

Advanced WA Real Estate Law Required Curriculum and Learning Objectives 30 Clock Hours Effective 04-21-2009

This course is designed to provide the prospective managing broker a more comprehensive understanding of the legal foundations of the real estate industry, both to improve his/her professional skills and to enable the managing broker to successfully mentor those brokers they supervise.

Legal Environment of Real Estate Brokerage

Upon completion of this section, the student should be able to:

1. Explain the role of real estate broker, designated broker, managing broker, and firm in the context of a real estate transaction; plus demonstrate an awareness of legal duties and obligations to the client and other parties involved.
2. Demonstrate an understanding of sources and scope of the various regulations and laws which affect operations of a real estate firm.
3. Differentiate between legal and ethical requirements¹ affecting the real estate firm, and describe policies which should be in place to guide compliance.
4. Identify the fiduciary duties created in the operation of a real estate firm.

License and Agency Law

Upon completion of this section, the student should be able to:

1. Describe the legal limitations placed on a licensee in preparing listing agreements, buyer agency agreements, purchase and sales agreements, leases and rental agreements, exchanges, and options on real property.
2. Demonstrate familiarity with the offenses outlined in RCW 18.85.361 (Grounds for Disciplinary Actions), RCW 18.86.030 (Duties of Licensee), and RCW 18.235.130 (Uniform Regulation of Business and Professions Act).

¹The use of the terms "ethics" and "ethical" is meant in a general sense, and is not referring to any particular code of ethics.

3. Demonstrate an understanding of the provisions of RCW 18.86 – The Real Estate Brokerage Relationships Act, and describe how agency relationships may be created (or terminated). Identify when disclosure of potential agency conflicts is required.
4. Discuss the issue of “vicarious liability” and how it may arise from licensee conduct.

Advanced Topics in Real Estate

The managing broker should be able to demonstrate a working knowledge of more complex areas/topics issues affecting real estate, so they can appropriately supervise and advise brokers when these issues arise. These topics may include one or more of the following:

1. Land Use

- a. Regulations (e.g., zoning, nonconforming uses, Growth Management Act – RCW 36.70)
- b. Regulatory Structure (i.e., comprehensive plan, development codes, variances)
- c. Deed and Title Restrictions (i.e., encumbrances, easements)
- d. Common interest developments and Homeowners Associations
- e. Condominiums, cooperatives, and timeshares
- f. Environmental Law
- g. Development Process including creation of subdivisions, short plats, binding site plans, and dedications and the elements of the Land Development Act, RCW 58.19

2. Federal and State Law

- a. Federal Fair Housing laws and anti-discrimination statutes (e.g., affect on advertising, business practices). Washington State law against discrimination, Chapter 49.60 RCW
- b. Americans with Disabilities Act (42 U.S.C., Ch. 126 and 47 U.S.C. Ch. 5) – requirements for equal access, hiring, etc.
- c. Anti-Trust and Anti Competitive Practices (Sherman Act, 15 U.S.C.)
- d. Real Estate Settlement Procedures Act (RESPA)

3. Litigation Issues

- a. Negligence, fraud and fraudulent concealment
- b. Contract Default (Breach of Contract)
- c. Clouds on Title and issues with legal descriptions
- d. Neighbor Disputes (e.g., property rights and obligations; adjacent landowner torts, encroachment, nuisance)
- e. Errors and Omissions claims

4. Practices, Contracts, and Disclosure

- a. Describe best practices to follow in the course of performing real estate transactions, including recordkeeping procedures and handling of trust funds.
- b. Describe what rules and regulations are in place to guide these practices and what activities they are trying to prohibit.
- c. Identify the rules and laws pertaining to the preparation of purchase and sales agreements, including required disclosures, contingency clauses, blank addenda and other addenda.
- d. Identify areas of a transaction the managing broker should review/track carefully to prevent exposing the firm to liability (e.g., tracking earnest money, areas of recent litigation, etc.).
- e. Cancellations, rescissions, and termination.

5. Property Management and Landlord-Tenant Law
 - a. Describe how federal Fair Housing acts and the Washington State law against discrimination, RCW 49.60, affect leasing and property management (e.g., disclosures, advertising, etc.)
 - b. Discuss the provisions of the Washington Residential Landlord-Tenant Act – RCW 59.18 and the Manufactured/Mobile Home Landlord-Tenant Act – RCW 59.20.
 - c. Describe what type of accommodations may be required under the Americans with Disabilities Act.
 - d. Discuss the process for terminating a lease, notices required, etc.
 - e. Describe the process and procedure for evicting tenants.
 - f. Describe property management recordkeeping and funds management requirements.

6. Other
 - a. Tenancy in Common versus Joint Tenancy
 - b. Like-Kind Exchanges
 - c. Ground leases
 - d. Probate, Estates, and Trusts as Clients
 - e. Agricultural Properties (i.e., vineyards, timberlands, right to farm law)
 - f. Vacation Homes and Out-of-State Property
 - g. Condemnation and eminent domain
 - h. Appurtenances (i.e., mineral rights, water rights, or air rights)

Employment Issues and Employment Law Compliance

Upon completion of this section, the student should be able to:

1. Human Resources Issues
 - a. Proper interviewing and hiring procedures
 - b. Affirmative action
 - c. Employment forms
 - d. Employee compensation and benefits
 - e. Tax compliance
 - f. Recordkeeping
 - g. Family and medical leave
 - h. Discipline and termination

2. Federal laws related to employment (e.g., Fair Labor Standards Act (FLSA), Occupational Safety and Health Act (OSHA), Americans with Disabilities Act (ADA), Employee Retirement Income Security Act (ERISA))

3. State regulations and the role of the Department of Labor and Industries

4. When size of business provides exemptions (e.g., number of employees) on which laws and regulations affect the business

5. Definitions on the difference between employees, independent contractors, leased workers, and temporary workers. Also include employment definitions under IRS code, RCW 51.08, and WAC 296-17A-7202.

6. Liability for Employee's Actions/Supervisory Responsibilities
7. Unemployment Compensation and Worker's Compensation Insurance
8. Other topics (i.e., Discrimination Claims, Sexual Harassment, and Privacy, Mediation and Arbitration of disputes)