes.

classified assessment  the process of assigning value on property for taxation purposes.

classified asset  items of value owned by an individual. Assets that can be quickly converted into cash are considered “liquid assets,” such as bank accounts and stock portfolios. Other assets include real estate, personal property, and debts owed.

classified assignment  the transfer of rights or interest from one person to another.

classified assumption of mortgage  the act of acquiring the title to a property that has an existing mortgage and agreeing to be liable for the payment of any debt still existing on that mortgage. However, the lender must accept the transfer of liability for the original borrower to be relieved of the debt.

classified attachment  the process whereby a court takes custody of a debtor’s property until the creditor’s debt is satisfied.

classified attest  to bear witness by providing a signature.

classified attorney-in-fact  a person who is authorized under a power of attorney to act on behalf of another.

classified avulsion  the removal of land from one owner to another when a stream or other body of water suddenly changes its channel.

> B

balloon mortgage  a loan in which the periodic payments do not fully amortize the loan, so that a final payment (a balloon payment) is substantially larger than the amount of the periodic payments that must be made to satisfy the debt.

balloon payment  the final, lump-sum payment that is due at the termination of a balloon mortgage.

bankruptcy  an individual or individuals can restructure or relieve themselves of debts and liabilities by filing in federal bankruptcy court. There are many types of bankruptcies, and the most common for an individual is “Chapter 7 No Asset,” which relieves the borrower of most types of debts.

bargain and sale deed  a deed that conveys title, but does not necessarily carry warranties against liens or encumbrances.

base line  one of the imaginary East-West lines used as a reference point when describing property with the rectangular or government survey method of property description.

bench mark  a permanently marked point with a known elevation, used as a reference by surveyors to measure elevations.

beneficiary  (1) one who benefits from the acts of another; (2) the lender in a deed of trust.

bequest  personal property given by provision of a will.

betterment  an improvement to property that increases its value.

bilateral contract  a contract in which each party promises to perform an act in exchange for the other party's promise also to perform an act.
**bill of sale** a written instrument that transfers ownership of personal property. A bill of sale cannot be used to transfer ownership of real property, which is passed by deed.

**binder** an agreement, accompanied by an earnest money deposit, for the purchase of a piece of real estate to show the purchaser’s good faith intent to complete a transaction.

**biweekly mortgage** a mortgage in which payments are made every two weeks instead of once a month. Therefore, instead of making 12 monthly payments during the year, the borrower makes the equivalent of 13 monthly payments. The extra payment reduces the principal, thereby reducing the time it takes to pay off a 30-year mortgage.

**blanket mortgage** a mortgage in which more than one parcel of real estate is pledged to cover a single debt.

**blockbusting** the illegal and discriminatory practice of inducing homeowners to sell their properties by suggesting or implying the introduction of members of a protected class into the neighborhood.

**bona fide** in good faith, honest.

**bond** evidence of personal debt secured by a mortgage or other lien on real estate.

**boot** money or property provided to make up a difference in value or equity between two properties in an exchange.

**branch office** a place of business secondary to a principal office. The branch office is a satellite office generally run by a licensed broker, for the benefit of the broker running the principal office, as well as the associate broker’s convenience.

**breach of contract** violation of any conditions or terms in a contract without legal excuse.

**broker** the term “broker” can mean many things, but in terms of real estate, it is the owner-manager of a business that brings together the parties to a real estate transaction for a fee. The roles of brokers and brokers’ associates are defined by state law. In the mortgage industry, broker usually refers to a company or individual that does not lend the money for the loans directly, but that brokers loans to larger lenders or investors.

**brokerage** the business of bringing together buyers and sellers or other participants in a real estate transaction.

**broker’s price opinion (BPO)** a broker’s opinion of value based on a competitive market analysis, rather than a certified appraisal.

**building code** local regulations that control construction, design, and materials used in construction that are based on health and safety regulations.

**building line** the distance from the front, rear, or sides of a building lot beyond which no structures may extend.

**building restrictions** limitations listed in zoning ordinances or deed restrictions on the size and type of improvements allowed on a property.

**bundle of rights** the concept that ownership of a property includes certain rights regarding the property, such as possession, enjoyment, control of use, and disposition.

**buydown** usually refers to a fixed-rate mortgage where the interest rate is “bought down” for a temporary period, usually one to three years. After that time and for the remainder of the term, the borrower’s payment is calculated at the note rate. In order to buy down the initial rate for the temporary payment, a lump sum
is paid and held in an account used to supplement the borrower’s monthly payment. These funds usually come from the seller as a financial incentive to induce someone to buy their property.

**buyer’s broker** real estate broker retained by a prospective buyer; this buyer becomes the broker’s client to whom fiduciary duties are owed.

**bylaws** rules and regulations adopted by an association—for example, a condominium.

► C

**cancellation clause** a provision in a lease that confers on one or all parties to the lease the right to terminate the parties’ obligations, should the occurrence of the condition or contingency set forth in the clause happen.

**canvassing** the practice of searching for prospective clients by making unsolicited phone calls and/or visiting homes door-to-door.

**cap** the limit on fluctuation rates regarding adjustable-rate mortgages. Limitations, or caps, may apply to how much the loan may adjust over a six-month period, an annual period, and over the life of the loan. There is also a limit on how much that payment can change each year.

**capital** money used to create income, or the net worth of a business as represented by the amount by which its assets exceed its liabilities.

**capital expenditure** the cost of a betterment to a property.

**capital gains tax** a tax charged on the profit gained from the sale of a capital asset.

**capitalization** the process of estimating the present value of an income-producing piece of property by dividing anticipated future income by a capitalization rate.

**capitalization rate** the rate of return a property will generate on an owner’s investment.

**cash flow** the net income produced by an investment property, calculated by deducting operating and fixed expenses from gross income.

**caveat emptor** a phrase meaning “let the buyer beware.”

**CC&R** covenants, conditions, and restrictions of a cooperative or condominium development.

**certificate of discharge** a document used when the security instrument is a mortgage.

**certificate of eligibility** a document issued by the Veterans Administration that certifies a veteran’s eligibility for a VA loan.

**certificate of reasonable value (CRV)** once the appraisal has been performed on a property being bought with a VA loan, the Veterans Administration issues a CRV.

**certificate of sale** the document given to a purchaser of real estate that is sold at a tax foreclosure sale.

**certificate of title** a report stating an opinion on the status of a title, based on the examination of public records.

**chain of title** the recorded history of conveyances and encumbrances that affect the title to a parcel of land.

**chattel** personal property, as opposed to real property.

**chattel mortgage** a loan in which personal property is pledged to secure the debt.
**city** a large municipality governed under a charter and granted by the state.

**clear title** a title that is free of liens and legal questions as to ownership of a property that is a requirement for the sale of real estate; sometimes referred to as just title, good title, or free and clear.

**closing** the point in a real estate transaction when the purchase price is paid to the seller and the deed to the property is transferred from the seller to the buyer.

**closing costs** there are two kinds: (1) “non-recurring closing costs” and (2) “pre-paid items.” “Non-recurring closing costs” are any items paid once as a result of buying the property or obtaining a loan. “Pre-paid items” are items that recur over time, such as property taxes and homeowners insurance. A lender makes an attempt to estimate the amount of non-recurring closing costs and pre-paid items on the good faith estimate, which is issued to the borrower within three days of receiving a home loan application.

**closing date** the date on which the buyer takes over the property.

**closing statement** a written accounting of funds received and disbursed during a real estate transaction. The buyer and seller receive separate closing statements.

**cloud on the title** an outstanding claim or encumbrance that can affect or impair the owner’s title.

**clustering** the grouping of home sites within a subdivision on smaller lots than normal, with the remaining land slated for use as common areas.

**codicil** a supplement or addition to a will that modifies the original instrument.

**coinsurance clause** a clause in an insurance policy that requires the insured to pay a portion of any loss experienced.

**collateral** something of value hypothecated (real property) or pledged (personal property) by a borrower as security for a debt.

**collection** when a borrower falls behind, the lender contacts the borrower in an effort to bring the loan current. The loan goes to “collection.”

**color of title** an instrument that gives evidence of title, but may not be legally adequate to actually convey title.

**commercial property** property used to produce income, such as an office building or a restaurant.

**commingling** the illegal act of an agent mixing a client’s monies, which should be held in a separate escrow account, with the agent’s personal monies; in some states, it means placing funds that are separate property in an account containing funds that are community property.

**commission** the fee paid to a broker for services rendered in a real estate transaction.

**commitment letter** a pledge in writing affirming an agreement.

**common law** the body of laws derived from local custom and judicial precedent.

**common areas** portions of a building, land, and amenities owned (or managed) by a planned unit development or condominium project’s homeowners’ association or a cooperative project’s cooperative corporation. These areas are used by all of the unit owners, who share in the common expenses of their operation and maintenance. Common areas may include swimming pools, tennis courts, and other recreational facilities, as well as common corridors of buildings, parking areas, and lobbies.

**community property** a system of property ownership in which each spouse has equal interest in property acquired during the marriage; recognized in nine states.
comparable sales  recent sales of similar properties in nearby areas that are used to help estimate the current market value of a property.

competent parties  people who are legally qualified to enter a contract, usually meaning that they are of legal age, of sound mind, and not under the influence of drugs or other mind-altering substances.

competitive market analysis (CMA)  an analysis intended to assist a seller or buyer in determining a property’s range of value.

condemnation  the judicial process by which the government exercises its power of eminent domain.

condominium  a form of ownership in which an individual owns a specific unit in a multi-unit building and shares ownership of common areas with other unit owners.

condominium conversion  changing the ownership of an existing building (usually a multi-dwelling rental unit) from single ownership to condominium ownership.

conformity  an appraisal principle that asserts that property achieves its maximum value when a neighborhood is homogeneous in its use of land; the basis for zoning ordinances.

consideration  something of value that induces parties to enter into a contract, such as money or services.

construction mortgage  a short-term loan used to finance the building of improvements to real estate.

constructive eviction  action or inaction by a landlord that renders a property uninhabitable, forcing a tenant to move out with no further liability for rent.

constructive notice  notice of a fact given by making the fact part of the public record. All persons are responsible for knowing the information, whether or not they have actually seen the record.

contingency  a condition that must be met before a contract is legally binding. A satisfactory home inspection report from a qualified home inspector is an example of a common type of contingency.

contract  an agreement between two or more legally competent parties to do or to refrain from doing some legal act in exchange for a consideration.

contract for deed  a contract for the sale of a parcel of real estate in which the buyer makes periodic payments to the seller and receives title to the property only after all, or a substantial part, of the purchase price has been paid, or regular payments have been made for one year or longer.

conventional loan  a loan that is neither insured nor guaranteed by an agency of government.

conversion option  an option in an adjustable-rate mortgage to convert it to a fixed-rate mortgage.

convertible ARM  an adjustable-rate mortgage that allows the borrower to change the ARM to a fixed-rate mortgage at a specific time.

conveyance  the transfer of title from the grantor to the grantee.

cooperative  a form of property ownership in which a corporation owns a multi-unit building and shareholders of the corporation may lease and occupy individual units of the building through a proprietary lease.

corporation  a legal entity with potentially perpetual existence that is created and owned by shareholders who appoint a board of directors to direct the business affairs of the corporation.

cost approach  an appraisal method whereby the value of a property is calculated by estimating the cost of constructing a comparable building, subtracting depreciation, and adding land value.

counteroffer  an offer submitted in response to an offer. It has the effect of overriding the original offer.
credit  an agreement in which a borrower receives something of value in exchange for a promise to repay the lender.

credit history  a record of an individual’s repayment of debt.

cul-de-sac  a dead-end street that widens at the end, creating a circular turnaround area.
curtesy  the statutory or common law right of a husband to all or part of real estate owned by his deceased wife, regardless of will provisions, recognized in some states.
curtilage  area of land occupied by a building, its outbuildings, and yard, either actually enclosed or considered enclosed.

D

damages  the amount of money recoverable by a person who has been injured by the actions of another.
datum  a specific point used in surveying.
DBA  the abbreviation for “doing business as.”
debt  an amount owed to another.
decedent  a person who dies.
dedication  the donation of private property by its owner to a governmental body for public use.
deed  a written document that, when properly signed and delivered, conveys title to real property from the grantor to the grantee.
deed-in-lieu  a foreclosure instrument used to convey title to the lender when the borrower is in default and wants to avoid foreclosure.
deed of trust  a deed in which the title to property is transferred to a third party trustee to secure repayment of a loan; three-party mortgage arrangement.
deed restriction  an imposed restriction for the purpose of limiting the use of land, such as the size or type of improvements to be allowed. Also called a restrictive covenant.
default  the failure to perform a contractual duty.
defeasance clause  a clause in a mortgage that renders it void where all obligations have been fulfilled.

deficiency judgment  a personal claim against a borrower when mortgaged property is foreclosed and sale of the property does not produce sufficient funds to pay off the mortgage. Deficiency judgments may be prohibited in some circumstances by anti-deficiency protection.
delinquency  failure to make mortgage or loan payments when payments are due.
density zoning  a zoning ordinance that restricts the number of houses or dwelling units that can be built per acre in a particular area, such as a subdivision.
depreciation  a loss in value due to physical deterioration, functional, or external obsolescence.
descent  the transfer of property to an owner’s heirs when the owner dies intestate.
devise  the transfer of title to real estate by will.
devisee  one who receives a bequest of real estate by will.
devisor  one who grants real estate by will.
**REAL ESTATE GLOSSARY**

**directional growth** the direction toward which certain residential sections of a city are expected to grow.

**discount point** 1% of the loan amount charged by a lender at closing to increase a loan's effective yield and lower the fare rate to the borrower.

**discount rate** the rate that lenders pay for mortgage funds—a higher rate is passed on to the borrower.

**dispossess** to remove a tenant from property by legal process.

**dominant estate (tenement)** property that includes the right to use an easement on adjoining property.

**dower** the right of a widow in the property of her husband upon his death in non-community property states.

**down payment** the part of the purchase price that the buyer pays in cash and is not financed with a mortgage or loan.

**dual agency** an agent who represents both parties in a transaction.

**due-on-sale clause** a provision in a mortgage that allows the lender to demand repayment in full if the borrower sells the property that serves as security for the mortgage.

**duress** the use of unlawful means to force a person to act or to refrain from an action against his or her will.

**earnest money** down payment made by a buyer of real estate as evidence of good faith.

**easement** the right of one party to use the land of another for a particular purpose, such as to lay utility lines.

**easement by necessity** an easement, granted by law and requiring court action that is deemed necessary for the full enjoyment of a parcel of land. An example would be an easement allowing access from landlocked property to a road.

**easement by prescription** a means of acquiring an easement by continued, open, and hostile use of someone else's property for a statutorily defined period of time.

**easement in gross** a personal right granted by an owner with no requirement that the easement holder own adjoining land.

**economic life** the period of time over which an improved property will generate sufficient income to justify its continued existence.

**effective age** an appraiser’s estimate of the physical condition of a building. The actual age of a building may be different than its effective age.

**emblems** cultivated crops; generally considered to be personal property.

** eminent domain** the right of a government to take private property for public use upon payment of its fair market value. Eminent domain is the basis for condemnation proceedings.

**encroachment** a trespass caused when a structure, such as a wall or fence, invades another person's land or air space.

**encumbrance** anything that affects or limits the title to a property, such as easements, leases, mortgages, or restrictions.
**equitable title**  the interest in a piece of real estate held by a buyer who has agreed to purchase the property, but has not yet completed the transaction; the interest of a buyer under a contract for deed.

**equity**  the difference between the current market value of a property and the outstanding indebtedness due on it.

**equity of redemption**  the right of a borrower to stop the foreclosure process.

**erosion**  the gradual wearing away of land by wind, water, and other natural processes.

**escalation clause**  a clause in a lease allowing the lessor to charge more rent based on an increase in costs; sometimes called a pass-through clause.

**escheat**  the claim to property by the state when the owner dies intestate and no heirs can be found.

**escrow**  the deposit of funds and/or documents with a disinterested third party for safekeeping until the terms of the escrow agreement have been met.

**escrow account**  a trust account established to hold escrow funds for safekeeping until disbursement.

**escrow analysis**  annual report to disclose escrow receipts, payments, and current balances.

**escrow disbursements**  money paid from an escrow account.

**estate**  an interest in real property. The sum total of all the real property and personal property owned by an individual.

**estate for years**  a leasehold estate granting possession for a definite period of time.

**estate tax**  federal tax levied on property transferred upon death.

**estoppel certificate**  a document that certifies the outstanding amount owed on a mortgage loan, as well as the rate of interest.

**et al.**  abbreviation for the Latin phrase *et alius*, meaning “and another.”

**et ux.**  abbreviation for Latin term *et uxor*, meaning “and wife.”

**et vir**  Latin term meaning “and husband.”

**eviction**  the lawful expulsion of an occupant from real property.

**evidence of title**  a document that identifies ownership of property.

**examination of title**  a review of an abstract to determine current condition of title.

**exchange**  a transaction in which property is traded for another property, rather than sold for money or other consideration.

**exclusive agency listing**  a contract between a property owner and one broker that only gives the broker the right to sell the property for a fee within a specified period of time but does not obligate the owner to pay the broker a fee if the owner produces his own buyer without the broker’s assistance. The owner is barred only from appointing another broker within this time period.

**exclusive right to sell**  a contract between a property owner and a broker that gives the broker the right to collect a commission regardless of who sells the property during the specified period of time of the agreement.

**execution**  the signing of a contract.

**executor/executrix**  a person named in a will to administer an estate. The court will appoint an administrator if no executor is named. “Executrix” is the feminine form.

**executory contract**  a contract in which one or more of the obligations have yet to be performed.
executed contract a contract in which all obligations have been fully performed.

express contract an oral or written contract in which the terms are expressed in words.

extension agreement an agreement between mortgagor and mortgagee to extend the maturity date of the mortgage after it is due.

external obsolescence a loss in value of a property due to factors outside the property, such as a change in surrounding land use.

fair housing law a term used to refer to federal and state laws prohibiting discrimination in the sale or rental of residential property.

fair market value the highest price that a buyer, willing but not compelled to buy, would pay, and the lowest a seller, willing but not compelled to sell, would accept.

Federal Housing Administration (FHA) an agency within the U.S. Department of Housing and Urban Development (HUD) that insures mortgage loans by FHA-approved lenders to make loans available to buyers with limited cash.

Federal National Mortgage Association (Fannie Mae) a privately owned corporation that buys existing government-backed and conventional mortgages.

Federal Reserve System the central banking system of the United States, which controls the monetary policy and, therefore, the money supply, interest rates, and availability of credit.

fee simple the most complete form of ownership of real estate.

FHA-insured loan a loan insured by the Federal Housing Administration.

fiduciary relationship a legal relationship with an obligation of trust, as that of agent and principal.

finder’s fee a fee or commission paid to a mortgage broker for finding a mortgage loan for a prospective borrower.

first mortgage a mortgage that has priority to be satisfied over all other mortgages.

fixed-rate loan a loan with an interest rate that does not change during the entire term of the loan.

fixture an article of personal property that has been permanently attached to the real estate so as to become an integral part of the real estate.

foreclosure the legal process by which a borrower in default of a mortgage is deprived of interest in the mortgaged property. Usually, this involves a forced sale of the property at public auction, where the proceeds of the sale are applied to the mortgage debt.

forfeiture the loss of money, property, rights, or privileges due to a breach of legal obligation.

franchise in real estate, an organization that lends a standardized trade name, operating procedures, referral services, and supplies to member brokerages.

fraud a deliberate misstatement of material fact or an act or omission made with deliberate intent to deceive (active fraud) or gross disregard for the truth (constructive fraud).

freehold estate an estate of ownership in real property.
**front foot** a measurement of property taken by measuring the frontage of the property along the street line.

**functional obsolescence** a loss in value of a property due to causes within the property, such as faulty design, outdated structural style, or inadequacy to function properly.

**future interest** ownership interest in property that cannot be enjoyed until the occurrence of some event; sometimes referred to as a household or equitable interest.

**G**

**general agent** an agent who is authorized to act for and obligate a principal in a specific range of matters, as specified by their mutual agreement.

**general lien** a claim on all property, real and personal, owned by a debtor.

**general warranty deed** an instrument in which the grantor guarantees the grantee that the title being conveyed is good and free of other claims or encumbrances.

**government backed mortgage** a mortgage that is insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (VA) or the Rural Housing Service (RHS). Mortgages that are not government loans are identified as conventional loans.

**Government National Mortgage Association (Ginnie Mae)** a government-owned corporation within the U.S. Department of Housing and Urban Development (HUD). Ginnie Mae manages and liquidates government-backed loans and assists HUD in special lending projects.

**government survey system** a method of land description in which meridians (lines of longitude) and base lines (lines of latitude) are used to divide land into townships and sections.

**graduated lease** a lease that calls for periodic, stated changes in rent during the term of the lease.

**grant** the transfer of title to real property by deed.

**grant deed** a deed that includes three warranties: (1) that the owner has the right to convey title to the property, (2) that there are no encumbrances other than those noted specifically in the deed, and (3) that the owner will convey any future interest that he or she may acquire in the property.

**grantee** one who receives title to real property.

**grantor** one who conveys title to real property; the present owner.

**gross income** the total income received from a property before deducting expenses.

**gross income multiplier** a rough method of estimating the market value of an income property by multiplying its gross annual rent by a multiplier discovered by dividing the sales price of comparable properties by their annual gross rent.

**gross lease** a lease in which a tenant pays only a fixed amount for rental and the landlord pays all operating expenses and taxes.

**gross rent multiplier** similar to gross income multiplier, except that it looks at the relationship between sales price and monthly gross rent.

**ground lease** a lease of land only, on which a tenant already owns a building or will construct improvements.
guaranteed sale plan an agreement between a broker and a seller that the broker will buy the seller’s property if it does not sell within a specified period of time.

guardian one who is legally responsible for the care of another person’s rights and/or property.

habendum clause the clause in a deed, beginning with the words “to have and to hold,” that defines or limits the exact interest in the estate granted by the deed.

hamlet a small village.

heir one who is legally entitled to receive property when the owner dies intestate.

highest and best use the legally permitted use of a parcel of land that will yield the greatest return to the owner in terms of money or amenities.

holdover tenancy a tenancy where a lessee retains possession of the property after the lease has expired, and the landlord, by continuing to accept rent, agrees to the tenant’s continued occupancy.

holographic will a will that is entirely handwritten, dated, and signed by the testator.

home equity conversion mortgage (HECM) often called a reverse-annuity mortgage; instead of making payments to a lender, the lender makes payments to you. It enables older homeowners to convert the equity they have in their homes into cash, usually in the form of monthly payments. Unlike traditional home equity loans, a borrower does not qualify on the basis of income but on the value of his or her home. In addition, the loan does not have to be repaid until the borrower no longer occupies the property.

home equity line of credit a mortgage loan that allows the borrower to obtain cash drawn against the equity of his or her home, up to a pre-determined amount.

home inspection a thorough inspection by a professional that evaluates the structural and mechanical condition of a property. A satisfactory home inspection is often included as a contingency by the purchaser.

homeowner’s insurance an insurance policy specifically designed to protect residential property owners against financial loss from common risks such as fire, theft, and liability.

homeowner’s warranty an insurance policy that protects purchasers of newly constructed or pre-owned homes against certain structural and mechanical defects.

homestead the parcel of land and improvements legally qualifying as the owner’s principal residence.

HUD an acronym for the Department of Housing and Urban Development, a federal agency that enforces federal fair housing laws and oversees agencies such as FHA and GNMA.

implied contract a contract where the agreement of the parties is created by their conduct.

improvement human-made addition to real estate.
income capitalization approach  a method of estimating the value of income-producing property by dividing its expected annual net operating income of the property by a capitalization rate.

income property  real estate developed or improved to produce income.

incorporeal right  intangible, non-possessory rights in real estate, such as an easement or right of way.

independent contractor  one who is retained by another to perform a certain task and is not subject to the control and direction of the hiring person with regard to the end result of the task. Individual contractors receive a fee for their services but pay their own expenses and taxes and receive no employee benefits.

index  a number used to compute the interest rate for an adjustable-rate mortgage (ARM). The index is a published number or percentage, such as the average yield on Treasury bills. A margin is added to the index to determine the interest rate to be charged on the ARM. This interest rate is subject to any caps that are associated with the mortgage.

industrial property  buildings and land used for the manufacture and distribution of goods, such as a factory.

inflation  an increase in the amount of money or credit available in relation to the amount of goods or services available, which causes an increase in the general price level of goods and services.

initial interest rate  the beginning interest rate of the mortgage at the time of closing. This rate changes for an adjustable-rate mortgage (ARM).

installment  the regular, periodic payment that a borrower agrees to make to a lender, usually related to a loan.

installment contract  see contract for deed.

installment loan  borrowed money that is repaid in periodic payments, known as installments.

installment sale  a transaction in which the sales price is paid to the seller in two or more installments over more than one calendar year.

insurance  a contract that provides indemnification from specific losses in exchange for a periodic payment. The individual contract is known as an insurance policy, and the periodic payment is known as an insurance premium.

insurance binder  a document that states that temporary insurance is in effect until a permanent insurance policy is issued.

insured mortgage  a mortgage that is protected by the Federal Housing Administration (FHA) or by private mortgage insurance (PMI). If the borrower defaults on the loan, the insurer must pay the lender the insured amount.

interest  (1) a fee charged by a lender for the use of the money loaned; (2) a share of ownership in real estate.

interest accrual rate  the percentage rate at which interest accrues on the mortgage.

interest rate  the rent or rate charged to use funds belonging to another.

interest rate buydown plan  an arrangement where the property seller (or any other party) deposits money to an account so that it can be released each month to reduce the mortgagor’s monthly payments during the early years of a mortgage. During the specified period, the mortgagor’s effective interest rate is “bought down” below the actual interest rate.
**interest rate ceiling**  the maximum interest rate that may be charged for an adjustable-rate mortgage (ARM), as specified in the mortgage note.

**interest rate floor**  the minimum interest rate for an adjustable-rate mortgage (ARM), as specified in the mortgage note.

**interim financing**  a short-term loan made during the building phase of a project; also known as a construction loan.

**intestate**  to die without having authored a valid will.

**invalid**  not legally binding or enforceable.

**investment property**  a property not occupied by the owner.

**J**

**joint tenancy**  co-ownership that gives each tenant equal interest and equal rights in the property, including the right of survivorship.

**joint venture**  an agreement between two or more parties to engage in a specific business enterprise.

**judgment**  a decision rendered by court determining the rights and obligations of parties to an action or lawsuit.

**judgment lien**  a lien on the property of a debtor resulting from a court judgment.

**judicial foreclosure**  a proceeding that is handled as a civil lawsuit and conducted through court; used in some states.

**jumbo loan**  a loan that exceeds Fannie Mae’s mortgage amount limits. Also called a nonconforming loan.

**junior mortgage**  any mortgage that is inferior to a first lien and that will be satisfied only after the first mortgage; also called a secondary mortgage.

**L**

**laches**  a doctrine used by a court to bar the assertion of a legal claim or right, based on the failure to assert the claim in a timely manner.

**land**  the earth from its surface to its center, and the air space above it.

**landlocked**  property surrounded on all sides by property belonging to another.

**lease**  a contract between a landlord and a tenant wherein the landlord grants the tenant possession and use of the property for a specified period of time and for a consideration.

**leased fee**  the landlord’s interest in a parcel of leased property.

**lease option**  a financing option that allows homebuyers to lease a home with an option to buy. Each month’s rent payment may consist of rent, plus an additional amount that can be applied toward the down payment on an already specified price.

**leasehold**  a tenant’s right to occupy a parcel of real estate for the term of a lease.
**legal description** a description of a parcel of real estate specific and complete enough for an independent surveyor to locate and identify it.

**lessee** the one who receives that right to use and occupy the property during the term of the leasehold estate.

**lessor** the owner of the property who grants the right of possession to the lessee.

**leverage** the use of borrowed funds to purchase an asset.

**levy** to assess or collect a tax.

**license** (1) a revocable authorization to perform a particular act on another’s property, (2) authorization granted by a state to act as a real estate broker or salesperson.

**lien** a legal claim against a property to secure payment of a financial obligation.

**life estate** a freehold estate in real property limited in duration to the lifetime of the holder of the life estate or another specified person.

**life tenant** one who holds a life estate.

**liquidity** the ability to convert an asset into cash.

**lis pendens** a Latin phrase meaning “suit pending”; a public notice that a lawsuit has been filed that may affect the title to a particular piece of property.

**listing agreement** a contract between the owner and a licensed real estate broker where the broker is employed to sell real estate on the owner’s terms within a given time, for which service the owner agrees to pay the broker an agreed-upon fee.

**listing broker** a broker who contracts with a property owner to sell or lease the described property; the listing agreement typically may provide for the broker to make property available through a multiple listing system.

**littoral rights** landowner’s claim to use water in large, navigable lakes and oceans adjacent to property; ownership rights to land-bordering bodies of water up to the high-water mark.

**loan** a sum of borrowed money, or principal, that is generally repaid with interest.

**loan officer** or lender, serves several functions and has various responsibilities, such as soliciting loans; a loan officer both represents the lending institution and represents the borrower to the lending institution.

**lock-in** an agreement in which the lender guarantees a specified interest rate for a certain amount of time.

**lock-in period** the time period during which the lender has guaranteed an interest rate to a borrower.

**lot and block description** a method of describing a particular property by referring to a lot and block number within a subdivision recorded in the public record.

**management agreement** a contract between the owner of an income property and a firm or individual who agrees to manage the property.

**margin** the difference between the interest rate and the index on an adjustable rate mortgage. The margin remains stable over the life of the loan, while the index fluctuates.
market data approach  a method of estimating the value of a property by comparing it to similar properties recently sold and making monetary adjustments for the differences between the subject property and the comparable property.

market value  the amount that a seller may expect to obtain for merchandise, services, or securities in the open market.

marketable title  title to property that is free from encumbrances and reasonable doubts and that a court would compel a buyer to accept.

mechanic's lien  a statutory lien created to secure payment for those who supply labor or materials for the construction of an improvement to land.

metes and bounds  a method of describing a parcel of land using direction and distance.

mill  one-tenth of one cent; used by some states to express or calculate property tax rates.

minor  a person who has not attained the legal age of majority.

misrepresentation  a misstatement of fact, either deliberate or unintentional.

modification  the act of changing any of the terms of the mortgage.

money judgment  a court order to settle a claim with a monetary payment, rather than specific performance.

month-to-month tenancy  tenancy in which the tenant rents for only one month at a time.

monument  a fixed, visible marker used to establish boundaries for a survey.

mortgage  a written instrument that pledges property to secure payment of a debt obligation as evidenced by a promissory note. When duly recorded in the public record, a mortgage creates a lien against the title to a property.

mortgage banker  an entity that originates, funds, and services loans to be sold into the secondary money market.

mortgage broker  an entity that, for a fee, brings borrowers together with lenders.

mortgage lien  an encumbrance created by recording a mortgage.

mortgagee  the lender who benefits from the mortgage.

mortgagor  the borrower who pledges the property as collateral.

multi-dwelling units  properties that provide separate housing units for more than one family that secure only a single mortgage. Apartment buildings are also considered multi-dwelling units.

multiple listing system (MLS—also multiple listing service)  the method of marketing a property listing to all participants in the MLS.

mutual rescission  an agreement by all parties to a contract to release one another from the obligations of the contract.

negative amortization  occurs when an adjustable rate mortgage is allowed to fluctuate independently of a required minimum payment. A gradual increase in mortgage debt happens when the monthly payment
is not large enough to cover the entire principal and interest due. The amount of the shortfall is added to the remaining balance to create negative amortization.

**net income** the income produced by a property, calculated by deducting operating expenses from gross income.

**net lease** a lease that requires the tenant to pay maintenance and operating expenses, as well as rent.

**net listing** a listing in which the broker’s fee is established as anything above a specified amount to be received by the seller from the sale of the property.

**net worth** the value of all of a person’s assets.

**no cash-out refinance** a refinance transaction in which the new mortgage amount is limited to the sum of the remaining balance of the existing first mortgage.

**nonconforming use** a use of land that is permitted to continue, or grandfathered, even after a zoning ordinance is passed that prohibits the use.

**non-liquid asset** an asset that cannot easily be converted into cash.

**notarize** to attest or certify by a notary public.

**notary public** a person who is authorized to administer oaths and take acknowledgments.

**note** a written instrument acknowledging a debt, with a promise to repay, including an outline of the terms of repayment.

**note rate** the interest rate on a promissory note.

**notice of default** a formal written notice to a borrower that a default has occurred on a loan and that legal action may be taken.

**novation** the substitution of a new contract for an existing one; the new contract must reference the first and indicate that the first is being replaced and no longer has any force and effect.

**0**

**obligee** person on whose favor an obligation is entered.

**obligor** person who is bound to another by an obligation.

**obsolescence** a loss in the value of a property due to functional or external factors.

**offer** to propose as payment; bid on property.

**offer and acceptance** two of the necessary elements for the creation of a contract.

**open-end mortgage** a loan containing a clause that allows the mortgagor to borrow additional funds from the lender, up to a specified amount, without rewriting the mortgage.

**open listing** a listing contract given to one or more brokers in which a commission is paid only to the broker who procures a sale. If the owner sells the house without the assistance of one of the brokers, no commission is due.

**opinion of title** an opinion, usually given by an attorney, regarding the status of a title to property.

**option** an agreement that gives a prospective buyer the right to purchase a seller’s property within a specified period of time for a specified price.
optionee  one who receives or holds an option.
optionor  one who grants an option; the property owner.
ordinance  a municipal regulation.
original principal balance  the total amount of principal owed on a loan before any payments are made; the amount borrowed.
origination fee  the amount charged by a lender to cover the cost of assembling the loan package and originating the loan.
owner financing  a real estate transaction in which the property seller provides all or part of the financing.
ownership  the exclusive right to use, possess, control, and dispose of property.

package mortgage  a mortgage that pledges both real and personal property as collateral to secure repayment of a loan.
parcel  a lot or specific portion of a large tract of real estate.
participation mortgage  a type of mortgage in which the lender receives a certain percentage of the income or resale proceeds from a property, as well as interest on the loan.
partition  the division of property held by co-owners into individual shares.
partnership  an agreement between two parties to conduct business for profit. In a partnership, property is owned by the partnership, not the individual partners, so partners cannot sell their interest in the property without the consent of the other partners.
party wall  a common wall used to separate two adjoining properties.
payee  one who receives payment from another.
payor  one who makes payment to another.
percentage lease  a lease in which the rental rate is based on a percentage of the tenant’s gross sales. This type of lease is most often used for retail space.
periodic estate  tenancy that automatically renews itself until either the landlord or tenant gives notice to terminate it.
personal property (hereditaments)  all items that are not permanently attached to real estate; also known as chattels.
physical deterioration  a loss in the value of a property due to impairment of its physical condition.
PITI  principal, interest, taxes, and insurance—components of a regular mortgage payment.
planned unit development (PUD)  a type of zoning that provides for residential and commercial uses within a specified area.
plat  a map of subdivided land showing the boundaries of individual parcels or lots.
plat book  a group of maps located in the public record showing the division of land into subdivisions, blocks, and individual parcels or lots.
**plat number**  a number that identifies a parcel of real estate for which a plat has been recorded in the public record.

**PMI**  private mortgage insurance.

**point**  a point is one percent of the loan.

**point of beginning**  the starting point for a survey using the “metes and bounds” method of description.

**police power**  the right of the government to enact laws, ordinances, and regulations to protect the public health, safety, welfare, and morals.

**power of attorney**  a legal document that authorizes someone to act on another’s behalf. A power of attorney can grant complete authority or can be limited to certain acts and/or certain periods of time.

**pre-approval**  condition where a borrower has completed a loan application and provided debt, income, and savings documentation that an underwriter has reviewed and approved. A pre-approval is usually done at a certain loan amount, making assumptions about what the interest rate will actually be at the time the loan is actually made, as well as estimates for the amount that will be paid for property taxes, insurance, and so on.

**prepayment**  amount paid to reduce the outstanding principal balance of a loan before the due date.

**prepayment penalty**  a fee charged to a borrower by a lender for paying off a debt before the term of the loan expires.

**prequalification**  a lender’s opinion on the ability of a borrower to qualify for a loan, based on furnished information regarding debt, income, and available capital for down payment, closing costs, and prepaids. Prequalification is less formal than pre-approval.

**prescription**  a method of acquiring an easement to property by prolonged, unauthorized use.

**primary mortgage market**  the financial market in which loans are originated, funded, and serviced.

**prime rate**  the short-term interest rate that banks charge to their preferred customers. Changes in prime rate are used as the indexes in some adjustable-rate mortgages, such as home equity lines of credit.

**principal**  (1) one who authorizes another to act on his or her behalf, (2) one of the contracting parties to a transaction, (3) the amount of money borrowed in a loan, separate from the interest charged on it.

**principal meridian**  one of the 36 longitudinal lines used in the rectangular survey system method of land description.

**probate**  the judicial procedure of proving the validity of a will.

**procuring cause**  the action that brings about the desired result. For example, if a broker takes actions that result in a sale, the broker is the procuring cause of the sale.

**promissory note**  details the terms of the loan and is the debt instrument.

**property management**  the operating of an income property for another.

**property tax**  a tax levied by the government on property, real or personal.

**prorate**  to divide ongoing property costs such as taxes or maintenance fees proportionately between buyer and seller at closing.

**pur autre vie**  a phrase meaning “for the life of another.” In a life estate pur autre vie, the term of the estate is measured by the life of a person other than the person who holds the life estate.
**purchase agreement** a written contract signed by the buyer and seller stating the terms and conditions under which a property will be sold.

**purchase money mortgage** a mortgage given by a buyer to a seller to secure repayment of any loan used to pay part or all of the purchase price.

**Q**

**qualifying ratios** calculations to determine whether a borrower can qualify for a mortgage. There are two ratios. The “top” ratio is a calculation of the borrower’s monthly housing costs (principle, taxes, insurance, mortgage insurance, homeowner’s association fees) as a percentage of monthly income. The “bottom” ratio includes housing costs as well as all other monthly debt.

**quitclaim deed** a conveyance where the grantor transfers without warranty or obligations whatever interest or title he/she may have.

**R**

**range** an area of land six miles wide, numbered East or West from a principal meridian in the rectangular survey system.

**ready, willing, and able** one who is able to pay the asking price for a property and is prepared to complete the transaction.

**real estate** land, the earth below it, the air above it, and anything permanently attached to it.

**real estate agent** a real estate broker who has been appointed to market a property for and represent the property owner (listing agent), or a broker who has been appointed to represent the interest of the buyer (buyer’s agent).

**real estate board** an organization whose members are primarily comprised of real estate sales agents, brokers, and administrators.

**real estate broker** a licensed person, association, partnership, or corporation who negotiates real estate transactions for others for a fee.

**Real Estate Settlement Procedures Act (RESPA)** a consumer protection law that requires lenders to give borrowers advance notice of closing costs and prohibits certain abusive practices against buyers using federally related loans to purchase their homes.

**real property** the rights of ownership to land and its improvements.

**REALTOR®** a registered trademark for use by members of the National Association of REALTORS® and affiliated state and local associations.

**recording** entering documents, such as deeds and mortgages, into the public record to give constructive notice.
**rectangular survey system** a method of land description based on principal meridians (lines of longitude) and base lines (lines of latitude). Also called the government survey system.

**redemption period** the statutory period of time during which an owner can reclaim foreclosed property by paying the debt owed plus court costs and other charges established by statute.

**redlining** the illegal practice of lending institutions refusing to provide certain financial services, such as mortgage loans, to property owners in certain areas.

**refinance transaction** the process of paying off one loan with the proceeds from a new loan using the same property as security or collateral.


**release clause** a clause in a mortgage that releases a portion of the property upon payment of a portion of the loan.

**remainder estate** a future interest in an estate that takes effect upon the termination of a life estate.

**remaining balance** in a mortgage, the amount of principal that has not yet been repaid.

**remaining term** the original amortization term minus the number of payments that have been applied to it.

**rent** a periodic payment paid by a lessee to a landlord for the use and possession of leased property.

**replacement cost** the estimated current cost to replace an asset similar or equivalent to the one being appraised.

**reproduction cost** the cost of building an exact duplicate of a building at current prices.

**rescission** canceling or terminating a contract by mutual consent or by the action of one party on default by the other party.

**restriction (restrict covenant)** a limitation on the way a property can be used.

**reversion** the return of interest or title to the grantor of a life estate.

**reverse annuity mortgage** when a homeowner receives monthly checks or a lump sum with no repayment until property is sold, usually an agreement between mortgagor and elderly homeowners.

**revision** a revised or new version, as in a contract.

**right of egress (or ingress)** the right to enter or leave designated premises.

**right of first refusal** the right of a person to have the first opportunity to purchase property before it is offered to anyone else.

**right of redemption** the statutory right to reclaim ownership of property after a foreclosure sale.

**right of survivorship** in joint tenancy, the right of survivors to acquire the interest of a deceased joint tenant.

**riparian rights** the rights of a landowner whose property is adjacent to a flowing waterway, such as a river, to access and use the water.
safety clause  a contract provision that provides a time period following expiration of a listing agreement, during which the agent will be compensated if there is a transaction with a buyer who was initially introduced to the property by the agent.

sale-leaseback  a transaction where the owner sells improved property and, as part of the same transaction, signs a long-term lease to remain in possession of its premises, thus becoming the tenant of the new owner.

sales contract  a contract between a buyer and a seller outlining the terms of the sale.

salesperson  one who is licensed to sell real estate in a given territory.

salvage value  the value of a property at the end of its economic life.

satisfaction  an instrument acknowledging that a debt has been paid in full.

second mortgage  a mortgage that is in less than first lien position; see junior mortgage.

section  as used in the rectangular survey system, an area of land measuring one square mile, or 640 acres.

secured loan  a loan that is backed by property or collateral.

security  property that is offered as collateral for a loan.

selling broker  the broker who secures a buyer for a listed property; the selling broker may be the listing agent, a sub-agent, or a buyer’s agent.

separate property  property owned individually by a spouse, as opposed to community property.

servient tenement  a property on which an easement or right-of-way for an adjacent (dominant) property passes.

setback  the amount of space between the lot line and the building line, usually established by a local zoning ordinance or restrictive covenants; see deed restrictions.

settlement statement (HUD-1)  the form used to itemize all costs related to closing of a residential transaction covered by RESPA regulations.

severalty  the ownership of a property by only one legal entity.

special assessment  a tax levied against only the specific properties that will benefit from a public improvement, such as a street or sewer; an assessment by a homeowners’ association for a capital improvement to the common areas for which no budgeted funds are available.

special warranty deed  a deed in which the grantor guarantees the title only against the defects that may have occurred during the grantor’s ownership and not against any defects that occurred prior to that time.

specific lien  a lien, such as a mortgage, that attaches to one defined parcel of real estate.

specific performance  a legal action in which a court compels a defaulted party to a contract to perform according to the terms of the contract, rather than awarding damages.

standard payment calculation  the method used to calculate the monthly payment required to repay the remaining balance of a mortgage in equal installments over the remaining term of the mortgage at the current interest rate.

statute of frauds  the state law that requires certain contracts to be in writing to be enforceable.
**statute of limitations** the state law that requires that certain actions be brought to court within a specified period of time.

**statutory lien** a lien imposed on property by statute, such as a tax lien.

**steering** the illegal practice of directing prospective homebuyers to or away from particular areas.

**straight-line depreciation** a method of computing depreciation by decreasing value by an equal amount each year during the useful life of the property.

**subdivision** a tract of land divided into lots as defined in a publicly recorded plat that complies with state and local regulations.

**sublet** the act of a lessee transferring part or all of his or her lease to a third party while maintaining responsibility for all duties and obligations of the lease contract.

**subordinate** to voluntarily accept a lower priority lien position than that to which one would normally be entitled.

**substitution** the principle in appraising that a buyer will be willing to pay no more for the property being appraised than the cost of purchasing an equally desirable property.

**subrogation** the substitution of one party into another’s legal role as the creditor for a particular debt.

**suit for possession** a lawsuit filed by a landlord to evict a tenant who has violated the terms of the lease or retained possession of the property after the lease expired.

**suit for specific performance** a lawsuit filed for the purpose of compelling a party to perform particular acts to settle a dispute, rather than pay monetary damages.

**survey** a map that shows the exact legal boundaries of a property, the location of easements, encroachments, improvements, rights of way, and other physical features.

**syndicate** a group formed by a syndicator to combine funds for real estate investment.

**T**

**tax deed** in some states, an instrument given to the purchaser at the time of sale.

**tax lien** a charge against a property created by law or statute. Tax liens take priority over all other types of liens.

**tax rate** the rate applied to the assessed value of a property to determine the property taxes.

**tax sale** the court-ordered sale of a property after the owner fails to pay *ad valorem* taxes owed on the property.

**tenancy at sufferance** the tenancy of a party who unlawfully retains possession of a landlord’s property after the term of the lease has expired.

**tenancy at will** an indefinite tenancy that can be terminated by either the landlord or the tenant at any time by giving notice to the other party one rental period in advance of the desired termination date.

**tenancy by the entirety** ownership by a married couple of property acquired during the marriage with right of survivorship; not recognized by community property states.

**tenancy in common** a form of co-ownership in which two or more persons hold an undivided interest in property without the right of survivorship.

**tenant** one who holds or possesses the right of occupancy title.
tenement the space that may be occupied by a tenant under the terms of a lease.
testate to die having created a valid will directing the testator’s desires with regard to the disposition of the estate.

“time is of the essence” a phrase in a contract that requires strict adherence to the dates listed in the contract as deadlines for the performance of specific acts.
timesharing undivided ownership of real estate for only an allotted portion of a year.
title a legal document that demonstrates a person’s right to, or ownership of, a property. Note: Title is not an instrument. The instrument, such as a deed, gives evidence of title or ownership.
title insurance an insurance policy that protects the holder from defects in a title, subject to the exceptions noted in the policy.
title search a check of public records to ensure that the seller is the legal owner of the property and that there are no liens or other outstanding claims.

Torrens System a system of registering titles to land with a public authority, who is usually called a registrar.
township a division of land, measuring 36 square miles, in the government survey system.

trade fixtures an item of personal property installed by a commercial tenant and removable upon expiration of the lease.
transfer tax a state or municipal tax payable when the conveyancing instrument is recorded.
trust an arrangement in which title to property is transferred from a grantor to a trustee, who holds title but not the right of possession for a third party, the beneficiary.

trustee a person who holds title to property for another person designated as the beneficiary.

Truth-in-Lending Law also known as Regulation Z; requires lenders to make full disclosure regarding the terms of a loan.

• U •

underwriting the process of evaluating a loan application to determine the risk involved for the lender.
undivided interest the interest of co-owners to use an entire property despite the fractional interest owned.
unilateral contract a one-sided contract in which one party is obligated to perform a particular act completely, before the other party has any obligation to perform.
unsecured loan a loan that is not backed by collateral or security.
useful life the period of time a property is expected to have economic utility.
usury the practice of charging interest at a rate higher than that allowed by law.
VA-guaranteed loan a mortgage loan made to a qualified veteran that is guaranteed by the Department of Veterans Affairs.

valid contract an agreement that is legally enforceable and binding on all parties.

valuation estimated worth.

variance permission obtained from zoning authorities to build a structure that is not in complete compliance with current zoning laws. A variance does not permit a non-conforming use of a property.

vendee a buyer.

vendor a seller; the property owner.

village an incorporated minor municipality usually larger than a hamlet and smaller than a town.

void contract a contract that is not legally enforceable; the absence of a valid contract.

voidable contract a contract that appears to be valid but is subject to cancellation by one or both of the parties.

waiver the surrender of a known right or claim.

warranty deed a deed in which the grantor fully warrants a good clear title to the property.

waste the improper use of a property by a party with the right to possession, such as the holder of a life estate.

will a written document that directs the distribution of a deceased person’s property, real and personal.

wraparound mortgage a mortgage that includes the remaining balance on an existing first mortgage plus an additional amount. Full payments on both mortgages are made to the wraparound mortgagee who then forwards the payments on the first mortgage to the first mortgagee.

writ of execution a court order to the sheriff or other officer to sell the property of a debtor to satisfy a previously rendered judgment.

zone an area reserved by authorities for specific use that is subject to certain restrictions.

zoning ordinance the exercise of regulating and controlling the use of a property in a municipality.
LIKE THE FIRST exam in this book, this test is based on the Texas Real Estate Sales Exam. If you are following the advice in this book, you have done some studying between the first exam and this one. This second exam will give you a chance to see how much you have improved.

The answer sheet follows this page, and the test is followed by the answer key and explanations.
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1. When does title pass from the grantor to the grantee?
   a. when the grantor signs the deed and it is recorded
   b. when the grantor signs the deed and it is delivered to and accepted by the grantee
   c. when the grantor signs and the deed is notarized for filing
   d. when the grantor receives the purchase price in good funds from the grantee

2. A tremendous storm causes a river to flood and, in the process, about 15 feet of shoreline on Peter Haley’s property is washed downstream. After the flood subsides, his neighbor’s beach is widened by 15 feet. Which of the following is NOT true in this situation?
   a. Peter has a claim against his homeowner’s insurance company.
   b. The land was lost due to avulsion.
   c. New land has been created by the addition of alluvion.
   d. The adjacent owner is not required to compensate Peter in any way for the lost waterfront.

3. An appraiser is appraising a home located at Lot 7, Block 2, in Melody Acres Subdivision. In the reconciliation process of the appraisal, he will give the most weight to
   a. the cost approach.
   b. the sales comparison approach.
   c. the income approach.
   d. all of the above under Appraisal Institute standards.

4. Tenancy by the entirety differs from other forms of co-ownership in that
   a. neither owner can force a sale.
   b. each owner is free to devise his or her share to chosen heirs.
   c. shares may be acquired at different times.
   d. the property must be a principal residence.

5. Riparian and littoral rights belong to owners of
   a. a homestead.
   b. subsurface minerals.
   c. land bordering bodies of water.
   d. remainder and reversionary interests.

6. Broker Ben, through his salesperson Jesse, has a property management agreement with Open Door Apartment Homes, giving them authority to manage the day-to-day business, hire employees, advertise, sign leases, and handle repairs and maintenance. Which of the following statements is true?
   a. A broker’s license does not give Ben the authority to accept these obligations.
   b. Ben represents Open Door Apartment Homes as a general agent.
   c. Jesse represents Open Door Apartment Homes as a general agent.
   d. Ben represents Open Door Apartment Homes as a special agent.
7. The broker of Top Notch Realty Co. owns a 5% interest in Big Time Mortgage Co. To facilitate financing approval for his buyers, the broker refers them to Big Time Mortgage Co. for easy one-stop shopping. In this situation, the broker
a. must disclose the affiliated business arrangement under RESPA, Regulation X.
b. must disclose the affiliated business arrangement under TILA, Regulation Z.
c. should state the benefits of accepting services under this business arrangement.
d. is not required to disclose a business interest relationship of less than a 10% under RESPA, Regulation X.

8. Man-made additions to real estate are known as
a. chattels.
b. trade fixtures.
c. parcels.
d. improvements.

9. The Simons have defaulted on their loan payments and are behind in paying the rest of their bills, so their home is being sold in a foreclosure auction. Of the many liens against it, which will have first claim on the proceeds of the sale?
a. the first mortgage recorded
b. unpaid real estate taxes
c. mechanics lien
d. home equity loan

10. The agreement signed by the owners of House A and House B to share a common driveway is a form of
a. an encroachment.
b. a party wall.
c. an easement.
d. a homestead.

11. Rachel Smith deeded a parcel of land to the city with a requirement that it be used only as a city park. The city owns the land so long as that certain prescribed conditions are met. Ms. Smith owns a reversionary interest in the parcel. The city’s ownership is known as
a. a fee on condition precedent.
b. a fee simple determinable estate.
c. a fee simple estate.
d. a fee simple temporary.

12. The person who receives real property through a will is known as a
a. devisee.
b. testator.
c. vendee.
d. legatee.

13. The furnace at 39 State Street doesn’t work properly. However, because the prospective buyers inspect the house in July, there is no indication of this. The condition of the furnace is known as
a. an encumbrance.
b. a cloud on title.
c. a latent defect.
d. an economic obsolescence.

14. The amount of commission to be paid to a broker is determined by
a. the Federal Trade Commission.
b. negotiation between agent and client.
c. the Sherman Anti-Trust Act.
d. the local Association of Realtors.
15. Ms. Harris is advertising a room to rent in her home. Which of the following advertisements would NOT be legal?
   a. Wanted: non-smoker to rent room in large one story home near public transportation
   b. Wanted: female to rent room in large one story home near public transportation
   c. Wanted: white female to rent room in large one story home near public transportation
   d. all of the above

16. A seller must sell quickly because of a personal financial need and instructs her listing agent to list the property at a price just under market value as determined by the competitive market analysis. The listing agent should
   a. write “distress sale/seller anxious” in all advertising.
   b. tell buyers to make any offer as the seller is desperate.
   c. help the seller “stage” the property and market it at the listed price.
   d. do all of the above to get a quick sale.

17. The Real Estate Settlement Procedures Act (RESPA) applies to
   a. all residential financing.
   b. land contracts.
   c. first mortgages only.
   d. financing of one- to four-family residences.

18. A broker has listed a tract of land on the outskirts of a city with frontage on a major interstate highway. The broker knows there is a probability of highway construction along the frontage of the property in the future, but the government has announced no specific construction plans. At this point, the broker
   a. should aggressively market the property without reference to possible highway construction.
   b. should tell the seller that the probability of highway construction makes his property much less valuable and he should sell quickly to get a better price.
   c. should tell the seller that the probability of highway construction will make his property more valuable in the future and he should wait to sell to get a better price.
   d. should market the property as the seller directs and disclose to prospects any information about the possible construction.

19. Laws regulating the maximum rates charged for loans are primarily enacted by
   a. the Treasury Department.
   b. individual states.
   c. Congress.
   d. the Comptroller of the Currency.

20. Laura Murphy is buying a new home for $193,000. She makes a $40,000 down payment and finances the balance with a 7.5% 30-year conventional loan. The factor for repayment is $7.00 per thousand. After making the first payment, what is the remaining balance on Laura’s loan?
   a. $153,135.25
   b. $152,808.75
   c. $152,635.25
   d. $152,885.25
21. Edmund is being shown homes by real estate salesperson Alex. Several times in the course of looking at houses, Alex has said, “I can help you get a great deal,” and, “We’ll find the best possible property for you.” Which of the following statements is true in this scenario?
   a. Alex is providing full service for his customer.
   b. Edmund believes Alex is his agent as Alex has implied an agency relationship.
   c. Alex is performing good service to the sellers he represents in these showings.
   d. Alex is simply a facilitator.

22. Which of the following best describes the role of an agent who seeks a particular type of property for a client?
   a. general agent
   b. independent contractor
   c. special agent
   d. limited power of attorney

23. One of the features of the Taxpayers Relief Act of 1997 is
   a. limited amnesty for unpaid taxes.
   b. the ability to deduct interest on personal loans.
   c. the exclusion by a single person of up to $250,000 of capital gain resulting from the sale of a principal residence.
   d. the elimination of the “office in the home” deduction.

24. The practice of inducing owners to sell through fear tactics that certain minorities are moving into an area is known as
   a. getting listings.
   b. steering.
   c. blockbusting.
   d. bait and switch.

25. No one seems to own the vacant lot next to Henry’s house, so he has used it for a garden for many years now. He may have a good chance of going to court and obtaining ownership by
   a. escheat.
   b. condemnation.
   c. adverse possession.
   d. remainder.

26. A broker sponsors several salespersons of various ethnic and racial groups. When he receives inquiries about his listings, he refers the prospects to a salesperson of the same group as the prospect. The broker is
   a. in violation of Fair Housing laws.
   b. giving an extra benefit to his prospects.
   c. giving an extra benefit to his prospects and his associates.
   d. following proper guidelines for special services under Fair Housing laws.

27. When Mollie Greene signed an offer to purchase the Simons’s house, she put an earnest money deposit in the hands of the Simons’s listing broker. What should the broker do with the money?
   a. Give it directly to the Simons.
   b. Pass it on to his supervising broker.
   c. Promptly deposit it in a trust or escrow account.
   d. Immediately turn it over to the seller’s lawyer.
28. Foundation failure occurred five years ago on a house with a slab foundation. The owner had it repaired by a reputable foundation repair company and received a lifetime warranty on the work. The owner has recently listed the house for sale with a real estate broker. The owner

a. has no liability for disclosure because the repair has been completed and is warranted.
b. should tell the broker about the foundation in case a prospect asks about the structural soundness of the house.
c. must disclose the foundation failure, subsequent repair, and pass the warranty to the buyer.
d. is not required to disclose repairs done more than two years ago and does not need to tell anyone about it.

29. A subdivider must place in the public records a map of the property known as a

a. plan.
b. zone.
c. plot.
d. plat.

30. The Civil Rights Act of 1866 prohibits discrimination in real estate based on

a. race.
b. race and gender.
c. handicap and country of origin.
d. gender and religion.

31. The sale of a property is closing and items such as property taxes and homeowner’s association fees will be divided between the buyer and the seller. This division of charges is known as

a. proration.
b. prepayment.
c. escrowing.
d. fee splitting.

32. When property is appraised as part of the loan application process, a copy of the appraisal

a. belongs to the buyer who paid for it.
b. is confidential and for the lender’s use only.
c. is furnished to the seller only upon written request.
d. must be shared with all the parties.

33. Which statement best explains why instruments affecting real estate are recorded in public records?

a. The documents must be recorded to comply with the Statute of Frauds.
b. Recording proves proper execution of the deed.
c. Recording provides constructive notice to the world of the rights and interests in the property.
d. Recording provides actual notice to the world of the rights and interests in the property.

34. Before a mortgage loan is made, lending institutions often require a(n)

a. survey.
b. walk-through.
c. inspection.
d. assessment.
35. Credit lenders may not discriminate on the basis of age unless the prospective borrowers are
   a. parents of more than five children.
   b. out-of-state buyers.
   c. part-time workers.
   d. minors.

36. A landlord is NOT allowed to charge a tenant extra rent because the tenant has a(n)
   a. dog.
   b. second car.
   c. child.
   d. RV.

37. When construction of a new building has been completed in a satisfactory manner, the local building inspector issues
   a. a certificate of occupancy.
   b. an environmental impact statement.
   c. a restrictive covenant.
   d. a variance.

38. Zoning ordinances typically regulate the
   a. number of occupants allowed for each building.
   b. permitted uses of each parcel of land.
   c. maximum rent that may be charged.
   d. adherence to Fair Housing Laws.

39. Don Bottelli’s family has run a little corner grocery store for 50 years in a neighborhood that has been newly zoned for single family homes only. Don may continue to operate the store as a
   a. variance.
   b. conditional use.
   c. non-conforming use.
   d. buffer zone.

40. Neighbors are allowed input through public hearings when someone applies for a(n)
   a. variance.
   b. amendment.
   c. non-conforming use.
   d. conditional use.

41. The Truth-in-Lending Act (Regulation Z) applies to lender’s practices
   a. if the loan is for $25,000 or more.
   b. if the loan is secured by a residence.
   c. if the loan is for commercial or agricultural loans.
   d. for all business loans.

42. Which of the following must be provided to a prospective borrower at the time of loan application or mailed within three day of the application to fulfill RESPA requirements?
   a. the required Special Information Booklet
   b. the required Special Information Booklet and the Good Faith Estimate of settlement costs
   c. the required Special Information Booklet and the HUD-1 settlement statement
   d. the Truth-in-Lending statement and the HUD-1 settlement statement

43. The provisions of the Real Estate Settlement Procedures Act (RESPA) apply to
   a. one- to four-family residential mortgage loans.
   b. all residential mortgage loans.
   c. all mortgages except home equity loans.
   d. installment contracts.
44. John Fitzpatrick holds $800 in security deposits from the six tenants in his apartment building when he sells the building to Helen Baker. The tenants can expect a return of their security deposits from
a. John at closing.
b. Helen upon termination of the lease.
c. the person who conducted the closing.
d. John upon completion of the tenancy.

45. A shoe store in the town mall pays a base rent each month plus additional rent based on the amount of business it does. It is operating under a
a. ground lease.
b. percentage lease.
c. net lease.
d. holdover lease.

46. An assessment is a special type of appraisal used for
a. property tax purposes.
b. income tax returns.
c. estate tax returns.
d. divorce settlements.

47. Which of the following approaches would an appraiser most likely use to appraise a church?
a. market data approach
b. cost approach
c. income approach
d. gross rent multiplier approach

48. A cap rate is used in what type of appraisal?
a. reproduction
b. income approach
c. tax assessment
d. competitive market analysis

49. The term “comps” refers to
a. operating expense ratios.
b. recent nearby sales.
c. reserves for replacement.
d. reproduction cost.

50. Which of the following does an appraisal take into consideration?
a. various conditions in the neighborhood
b. the owner’s financial situation
c. the sentimental value of the property
d. IRS depreciation claimed or available

51. The appraisal principle of substitution states that
a. the buyer is paying for expected benefits in the future.
b. some improvements have a larger payoff in increased value than others.
c. maximum value is reached where there is reasonable uniformity in the neighborhood.
d. no one will pay more if something equally desirable is available for less.

52. A house being appraised has no fireplace, but it does have a garage, and the appraiser estimates that a fireplace contributes $3,000 to the value of a home in that neighborhood. A nearby house that recently sold for $198,000 is similar except that it has a fireplace but no garage. The appraiser estimates that a garage contributes $12,000 to value. The adjusted sale price of the subject house is
a. $213,000.
b. $183,000.
c. $207,000.
d. $189,000.
53. Dennis Sorensen is buying land on which he plans to build a cabin. He wants 200 feet in road frontage and a lot 500 feet deep. If the asking price is $9,000 an acre for the land, how much will Dennis pay for his lot?
   a. $10,000
   b. $20,700
   c. $22,956
   d. $24,104

54. Joanna Bruno bought a house for $120,000, putting 20% down and borrowing the rest with a conventional loan. At the end of the first year, her principal had been paid down by $480 and property values in the area had risen by 6%. Her equity at the end of that first year was
   a. $7,200.
   b. $24,480.
   c. $31,680.
   d. $95,520.

55. Mills are often used in calculating
   a. mortgage interest.
   b. property tax rates.
   c. real estate commissions.
   d. fire insurance premiums.

56. FHA mortgage insurance premium is calculated at a rate of $\frac{1}{2}\%$ annually. How much is the premium for the month in which the remaining principal owed is $92,347?
   a. $0.05
   b. $12.00
   c. $38.48
   d. $46.17

57. Sue Addison owns an apartment building that was constructed in 1965. According to federal law, which of the following must be attached to the leases Sue prepares for prospective tenants?
   a. a report of the building’s radon level
   b. a lead-based paint disclosure statement
   c. an illustration of the building’s location relative to electromagnetic fields (EMFs)
   d. any known instances of groundwater contamination in the building’s water supply

58. In inflationary times, a property manager would NOT want a long-term lease based on
   a. graduated payments.
   b. the consumer price index.
   c. a fixed rate.
   d. a cost-of-living index.

59. In an agency relationship, the person identified as the client is usually the
   a. customer.
   b. fiduciary.
   c. sub-agent.
   d. principal.

60. A contract in which an owner promises to pay compensation to a broker for providing a buyer but is free to enter into the same agreement with other brokers is known as
   a. an exclusive right to sell contract.
   b. a net listing.
   c. an open listing.
   d. a personal service agreement.
61. The owner is anxious to sell a property and hires a broker to be the only professional marketing the property. All other brokers are excluded from selling the property. What form of agreement do the parties have?
   a. an open listing
   b. an exclusive right to sell listing
   c. an exclusive agency
   d. a net listing

62. A broker agrees to represent the seller in the sale of a property. The listing contract states that the broker will receive a fee of $15,000 from the seller at closing, regardless of the sales price. Is this a valid form of compensation?
   a. Yes; compensation can be determined in any number of ways, as long as the seller and broker agree.
   b. No; a flat fee exposes the seller to being cheated.
   c. Yes; the broker is supposed to charge what the traffic will bear.
   d. No; the seller should pay on a basis of a stated percentage of contract price.

63. Which of the following are protected classes under Fair Housing laws?
   a. color, race, religion, national origin, sex, handicap, and marital status
   b. color, race, religion, national origin, sex, handicap, and source of income
   c. race, religion, national origin, sex, age, handicap, and familial status
   d. color, race, religion, national origin, sex, handicap, and familial status

64. Real estate agents are licensed by
   a. the U.S. Attorney General’s office.
   b. their state.
   c. their local Association of Realtors.
   d. the Federal Trade Commission.

65. Real estate salespersons are most likely to work as
   a. independent contractors.
   b. employees.
   c. associate brokers.
   d. listing agents.

66. The main obligation the principal owes a real estate agent is
   a. confidentiality.
   b. compensation.
   c. obedience.
   d. accounting.

67. Both buyer and seller must consent to the agent’s role in the transaction so that they know
   a. who is responsible for the commission.
   b. whether they need a lawyer.
   c. whom to ask about hidden defects.
   d. whether their disclosures will be held in confidence.

68. Ken Laughton’s house is “for sale by owner.” Robert Hall falls in love with it during an open house, tells Ken he will pay the full asking price, and promises to send Ken an earnest money check for $5,000. Ken accepts the offer. The contract between them is
   a. enforceable by court action if either tries to back out.
   b. invalid because it lacks consideration.
   c. valid only if there were witnesses.
   d. unenforceable.
69. The Smiths offer to buy the Browns’s house for $125,000, with the closing scheduled for June 15. The Browns sign a written acceptance, with the provision that the closing is to be on June 16. At this point, which of the following can occur?
   a. The Smiths can back out of buying the house with no penalty.
   b. The Browns can hold the Smiths to a June 15 closing.
   c. The Browns can hold the Smiths to a June 16 closing.
   d. The Smiths can sue for specific performance on June 15.

70. Consideration to bind a contract may be in the form of
   a. cash or cash equivalent only.
   b. anything that the parties agree upon as long as it has monetary value.
   c. money, promises, or services.
   d. thoughtful treatment of the other party’s feelings.

71. A buyer hired an attorney and sued a seller for specific performance because the seller refused to close according to the agreement. This means that the buyer wants
   a. the seller to reimburse him for all monetary losses he incurred due to the seller’s actions.
   b. the seller to carry out the terms of the sales contract.
   c. the seller to refund his earnest money and option fee.
   d. both a and b above

72. When a contract contains provisions outlining what money penalties will be levied against the party that refuses to perform, the amount specified is known as
   a. earnest money.
   b. consideration.
   c. specific performance.
   d. liquidated damages.

73. Dave Gates, a widower, died without leaving a will or other instruction. His surviving children received ownership of his real estate holdings by
   a. adverse possession.
   b. eminent domain.
   c. escheat.
   d. law of intestate succession.

74. A lawsuit to enforce a contract must be started within a certain number of years, as specified by the
   a. statute of frauds.
   b. liquidated damages.
   c. equitable title.
   d. statute of limitations.

75. Patrick may purchase Pauline’s property at an agreed price by a certain date in the future. He has paid Pauline a non-refundable fee for this right. He has taken possession of the property and is paying a monthly payment, but Pauline has not deeded the property to Patrick. Under this arrangement, Patrick has
   a. a lease option.
   b. a land contract.
   c. an option to purchase.
   d. a lease with an option to purchase.
76. A number of young people have been injured in skateboarding accidents within the city park, so the city council has passed a resolution prohibiting skateboarding within public areas. The action is taken in accordance with the city’s
   a. police powers.
   b. power of eminent domain.
   c. city’s right of priority.
   d. right of escheat.

77. When real estate is purchased through a lease option, the money initially paid in return for the option can be applied to the eventual purchase price
   a. only in those states where the law allows it.
   b. if it is so agreed in the contract.
   c. if the lease is for a one-year period.
   d. under no circumstances.

78. The Millers put their house on the market, the Blacks made a written purchase offer, and the Millers accepted the offer in writing. When is the contract valid?
   a. immediately
   b. as soon as the signatures are notarized
   c. when the Blacks are notified of the acceptance
   d. when it is placed in the public records

79. A land contract for the purchase of real estate is also known as
   a. an installment contract.
   b. a lease with option to buy.
   c. an executed contract.
   d. a voidable contract.

80. Which of the following listings is illegal in most states and open to fraudulent dealings?
   a. an open listing
   b. an exclusive right to sell
   c. an exclusive agency
   d. a net listing

81. Which one of the following terms is most synonymous with the buyer when two licensees are functioning as a listing agent and as a sub-agent?
   a. principal
   b. client
   c. customer
   d. facilitator

82. A buyer is purchasing a house using third-party financing as described in the Texas Real Estate Commission Third Party Financing Condition Addendum. According to the addendum, financing approval will be deemed to have been approved when the lender determines that the buyer has satisfied the lender’s requirements relating to the
   a. property appraisal, buyer’s credit history, and employment record.
   b. buyer’s assets, income, and credit history.
   c. property inspection report and appraisal, and buyer’s income and credit history.
   d. property inspection report and appraisal, and buyer’s assets and credit history.
83. Andy Wong filed an application for licensure with the Texas Real Estate Commission. The application was rejected. Which of the following would be the reason for which the application was rejected?
   a. Andy had not been a resident of Texas for a full six months before filing the application.
   b. Andy had not found a broker with whom he wished to enter into an independent contractor working agreement.
   c. In trying to meet the educational requirements for licensure, Andy failed to obtain a passing score on two of the nine core courses he took. He did well on Law of Agency, Law of Contracts, and the Principles courses he took.
   d. Andy turned seventeen on his birthday last month.

84. Which of the following would NOT be exempt from the seller disclosure requirements of Section 5.008 of the Texas Property Code?
   a. a condominium unit currently occupied by the owners
   b. a home being sold by a bank that received title through a Deed In Lieu of Foreclosure
   c. a home being sold by the executor of the estate of his mother who died last month
   d. a newly constructed single-family residence that will be ready for occupancy next week

85. The minimum point (font) size that the type in the Information About Brokerage Services notice may be printed in is
   a. 16.
   b. 12.
   c. 10.
   d. 8.

86. Who requires a licensee preparing a Competitive Market Analysis (CMA) to include the following statement? “THIS IS AN OPINION OF VALUE OR COMPARATIVE MARKET ANALYSIS AND SHOULD NOT BE CONSIDERED AN APPRAISAL. IN MAKING ANY DECISION THAT RELIES UPON MY WORK, YOU SHOULD KNOW THAT I HAVE NOT FOLLOWED THE GUIDELINES FOR DEVELOPMENT OF AN APPRAISAL OR ANALYSIS CONTAINED IN THE UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE OF THE APPRAISAL FOUNDATION.”
   a. the Texas Real Estate Commission
   b. the Appraisal Foundation
   c. Fannie Mae
   d. the Appraisal Licensing Board

87. What must the Texas Real Estate Commission do before revoking a salesperson’s or broker’s license?
   a. post a public notice
   b. consult the attorney general
   c. hold a hearing
   d. solicit public comment

88. Responding to or facilitating inquiries about the ancestry or familial status would put the licensee in the position of violating
   a. only the Federal Fair Housing Law.
   b. only the state Fair Housing Law.
   c. federal and state laws as well as the Texas Real Estate Commission rules.
   d. only the REALTOR® Code of Ethics.

89. When an agent does not fulfill the fiduciary duties and perform as promised, how may the client end the relationship?
   a. reliction by verbal notification
   b. unilateral rescission in writing
   c. listing with another broker
   d. notifying the local Multiple Listing Service
90. Samuel is under contract with a buyer for the sale of his house. He has agreed to give the buyer a ten-day termination option as described in Paragraph 23 of the Texas Real Estate Commission contract form. Samuel has been paid a $350 option fee and the buyer has deposited $2,500 as earnest money with an escrow agent. If the buyer delivers a Notice of Termination to Samuel on the tenth day, Samuel is obligated to
a. release $2,800.00 to the buyer and keep the $50.00 non-refundable part of the option fee.
b. release one-half of the earnest money to the buyer and retain the other one-half plus the option fee.
c. release all of the earnest money to the buyer and retain the entire option fee.
d. release all of the earnest money and option fee to the buyer because the buyer terminated within the contractually prescribed time frame.

91. Newlyweds Jack and Jane have just acquired a farm of several hundred acres ten miles from the city and established it as their homestead. How much of the farm is protected from seizure and forced sale under the Texas Constitutional homestead protection?
   a. 100 acres maximum
   b. 200 acres maximum
   c. the entire farm
   d. ten acres including the land upon which the house sits

92. Who or what requires a person to hold a license issued by the Texas Real Estate Commission prior to performing acts of brokerage such as selling, leasing, or locating real property for sale or lease?
   a. Texas Real Estate Commission
   b. the Governor of Texas
   c. the Texas Legislature
   d. the Texas Statute of Frauds

93. Sarah Salesperson has a signed buyer representation agreement to represent Bernie and Bonnie Buyer. She shows them a home listed by Lisa Listalot who tells Sarah that the sellers are desperate and that she is sure that she can get them to accept $10,000 less than the asking price. What should Sarah do?
   a. Call the sellers and tell them what Lisa said.
   b. Suggest that the buyers make a low-ball offer.
   c. Keep the information to herself.
   d. Share the information with Bernie and Bonnie.

94. Your seller says that he doesn’t want to accept any offers from buyers who are represented by a buyer’s agent. As the listing agent, what should you do when a buyer’s agent brings an offer on the listing on behalf of his client?
   a. Present it to the seller.
   b. Send it back to the buyer’s agent.
   c. Throw it away.
   d. File it and forget about it.

95. When a client tells an agent to do something illegal, what should the agent do?
   a. Obey without question.
   b. Sue the principal.
   c. Terminate the agency relationship.
   d. Ignore the order.
96. It is unlawful for an individual licensed as a real estate salesperson to
   a. sell timeshares.
   b. act as an apartment locator.
   c. act as a broker in a commercial transaction.
   d. represent a buyer in the name of his or her sponsoring broker.

97. Which of the following is NOT a “Loan Fee” as identified in Paragraph 12 of the Texas Real Estate Commission promulgated contract and the Third-Party Financing Condition Addendum?
   a. buydown fee
   b. loan funding fee
   c. loan origination fee
   d. loan commitment fee

98. Anthony, a salesperson and independent contractor, recently left his broker at Country Realty and joined Citywide Realty. He left Country Realty before the closing of a sale he made while he was with that broker. Which of the following is true?
   a. Anthony must forfeit the commission on the sale he made when he was with the old broker.
   b. Anthony is entitled to his commission to be paid to him by the Country Realty broker even though he now has another broker.
   c. The Country Realty broker will pay the Citywide Realty broker who will split with Anthony.
   d. The seller will pay the Citywide Realty broker who will split with Anthony.

99. An earnest money check has been returned to the title company by the prospective buyer’s bank marked NSF (Not Sufficient Funds). What should the listing agent do?
   a. Inform the seller.
   b. Redeposit the check.
   c. Contact the buyer for an explanation.
   d. Tell the title company to run it through again.

100. A Texas deed lists both the wife and the husband as owners of the property in which they have taken up residence. It is presumed
   a. that the property is community property with each of them owning a half undivided interest.
   b. that the property is owned by both of them as tenants by the entireties with rights of survivorship.
   c. as dower property.
   d. as curtesy property.
101. Salesperson A obtains a listing for a property in Sunset Terrace. In the listing, permission is given to the broker to function as an intermediary and to make appointments of associates to communicate with each party. Salesperson B is working with a buyer who wants representation but does not want to sign a buyer representation agreement. Salesperson B prepares an offer for the listing obtained by Salesperson A, and both parties are given written notice that Salesperson A is communicating with the seller and Salesperson B is communicating with the buyer. Which of the following best describes what is taking place?
   a. This is a properly done intermediary transaction.
   b. This is an illegal act under the provisions of the Texas Real Estate License Act.
   c. Each of the parties has his or her own agent.
   d. The broker is functioning as a properly appointed intermediary.

102. Which of the following is NOT listed as included in the property to be conveyed in Paragraph 2 of the Texas Real Estate Commission form One- to Four-Family Residential Contract (Resale)?
   a. window air conditioning units
   b. a freestanding stove or range
   c. a self-contained spa with cover and heater
   d. gas-fueled fireplace logs and fireplace screen

103. Under the Texas Real Estate License Act, all of the following actions are cause to suspend or revoke a license held by a broker or salesperson EXCEPT
   a. revealing to an owner an offer that is well below “fair market value.”
   b. acting in dual capacity of broker and undisclosed principal in any transaction.
   c. failing to specify in a listing contract a definite termination date that is not subject to prior notice.
   d. placing a sign on real property offering it for sale, lease, or rent without the written consent of the owner or his or her authorized agent.
104. The buyers want to offer $275,000 for a resale house by paying $150,000 in cash as closing and pay the seller monthly interest payments of $625 for two years. At the end of the two years, the buyers will pay the final $625 interest payment and the outstanding principal amount of $125,000. In preparing the offer to purchase using Texas Real Estate Commission promulgated forms, the buyer’s agent will

a. write the details of the two-year interest-only loan in Special Provisions, Paragraph 11 since it deals with the business details of the transaction.

b. use the One- to Four-Family Contract Paragraph 4 and the Seller Financing Addendum to define the proposed financing arrangement.

c. call the listing agent for instructions on how the seller wants to set up the business details of the transaction.

d. write it as a cash offer with details of the seller carry-back defined in a separate agreement that will be drawn by the seller’s attorney at closing.

105. Jessica owns a rental property that is rented to a tenant and in which her husband has no ownership interest. Jessica wants to sell the property. Who is required by Texas law to sign the listing agreement and the deed?

a. Jessica

b. Jessica, her husband, and the tenant

c. both Jessica and her husband

d. both Jessica and the tenant

106. In walking through the Miller mansion with her customer, an out-of-state buyer, Salesperson Judy Jones notices that there is evidence of recent flooding in a corner of the utility room. Knowing that the dry season has already begun, Judy decides to keep the information to herself. Her conduct is

a. acceptable because she is not the employee of the listing agent.

b. unacceptable because she must disclose pertinent facts about the property.

c. acceptable because she does not represent the seller.

d. unacceptable because, as a real estate licensee, she is a sub-agent of the seller.

107. Real estate salesperson Sam is preparing an offer for the purchase of the property located at 1836 Bluebonnet Boulevard and is not sure of the legal description of the property. To complete Paragraph 2 of the Texas Real Estate Commission’s, One- to Four-Family Residential Contract form, he should

a. call the listing company and obtain the legal description from whoever answers the phone.

b. obtain the description from the county appraisal distract, making certain that he obtains the lot, block, and section numbers as well as the correctly spelled name of the subdivision.

c. fill in the street address for now and fill in the other blanks after everyone else has signed and he has had an opportunity to verify the accuracy of the information.

d. use the information given in the MLS data even though he is reasonably certain that it is incomplete and probably inaccurate.
108. Which one of the following is authorized by statute to promulgate forms for mandatory use by real estate brokers and salespersons?
   a. Broker-Lawyer Committee
   b. Texas Association of REALTORS®
   c. Texas Real Estate Commission
   d. Texas Attorney General’s office

109. According to the Texas Real Estate Commission Canons of Professional Ethics and Conduct, to whom do Texas brokers owe the duties of fidelity, integrity, and competency?
   a. every buyer and seller
   b. clients
   c. Texas Real Estate Commission
   d. customers

110. Which of the following is NOT registered, licensed, certified, or regulated by the Texas Real Estate Commission?
   a. appraisers
   b. residential service contract companies
   c. residential rental locators
   d. easement and right-of-way agents
Answers

1. b. Ownership (title) is passed from the grantor (seller) to the grantee (buyer) when a signed deed is delivered to and accepted by the grantee.

2. a. Insurance companies do not generally insure against loss of land. This is an example of land being relocated as an act of nature, in which case property is lost or increased.

3. c. While all three approaches are used on the standard appraisal report form, the most weight should be given to the sales comparison approach in a residential home appraisal. If it were an investment property, the income approach would be more important or if there were no comparables, the cost approach would have the most influence.

4. a. When a married couple buys any real estate as tenants by the entirety, neither can obtain a court order for partition.

5. c. Riparian rights apply to owners of land bordering rivers and streams, littoral rights to those owning land on lakes and oceans.

6. b. The broker is always the agent representing the client. General agency gives the agent broad authority to act on behalf of the client according to their contractual agreement. Special agency is limited authority for a specific act and gives no authority to the agent to bind the client to any agreement such as a lease or employment agreement.

7. a. Any business interest of 1% interest or more must be disclosed to prospective customers and clients as an affiliated (or controlled) business arrangement.

8. d. Improvements, which become part of the real property, include man-made additions like sewers, roads, and buildings.

9. b. Whether entered in the public records or not, real property taxes automatically take priority over all other liens.

10. c. Each owner has the right to pass over the neighbor’s half of the driveway, thus owning an easement on the adjoining property.

11. b. Fee simple is the highest form of real property ownership. Fee simple determinable is a form of a defeasible fee estate meaning that the city’s ownership may be lost if the land is used for anything other than a park and the requirements are determined in the deed. Ms. Smith or her heirs would recover ownership if the city fails to use the property according to the deed.

12. a. The transfer of real property through a will is known as a devise.

13. c. Latent or hidden defects are those that cannot be seen by a normal prudent inspection.

14. b. Anti-trust legislation forbids any community-wide standard for fees, which must be set by agreement between the parties.

15. c. It is always illegal to discriminate against anyone based on color or race. An exception to the protection against gender (sex) discrimination allows a person to specify gender when renting a room or unit in a dwelling of four units or less where the owner also resides.

16. c. Without specific written instruction, it would be unethical and a breach of the fiduciary duty of confidentiality to indicate the seller’s financial situation in an ad or to any prospective buyer.

17. d. RESPA sets requirements for all federally related mortgages and home equity loans on one- to four-family residences.
18. d. Any material fact known to the broker must be disclosed to all prospects. The broker must not make predictions about future value of real estate.

19. b. Usury laws are enacted to protect borrowers from unreasonably high interest rates and are set by state laws.

20. d. \[153 \times 7.00 = 1,071.00 \text{ PI}; \frac{153,000 \times 0.075}{12} = 956.25 \text{ interest}; 1,071.00 - 956.25 = 114.75 \text{ principal}; 153,000 - 114.75 = 152,885.25 \text{ remaining balance}.\]

21. b. Agency disclosures must be made at the beginning of any relationship between a broker or salesperson and a prospect. Alex’s words and actions have implied to Edmund that he is being represented. It is also probable that Alex has breached his fiduciary duties to any seller he may represent.

22. c. The special agent is employed to provide a specific service over a specified time period, such as finding a buyer a property that meets the buyer’s requirements.

23. c. The one-time exclusion of $125,000 at age 55 was eliminated and a new provision added to give everyone the ability to sell a principal residence every two years and exclude up to $250,000 ($500,000 for a married couple) from tax.

24. c. Also known as “panic peddling,” blockbusting is an illegal act under Fair Housing laws whereby someone encourages owners to sell out of fear that minorities moving into a neighborhood will cause values to drop.

25. c. Adverse possession can sometimes result in the granting of title after occupancy of a parcel of land without permission or objection for a long period, the number of years varying from state to state.

26. a. It is illegal under Fair Housing laws to use any form of discrimination or channeling of a prospect to a service person, particular type of housing or neighborhood.

27. c. Laws in every state require deposit money to be held in a trust account separate from the broker’s own funds. Each state specifies the number of days allowed to deposit the funds.

28. c. Major repairs done at any time, such as foundation repair, must be disclosed under deceptive trade practices laws. Lifetime warranties cover the work for the lifetime of the structure and may be transferable to a new owner.

29. d. The subdivision map, which shows lots, blocks, streets, and the like, is known as a plat. It is filed in a plat book, which is open to the public.

30. a. The law that followed the close of the Civil War extended equal rights in real property to members of all races.

31. a. Prorations divide costs and assign credits and debits for such expenses to the buyer and seller at closing. Prorations are usually made through the day of closing, meaning the seller pays his portion of the costs including the closing day.

32. a. The Equal Credit Opportunity Act provides that the borrower is entitled to a copy of the appraisal if the buyer paid for it.

33. c. Constructive notice, also called legal notice, is made by recording a deed in public records with the presumption that a diligent person may discover the ownership information. Actual notice is knowledge or information that a person actually possesses such as documents or visual observation.

34. a. Whether the survey is paid for by buyer or seller is specified in the contract; local custom varies in this matter.
35. d. The Equal Credit Opportunity Act was amended in 1976 to add age as a protected class, except where the would-be borrower is a minor.

36. c. The Fair Housing Act Amendments of 1988 added familial status, the presence of children under the age of eighteen in a family, as a protected class.

37. a. The certificate of occupancy states that the government is satisfied that the building meets local zoning and building code standards and may be occupied.

38. b. Typical zones permit residential, multifamily, or commercial buildings within a given zone.

39. c. A use that was in existence before a zoning ordinance was enacted is allowed to continue as a non-conforming use.

40. a. The landowner who wants to use property in a manner forbidden by local zoning restrictions applies for a variance. It may or may not be granted following a public hearing.

41. b. The Truth-in-Lending Act (Regulation Z) must be followed whenever a residence is pledged as security for a loan.

42. b. The Special Information Booklet explains the charges that may be made at the closing and the Good Faith Estimate gives the borrower an estimate of the specific closing costs required to be paid at closing. The HUD-1 settlement statement is the final closing costs statement and may be requested by the borrower one business day prior to closing and must be provided at the actual closing.

43. a. RESPA covers federally related one- to four-family mortgage loans, including equity loans.

44. b. The new landlord is responsible for the return of the security deposits, which should have been credited to her when the sale was settled.

45. b. The store will pay as additional rent a percentage of its receipts each month.

46. a. Assessors set the value at which real estate will be taxed.

47. b. Unique property that does not produce income is appraised by estimating reproduction or replacement cost.

48. b. The capitalization rate is an analysis of how much investors are willing to spend in a certain neighborhood in return for a certain amount of income.

49. b. “Comps” is the term for recent nearby sales of comparable properties, whose prices are analyzed in the market sales approach to appraisal.

50. a. An appraiser analyzes physical, political, and social conditions in the neighborhood of the subject property.


52. c. The appraiser subtracts the value of the fireplace from the sales price of the comparable house and adds the value of the garage that is found in the subject property; $198,000 – $3,000 + $12,000 = $207,000.

53. b. The lot will measure 200' by 500', or 100,000 square feet in all (200' × 500'). An acre contains 43,560 square feet, so the lot contains approximately 2.3 acres (100,000 divided by 43,560). At $9,000 per acre, the total cost is $207,000 (2.3 × $9,000).
54. c. Her equity is the present market value of her home, minus the amount of debt remaining on it. Present market value is $127,200 ($120,000 \times 106\%). Remaining debt is $95,520 ($120,000 \times 80\%, \text{reduced by } 480). Thus, her present equity is $31,680 ($127,200 – $95,520).

55. b. Mills, each one-tenth of a cent, are sometimes used to express the tax rate per dollar of assessed value.

56. c. The annual premium on $92,347 would be $461.74 ($92,347 \times 0.005). One month’s premium is $38.48 ($461.74 \div 12).

57. b. Federal law requires that a lead-paint disclosure form be given to all tenants and buyers if the building was constructed before 1978.

58. c. With a fixed-rate lease, the property manager would not have the ability to raise the rent as the market dictates.

59. d. The person who retains an agent is known as the client, or principal.

60. c. With an open listing, the owner may employ any number of brokers, but only the broker who delivers the buyer is paid a fee.

61. c. When the owner designates a single broker as the agent for the sale of the property, the relationship is known as an exclusive agency.

62. a. Compensation is negotiated between broker and seller and may be stated as a percentage of price, hourly rate, by the transaction, or by a menu of services.

63. d. The classification of age, marital status, and source of income are protected classes under the Equal Credit Opportunity Act.

64. b. Each state sets its own requirements for real estate licensing.

65. a. Few licensees are hired as employees; in most cases, they work as independent contractors.

66. b. The principal’s primary obligation in an agency agreement is usually payment of the agreed-upon commission.

67. d. Confidentiality is one of the fiduciary duties owed by agents to the client. It is the one duty that remains even after the agency relationship is terminated.

68. d. According to the statute of frauds, all contracts for the sale of real estate must be in writing to be enforceable.

69. a. When the Browns made a counteroffer, it constituted a rejection of the original offer. The Smiths are now free and may accept or reject the counteroffer.

70. c. If the parties agree, consideration need not be valuable in order to be considered “good” enough.

71. b. A suit for specific performance is an action brought in court to compel a party to specifically perform all the promises and requirements he or she agreed to in a contract.

72. d. Once the contract has agreed on whatever amount will serve as liquidated damages in case of non-performance, no greater amount can be sought in the courts.

73. d. Each state has a set of laws that define the distribution of real estate owned by someone who dies without leaving written instruction. If no heirs are located, the property reverts to the state.

74. d. Each state sets specific time limits in which lawsuits can be instituted for various actions.

75. d. The non-refundable fee is an option fee and must be paid for the option to be valid. Since he has taken possession and is paying a monthly payment, rent, this is a lease. He has a right to purchase the property by some given date in the future and Pauline must sell if he exercises his option.
76. a. Local governments may enact laws that protect the public health, safety, or welfare.
77. b. Lease option contracts can be very flexible, and the parties may make any arrangement that suits them.
78. c. Acceptance of an offer must be communicated to the offeror.
79. a. A land contract is known in some areas as an installment contract or a contract for deed.
80. d. Net listings, in which the agent keeps any part of the sale price above a given amount, are illegal in most states.
81. c. The sub-agent in a co-op transaction represents the seller through the listing agent and brings a customer to the transaction. If the buyer were a client or a principal, the co-op agent would be a buyer's agent.
82. b. Financing approval applies only to the buyer's qualifications for the loan. Approval of the property or collateral for the loan relates to appraisal, condition, title, and survey. The buyer's approval for financing and approval of the collateral are both required for final loan approval.
83. d. The Texas Real Estate License Act, Section 1101.358 Texas Occupations Code requires that one be at least eighteen years of age to file an application and become licensed. There is no specific period of time that one must be a Texas resident before making application for licensure. One must successfully complete a minimum of 150 hours of study in core real estate subjects including Principles of Real Estate, Law of Agency, Law of Contracts, and one elective core real estate course. The remaining 60 required hours may be other core subjects or business related college hours. One needs a sponsoring broker to become actively involved in the brokerage business but does not need to affiliate with one until after he or she is licensed. One who files an application without first obtaining a sponsoring broker will be issued an inactive salesperson license.
84. a. Property that has never been occupied, property acquired by a lender as a result of borrower default, and property being sold by a duly appointed/approved administrator or executor of an estate are specifically listed in the list of eleven exemptions in Section 5.008. Generally, all single-family, previously occupied property requires the disclosure to have an enforceable contract.
85. c. The Texas Real Estate License Act, Section 1101.558 (d) Texas Occupations Code dictates the wording but gives the licensee the freedom to format the notice as he or she sees fit, as long as it is at least ten-point type.
86. a. The Texas Real Estate Commission Rule 535.17 (j) requires that the statement be included on broker opinions of value and Comparative Market Analyses.
87. c. While the Texas Real Estate Commission has the power to revoke a salesperson's license, it has the duty to hold a hearing and allow for due process before taking any disciplinary action against a licensee.
88. c. Fair Housing Laws, Texas Real Estate Commission's Rule 537.19, and the REALTOR® Code of Ethics all address the issue. Facilitating such inquiries could result in suspension or revocation of one’s license.
89. b. When the agency appointment is created by a written agreement, it can be terminated by a written notice. A client desiring to terminate would do well to consult legal counsel to make certain the termination is done properly.
90. c. The contract states that if the buyer terminates within the number of days agreed upon, the buyer is entitled to a full refund of earnest money, but no part of the option fee is refundable.

91. b. The Texas Constitution protects 200 acres as a rural homestead for married claimants with the improvements thereon. If more than 200 acres are owned, the owner must designate which 200 acres is the homestead and the designated 200 acres must contain the owner’s home. A single person may claim only 100 acres as a homestead.

92. c. The Texas Legislature enacted the Texas Real Estate License Act, a law that establishes the licensure requirement and creates the Texas Real Estate Commission to administer the law and to issue licenses.

93. d. The fiduciary duty of disclosure requires that she, as a buyer’s agent, share the information with Bernie and Bonnie and then let them decide how they want to proceed when making their offer.

94. a. The listing agent has the duty to present all offers to the seller unless instructed otherwise by written instruction from the seller.

95. c. A licensee should immediately withdraw from the relationship when requested to do something illegal.

96. c. A real estate salesperson may not act as a broker in any transaction. A salesperson must perform all real estate services in the name of the sponsoring broker.

97. b. A Loan Fee is a defined term in the contracts and includes only origination, discount, buy-down, and commitment fees. A funding fee is usually used in connection with a VA loan and is not paid to the lender.

98. b. The Texas Real Estate License Act states that a salesperson must receive all compensation from his or her sponsoring broker or the sponsoring broker at the time the fee was earned.

99. a. The listing agent has the duty of full disclosure to the seller client. The seller client needs to know that the buyer has defaulted under the terms of the purchase agreement.

100. a. Property owned by husband and wife is always presumed to be community property in which they each have a half undivided interest. Community property requires both signatures to execute a valid deed of conveyance.

101. b. The Texas Real Estate License Act, Section 1101.559 Texas Occupations Code requires written permission from each of the parties in order for the broker to function as an intermediary.

102. c. While some may argue that a self-contained spa is an above-ground pool, it is not listed as an accessory. The cover and heater are absolutely not listed.

103. a. Licensees have the duty to present every offer to the client as well as to give the client the benefit of their expertise. Failure to present offers, unless otherwise specifically instructed in writing by the client, could result in disciplinary action by the Texas Real Estate Commission upon the filing of a complaint by the client.

104. b. Texas Real Estate Commission Rule 537.11 requires that promulgated forms be used by licensees with limited exceptions. This scenario does not meet one of the authorized exceptions. The buyer’s agent must use the Texas Real Estate Commission contract to purchase form and the Seller Financing Addendum promulgated by the Texas Real Estate Commission.
105. a. Only Jessica must sign since it is her separate property and not the residence of her husband. A title company may, as a condition of insuring the title to a new owner, require Jessica’s husband to sign an affidavit that clearly declares that he has no ownership interest in the property.

106. b. Judy should make known any material facts about the property that are evident from an obvious visual observation, or that come to her knowledge.

107. b. The licensee has the duty to be competent and to verify the correct legal description of the property prior to preparing an offer to purchase. The county appraisal district is a good place to do so. The licensee could also access the county’s grantor/grantee indexes as filed with the county clerk’s office.

108. c. The Texas Real Estate License Act creates the Broker-Lawyer Committee to draft and recommend forms to the Texas Real Estate Commission and empowers only the Texas Real Estate Commission to promulgate and publish forms for mandatory use.

109. b. As in every state, Texas licensees owe undivided loyalty and fidelity to the clients for whom they work. Remember that a licensee works for clients and with customers.

110. a. Appraisers are licensed and certified by the Texas Appraiser Licensing and Certification Board.
Scoring
Evaluate how you did on this second practice exam by again counting only the number of questions you got right. Remember that questions you skipped or got wrong don’t count. If you achieve a score of at least 56 correct on the national portion, and at least 21 correct on the state portion, you might be able to pass the Texas Real Estate Sales Exam. However, for insurance, you should strive for the highest score you can.

Keep in mind that how you did on each of the basic areas tested by the exam is more important, at this point, than your score. Your percentage scores in conjunction with the LearningExpress Test Preparation System in Chapter 2 of this book will help you revise your study plan if need be. After your study plan is revised, turn again to the Texas Real Estate Refresher Course and the Real Estate Math Review in Chapters 4 and 5, and to the Real Estate Glossary in Chapter 6.

Use the table on this page to see where your strengths and weaknesses lie so that you can concentrate your efforts as you continue to prepare. After working more on your problem areas, take the third practice exam in Chapter 8 to see how much you’ve improved.

### EXAM 2 FOR REVIEW

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You are now more familiar with the content and format of the Texas Real Estate Sales Exam, and most likely, you feel more confident than you did at first. However, your practice test-taking experience will help you most if you have created a situation as close as possible to the real one.

For this exam, try to simulate real testing conditions. Find a quiet place where you will not be disturbed. Make sure you have two sharpened pencils and a good eraser. Be sure to leave enough time to complete the test in one sitting. You should have plenty of time to answer all of the questions when you take the real exam, but you will want to practice working quickly without rushing. You will be given 105 minutes to complete 80 national questions, and 45 minutes to complete 30 Texas-specific questions. Use a timer or a stopwatch and see if you can work through all the test questions in the allotted time.

The answer sheet you should use is on the next page. After the exam is an answer key and explanations. These explanations, along with the table at the end of this chapter, will help you see where you need further study.
| 1. | a | b | c | d |
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Texas Real Estate Sales Exam 3

1. Ownership of a property by only one person is known as
   a. entirety.
   b. remainder interest.
   c. reversionary interest.
   d. severalty.

2. Jane Doe and Richard Roe, who are not married, want to buy a house together. In order to ensure that if one dies, the other automatically becomes full owner, their deed must state that they are
   a. joint tenants with rights of survivorship.
   b. tenants in common.
   c. tenants in severalty.
   d. tenants by the entirety.

3. Mary White and Elizabeth Brown, widowed sisters, are buying a home together. To ensure that if one dies, her share will go to her children, they should purchase the property as
   a. tenants in severalty.
   b. tenants by the entirety.
   c. tenants in common.
   d. joint tenants with right of survivorship.

4. Appraisers in Texas must be certified by the
   a. Texas Real Estate Commission.
   b. Texas Appraiser Licensing and Certification Board.
   c. General Land Office of Texas.
   d. Texas Real Estate Commission and the Appraiser Licensing and Certification Board.

5. All of the following are approaches that an appraiser may use to establish value EXCEPT
   a. market approach.
   b. cost approach.
   c. income approach.
   d. tax assessment approach.

6. In order to reach the lake, the Browns have a permanent right of way across their neighbor’s lakefront property. The Browns own
   a. an easement appurtenant.
   b. a license.
   c. a deed restriction.
   d. a lien.

7. Express covenants that protect the grantee are found in a
   a. quitclaim deed.
   b. bargain and sale deed.
   c. sheriff’s deed.
   d. warranty deed.

8. A certain subdivision has a deed restriction requiring houses to be at least 2,000 square feet. The town, however, has no such restriction and gives the Smiths a building permit for a little bungalow in the subdivision. If the neighbors object, their best course of action would be to
   a. attempt to negotiate with the building inspector’s office.
   b. wait until a clear violation has occurred before taking any legal action.
   c. request a change of the local zoning ordinance.
   d. ask a court to prevent the construction or to order the bungalow be expanded.
9. A quitclaim deed is often used for transfers  
   a. to clear title defects.  
   b. for arms-length transactions.  
   c. when the grantee requires full assurances.  
   d. that must go into effect immediately.  

10. Encroachments, liens, licenses, and other  
    claims against an owner’s full title are known as  
    a. encumbrances.  
    b. restrictions.  
    c. easements.  
    d. mortgages.  

11. The difference between the market value of a  
    property and the sum of the liens against it is  
    called  
    a. equity.  
    b. leverage.  
    c. cash asset.  
    d. pledge.  

12. An acre contains approximately  
    a. 5,270 square yards.  
    b. 40,000 square feet.  
    c. one quarter square mile.  
    d. 43,560 square feet.  

13. The lender’s underwriting criteria specify a  
    maximum housing expense to income ratio of 35%  
    of gross monthly income. If the applicant  
    proves annual earnings of $75,000 in the previ-  
    ous year, and that salary rate is continuing, the  
    maximum monthly PITI would be  
    a. $2,187.50.  
    b. $2,625.00.  
    c. $6,250.00.  
    d. $2,571.42.  

14. Express agency is created by which of the  
    following?  
    a. only by a written listing agreement or buyer  
       representation agreement  
    b. by the actions and words of the agent  
    c. by state promulgated contracts  
    d. by specific written or verbal agreement  

15. Title insurance protects the owner or lender  
    against unexpected claims arising from past  
    a. forged documents.  
    b. zoning ordinances.  
    c. unpaid property taxes.  
    d. recorded easements.  

16. What is the best definition of a deed?  
    a. a written legal instrument by which an owner  
       of real property intentionally conveys all  
       rights, title, and interest in real property  
    b. a written legal instrument passed from  
       owner to owner of a parcel of real property  
       transferring rights, title, or interest in the  
       property  
    c. a written legal instrument by which an  
       owner of real property voluntarily alienates  
       the property  
    d. a written legal instrument signed by all par-  
       ties confirming the transfer of ownership of  
       real property and filed in public record  

17. Michael Brown refuses to sell his farm to the  
    state, which needs it to complete the route for a  
    new highway. The state may go to court and ask  
    that his farm be condemned, allowing the state  
    to purchase the land using its right of  
    a. laches.  
    b. adverse possession.  
    c. easement by necessity.  
    d. eminent domain.
18. Fred Darcy, a bachelor, sells his longtime home. How much capital gain can he realize without owing any federal income tax?
   a. $125,000
   b. $250,000
   c. $500,000
   d. an unlimited amount

19. Agency is the act of representing someone in the purchase, sale, or lease of a property. Subagency is the act of representing
   a. a lending institution.
   b. a principal who is already represented by an agent.
   c. a department of the federal government.
   d. an anonymous purchaser.

20. Mary Jones is the listing agent for the Green’s property. She has been approached by Jack Smith to prepare an offer to purchase the property. Smith does not have his own buyer agent. Smith’s relationship to Mary is that of a
   a. client.
   b. customer.
   c. principal.
   d. sub-agent.

21. When describing the particulars about a property, the agent does not disclose that a capital improvement project has been approved that will result in a special assessment to the owner in the near future. The broker has
   a. acted in accordance with the duties of a fiduciary.
   b. refrained from disclosing anything which would weaken the principal’s bargaining position.
   c. failed to provide proper disclosure as required by law.
   d. prevented future legal problems for the seller client.

22. A property owner told a real estate broker that he wanted to sell 150 acres of land, and they agreed on an asking price. The broker produced a buyer with an acceptable offer and the transaction proceeded to close. However, the seller refused to pay the commission he had told the broker he would be willing to pay. How can the broker collect a commission?
   a. The broker cannot enforce payment of a commission because he did not have a written agreement.
   b. He may sue the seller for specific performance.
   c. He may place a lien on other real estate owned by the seller.
   d. He may instruct the escrow officer to deduct the commission from the proceeds of the sale at the closing.

23. A listing agent would be required to disclose all of the following EXCEPT
   a. the sellers are facing bankruptcy if the house does not sell quickly.
   b. the listing agent is Mrs. Seller’s mother.
   c. the furnace has a cracked heat exchanger and is leaking carbon monoxide.
   d. the house was built before 1978 and may have lead-based paint.
24. A broker lists a property for sale. As time goes by, it is evident that the property is not very desirable. The broker and a partner observe that with a zoning variance and some modest remodeling, the character of the property could be changed to make it more valuable and saleable. The partner purchases the property without revealing the plan to the seller or identifying his relationship with the broker. Which of the following is true of this transaction?
   a. The broker has acted appropriately, since the property was ultimately sold.
   b. The seller received all of the benefits of having an agent.
   c. The business relationship between the broker and buyer should have been disclosed.
   d. The buyer should have offered the seller the opportunity to participate in the venture.

25. A seller, anxious to sell, tells a cooperating agent during a showing that the agent will be given a riding lawnmower if he brings an acceptable offer by the end of the week. All of the following are true in this situation EXCEPT that the
   a. agent may accept the lawnmower because it is not cash.
   b. agent should report the incident to the listing broker.
   c. agent would be in violation of the law if he took the lawnmower.
   d. cooperating agent could legally receive the lawnmower from his broker.

26. Lily has received three offers on her listing at 3109 Flint Street. She is obligated to
   a. decide which offer is best and present that offer to the seller first.
   b. present all three offers to the seller as quickly as possible.
   c. send all three offers back to the offerors and encourage each to present their best offer.
   d. present the offers in the order they were received and let the seller negotiate one at a time.

27. The Real Estate Settlement Procedures Act requires full disclosure of settlement costs on which of the following transactions?
   a. a married couple buying land for investment using a conventional Federal Land Bank loan
   b. a single person buying a condominium using a conventional FNMA adjustable rate loan
   c. a family buying a home in the suburbs using an FHA loan
   d. both b and c

28. A farmer’s market had been in operation continuously for 50 years at the intersection of Routes 50 and 29. A new master plan, approved by the local jurisdiction, placed that tract of land in a residential zone. In order to stay in business, the owner of the farmer’s market should
   a. apply for a new zoning category.
   b. modernize and expand the facility.
   c. raze and reconstruct a new market.
   d. keep the business going without modification.
29. A commercial property investment has a tax liability when the
   a. income exceeds expenses.
   b. income exceeds depreciation and expenses.
   c. gross income exceeds debt service.
   d. income exceeds debt service and depreciation.

30. Alan, who has a dog, applied to rent an apartment at a complex that has a firm policy of “no pets.” Alan was allowed to rent because the management would be in violation of which law if he had been refused?
   a. Fair Housing Act, Civil Rights Amendment of 1988
   b. Americans with Disabilities Act
   c. Fair Housing Act, the Civil Rights Amendment of 1968
   d. a local city ordinance regulating multi-family dwellings

31. The term “commingling” refers to
   a. looking for real estate business at community social events.
   b. mixing funds held for other persons with one’s own money.
   c. the same office acting as buyer’s broker and seller’s broker for the same property.
   d. one office finding a buyer for another office’s listing.

32. The Webers own three pieces of real estate: their house, a lakeside cottage, and a tract of woodland. Which of the following expenses may be deducted for all three properties on the Weber’s income tax return?
   a. mortgage interest
   b. insurance premiums
   c. property taxes
   d. both mortgage interest and property taxes

33. The amount of tax placed on real estate that is based on the property’s assessment is known as
   a. an ad valorem tax.
   b. a special assessment.
   c. an attachment.
   d. a general lien.

34. In most states, no property tax is levied on land belonging to
   a. golf courses.
   b. senior citizen housing.
   c. churches.
   d. shopping malls.

35. Deed restrictions that forbid future sale of the property to members of certain ethnic groups cannot be enforced because they
   a. violate the law.
   b. prevent free transfer of property.
   c. are unrelated to the construction of a building.
   d. are inconsistent with most local zoning ordinances.

36. When the Franks bought their first home, some of their costs included payment of points, establishment of an escrow account, premium for title insurance, and commission to their own buyers’ agent. On that year’s income tax return, they may deduct the
   a. points.
   b. title insurance.
   c. commission.
   d. escrowed amount.
37. The term “walk-through” refers to
   a. an appraiser’s inspection of the interior of the subject property.
   b. empty office buildings where the vacancy rate in the community is high.
   c. a seller’s check of the premises before an open house is held.
   d. the buyer’s final inspection of the property to check its condition.

38. The applicant for a mortgage may NOT be asked about his or her
   a. national origin.
   b. source of income used for repayments.
   c. number and ages of dependents.
   d. immigration status.

39. Samantha Mulder goes to a bank and borrows money for the purchase of her first home, thereby becoming a
   a. mortgagor.
   b. mortgagee.
   c. lienor.
   d. lienee.

40. Private land use controls are created through which of the following?
   a. city ordinances
   b. architectural review codes and zoning
   c. county commissioners and city planning and zoning departments
   d. restrictive covenants developed by land developers

41. If a person dies leaving no will and no natural heirs, his or her property passes to
   a. local charities.
   b. the state.
   c. the Internal Revenue Service.
   d. the Department of Housing and Urban Development.

42. The acronym “APR” stands for
   a. annual percentage rate.
   b. appraisal procedure regulations.
   c. associate property reviewer.
   d. average purchase ratio.

43. If a forced sale fails to bring enough to pay off a lien on a 16-unit apartment building, the lender may seek a
   a. release deed.
   b. promissory note.
   c. deficiency judgment.
   d. right of redemption.

44. Anna Jamison rents a small building for her boutique. In addition to rent, she also pays property taxes, utility bills, and insurance on the property. She must have a
   a. net lease.
   b. percentage lease.
   c. variable lease.
   d. ground lease.

45. One example of a periodic estate is
   a. a month-to-month tenancy.
   b. an estate at will.
   c. a net lease.
   d. a sublet.

46. The manager who sets rental rates should take into consideration the
   a. price the owner paid for the property.
   b. income the property must produce.
   c. going rates elsewhere in the neighborhood.
   d. owner’s total expenses including debt service.
47. Newly constructed buildings are best appraised giving most weight to the  
a. cost approach.  
b. sales comparison approach.  
c. income approach.  
d. gross rent multiplier.

48. Economic or external obsolescence refers to loss of value due to  
a. wear and tear.  
b. outdated design.  
c. factors outside the property lines.  
d. incurable defects in the subject property.

49. The type of depreciation always classified as incurable is  
a. physical deterioration.  
b. fictional IRS depreciation.  
c. functional obsolescence.  
d. economic or external obsolescence.

50. Tom Jones asks Sarah Smith, a real estate salesperson, to help him set the right asking price for his home. Sarah’s broker will help her prepare  
a. a reconciliation of value.  
b. an assessment analysis.  
c. a competitive market analysis.  
d. a limited appraisal.

51. The seller has agreed to pay three points to the lending institution to help the buyers obtain a mortgage loan. The house was listed for $200,000 and is being sold for $180,000. The buyers will pay 10% in cash and borrow the rest. How much will the seller owe to the lender for points?  
a. $1,620  
b. $4,860  
c. $5,400  
d. $6,000

52. Does a listing agent have a statutory duty to disclose the presence of known registered sex offenders living in the neighborhood near the agent’s listing?  
a. only if requested by the buyer or the buyer’s agent  
b. yes  
c. only with the property owner’s written permission  
d. no

53. On January 1, Fred Gillespie buys a small residential rental property for $300,000, with the land accounting for 20% of the value. The IRS allows him to depreciate the property improvements over a period of 27.5 years. How much can Fred deduct as a charge for depreciation on this year’s income tax return?  
a. $6,000  
b. $8,727.27  
c. $10,909.09  
d. $24,000

54. Under federal Fair Housing laws, the protected class “familial status” means  
a. extended families living together.  
b. unmarried persons living together.  
c. persons with children under the age of eighteen.  
d. married persons with children under the age of eighteen.
55. The Franks receive two offers on their condo, which is listed for $140,000. Anne Hill offers to pay $138,000 cash for the unit. Bob Stone offers $141,000, putting 20% down, if the Franks will pay three points to Stone’s lender for the mortgage loan the buyers need. What is the difference between the two offers?
   a. $384  
   b. $3,000  
   c. $2,000  
   d. $1,128

56. Most licensed salespersons sponsored by a real estate broker work as which of the following?
   a. free agent associate  
   b. independent agent  
   c. employee  
   d. independent contractor

57. The Owens’s are buying a $100,000 house with 5% down and an FHA mortgage for the rest. They must pay an upfront MIP of 1.5% in addition to other closing costs that total $1,000. How much money will they need at the closing?
   a. $8,375  
   b. $7,425  
   c. $6,000  
   d. $2,425

58. Paul listed a property located outside the city but within a half mile of the city limits. The primary reason he should disclose this information to all prospective buyers is because
   a. it makes the property more valuable since there will be no city taxes.  
   b. it makes the property less valuable because it does not have city fire and police protection.  
   c. it may be annexed by the city and would then be taxed by the city.  
   d. it is in the city’s one mile extra territorial jurisdiction and may be taxed.

59. A buyer entered into a contract to purchase a home and never received the legally required seller’s disclosure notice of property condition from the seller. This may create which of the following?
   a. a void contract  
   b. an invalid contract  
   c. a voidable contract  
   d. a rescindable contract

60. Administration of which of the following would best be handled by a property manager?
   a. a single-family home  
   b. a condominium  
   c. a townhouse  
   d. a shopping center

61. The broker agrees to accept as her fee any monies received above a stipulated amount. This is improper because this arrangement constitutes
   a. a conflict of interest.  
   b. an option contract.  
   c. a risky action for the broker.  
   d. a net listing.

62. The buyer gives the owner a $5,000 payment and a written agreement stating that, on July 1 of the following year, the buyer will purchase the property for $150,000 cash or the owner may keep the money. This transaction is known as
   a. a lease with an option to purchase.  
   b. a purchase contract with a delayed settlement.  
   c. an option agreement.  
   d. a limited partnership.
63. If a contract for real estate is vague in its basic terms, a court could hold that it is
   a. binding on the offeror.
   b. unenforceable.
   c. valid against all parties.
   d. invalid until rewritten by an attorney.

64. A buyer makes the required number of monthly payments and the owner conveys title to the property to the buyer. This transaction is known as
   a. a lease with an option to purchase.
   b. an installment agreement.
   c. a sales agreement with a delayed settlement.
   d. a wraparound contract.

65. Kelly Adams lists her house and tells her listing agent, Sheila Fabris, “I’m listing for $180,000, but I might take less.” Sheila may properly
   a. advertise the property for “$180,000 or less.”
   b. explain Kelly’s position to prospective buyers in an effort to obtain an offer.
   c. share Kelly’s statement only with the buyer’s broker.
   d. keep the information to herself.

66. The real estate broker’s equivalent of medical malpractice insurance is known as
   a. realty malpractice insurance.
   b. liability coverage.
   c. errors and omissions insurance.
   d. inland marine insurance.

67. Under common law, a broker who represents both the buyer and the seller in a transaction
   a. must disclose the dual agency and give each party any information they need to negotiate the transaction.
   b. must disclose the dual agency and be completely neutral and unbiased in assisting the parties.
   c. is an intermediary and may assist each of the parties through appointed associates.
   d. is in violation of the law and subject to civil suit.

68. The typical relationship between broker and salesperson for tax purposes is known as
   a. indentured servant.
   b. independent contractor.
   c. statutory agent.
   d. transaction facilitator.

69. The Hansons’ home was listed with a broker, but they ended up locating a buyer at Mr. Hanson’s place of employment and sold the property themselves. They were still obligated, however, to pay a brokerage fee. What kind of listing had they agreed to?
   a. a net listing
   b. an open listing
   c. an exclusive right to sell
   d. an exclusive agency

70. The listing broker’s commission is earned when
   a. the property is listed.
   b. an offer has been accepted.
   c. financing has been arranged.
   d. the property is finally closed.
71. Which of the following statements is true of a land contract?  
   a. The buyer is given the right to possess.  
   b. The seller has a lien on the title.  
   c. The buyer has legal title to the property.  
   d. The seller cannot provide any of the financing.

72. A deed is the instrument used to convey ownership of  
   a. personal property.  
   b. short-term use of real estate.  
   c. real property.  
   d. crops and other produce.

73. A customer goes into a restaurant and orders dinner. At the end of the meal, is the customer legally obligated to pay the check?  
   a. no, because strictly speaking, the customer did not promise to do so  
   b. yes, because by ordering, the customer entered into an implied contract to pay for the meal  
   c. yes, but only if the customer is over the age of 17  
   d. yes, because the customer is liable through the process of novation

74. The statute of frauds requires that  
   a. real estate brokers answer buyers’ and sellers’ questions honestly.  
   b. the seller of real estate provide a written disclosure about the condition of the property.  
   c. certain contracts, including those for the sale of real estate, must be in writing to be enforceable.  
   d. a mortgage borrower has three days in which to cancel the loan.

75. Harriet is closing on the purchase of a farm and has requested the seller to provide her with an abstract of title. Harriet’s should have the abstract examined by and receive an opinion of title from  
   a. her real estate agent.  
   b. the escrow officer closing the transaction.  
   c. her attorney.  
   d. the abstract company.

76. Linda Robinson’s offer to buy David Hendley’s house has been accepted, but the actual sale will not take place for three months. Until then, their written sales contract is considered  
   a. executory.  
   b. pending.  
   c. conditional.  
   d. voidable.

77. In May, the Kleins accepted an offer to sell their house to the Grosses. In July, the Grosses paid the purchase price and received a deed to the house and the keys. After July, their contract was considered  
   a. void.  
   b. implied.  
   c. liquidated.  
   d. executed.

78. Repair or remodeling of a property generally adds to its worth. In recognition of the role contractors and suppliers play in increasing the value of a property, in many states, they are assured payment for their goods and services by being able to file a  
   a. declaratory judgment against the owner.  
   b. *lis pendens* against the title insurance company.  
   c. mechanic’s lien against the property.  
   d. registration with the new owner.
79. Alan is purchasing a duplex as an investment property. He would be most interest in knowing the appraised value based on the  
a. sales comparison approach.  
b. cost approach.  
c. gross rent multiplier.  
d. income capitalization.

80. The earnest money accompanying a purchase offer  
a. is generally 10% of the proposed purchase price.  
b. should be held in escrow by the seller.  
c. is mandated by state law.  
d. is not necessary to establish a valid contract.

81. What law governs the relationship between a real estate licensee and a client?  
a. Law of Agency  
b. Clientele Act  
c. Statute of Limitations  
d. Deceptive Trade Practices Act

82. Each resident broker must maintain a fixed office within Texas. What must a broker do when he or she wants to maintain multiple offices?  
a. register each office location with the county clerk where the assumed name form is filed  
b. register each office location with the licensing department of the Texas Real Estate Commission  
c. obtain a branch office license for each location  
d. employ a broker-manager for each location

83. A real estate broker routinely advises her clients to strike the provision in the sales contract referring to a “suit for specific performance.” She also adds to the Special Provision paragraph that if the buyer’s inspection is unsatisfactory, the buyer may terminate the contract. This broker is  
a. performing her fiduciary duties to her clients.  
b. giving her clients good business advice.  
c. practicing law.  
d. practicing brokerage.

84. The Texas Real Estate Broker-Lawyer Committee is made up of  
a. six real estate brokers and six lawyers appointed by the governor.  
b. six real estate brokers appointed by TREC, six lawyers appointed by the President of the State Bar, and one public member appointed by the governor.  
c. six real estate brokers, three lawyers, and three public members appointed by the governor.  
d. six real estate brokers, six lawyers, and one public member all appointed by the governor.

85. Who does a buyer employ when signing a Buyer Representation Agreement?  
a. a salesperson  
b. a broker  
c. a principal  
d. a consumer
86. A closing occurs on July 5. According to the terms of the agreement created by using the Texas Real Estate Commission 20-6 form, which of the following statements is true?
   a. The buyer will be responsible for paying the ad valorem tax for July 5.
   b. The seller is responsible for paying the ad valorem tax for July 5.
   c. Ad valorem taxes will be prorated to the day of closing.
   d. The seller will pay the ad valorem taxes for the current year prior to closing.

87. Dave Gates, a widower, died without leaving a will or other instruction. His surviving children may acquire ownership of his real estate holdings by
   a. adverse possession.
   b. eminent domain.
   c. escheat.
   d. Law of Intestate Succession.

88. When a salesperson leaves the association of a broker for any reason, how soon must the broker return the salesperson’s license to the Texas Real Estate Commission and notify the salesperson in writing that the sponsorship is terminated?
   a. immediately
   b. within 5 days
   c. within 10 days
   d. within 20 days

89. A licensee avoids mentioning negative important facts that he or she knows to be true in his or her presentation to a potential purchaser of real property. The licensee
   a. may be charged with misrepresentation by omission.
   b. is practicing good business.
   c. may be in violation of the Truth-in-Lending Act.
   d. is only fulfilling his or her fiduciary duty to the seller.

90. When a buyer makes a request to a seller to amend a contract during the option period and the seller fails to respond, what is the status of the contract two days after the option period has expired?
   a. The contract is null and void because the request to amend serves as adequate notice that the buyer does not wish to proceed.
   b. The contract is enforceable and the buyer is obligated to complete the transaction under the original terms and conditions.
   c. The option period is automatically extended until the seller responds.
   d. The contract incorporates the buyer’s requested changes and moves to closing since the seller did not object to the changes.

91. In order for a broker to bring suit to collect a brokerage fee, the broker must do all of the following EXCEPT
   a. notify the buyer in writing to have the abstract examined by an attorney.
   b. have the transaction close.
   c. obtain a written employment agreement signed by the person to be charged.
   d. be actively licensed.
92. Which of the following licensed entities does not fall under the regulatory authority of the Texas Real Estate Commission?  
   a. real estate broker or salesperson  
   b. real estate inspector  
   c. certified general real estate appraiser  
   d. residential service company  

93. Which of the following statements is true with regard to the “Seller’s Disclosure of Property Condition” approved and published by the Texas Real Estate Commission?  
   a. It is a promulgated addendum that must be attached to every contract for the sale of a previously occupied single-family residence.  
   b. It must be delivered to the buyer prior to closing.  
   c. If it is not made a part of the contract, the contract is unenforceable if either party decides to terminate it.  
   d. The form is approved by the Texas Real Estate Commission for voluntary use to make it easier for sellers to make the disclosures called for by Section 5.008 of the Texas Property Code.  

94. A seller and his real estate agent have a duty to disclose  
   a. the murder of a person on the premises of a property.  
   b. a suicide on the premises of a property.  
   c. a death by natural causes on the premises of a property.  
   d. both a or b  

95. When practicing properly authorized intermediary brokerage, the broker may  
   a. appoint one of his licensed associates to give advice and opinions to the buyer and the seller.  
   b. appoint one of his licensed associates to give advice and opinions to the buyer and another associate to give advice and opinions to the seller.  
   c. only facilitate the transaction through one of his licensed associates.  
   d. with proper disclosure give advice and opinions to the buyer and the seller.  

96. If a licensed real estate broker is an agent in a transaction in which real property is sold by lottery, his or her action is  
   a. permissible if the broker’s license is active.  
   b. permissible if the property is sold on the open market.  
   c. legal if the property to be sold is farmland.  
   d. cause for suspension or revocation of the broker’s license.  

97. Can a salesperson function as an intermediary?  
   a. yes, always  
   b. only when appointed in writing by the buyer  
   c. only when appointed in writing by the seller  
   d. no, never
98. Under the authority of a broker or salesperson license, a real estate licensee may
a. explain the legal significance of the clauses contained in the Texas Real Estate Commission promulgated forms.
b. recommend the best choice for the seller to make from the remedies in the default paragraph when a buyer defaults.
c. fill in the blanks to reflect the wishes of the party being represented.
d. prepare a Bill of Sale to convey any personal property from a seller to a buyer.

99. Under which of the following situations may a property be foreclosed in Texas without judicial action?
 a. upon default of a home equity loan
 b. upon default on a duly recorded and perfected mechanics and materialmen lien
 c. when the owner fails to pay the school tax by January 31 of the year following the year for which the tax is due
 d. under the provisions of a duly executed and recorded Deed of Trust mortgage instrument

100. All of the following are required by the Canons of Professional Ethics and Conduct of the Texas Real Estate Commission EXCEPT that the licensee
 a. put the interest of his or her client first.
b. put the agent’s interest second.
c. be knowledgeable about market conditions.
d. fulfill his or her fiduciary duty to third parties.

101. The Canons of Professional Ethics and Conduct for brokers and salespersons licensed by the Texas Real Estate Commission requires a licensee to
 a. use prudence and caution in negotiating the terms of a purchase agreement.
b. place the interest of his or her client above all others including his or her own.
c. research, discover, and reveal latent structural defects related to the property.
d. treat all parties fairly and protect their confidential information.

102. When may a broker functioning as an intermediary appoint one licensee to communicate with the seller and another licensee to communicate with the buyer?
 a. when, in the judgment of the broker, it is best to make such appointments
 b. when written permission to do so has been obtained from the parties
 c. when the parties have given verbal approval to make such appointments
 d. when the seller has given written consent for the broker to do so

103. Ben and Beatrice enter into a contract to purchase a single-family home currently owned and occupied by Larry and Lisa. Larry and Lisa do not furnish Ben and Beatrice with a Seller’s Disclosure form. Which of the following statements is true?
 a. The contract is null and void.
b. The contract is voidable at the option of Ben and Beatrice.
c. The contract can be voided by either the sellers or the buyers.
d. As long as the seller provides it within seven days of the date of the contract, the buyers must complete the sale.
104. Larry has written an offer for his buyer client who requires a response from the seller as soon as possible. The property is listed with another broker and Larry has been unable to contact the listing salesperson. The best course of action for Larry is to
a. immediately contact the seller and present the offer.
b. try to reach the salesperson’s broker or another representative of that broker.
c. wait until the listing salesperson returns his call.
d. try to reach the salesperson’s broker and if he is unable to do so, he should contact the seller and present the offer.

105. A real estate license holder who has completed all core real estate education requirements for both pre-licensure and annual renewal will be issued
a. a two-year license with a requirement to complete 15 hours of mandatory continuing education before the next renewal.
b. a one-year license with a requirement to complete 15 hours of mandatory continuing education before the next renewal.
c. a two-year license with a requirement to complete 30 hours of mandatory continuing education before the next renewal.
d. a two-year license with a requirement to complete 15 hours of mandatory continuing education each year before the next renewal.

106. A broker who places earnest monies in the company’s operating account is guilty of what?
a. steering
b. commingling
c. deceptive acts
d. fraudulent tort

107. A listing agent has received an inquiry from a prospective buyer about a property he has advertised. He has a duty to disclose the existing agency relationship he has with the owner of the property
a. in writing at the first meeting with the prospect.
b. in writing at the first substantive dialogue with the prospect.
c. either verbally or in writing at the time of the first substantive dialogue with the prospect.
d. either verbally or in writing at the time of the first contact with the prospect.

108. Which of the following Texas Real Estate Commission addenda contains the words “time is of the essence”?
a. Amendment
b. Addendum for Coastal Area Property
c. Seller Financing Addendum
d. Addendum for Sale of Other Property by Buyer
109. Who is NOT protected under the provisions of the Texas Deceptive Trade Practices Act?
   a. consumers who purchase real property only
   b. clients who list property with a real estate broker
   c. real estate brokers who sponsor salespersons
   d. buyer-customers who buy a house through a sub-agent

110. When and how may a buyer’s written offer to purchase real estate be withdrawn?
   a. at any time prior to depositing the earnest money and by giving a written withdrawal notice
   b. at any time if no earnest money was paid
   c. only after the seller has rejected the offer in writing
   d. in writing at any time prior to the buyer receiving notification that there is written seller acceptance of the offer
**Answers**

1. **d.** The word *severalty* comes from *sever*, and implies that all other persons are severed, or cut off, from any share of ownership.

2. **a.** Joint tenants are often known as “joint tenants with right of survivorship.” If Jane dies, Richard will automatically receive Jane’s share, no matter what her will might say.

3. **c.** Tenants in common have the right to devise their shares to any chosen heirs. “Severalty” applies to single ownership, and the other two answers involve automatic inheritance by one owner if the other dies.

4. **b.** The Texas Appraiser Licensing and Certification Board is an independent subdivision of the Texas Real Estate Commission that certifies appraisers under the regulations set by the Appraisal Foundation.

5. **d.** The tax assessment is made by local jurisdictions for the purpose of assessing property taxes. It is not a viable standard for establishing sales value for a property.

6. **a.** An easement appurtenant allows the owner a particular use of an adjoining parcel’s land. The Browns do not have a license, because they have a permanent right, while a license may be withdrawn or canceled.

7. **d.** A full warranty deed contains covenants that warrant the new owner’s undisturbed and clear title.

8. **d.** If a deed restriction is more restrictive than a local zoning ordinance, it takes precedence and can be enforced in court. The neighbors would have a good case.

9. **a.** The signer of a quitclaim deed makes no guarantee of ownership and transfers only what interest he or she may have. Besides clearing a cloud (possible or partial claims), quitclaim deeds are often used for transfers within a family or during a divorce.

10. **a.** The word *encumbrances* includes all the other types of claims on the property.

11. **a.** The difference between market value and debt is equity.

12. **d.** Students should memorize the size of an acre, which some estimate at “somewhat more than 200 feet by 200 feet.”

13. **a.** \((75,000 \div 12) \times 0.35 = 2,187.50\)

14. **d.** It is best to have a written express agency to avoid misunderstandings and for a broker to enforce the payment of an earned fee. However, the law of agency states that even if parties have only verbally expressed a specific agency relationship, the role of agent has been created along with all the obligations and liabilities.

15. **a.** Of the items listed, only forged documents are covered by title insurance.

16. **c.** Voluntary alienation occurs when a property owner intentionally sells or gives his property to another. He may convey all of the property and rights or he may reserve part of the property such as mineral rights. The seller or grantor signs a deed granting title to the buyer or grantee.

17. **d.** The government’s right of eminent domain is enforced through condemnation.

18. **b.** The Taxpayer Relief Act of 1997 set $250,000 as the exclusion for a single filer taxpayer, $500,000 for a couple filing jointly.

19. **b.** A sub-agency may be authorized by the terms of a listing agreement.

20. **b.** Mary is obligated to treat Smith honestly and to make all required disclosures. He is her customer, however, and not her client. Her primary responsibility is to protect and promote the best interests of her clients, the sellers. If she also attempted to work with Smith as her client, she would be acting as a dual agent, which is not allowed in some states.
21. c. Regardless of an agency relationship, the agent must disclose all pertinent facts regarding the property. The seller has the same obligation.

22. a. In order to enforce payment of a commission, the broker must have been properly licensed at the time of the transaction, informed the buyer that he should have an abstract of title examined by an attorney or get a policy of title insurance, and have a signed written agreement from the person to be charged a fee.

23. a. Material defects must be disclosed. Relationship to the client must be disclosed. Personal confidential information must never be disclosed.

24. c. The agent is required to disclose relationships when family, friends, or business partners are involved in a transaction. The agent must also disclose any situation in which he has a personal interest.

25. a. Salespersons may only receive compensation from their principal broker. Gifts of merchandise, use of luxury cars, trips, and outings are also compensation and may only be given to a broker who disposes of them in accord with the company policy.

26. b. An agent is legally obligated to present all offers to the seller regardless of the order in which they were received and allow the seller to make decisions regarding accepting, rejecting, or counteroffering.

27. d. The Real Estate Settlement Procedures Act regulates federally related mortgage loans made on one- to four-family residences, condominiums, and cooperatives. Federally related refers to FHA, VA, or other government backed loans or those purchased by secondary market institutions that are federally controlled. Most residential loans fall into this category.

28. d. This is an example of a non-conforming use, which will be grandfathered so long as the owner does not expand, modernize, or do anything more than make necessary repairs.

29. b. Taxable income is that which remains after deducting expenses and depreciation.

30. a. An amendment to the Fair Housing law in 1988 introduced handicap as a protected class and requires reasonable accommodations be made for handicapped persons in rental properties. In this case, Alan is blind and has a dog to assist him.

31. b. Commingling, prohibited by the state regulatory body, refers to the mixing of other people's money (earnest money deposits, for example) with the broker’s own funds.

32. c. All property taxes paid are income tax deductible. Interest deductions are available only for one’s first and second homes. Insurance premiums are not deductible.

33. a. Ad valorem means “according to the value.” More expensive real estate will pay a higher ad valorem tax than its neighbor.

34. c. Religious and charitable institutions are among the most common properties exempt from taxation.

35. a. Restrictive covenants cannot be used for illegal purposes. If they are, the courts will not enforce them.

36. a. Points paid for a purchase money mortgage on one’s own home are immediately deductible as prepaid interest.

37. d. The sales contract should contain a provision allowing the buyer a walk-through within 24 hours before closing.

38. a. National origin is one of the protected classes under the Equal Credit Opportunity Act. Mortgage interviewers are allowed to ask about the other items.
39. a. The borrower mortgages the property, giving the lender a claim against the real estate. As the one who does the mortgaging, she is the mortgagor.

40. d. Restrictive covenants also known as deed restrictions are established by the seller and subsequent owners have the right to enforce the restrictions. Zoning by cities and land planning by counties are both examples of public control of land use.

41. b. The state becomes owner of a deceased person’s property in the absence of a will or natural heirs, through the power of escheat.

42. a. Regulation Z requires that borrowers be notified of their annual percentage rate, which takes into account not only the simple interest rate but also other financing costs, such as points.

43. c. The lender who does not receive full payment after foreclosure of a loan on this type of property may seek a deficiency judgment against the borrower.

44. a. Anna’s is actually a quadruple net lease, because she pays all the expenses on the building.

45. a. A periodic estate automatically renews itself (for example, month after month) until either landlord or tenant gives notice to terminate it.

46. c. Rental rates are set by supply and demand.

47. a. The cost approach is usually the most accurate for unique buildings and those newly constructed.

48. c. External obsolescence refers to outside factors (a nearby landfill, unemployment in the community) that affect the value of the subject property.

49. d. Economic obsolescence is caused by factors outside the property and is considered incurable.

50. c. The CMA, competitive market analysis, is a simple analysis intended to assist a seller in determining an asking price for the property.

51. b. Points are paid on the amount borrowed, not the selling price. The buyers are borrowing 90% of the sale price, or $162,000. Each point is 1% of that figure, so three points are $162,000 × 0.03 = $4,860.

52. d. Sellers are required to give information on how and where to seek information regarding registered sex offenders to prospective buyers, but neither the agent nor the seller is required to make such specific disclosures.

53. b. Fred can claim depreciation only on the cost of the improvements, which represent 80% of his purchase price. So, $300,000 × .80 = $240,000 depreciable value divided by 25.5 = $8,727.27.

54. c. Familial status is defined as one or more individuals under the age of eighteen living with a parent or person having legal custody of the individual. This protection also covers pregnant women and any person seeking to secure legal custody of a person under the age of eighteen.

55. a. Bob will get a mortgage for $112,800 ($141,000 × 80%). Three points will cost $3,384 ($112,800 × 0.03). The Franks will end up with $141,000 less $3,384, or $137,616. This is $384 less than Anne Hill’s all cash offer ($138,000 – $137,616).

56. d. Licensed salespersons may associate with a broker as an employee or an independent contractor. Most are independent contractors meaning they work as self-employed persons and assume responsibility for paying their own income tax and Social Security, cannot receive “employee benefits,” and are compensated on production of sales.
57. **b.** The Owens will pay at closing a total of $5,000 down payment. ($100,000 \times 5\%) + $1,000 closing costs + $1,425 in mortgage insurance premium (1.5\% of $95,000 mortgage) = $7,425.

58. **c.** A city does not tax property outside its city limits. While the value of the property may be affected by whether it is or is not within a city, the possibility of annexation is a fact and the most important disclosure to be made.

59. **c.** While certain residential sellers are exempt from the seller disclosure notice requirements such as new home builders, sellers of foreclosures, or estate sales, the seller is required to make certain statutorily required disclosures. The buyer who never receives the disclosure may terminate the contract.

60. **d.** The complex details of commercial property are best administered by a professional property manager.

61. **d.** This scenario is known as a net listing and is prohibited in most states. This practice exposes unsophisticated owners to the potential for outrageous selling fees.

62. **c.** In an option contract, the buyer purchases the right to buy a property at fixed terms within a defined period of time. If the option is not executed, the owner gets to keep the deposit.

63. **b.** Contracts must be in writing and contain all of the basic elements to be legally enforceable.

64. **b.** When the buyer has paid all of the contracted periodic installments, the seller conveys title to the new owner.

65. **d.** The duty of confidentiality forbids Sheila’s sharing any information that might damage her client’s bargaining position.

66. **c.** Many brokers and salespersons carry errors and omission insurance to cover their real estate practice.

67. **b.** Dual agency is a concept under common law and requires total neutrality. Intermediary is a statutory form of dual agency allowing the broker to appoint licensed associates to assist the clients under full disclosure and strict legal procedures.

68. **b.** The relationship most salespersons have with their brokers is that of independent contractor.

69. **c.** An exclusive right to sell obligates the owner to pay a brokerage fee regardless of who located the buyer. In an exclusive agency, the owner is not liable for payment of a fee if they sell the property themselves.

70. **b.** Although most commissions may not be paid until the closing, the listing agent’s assignment has actually been completed when a buyer is produced who is willing and able to purchase on the seller’s terms.

71. **a.** The buyer may take possession of the property, but legal title remains with the owner until the terms of the purchase are met.

72. **c.** A deed conveys ownership of real property; personal property is conveyed by lease, bill of sale, or title.

73. **b.** A valid contract can be implied by the action of the parties.

74. **c.** Every state has adopted the statute of frauds, which requires offers, acceptances, land contracts, and other real estate documents to be in writing to be enforceable.

75. **c.** An opinion of title is a legal opinion and a real estate agent cannot practice law. Only an attorney may examine an abstract of title and render an opinion as to the validity of clear title to property. An abstract is the entire recorded history of a parcel of land.

76. **a.** An executory contract has not yet been performed; after the sale, the contract will have been executed.
77. d. An executed contract is one in which everything promised has been done, with no provisions left unfulfilled.

78. c. Contractors and others are permitted to file a mechanic’s lien against the improved property.

79. c. Appraisers use the gross rent multiplier in the income approach to determining value of residential properties such as single-family homes and duplexes.

80. d. A sales contract can be valid even without any earnest money; its main use is to reassure the seller and prove the buyer’s good faith.

81. a. There is a whole body of law and regulations that address the relationship between agents and their clients. The sum total of the various legal provisions that address the agency relationships is known collectively as the Law of Agency.

82. c. The Texas Real Estate License Act, Texas Occupations Code 1101.552 (c) requires the broker to apply for and pay the required fee to obtain a branch office license for each additional office maintained by the broker.

83. c. Unless this broker is also a licensed attorney, she is in violation of the Real Estate License Act. A broker has a duty to advise a client regarding facts and business details involving the transaction but must not give legal advice.

84. b. The Broker-Lawyer Committee writes and drafts promulgated contract forms to be used by real estate licensees.

85. b. Although a salesperson may solicit a listing or buyer representation agreement from a seller or buyer, the client appoints a broker since all activities of a salesperson are done in and through the sponsoring broker of the salesperson.

86. b. Prorations Paragraph 13 establishes that all items subject to proration will be prorated through the day of closing. This makes the seller liable for the tax bill from January 1 through the entire day of closing. The closing statement will show a debit to the seller and a credit to the buyer.

87. d. For those who die intestate, without a will, Texas probate law defines how a decedent’s property will be distributed to his or her qualifying heirs. The statutory provisions that define who is eligible to receive the decedent’s property and what percentage they are to receive is known as the Law of Intestate Succession or the Law of Descent. To die without a will is to die intestate; to die with a will is to die testate.

88. a. The Texas Real Estate License Act, Texas Occupations Code 1101.367 (a) requires the broker to return the license to the Texas Real Estate Commission until the salesperson becomes duly sponsored by another broker.

89. a. The Texas Real Estate License Act specifically addresses failure to reveal latent structural defects and makes doing so cause for disciplinary action. A material fact is any piece of information that a prudent purchaser would take into consideration when deciding whether to buy a particular property or how much to pay for it.

90. b. After the option period expires, the buyer is bound to complete the transaction per the terms of the agreement.

91. b. The Texas Real Estate License Act, Texas Occupations Code 1101.806 requires the broker to advise the buyer to get title insurance or have the abstract examined by an attorney of the buyer’s choosing, to have a written employment agreement signed by the person to be charged, and to have been actively licensed at the time the fee is earned. It is possible to have earned a fee even though the transaction does not close.
92. c. The Texas Appraiser Licensing and Certification Board has jurisdiction over state licensed and certified appraisers. In addition to licensing brokers and salesperson, the Texas Occupations Code Chapter 1303 makes the Texas Real Estate Commission responsible for regulation of companies that sell and issue residential service contracts (“home warranties”) and the Texas Occupations Code Chapter 1102 makes the Texas Real Estate Commission responsible for regulation of real estate inspectors.

93. d. Section 5.008 of the Texas Property Code establishes minimum disclosure requirements and the Texas Real Estate Commission has published a form to help sellers comply. REALTORS® often encourage the use of a more detailed disclosure form published by the Texas Association of REALTORS®. No version of the form should be attached to the contract as an addendum.

94. a. Death disclosures include any death on the property other than death caused by natural causes, suicide, or accident unrelated by a condition of the property.

95. b. The Texas Real Estate License Act, Sections 1101.559 and 1101.560 of the Texas Occupations Code, require a broker who represents both a buyer and a seller as an intermediary in a transaction to obtain written consent from each party for the broker to act as intermediary and state the source of any compensation. The intermediary may then with each party’s consent appoint an associate to communicate with and carry out instructions of one party and another associate to do so with the other party. Written notice of the appointments is required.

96. d. Only the state of Texas can conduct a legal lottery.

97. d. Only the designated broker of the firm can function as an intermediary. With written permission of the parties, the intermediary can appoint a salesperson or a broker associate to advise and counsel the seller and another salesperson or broker associate to advise and counsel the buyer. The intermediary’s role is to remain neutral and treat the parties impartially.

98. c. Texas Real Estate Commission Rule 537.11 only authorizes a licensee to fill in the blanks provided in the promulgated forms as directed by the customer or client being served.

99. d. If the statutory requirements are met, Texas statute provides for a non-judicial foreclosure only under the provisions of the “Power of Sale” clause in a Deed of Trust.

100. d. Fiduciary duties are owed to clients. Third parties must be treated fairly and with honesty especially with regard to full disclosure of material facts about the property.

101. b. The first of the Canons of Professional Conduct, as promulgated by the Texas Real Estate Commission, requires a licensee representing a party to place that party’s interest above all others including that of the broker and his or her salesperson. Good business practice would dictate that one use prudence and caution in all brokerage activities, but it is not a requirement established by the canons. The Texas Real Estate License Act requires a licensee to reveal known latent structural defects but certainly does not require a licensee to research and discover them.

102. b. The broker (intermediary) who wishes to make appointments must obtain written permission from the parties to do so and must give them written notice of who is being appointed to the seller and who is being appointed to the buyer.
103. b. The buyers, at their sole option, may terminate the agreement. If the disclosure is furnished after the date of the contract, the buyers must terminate within seven days after receipt of the disclosure.

104. b. The Texas Real Estate License Act, Section 1101.652 (b) (22) of the Texas Occupations Code makes it grounds for disciplinary action by the Texas Real Estate Commission if a license holder “negotiates or attempts to negotiate the sale, exchange, or lease of a real property with an owner, landlord, buyer, or tenant with knowledge that that person is a party to an outstanding written contract that grants exclusive agency to another broker in connection with the transaction.”

105. a. The Texas Real Estate License Act requires all license holders who have satisfied all core real estate education requirements to complete 15 hours of mandatory continuing education including six hours of TREC promulgated law and ethics curriculum prior to issuance of a renewal license.

106. b. Commingling is the illegal act of an agent mixing a client’s monies, which should be held in a separate escrow account, with the agent’s personal monies. Commingling of funds is cause for suspension or revocation of licensure.

107. d. The Texas Real Estate License Act requires disclosure of any agency relationship at the first contact. The contact may be by telephone, in person, a letter, e-mail, or other form of communication.

108. d. Three of the Texas Real Estate Commission promulgated addenda contain the words “time is of the essence.” They are The Addendum for Sale of Other Property by Buyer, The Back-Up Addendum, and the Third-Party Financing Condition Addendum. An option clause is always interpreted under the “time is of the essence” rule. Texas courts will favor upholding the terms of a contract as long as there is evidence that the parties have acted in good faith and have accomplished the objectives of the agreement within reasonable time. Strict time frames will be enforced when the parties specifically agree in the contract that time is of the essence.

109. c. Consumers who purchase or rent goods (real or personal property) and/or services are covered. The law helps protect consumers against dishonest real estate licensees. Brokers are not protected by the Texas Deceptive Trade Practices Act.

110. d. An offer becomes an executory contract when the offeror is notified that the offeree has accepted the offer in writing therefore the buyer may withdraw an offer up until the time of notification of the seller’s acceptance.
Scoring
Again, evaluate how you did on this practice exam by finding the number of questions you got right, disregarding, for the moment, the ones you got wrong or skipped. If you achieve a score of at least 56 on the national portion, and a score of at least 21 on the state portion, you might pass the Texas Real Estate Sales Exam.

If you didn’t score as well as you would like, ask yourself the following: Did I run out of time before I could answer all the questions? Did I go back and change my answers from right to wrong? Did I get flustered and sit staring at a difficult question for what seemed like hours? If you had any of these problems, be sure to go over the LearningExpress Test Preparation System in Chapter 2 to review how best to avoid them.

You probably have seen improvement between your first two practice exam scores and this one; but if you didn’t improve as much as you’d like, following are some options:

If you scored below the passing scores on each section, you should seriously consider whether you are ready for the exam at this time. A good idea would be to take some brush-up courses in the areas you feel less sure of. If you don’t have time for a course, you might try private tutoring.

If your score was close to the minimum passing score, you need to work as hard as you can to improve your skills. Go back to your real estate license course textbooks to review the knowledge you need to do well on the exam. If math is your problem area, check out the LearningExpress book, Practical Math Success in 20 Minutes a Day. Also, reread and pay close attention to the information in Chapter 4, Texas Real Estate Refresher Course; Chapter 5, Real Estate Math Review; and Chapter 6, Real Estate Glossary. It might be helpful, as well, to ask friends and family to make up mock test questions and quiz you on them.

If you scored well above the minimum passing scores on each section, that’s great! You have an excellent chance of passing your exam. Don’t lose your edge, though; keep studying right up to the day before the exam.

Now, revise your study schedule according to the time you have left, emphasizing those parts that gave you the most trouble this time. Use the table on the next page to see where you need more work, so that you can concentrate your preparation efforts. After working more on the subject areas that give you problems, take the fourth practice exam in Chapter 9 to see how much you have improved.
## EXAM 3 FOR REVIEW

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<tr>
<th>National Topics</th>
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For this exam, pull together all the tips you’ve been practicing since the first practice exam. Give yourself the time and the space to work. Since you won’t be taking the real test in your living room, you might take this one in an unfamiliar location such as a library. Make sure you have plenty of time to complete the exam in one sitting. In addition, use what you’ve learned from reading the answer explanations on previous practice tests. Remember the types of questions that caused problems for you in the past, and when you are unsure, try to consider how those answers were explained.

After you’ve taken this written exam, you should try the computer-based test using the CD-ROM at the back of this book. That way, you’ll get familiar with taking exams on a computer.

Once again, use the answer explanations at the end of the exam to understand questions you may have missed.
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1. Which of the following would most likely be considered real estate?
   a. a mulberry bush
   b. cotton ready to be harvested
   c. farm equipment
   d. emblems

2. If a borrower wished to obtain an FHA or VA loan, he or she would most likely go to
   a. HUD.
   b. an insurance company.
   c. the Department of Veteran Affairs.
   d. an approved mortgage lender.

3. When a buyer hires a brokerage, he will execute what type of agreement?
   a. a commission agreement
   b. a showing agreement
   c. a buyer representation agreement
   d. a sales contract

4. Escheat results if a property owner dies
   a. with a will.
   b. with heirs.
   c. without a will.
   d. without heirs.

5. When a buyer makes an offer and a seller changes a few of the terms before he signs and returns it, that is a
   a. rejection.
   b. conditional acceptance.
   c. conditional rejection.
   d. counteroffer.

6. The term “taking back paper” refers to
   a. seller financing.
   b. a purchase money mortgage.
   c. a wraparound mortgage.
   d. third-party financing.

7. The vendee has
   a. equitable title in the property.
   b. an obligation to sell the property.
   c. temporary title to the property.
   d. no obligation to the seller.

8. A metes and bounds survey begins at the point of beginning and ends at the
   a. point of beginning.
   b. end point.
   c. monument.
   d. last benchmark.

9. Title VIII of the Civil Right Act of 1968, known as the Fair Housing Act of 1968, included which of the following protected classes?
   a. color, race, national origin, religion, handicap
   b. color, race, religion, national origin
   c. race, national origin, religion, sex
   d. color, race, national origin, familial status, creed

10. An income approach appraisal would include which of the following information?
    a. annual net operating income generated
    b. sold comparables within the same market area
    c. replacement cost of structure and site improvements
    d. building value based on cost per square foot
11. How many cubic yards of space are there in a room 27 feet long, 18 feet wide, and 9 feet high?
   a. 4,374 cubic meters
   b. 162 cubic yards
   c. 4,374 cubic feet
   d. 162 cubic feet

12. Mandated Property Disclosure Forms typically benefit
   a. the buyer.
   b. the seller.
   c. the broker.
   d. all of the above

13. By what method will an appraiser determine the value of the land when using the cost approach to value?
   a. the replacement cost method
   b. the sales comparison method
   c. the land replacement method
   d. the reproduction method

14. A property sold for $57,300 and is subject to revenue stamp fees of .50 for each $500 (or portion thereof) of the sales price. What is the cost of the stamps?
   a. $571.50
   b. $57.50
   c. $95.50
   d. $955.00

15. Ruth is representing a buyer in the purchase of a home. The buyer is making a low offer on a property, but he has told Ruth he would pay full price if necessary. When Ruth presents the offer to the listing agent, she indicates to the agent that the seller should negotiate because the buyer will probably pay more. Ruth has violated which fiduciary duty?
   a. fairness
   b. accounting
   c. obedience
   d. confidentiality

16. An abstract of title provides which of the following?
   a. insures ownership in perpetuity
   b. pays owner for full or partial title loss
   c. insures against unrecorded documents, such as unpaid previous property taxes
   d. a history of documents in public records that affect title to the property

17. Specific credit terms such as down payment, monthly payment, or the term of the loan may not be advertised unless the following are also included in the advertisement: cash price, required down payment, number and amount of payments, due dates of payments, and the annual percentage rate. This is required by the
   a. Equal Credit Opportunity Act, Regulation B.
   b. Home Mortgage Disclosure Act, Regulation C.
   c. Truth-in-Lending Act, Regulation Z.
   d. RESPA, Regulation X.
18. Elbert listed a large home in a popular subdivision and received an offer from another broker within the first week of the listing. He decided to withhold the offer from the seller in anticipation of presenting an offer from one of his buyer clients who he will instruct to offer a higher price. Which of the following best describes what Elbert is doing?
   a. obeying his fiduciary duties to get the highest and best offer for his seller client
   b. breaching his fiduciary duties by not communicating the offer to his seller client
   c. obeying his fiduciary duties to get the best property for his buyer client
   d. doing the right thing for both clients

19. Of the following, the most important factor that a lender will consider would be
   a. the borrowers investments.
   b. the borrowers marital status.
   c. payment history of previous car loans.
   d. payment history of previous home loans.

20. Which fee does NOT have to be disclosed in a lender’s advertisement when the actual note interest rate is mentioned?
   a. required down payment
   b. appraisal fee
   c. number of payments over loan term
   d. monthly payment amount

21. Which of the following is the best example of a general agency relationship?
   a. the relationship between a buyer and a broker under an agency agreement
   b. the relationship between a seller and a listing salesperson
   c. the relationship between a customer and a licensed salesperson
   d. the relationship between a salesperson and the sponsoring broker

22. All of the following statutory procedures may be found in residential landlord/tenant laws EXCEPT
   a. provisions for collecting unpaid rent.
   b. provisions for evicting a tenant.
   c. provisions defining a leasehold estate as a recordable property owned by the tenant.
   d. provisions that the landlord must maintain the property as safe and habitable.

23. If a bilateral contract is signed
   a. either party may back out prior to closing.
   b. both parties are legally obligated to perform.
   c. the seller can be forced to perform on the agreement.
   d. the buyer can be forced to perform on the agreement.

24. The Truth-in-Lending Act specifically covers
   a. all mortgage loans.
   b. business and commercial loans.
   c. all residential transactions.
   d. residential sales involving financing.
25. Which of the following investment opportunities would involve the greatest risk even though it would likely produce the highest rate of return?
   a. before construction is started
   b. during construction
   c. after construction
   d. upon occupancy by anchor tenants

26. Deed restrictions are the creation of a
   a. potential buyer.
   b. city planning commission.
   c. zoning board of adjustment.
   d. previous property owner.

27. Martin listed a large tract of land near an interstate highway and advertised the property as good for investment. He pointed out to prospects that several businesses and a manufacturing plant were planning to relocate to the area and promised that the land value would more than double in the next year or two. Is Martin doing the right thing?
   a. Yes, he is offering a valid investment opportunity.
   b. No, it is illegal to make a guarantee of future profits from the resale of the property.
   c. Yes, he is marketing the property as required by his fiduciary duties to the seller.
   d. No, he should advise the seller to wait to sell the property later.

28. Which of the following is true concerning federal laws requiring disclosure of any known presence of lead paint or lead paint hazards?
   a. The Lead-Based Paint Hazard Reduction Act of 1992 requires property owners to make the disclosure on any residential dwelling built before 1978.
   b. Real estate brokers also have liability for making lead paint disclosures and must keep disclosure records for three years.
   c. Owners of properties built before 1978 have the sole responsibility and liability for making disclosures regarding the Lead-Based Paint Hazard Reduction Act of 1992.
   d. both a and b

29. Correction lines used in the rectangular survey method are necessary because
   a. surveyors make mistakes.
   b. of magnetic effects on surveyor’s compasses.
   c. of the curvature of the earth.
   d. of the erosion of the earth.

30. If an agent accidently leaves his “for sale” sign in front of a house after closing, the public is being led to believe that he is the new owner’s agent under the legal concept of
   a. ratification.
   b. implied agency.
   c. agency by estoppel.
   d. ostensible agency.
31. When a buyer is seeking to buy a single-family residence, inspections should be done
   a. prior to entering into a purchase contract.
   b. no need to have inspections done if they have received a “Seller’s Disclosure Statement.”
   c. immediately after entering into a binding sales contract.
   d. only after financing has been secured and the title report has been received.

32. In the reconciliation of an appraisal on a home in a large subdivision, the appraiser’s decision of value would rely most on which appraisal approach?
   a. cost
   b. market data
   c. income
   d. reproduction

33. Andy, a licensed salesperson, has agreed to handle the property management for Freddie, an investor in rental housing. They have opened a trust account at a bank in both their names and Andy will collect rent and pay mortgage payments and other expenses. Is this the correct way to structure this property management account?
   a. Yes, a trust account is correct.
   b. No, they should create a partnership and open the account in the name of the partnership.
   c. No, the account should be in the name of Andy’s broker and Freddie.
   d. No, this is a special agency representation and the account must be in Freddie’s name only.

34. A seller lists his property well above market value. What should a buyer’s agent tell the buyer about the asking price and also fulfill his fiduciary duties?
   a. to make an offer at whatever price he believes is fair
   b. prepare a CMA for the buyer and point out that the property is priced well above market value
   c. to offer full price if he really wants the property
   d. ignore the asking price, but encourage him to make a very low offer

35. Regarding real property, which of the following statements is true?
   a. Emblements are considered as fixtures since they are attached to the land.
   b. Trade fixtures attached to the building are always the landlord’s property.
   c. Air rights can be granted separately by deed.
   d. Mineral rights always run with the land.

36. A partially amortized loan wherein the last payment is larger than the previous payments is referred to as a(n)
   a. index loan.
   b. balloon loan.
   c. term loan.
   d. percentage loan.

37. If a broker negotiates on behalf of both the buyer and the seller, this would indicate some form of
   a. sub-agency.
   b. multiple levels of representation.
   c. dual agency.
   d. coercion.
38. The legal remedy in many sales contracts which allows the non-defaulting party to force the sale is
   a. bilateral promises.
   b. earnest money.
   c. specific performance.
   d. punitive damages.

39. An owner who transfers real property through a will is known as the
   a. testator.
   b. legatee.
   c. devisee.
   d. beneficiary.

40. Public land use controls are created by zoning ordinances. Which of the following is NOT a zoning classification?
   a. single-family dwelling
   b. leasehold estate
   c. general retail sales
   d. manufacturing

41. What did the 1972 amendment add to the Federal Fair Housing Act of 1968?
   a. qualifications as to the age of children in certain housing facilities
   b. landlords making reasonable property alterations for handicapped tenants
   c. operation of an adults only apartment complex
   d. display of equal housing poster in broker’s place of business

42. If a seller’s agent shares his commission with a buyer’s agent
   a. this is not necessarily an indication of agency representation.
   b. the seller’s agent may advise the seller of this cooperation.
   c. the buyer’s agent does not have to disclose this to the buyer.
   d. the seller’s agent may deduct that amount from the total he pays his agent.

43. A real estate broker offers the services of both residential brokerage and mortgage brokerage to his clients through his real estate company and his mortgage company. What are his legal obligations in this arrangement?
   a. He must comply with the Real Estate Settlement Procedures Act and disclose this Affiliated Business Arrangement to consumers before closing.
   b. He must comply with the Truth-in-Lending Act and disclose this Affiliated Business Arrangement to consumers before closing.
   c. He must give consumers a reduction in fees if they use the services of both companies.
   d. He is not obligated to do anything since the businesses are totally separate entities.

44. A residential broker usually relies on which form of valuation to assist a seller in setting the listing price?
   a. ad valorem tax assessment
   b. fee appraisal prepared by a licensed appraiser
   c. cost approach analysis
   d. competitive market analysis
45. Charlie and Marie leased a house for twelve months with a requirement for a 30-day notice to terminate at the end of the lease or it will become a month-to-month arrangement. They have a
a. periodic estate.
b. estate for years.
c. estate for years with a conversion to a tenancy at will.
d. estate for years with a conversion to a periodic estate.

46. When a borrower pledges more than one property as collateral for a loan, the loan is called
a. a package mortgage.
b. a balloon loan.
c. a blanket mortgage.
d. hypothecation.

47. A buyer is obtaining a conventional loan that requires 29/33 ratios. He earns $75,000 a year, and has a $450 car payment. What is his maximum PITI payment?
a. $1,612.50
b. $1,812.50
c. $21,750.00
d. $2,475.00

48. If a contract ends with the sale of the property,
a. an implied agency relationship exists for a period of time.
b. the agency relationship of the seller and the listing broker continues until one formally terminates it.
c. the agency relationship of the seller and the listing broker ends at that time.
d. both principals must agree that the agency relationship has ended.

49. A listing agent told the buyer’s agent in confidence that the seller was anxious to sell the property and would likely reduce the price by several thousand dollars. What should the buyer’s agent tell the buyer?
a. everything the listing agent told him
b. only the asking price and information on sales in the area
c. to wait a few days and make a low offer
d. to make a low offer and ask for a quick closing

50. A house was purchased five years ago for $90,000. The area has generally appreciated at an annual rate of 2%. How much should the house sell for now?
a. $81,000
b. $99,000
c. $95,000
d. $100,000

51. Carlos set up a trust for his grandson and placed several parcels of real estate in the trust to be managed by an appointed trustee for his grandson, the beneficiary. The transfer instrument used to transfer the real estate to the trustee was
a. a deed of trust.
b. a trustee’s deed.
c. a deed in trust.
d. a special warranty deed.

52. A minor can rescind a purchase agreement because
a. he doesn’t have any money.
b. he is legally incompotent.
c. his legal status in the court is *et vir*.
d. the other party to the contract cannot rescind the contract.
53. Failure to act timely to have a court enforce deed restrictions may result in the violations being allowed because of the legal concept called
   a. non-conforming use.
   b. laches.
   c. constructive notice.
   d. injunction.

54. Earnest money is entered on a closing statement as a
   a. credit to the seller.
   b. charge to the buyer.
   c. debit to the seller.
   d. credit to the buyer.

55. A zoning commission may grant a variance to property use when which of the following exists?
   a. over-budget development costs to a subdivider
   b. environmental concerns as to use
   c. alternative building site that increase owner’s costs
   d. limitation of feasible building sites due to land contours

56. It is said that a deed transfers title when the deed is
   a. signed by grantor at closing.
   b. prepared by an attorney and reviewed by the purchaser.
   c. handed to purchaser or his or her representative.
   d. delivered to and accepted by grantee.

57. The economic characteristics of land are
   a. scarcity, fixity, modification, and situs.
   b. scarcity, non-homogeneity, immobility, and modification.
   c. indestructibility, situs, fixity, and scarcity.
   d. situs, fixity, scarcity, and immobility.

58. A comprehensive listing agreement would address
   a. the duties of the agent, commission agreement, and termination date.
   b. a copy of the advertising materials to be used.
   c. showing instructions, commission agreement, and termination date.
   d. commission agreement, duties of the agent, and payment terms.

59. A property is valued at $850,000 by an appraiser and generates an annual net income of $144,500. What capitalization rate percentage did the appraiser use in determining value?
   a. 11.5
   b. 13
   c. 14.45
   d. 17

60. Which of the following is NOT considered a building code standard?
   a. plumbing capacity of structure
   b. exterior blueprint elevations
   c. electrical insulation
   d. smoke detectors
61. Jake signed an option contract to purchase Zeke's farm and paid Zeke a $5,000 option fee for a sixty day option. Which statement is true?
   a. The optionor and the optionee are obligated to go through with a sale.
   b. The optionor and the optionee are obligated to close under the agreement unless an unfavorable environmental assessment precludes a transfer of the title.
   c. The optionee may exercise his right not to close and receive the option fee within the specified time.
   d. The optionee may exercise his right to close or not to close within the specified time.

62. What is a deed of trust?
   a. a deed used to transfer title of real property into a land trust
   b. a two-party mortgage instrument giving title to a lender until the debt is paid in full
   c. a three-party mortgage instrument with a power of sale clause giving the trustee authority to conduct a non-judicial foreclosure if the borrower defaults
   d. a three-party mortgage instrument that grants full title to the lender until the debt is paid and a release deed is granted to the borrower

63. An offer
   a. creates an agreement between the parties.
   b. becomes a contract when accepted, and is binding when the acceptance is communicated.
   c. keeps the other party from accepting another offer until negotiations are complete.
   d. must be accompanied by earnest money.

64. In which of the following types of agency might you see the termination of the agency relationship immediately after closing?
   a. universal agency
   b. general agency
   c. subagency
   d. special agency

65. The right that a power company acquires in order to lay a service line across a customer's property is called
   a. an easement in gross.
   b. a license.
   c. a condemnation.
   d. a restrictive covenant.

66. An express agency relationship is most clearly evidenced by
   a. the spoken words of the parties.
   b. the agent's appointment book.
   c. a buyer-broker agreement.
   d. showing records.
67. The closing of the sale of a residential property is occurring on May 23. Homeowner’s association dues for the year have been paid in advance and taxes for the year will be paid in arrears. These items will be prorated at closing. How will this be shown on the HUD-1 settlement statement?

a. homeowner’s association dues as a credit to the seller and a debit from the buyer, and taxes as a debit from the seller and a credit to the buyer

b. homeowner’s association dues and taxes as a debit from the seller and a credit to the buyer

c. homeowner’s association dues as a credit to the buyer and a debit from the seller, and taxes as a debit from the seller and a credit to the buyer

d. homeowner’s association dues as a credit to the seller and a debit from the buyer with taxes to be a prorated between the buyer and seller at the end of the year

68. Jane is selling her house. It is located in a neighborhood of modest three-bedroom homes ranging in price from $80,000 to $100,000. Two years ago, she added a fourth bedroom, third bath, and put a swimming pool in the backyard. In determining an estimate of value, the appraiser will apply which principle of value to this situation?

a. functional obsolescence

b. external obsolescence

c. cost approach

d. highest and best use

69. A broker listed and sold a 50-year-old house but did not inspect the property to determine if there were any latent defects. Which of the following statements is true in this situation?

a. The broker may be sued under consumer deceptive trade practices statutes.

b. The broker may be liable for defects found by a buyer for up to two years after the time of discovery of the defect.

c. The broker is not required to inspect or investigate physical defects.

d. both a and b

70. The lender charges two discount points to the buyer. How much does this increase the buyer’s closing costs on his $135,000 home if his LTV is 80%?

a. $2,000

b. $2,070

c. $2,160

d. $1,600

71. Domestic use of water by an owner from an adjoining navigable stream comes under control of which water right?

a. littoral

b. groundwater

c. riparian

d. Federal Clean Water Act
72. An owner of an expensive town home listed the property for lease. The broker presented him with a full price offer from a qualified prospective tenant, but the owner refused to lease to the person because she was a single woman with two children ages 15 and 17. Under Fair Housing laws, this is an example of
a. discrimination based on marital status.
b. discrimination based on familial status.
c. exercising the owner’s right to choose the best tenant for the property.
d. discrimination based on ethnicity.

73. What type of loan would typically create a negative amortization?
a. balloon loan
b. percentage loan
c. term loan
d. graduated payment loan

74. Which advertisement by a broker is in compliance with the current Federal Fair Housing Act?
a. only single adult units
b. tenant must pay $35 lease application fee
c. no children under ten years of age
d. handicap alterations will not be made even if paid by tenant

75. In which real estate closing must a HUD Uniform Settlement Statement be used?
a. cash transaction on the sale of a single-family dwelling
b. commercial sale funded by a federally chartered bank
c. one- to four-family home with federal related loan
d. agricultural vacant land purchased with a federally backed loan

76. Which of the following is NOT a physical characteristic of land?
a. immobility
b. situs
c. non-homogeneity
d. indestructibility

77. Mr. and Mrs. Vu have a buyer’s agreement with Sally, a real estate broker. Sally showed them several homes for sale in certain neighborhoods where she thought they would be most comfortable. This is an example of
a. redlining neighborhoods.
b. client service.
c. property and area knowledge.
d. steering.

78. Which of the following would be classified as “limited” common elements in a condominium development?
a. elevators
b. hallways
c. assigned parking places
d. limited access gates

79. Net listings are discouraged or illegal in some states
a. because the math is too complicated for most agents.
b. to prevent brokers from taking advantage of sellers.
c. because the sellers have too much to gain from this arrangement.
d. because there is no standard form for this situation.
80. Which of the following would NOT affect realty value?
   a. permitted uses by city zoning ordinances
   b. number of real estate brokers in the area
   c. marketable and/or indefeasible title of a property
   d. demand for property by qualified buyers

81. A broker has received the necessary written permission from the seller and the buyer to function as an intermediary. She has also received written permission to appoint salespersons to each of the parties. When the broker has given the proper written notice to each of the parties about who is appointed to whom, which of the following statements is true?
   a. An appointed salesperson may give advice and opinions to one of the parties.
   b. The broker may give advice and opinions to both of the parties to the transaction.
   c. Either of the appointed salespersons may give advice and opinions to either of the parties.
   d. The broker may give advice and opinions to only one of the parties to the transaction.

82. What recourse is available when a broker and a salesperson have a dispute over the commission split on a transaction?
   a. filing a joint complaint with the Texas Real Estate Commission
   b. filing individual complaints with the Texas Real Estate Commission
   c. seeking mediation, arbitration, or civil court action
   d. complaining to the seller’s attorney

83. A property that lies within a Municipal Utility District (MUD) is under contract to be purchased by Todd and Mary Lindstrom. The contract does not include a disclosure from the sellers that reveals information about the district’s bonded indebtedness or the tax rate. What is the status of this contractual agreement?
   a. void under the provisions of the Texas Water Code
   b. unenforceable until the information is furnished
   c. voidable at the option of the sellers if they are unable to obtain the required information
   d. voidable at the sole option of the buyers

84. A buyer defaults under the terms of an agreement using the Texas Real Estate Commission promulgated One- to Four-Family Residential (Resale) form. The sellers are willing to accept the earnest money as liquidated damages. Later, the sellers decide that the liquidated damages were insufficient to compensate them for their financial losses. Can the seller come back and seek additional money damages?
   a. absolutely
   b. usually
   c. not according to the terms of this promulgated form
   d. it depends on which addendum was used
85. The Texas Real Estate Commission has been empowered by the Texas Legislature to make rules that are binding upon the brokers and salespersons licensed by the Texas Real Estate Commission. When does a rule or regulation established by the Texas Real Estate Commission become effective?
   a. when appropriate standing committees of both houses of the legislature transmit statements approving it
   b. when appropriate standing committees of both houses of the legislature do not transmit statements opposing adoption of it
   c. when it has been approved by the governor
   d. immediately upon publication by the Texas Real Estate Commission

86. An owner lists a four-bedroom home for lease with a real estate company and tells the agent not to lease it to any family with more than two older children. What should the agent do?
   a. refuse the listing
   b. honor the request
   c. ignore the request and obey the law
   d. make the home available to anyone with children

87. A violation of a provision of the Texas Real Estate License Act constitutes what type of legal violation?
   a. a felony
   b. a class A misdemeanor
   c. a class B misdemeanor
   d. a class C misdemeanor

88. Which of the following is the best way to extend the closing date on a contract?
   a. change the date on the original contract and have the buyer, seller, and both agents initial
   b. change the date on the original contract and have the buyer and seller initial and date the change
   c. simply cross out the old date, enter the new date, and send a written notification of the change to the title company
   d. use the Texas Real Estate Commission promulgated “Amendment” form, fill in the appropriate blanks, and have the buyers and sellers sign

89. Which of the following is NOT a power that has been granted to the Texas Real Estate Commission by the Texas Legislature?
   a. serve as the court of first hearing for alleged violations under the provisions of the Texas Real Estate License Act
   b. assess an administrative penalty, place on probation, or suspend the license of a broker who has been proven guilty of dishonesty and untrustworthiness in his or her brokerage business
   c. establish maximum amounts or percentages that may be charged for services delivered under a broker or salesperson license issued by the Texas Real Estate Commission
   d. inspect the financial records relating to any trust or escrow accounts managed by a broker who holds client monies for future disbursement
90. A seller is uncomfortable with some of the provisions written into an offer by a prospective purchaser. When should the seller consult his or her attorney?
   a. before signing the agreement
   b. before signing the deed
   c. before accepting any money
   d. sometime prior to closing

91. Under the provisions of the typical exclusive-right-to-sell listing agreement, a real estate agent has been authorized to do all of the following EXCEPT
   a. advertise the property.
   b. show the property.
   c. tell the buyer the asking price.
   d. sign the purchase contract.

92. What is the stated purpose of the Texas Real Estate Recovery Fund?
   a. to reimburse licensees for legal fees
   b. to protect the public from monetary loss due to the illegal acts of licensees
   c. to permit debtors to recover property lost by foreclosure
   d. to provide inexpensive liability coverage for brokers

93. A landlord refuses to return a security deposit to a tenant who has fulfilled the terms of the lease, returned the keys to the landlord, furnished a forwarding address, and left the premises in good condition by most people’s standards. What remedy is available to the aggrieved tenant?
   a. She may file suit, after waiting 30 days, in the Justice of the Peace Court and be awarded three times the amount of the security deposit plus reasonable attorney fees and $100.
   b. She will have to hire an attorney and file a suit for recovery in the District Court of the county in which the property is located.
   c. She has no recourse.
   d. She may file a complaint with the Justice Department.

94. What entity licenses and regulates property tax consultants?
   a. the Texas Real Estate Commission
   b. the Texas Department of Licensing and Regulation
   c. the Texas Department of Taxation and Revenue
   d. the county tax assessor
95. Using the Texas Real Estate Commission promulgated One- to Four-Family Residential (Resale) form, which of the following is NOT acceptable language for Paragraph 11, Special Provisions?
   a. Time is of the essence when interpreting the provisions of this agreement.
   b. Buyer may do a walk-through within the 24 hours prior to closing.
   c. Seller will pay for the appraisal as required in Paragraph 12.
   d. Seller will remove the playground equipment in the backyard prior to closing and funding.

96. A broker has a listing agreement signed by a seller, and a buyer representation agreement signed by a buyer who is interested in purchasing the seller’s property. Both parties have granted the broker permission to function as an intermediary through the written representation agreements. The buyer tells the broker that if he is successful in acquiring this property, he plans to purchase the surrounding property also. What should the broker tell the seller about this information?
   a. disclose it to the seller
   b. withdraw from the transaction
   c. nothing
   d. wait and disclose it after closing

97. Under the Canons of Professional Ethics and Conduct for brokers and salespersons, as promulgated by the Texas Real Estate Commission, what is the primary duty of real estate agents?
   a. to treat all parties to a transaction fairly
   b. to represent the interest of their clients
   c. to use prudence and caution
   d. to reveal any latent defects

98. Gertrude Goodheart always said that her two best friends would inherit her property when she died. Six months ago, she died without having gotten around to writing a will. She has no living relatives. What will happen to her property?
   a. It will be divided between her church and the people who took care of her immediately prior to her death.
   b. Since she told many people of her wishes, it will be divided equally between her two best friends.
   c. It will be sold to the highest bidder at a public sale conducted by the probate court.
   d. It will become the property of the state of Texas under the state’s legal provisions.

99. A seller received an offer last evening and is considering how to respond to it. While the seller is still thinking about the first offer, another offer is given to the listing agent. What should the listing agent do?
   a. present the second offer immediately
   b. hold the second offer until the seller makes a decision about the first offer
   c. call the agent who brought the first offer and tell them about the second offer
   d. tell the seller that he needs to hurry up and make a decision about the offer he has in his possession

100. Which of the following people would need to obtain a real estate license if they were involved in a real estate activity?
    a. the executor of an estate
    b. a court-appointed guardian
    c. a trustee of the bankruptcy court
    d. one who sells lots in a mobile home park
101. When does an offer become a binding contract?
   a. when the last party has signed and the other party has been notified
   b. when the signed contract has been delivered to the title company
   c. when there is a meeting of the minds and earnest money tendered
   d. when one party states verbally that the written offer is accepted

102. What is a broker who is authorized to represent both of the parties in a transaction called?
   a. a universal agent
   b. an intermediary
   c. a mediator
   d. a facilitator

103. All of the following are violations of the Texas Real Estate Act EXCEPT
   a. taking a net listing.
   b. commingling.
   c. accepting a secret profit.
   d. not disclosing a dual agency.

104. A licensee must present the “Information About Brokerage Services” to all prospective sellers and buyers at the first substantive dialogue. The definition of substantive dialogue is
   a. a substantive discussion at the first meeting involving a specific property.
   b. any discussion when meeting a prospect with the exception of those at an open house.
   c. a meeting or written communication that involves a substantive discussion regarding a specific property.
   d. any discussion with a prospect including a meeting, telephone conversation, or e-mail.

105. A licensed salesperson that does not have a sponsoring broker has an inactive license. This person
   a. may accept referral fees but not engage in any direct real estate sales or leasing services.
   b. may not perform any real estate services or receive any fees from such services or receive any referral fees from any broker.
   c. may perform real estate services as long as he or she does not accept any form of payment.
   d. may perform real estate services under the legal department of the Texas Real Estate Commission.

106. What penalties would a licensee face if, while on inactive status, he or she completes a lease negotiation or sells a property?
   a. none, since a valid license is held
   b. the full penalty provisions of the act
   c. a reprimand
   d. an administrative penalty
107. Salesperson Judy Jones has found the perfect house for herself. She learns that the owner may be interested in selling, so she introduces herself and is allowed to make a listing presentation. She gets the listing for her brokerage after presenting a CMA (Competitive Market Analysis) that emphasizes the lowest priced homes in the neighborhood. As a result of the CMA (Competitive Market Analysis), the seller decides on a relatively low asking price. Judy immediately presents a full-price offer from her cousin, but does not reveal the relationship to the seller. The offer is accepted by the seller. A few days after the sale closes, Judy buys the property from her cousin. Judy’s conduct is:

a. acceptable because she did not purchase the property directly from the seller.
b. acceptable because Judy presented valid sales data and allowed the seller to determine the asking price.
c. unacceptable because Judy should have waited at least six months before buying the property from her cousin.
d. unacceptable as a violation of her fiduciary obligations to her principal.

108. One found guilty of a violation of the Texas Deceptive Trade Practices Act will face which of the following consequences?

a. loss of his real estate license, jail time, and punitive damages equal to twice actual damages
b. the possibility of being assessed treble damages
c. will automatically be assessed treble damages
d. civil penalties equal to three times the amount of damages plus criminal penalties of up to $50,000

109. Which of the following does the Texas Real Estate Commission NOT have the authority to do?

a. hire an administrator to supervise the activities of the employed staff at the Texas Real Estate Commission
b. initiate an investigation of a licensee upon a signed complaint submitted by an unhappy consumer of real estate brokerage services
c. command the production of documents and the appearances of witnesses for hearings conducted by it
d. increase the education requirements for a person desiring a broker license

110. The maximum tenancy that may be addressed in a Texas Real Estate Commission Seller’s or Buyer’s Temporary Lease is:

a. 180 days.
b. 90 days.
c. 48 hours.
d. 72 hours.
Answers

1. a. Since a mulberry bush is a perennial, it would be considered a fixture. Perennial plants, bushes, and trees are considered permanent and are therefore real estate, whereas annuals are not permanent and are considered personal property.

2. d. FHA and VA do not lend their own funds. FHA insures loans and VA guarantees portions of residential loans to encourage approved mortgage lenders to make the loans.

3. c. When a buyer commits to a particular brokerage, he typically signs a buyer representation agreement. The lack of such an agreement may make the buyer think that he is free to “shop” among different brokers, thus setting up a potential procuring cause claim.

4. d. If an owner dies without directing the disposition of real property or not having any blood relatives, the state, becomes the owner; therefore under escheat, title passes to the state.

5. d. If an offer is changed at all, it becomes a rejection combined with a new offer. The offeree is not obligated to accept this new offer.

6. a. Instead of the entire price being paid in cash, the seller may take a note for part of the purchase price. This is called “taking back paper.”

7. a. Equitable title is an interest in acquiring legal title. Legal title will not be obtained until the buyer has actually purchased the property.

8. a. A metes and bounds survey begins at the point of beginning and ends at the point of beginning in order to describe the entire tract.

9. b. The Housing and Community Development Act of 1974 added sex and the 1988 Fair Housing Act added handicap and familial status to the protected classes.

10. a. Annual net operating income results after operating expenses are deducted from gross income. Annual net operating income divided by appraiser capitalization rate equals property value.

11. b. Convert feet to yards, (3 feet = 1 yard), then multiply; 27 ft. × 18 ft. × 9 ft. = 4,374 cubic feet; 4,374 cubic feet ÷ 27 = 162 cubic yards. The question asks for an answer in terms of cubic yards rather than cubic feet, so the conversion completes the answer.

12. d. All benefit from full disclosure: the buyers, because they are better informed about the property; the sellers, because they are on record for disclosing any defects; and the brokers, because they are less likely to be sued because disclosures have been made.

13. b. The value of the property is determined by calculating the actual cost to replace or reproduce the improvements and estimating the value of the land by comparing the subject land to recent sales of comparable land in the area.

14. b. $57,300 ÷ $500 = $114.60, so use $115 (because the problem states “any portion thereof”); $115 × .50 = $57.50.

15. d. Ruth’s client would not want the seller to know anything but the offered price. This information would put him at a disadvantage in the negotiation.

16. d. An abstract of title is a history of a property’s legal records prepared by an abstracter. There is no insurance for loss of money or possession if title problems occur in the future.
17. c. These items are known as “trigger terms” and require full disclosure if specifically included in an advertisement.

18. b. It is both unethical and illegal to withhold any offer from his seller. Elbert has no guarantee that his buyer client will make an offer and he risks the first buyer withdrawing his offer.

19. d. The real estate lender will be greatly concerned with how a prospective borrower has performed on previous real estate loans.

20. b. A lender required appraisal fee is not disclosed in advertising under Federal Regulation Z, since it is not a component in computing loan annual percentage rate.

21. d. General agency gives an agent broad authority to act for the principal in ongoing business as determined by the agency agreement. Special agency is created by listing and buyer representation agreements granting limited authority for specific transactions for limited periods of time. A customer is not involved in any agency relationship.

22. c. Common law and landlord tenant laws typically do not define a leasehold estate as a recordable real property belonging to the tenant.

23. b. A bilateral contract is one in which both parties make promises and are charged with performance of the agreement.

24. d. The Truth-in-Lending Act specifically covers only residential properties where lending is involved. Residential property purchasers are considered consumers.

25. a. There is very little security in an investment before construction is started; therefore, to attract an investor, the developer must offer the greatest return.

26. d. Deed restrictions are private land use controls created in the deed of conveyance to protect the future interests an owner may have after the sale of his property. An example of these restrictions would be a developer requiring a minimum square footage in homes constructed so as to maintain subdivision value.

27. b. Martin should point out the facts concerning the developments that may happen in the future and let the seller and prospective buyers make their own decisions as to whether to sell or buy.

28. d. Sellers and any real estate licensee involved in the sale or lease of a dwelling built prior to 1978 must make the required lead paint disclosures and maintain property records of such disclosures.

29. c. Correction lines, which occur at intervals in the rectangular survey system, are necessary because of the curvature of the earth.

30. d. Aside from the fact that many states make it illegal to advertise something for sale when it is not for sale, any advertisement of a property would lead an unknowing party to believe that the advertiser had a business relationship with the person for whom he was advertising. Doing so can create the wrong impression in the mind of a third party.

31. c. It is always best to have inspections done quickly because there may be significant repairs required and therefore significant negotiations. It would not make sense to do the inspections before a contract is signed because the property may be sold to someone else before the inspections have been completed.
32. b. Market data approach appraisal reveals the current trend in market sales, which reflects parties attitudes toward real estate value.

33. c. Andy must perform all real estate services in the name of his broker. He represents the broker and the broker is the agent for the investor client.

34. b. The agent should give the buyer factual information about values in the area and encourage him to make a reasonable offer. The agent must also take into account the current real estate market in the area, supply and demand, and other economic factors that would influence the negotiations.

35. c. Even though air rights are considered part of the real property, they can be conveyed separately by deed.

36. b. Typically, a balloon payment occurs when a loan involves an amortization schedule that extends beyond the final payment. For example, a loan could be set up on a 30-year amortization schedule, but after ten years, a payment in the amount of the entire unpaid balance is due.

37. c. In single agency, the broker is representing (and so negotiating) on behalf of only one of the parties. Accordingly, dual agency would indicate that the broker is representing both parties to the transaction in some capacity.

38. c. Forcing someone to perform on an agreement is a legal injunction making it mandatory that the defaulting party do what he promised to do. If he does not, he is in contempt of a court order.

39. a. A person who wills his property upon death to an heir is called the testator or willmaker. The legatee, devisee, and beneficiary are parties that receive property both real and personal through a will.

40. b. Under the possession right of realty ownership, the owner determines who occupies the property. City zoning ordinances have no control over a lease agreement between a landlord and a tenant.

41. d. In making the public more aware of federal fair housing protections, Congress requires all brokers to display the HUD Equal Housing Poster in their place of business.

42. a. The mere payment of a fee does not indicate an agency relationship.

43. a. RESPA requires settlement service providers to disclose affiliated business arrangements to consumers if the owner has a 1% interest or more in any of the business services being offered.

44. d. A competitive market analysis is the least expensive method of determining value for a seller with much greater accuracy than tax assessor value. This value information is commonly available through broker networking systems, such as a multiple listing service.

45. d. An estate for years has a definite ending time. A periodic estate or estate from period to period is for an indefinite period of time. A tenancy at will continues as long as the landlord and the tenant desire. Many residential leases convert from estate for years to periodic estate until one or the other give notice of termination.

46. c. When a borrower pledges more than one property as collateral for a loan, the mortgage involved is called a blanket mortgage. More than likely it would be a commercial loan wherein the borrower is pledging four small shopping centers, or other properties, as collateral for the loan.
47. a. $75,000 ÷ 12 = $6,250 monthly income; 
   $6,250 x .29 = $1,812.50 front end qualifier; 
   $6,250 x .33 = 2,062.50 – $450 debt = 
   $1,612.50 back end qualifier. Maximum PITI 
   (Principal, Interest, Taxes, and Insurance) is 
   the lower of these two qualifiers.
48. c. Once the objective of the agency (the sale or 
   purchase of the property) has been accom-
   plished, the agency automatically immedi-
   ately terminates. No notice is necessary.
49. a. A buyer’s agent has the fiduciary duty of dis-
   closure, which demands that he disclose all 
   known information to his client.
50. b. 5 years × 2% per year = 10% appreciation 
   (straight line); 100% + 10% = 110% prop-
   erty is now worth relative to original pur-
   chase price; $90,000 x 110% = $99,000 
   current value.
51. c. A deed of trust is a mortgage or security 
   instrument. A trustee’s deed will be used to 
   transfer title to the property to the benefici-
   ary at an appointed time. A special warranty 
   deed transfers property from a seller to a 
   purchaser.
52. b. The legal age of majority is 18 in most states. 
   A minor is not considered capable of han-
   dling his own business affairs.
53. b. Laches is a legal tenet to set a statute of limi-
   tations on court ordered removal of a deed 
   restriction violation. A property owner’s fail-
   ure to act timely may result in a loss of court 
   ordered action to correct a deed restriction 
   violation.
54. d. Earnest money is used to partially satisfy the 
   transaction sales price on behalf of the 
   buyer; therefore, it would be a credit to the 
   buyer on the closing statement.
55. d. A variance is a change in zoning requirements 
   to lessen restrictions when building site hard-
   ships occur, such as limited building sites.
56. d. A deed passes title when the seller delivers an 
   acceptable deed to the buyer or his or her 
   representative. This transfer of title usually 
   occurs at the real estate closing.
57. a. The economic characteristics of land are 
   scarcity, fixity, modification, and situs.
58. a. A listing agreement should be a specific out-
   line of what is expected of the broker and of 
   the seller.
59. d. Capitalization rate for annual rate of return 
   on investment is computed by dividing a 
   property’s annual net income by the prop-
   erty value. This math problem is solved by 
   dividing $144,500 (net operating income) by 
   $850,000 (property value), which equals a 
   capitalization rate of 17%.
60. b. Building codes are usually city construction 
   standards to ensure safe occupancy of public 
   and private structures. The exterior design of 
   a structure is the decision of the private 
   property owner.
61. d. The optionee is the buyer and the optionor is 
   the seller. The buyer has the right to buy and 
   the seller has the obligation to sell in an 
   option to purchase. The buyer (optionee) 
   cannot recover the option consideration 
   (fee) if he chooses not to buy. If the buyer 
   chooses to exercise his option to purchase, 
   the seller may apply the option fee to the sale 
   price.
62. c. A deed of trust conditionally conveys real 
   estate as the collateral to secure the loan. The 
   parties are the lender (beneficiary), the bor-
   rower (grantor or trustor), and the trustee.
63. b. The mere fact of signing an offer is not 
   enough to bind the parties. The offeror must 
   be notified that his offer has been accepted.
64. d. Special agency is typically a single purpose, 
   short-term agency relationship.
65. a. If a power company wants to lay a service line across customer properties and has to acquire an irrevocable right to do so, that right would be called an easement in gross.

66. c. Express agency is created by written or oral agreement. Written agreements reduce the likelihood of a miscommunication.

67. a. The buyer owes the seller from closing through the end of the year for the prepaid association dues. The seller owes the buyer estimated property taxes from the first of the year through closing. The buyer will be responsible for paying annual taxes at the end of the year with funds received from the seller and the additional amount necessary for the rest of the year.

68. a. Although Jane's cost to make the additions was high, the comparable properties in her area do not justify additional market value. The appraiser will apply the depreciation concept of functional obsolescence, which applies to outmoded or faulty buildings or to over-improvement or super-adequacy.

69. c. Neither a listing broker nor a salesperson has the responsibility to physically inspect property. A broker must disclose only known information. Inspections are left to those who are licensed to inspect such as engineers and real estate inspectors.

70. c. Convert 80% to a decimal and multiply; $135,000 \times 80\% = $108,000 loan amount; $108,000 \times 2\% = $2,160 cost of points.

71. c. Riparian rights control private use of water in streams and rivers adjacent or flowing through private property. These rights limit use of water to household purposes, such as plumbing fixture operation.

72. b. Discriminating against persons with children under the age of 18 is a violation of Fair Housing. Equal Credit Opportunity Act protects against discrimination regarding marital status.

73. d. A graduated payment mortgage almost always creates a negative amortization because the scheduled payments early in the life of the loan are not sufficient to pay interest due so the shortage is added to principal balance.

74. b. An application fee paid by a prospective tenant is used by the landlord to examine a tenant's financial qualifications. Landlords advertising singles only, age restrictions on children, and refusal to make reasonable handicap alterations are discriminatory.

75. c. The Real Estate Settlement and Procedures Act requires the use of the HUD closing statement on all federal related one- to four-family home loans.

76. b. Situs is an economic characteristic of land, not a physical characteristic.

77. d. Taking prospects to neighborhoods determined by the agent based on national origin or any protected class is prohibited by Fair Housing laws.

78. c. Assigned parking spaces are limited to specific unit owners, whereas the other items are unlimited in their use and are available to all unit owners.

79. b. The fact that it is the broker who profits rather than the client makes this type of listing a conflict of interest for the broker. As a fiduciary, the broker must further the best interests of the client.

80. b. The number of realty brokers in a market area has no effect on property market value, since the market is sensitive to the economic theory of supply and demand. However,
agency contracts that brokers have with their clients demand that the brokers obtain the best price for their clients.

81. a. The broker must remain neutral and refrain from giving advice and opinions to either of the parties. An appointed salesperson may give advice and opinions ONLY to the party to whom the salesperson is appointed.

82. c. The Texas Real Estate Commission has no jurisdiction over commission rates to be charged to clients or over how they are split between cooperating brokers or between sponsoring brokers and their sponsored salespersons. One would have to seek mediation, arbitration, or civil court action.

83. d. Chapter 49 of the Texas Water Code requires the disclosure and gives the buyer(s) the unrestricted right to terminate the agreement without penalty if the notice has not been delivered prior to the final execution of the purchase agreement.

84. c. According to the terms of the Texas Real Estate Commission promulgated One-to Four-Family Residential (Resale) form, it is expressly agreed that if the earnest money is accepted as liquidated damages, it shall be the sole remedy and the party receiving it releases the other party from further liability.

85. b. The legislature gave the Texas Real Estate Commission rule making authority but reserves the right to strike down any rule during a required posting period before a new or revised rule can become effective and enforceable.

86. a. An agent cannot obey the request and should refuse the listing. The agent has the fiduciary duty of obedience to his or her client but must not violate federal or state law, which prohibits discrimination on the basis of familial status.

87. b. Although it was once a class C misdemeanor, as a result of an action taken during the 1999 legislative session, a violation now constitutes a class A misdemeanor subject to significantly increased fines.

88. d. Any changes to a contract after the effective date of the contract, as per the Texas Real Estate Commission rule 537.11, must use the appropriate Texas Real Estate Commission promulgated form created for that purpose.

89. c. Federal anti-trust laws do not permit a state agency to establish maximum or minimum brokerage fees. Remember that commissions are always negotiable.

90. a. A licensee has the duty to encourage the customer or client to read the form before signing it and to seek competent legal counsel if he or she does not understand the provisions. When there are unusual matters involved, Texas Real Estate Commission rule 537.11 specifically directs a licensee to advise the party or parties to seek legal advice.

91. d. The listing agreement appoints the real estate agent to function as a special agent of the property owner. Special agents are not authorized to do anything that will legally bind the principal to an agreement. To be able to sign the purchase contract, the agent would need to be authorized to act under a duly executed power-of-attorney signed by the property owner.

92. b. The fund protects the public from non-collectible judgments acquired against licensees in a court action. Payment amounts are limited by statute. Payments can only be made by the Texas Real Estate Commission upon the direction of a court of competent jurisdiction.
93. a. Under Texas statute, a tenant is presumed to be entitled to recovery of a security deposit. The burden of proof is on the landlord to convince the court that the tenant is not entitled to a return of the deposit. Failure to do so makes the landlord liable for three times the amount of the deposit plus court costs and reasonable attorney’s fees plus $100.

94. b. Article 8886 of the Texas Civil Statutes places jurisdiction of property tax consultants under the Texas Department of Licensing and Regulation.

95. a. Texas courts will generally apply the reasonable time rule when interpreting contracts. To write “time is of the essence” into Paragraph 11 would change how the court would have to interpret the contract and therefore constitute an unauthorized practice of law on the broker or salesperson.

96. c. When giving written permission for the broker to function as an intermediary, both parties have agreed that the intermediary cannot disclose confidential information of the other party unless express written permission has been obtained from the other party to do so.

97. b. Fidelity, the first duty under the Texas Real Estate Commission’s Canons of Professional Conduct, calls for the licensee to place the interest of the principal or client above all others’ interests, including their own.

98. d. The Law of Descent and Distribution calls for ownership to pass to the state when one dies intestate with no eligible heirs identified under the state’s Law of Intestate Succession.

99. a. The licensee must present all offers to the seller immediately unless instructed otherwise in writing by the seller.

100. d. The sale of land/lots is an act of brokerage and requires that one have a license if he or she is not the owner of the lot. The other three answers are listed as people who do not need a license as stated in the Texas Real Estate License Act, Texas Occupations Code 1101.005.

101. a. An offer may be withdrawn by the offeror at anytime prior to notification that the offer has been accepted. The Statute of Frauds dictates that all offers affecting title to or interest in real estate be reduced to writing to be enforceable except a lease for one year or less.

102. b. According to the statutory provisions of the Texas Real Estate License Act, Texas Occupations Code 1101.559, a broker authorized to represent both parties is known as an intermediary.

103. a. While it is not a recommended practice, it is not illegal in Texas to make a listing agreement in which the seller is promised a stated amount, regardless of the sales price.

104. c. A face-to-face meeting or any written correspondence, by electronic means or otherwise, in which a substantive dialogue occurs must include the presentation of the “Information About Brokerage Services” form. A telephone conversation by itself does not constitute a meeting requiring the form, but any written or face-to-face follow-up will require that the prospect receive the form.

105. b. A real estate salesperson may only receive payment for real estate services from a sponsoring broker.

106. b. Brokers and salespersons are prohibited from conducting an act for which a license is required when the license is on inactive status and being held by the state.
107. d. Judy’s conduct is prohibited for many reasons. She has not only violated her fiduciary duties by failing to act in her client’s best interests, but she has also acted secretly for her own personal gain. She has also violated the Texas Real Estate License Act, Texas Occupations Code 1101.557.

108. b. The amount of damages is determined by the court. Treble damages are the maximum that may be assessed by the court.

109. d. The Texas Real Estate Commission only has the authority to administer the provisions of the Texas Real Estate License Act. Education requirements are established by the legislature and are a part of the Texas Real Estate License Act.

110. b. The Texas Property Code requires that a property be occupied by a tenant for more than 90 days to meet all of the statutory requirements listed in Chapter 92. The Texas Real Estate Commission promulgated Seller’s and Buyer’s Temporary Leases have a notice at the top that warns that the form is not to be used for a tenancy that exceeds 90 days.

Scoring

Once again, in order to evaluate how you did on this last practice exam, find the number of questions you got right. The passing score is 56 out of 80 on the national portion, and 21 out of 30 on the state portion, but you should be trying for something higher than that on these practice exams. If you haven’t reached a passing score on both sections by now, look at the suggestions for improvement at the end of Chapter 8. Take a look at the following table to see what problem areas remain.

The key to success in almost any pursuit is to prepare for all you’re worth. By taking the practice exams in this book, you have made yourself better prepared than other people who may be taking the exam with you. You have diagnosed where your strengths and weaknesses lie and learned how to deal with the various kinds of questions that will appear on the test. So go into the exam with confidence, knowing that you’re ready and equipped to do your best.
# EXAM 4 FOR REVIEW

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## Texas Topics

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SO YOU THINK you are ready for your exam? Here’s a great way to build confidence and know you are ready: using LearningExpress’s Real Estate Licensing Tester AutoExam CD-ROM software developed by PEARSoft Corporation of Wellesley, Massachusetts. The disk, included inside the back cover of this book, can be used with any PC running Windows 95/98/ME/NT/2000/XP. (Sorry, it doesn’t work with Macintosh.) The following description represents a typical “walk through” of the software.

To install the program:

1. Insert the CD-ROM into your CD-ROM drive. The CD should run automatically. If it does not, proceed to Step 2.
2. From Windows, select Start, then choose Run.
3. Type D:\Setup
4. Click OK.

The screens that follow will walk you through the installation procedure.
From the Main Menu, select **Take Exams**. (After you have taken at least one exam, use **Review Exam Results** to see your scores.)

Now enter your initials. This allows you to record your progress and review your performance for as many simulated exams as you would like. Notice that you can also change the drive and/or folder where your exam results are stored. If you want to save to a floppy drive, for instance, click on the “Browse” button and then choose the letter of your floppy drive.
Now, since this CD-ROM supports six different real estate exams, you need to select your exam of interest. Let's try Texas, as shown above.

Now you are into the Take Exams section, as shown above. You can choose Start Exam to start taking your test, or Exam Options. The next screenshot shows you what your Exam Options are.
Choosing **Exam Options** gives you plenty of options to help you fine-tune your rough spots. How about a little math to warm up? Click **Review Subject Area**, and then the **Mathematics** option. Choose the number of questions you want to review right now. On the right, you can choose whether to wait until you have finished to see how you did (**Final Review & Score**) or have the computer tell you after each questions whether your answer is right (**Continuous Review and Score**). Choose **Retry Incorrect Responses** to get a second chance at questions you answer wrong. (This option works best with **Review Subject Area** rather than **Complete Test**.) If you have chosen the wrong exam, you can click **Change Test Type** to go back and choose your exam. When you finish choosing your options, click **OK**. Then click the **Start Exam** button on the main exam screen. Your screen will look like the one shown next.
Questions come up one at a time, just as they will on the real exam, and you click on A, B, C, or D to answer.
When you have finished your exam or subject area, you will have the option of switching to **Review Exams**. (If you don’t want to review your results now, you can always do it later by clicking on the **Review Exams Section** button on the toolbar.) When you use **Review Results**, you will see your score and whether you passed. The questions come up one at a time. Under **Review Options**, you can choose whether to look at all the questions or just the ones you missed. You can also choose whether you want an explanation of the correct answer displayed automatically under the question.
When you are in the **Review Results** section, click on the **Find** button to look at all the exams you have taken.
By default, your exam results are listed from newest to oldest, but you can sort them by any of the headings. For instance, if you want to see your results arranged by score, you can click on the **Score %** heading. To go to a particular exam you have taken, double click on it.

In the **Review Results** section, if you click on the **Score %** button, you will get a breakdown of your score on the exam you’re currently reviewing. This section shows you how you did on each of the subject areas on the exam. Once again, you can sort the subject areas by any of the column headings. For instance, if you click on the
Score % heading, the program will order the subject areas from your highest percentage score to your lowest. You can see which areas are your strong and weak points, so you will know what to review.

What’s that? No time to work at the computer? Click the Print Exams menu bar button and you will have a full-screen review of an exam that you can print out, as shown above. Then take it with you.

For technical support, call 800-295-9556.