

North Carolina Real Estate Broker Prelicensing Course Syllabus

North Carolina Real Estate Commission
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INTRODUCTION

Mission Statement

The *Real Estate Broker Prelicensing Course* is an introductory level real estate principles and practices course with heavy emphasis on real estate **brokerage** law and practice.

Required Course for Real Estate Licensure in North Carolina

Successful completion of the *Real Estate Broker Prelicensing Course* is generally required to qualify for the North Carolina real estate license examination and to obtain a North Carolina real estate broker license. This course may be offered only by schools and instructors approved by the North Carolina Real Estate Commission. Approved schools and instructors must teach this course in accordance with this prescribed syllabus.

Primary Objectives

This course is intended to

- (1) Provide students with the basic knowledge and skills necessary to act as a licensed real estate broker in a manner that protects and serves the public interest; and
- (2) Prepare students for the real estate license examination.

Major topics

- basic real estate concepts and law
- property taxation
- land use controls
- environmental hazards
- brokerage relationships and practices
- real estate contracts
- real estate financing
- closing a real estate sale transaction
- real property valuation
- property insurance basics
- fair housing laws
- landlord and tenant
- property management
- federal income taxation of real estate
- basic construction
- basic real estate investment
- North Carolina Real Estate License Law
- North Carolina Real Estate Commission Rules and Trust Account Guidelines

Order of Subject Area Presentation

The order in which subjects are presented in the Outline is the *recommended* order. Instructors and schools may make reasonable adjustments in the order of presentation but should retain a logical order of presentation.

Recommended subject area emphasis *by major subject area* (i.e., preceded by a Roman numeral) has been provided in this syllabus in the form of recommended number of classroom hours to be devoted to each major subject area. Reasonable minor adjustments in emphasis may be made to suit class schedules and instructional approach; however, caution is given against undue overemphasis or underemphasis of topics.

Course Hours and Delivery Method

The *Real Estate Broker Prelicensing Course* must consist of a minimum of 75 classroom hours, although approved schools may, at their option, schedule the course for more than 75 hours. The course may only be offered using a live classroom presentation format.

Instructional Levels

Schools and instructors are REQUIRED to comply with the assigned Instructional Levels when teaching this course.

Each *major topic* (i.e., *preceded by a capital letter*) in this syllabus has been assigned an Instructional Level. In some instances where a subtopic should be afforded significantly greater or lesser emphasis than the major topic under which it is listed, such a subtopic has been assigned a different Instructional Level that applies to that subtopic only.

Instructional Levels have been assigned based on the relative importance of the topic and the degree of knowledge or skill needed by entry-level real estate brokers with regard to the topic.

Shown are the 3 Instructional Levels used in the Course Syllabus and the meaning of each. The term *competency* refers to the cognitive level expected of students with regard to a particular topic, while the term *instruction* refers to the depth of instruction and the instructional methods that should be utilized. Level 1 is the lowest level and Level 3 is the highest level.

Level 1 – Recall

Competency: Student should possess a *basic level of knowledge* of the topic that is sufficient to *recall, recognize, identify, list, describe, etc.* definitions of common terms, basic facts/concepts/principles and basic procedures/methods.

Instruction: Instructor should review and discuss the appropriate *basic* definitions, facts, concepts, procedures, etc. No in-depth instruction required.

Level 2 -- Application

Competency: Student should possess a *moderately comprehensive level of knowledge and understanding* of the topic that is sufficient to *explain, discuss, interpret, restate, summarize, apply, etc.* facts, principles, procedures, etc. and how they relate to real estate brokerage practice.

Instruction: Instructor should review and discuss the topic *in moderate depth* sufficient to reasonably assure substantial comprehension, using examples (as appropriate) to illustrate and enhance understanding of facts, principles, procedures, etc. and their relevance to brokerage practice.

Level 3 –Analysis

Competency: Student should possess a *substantial working knowledge and understanding* of the topic that is sufficient to *compare/contrast, analyze, etc.* relevant facts, principles, procedures, etc. in a variety of common fact situations likely be encountered in real estate practice.

Instruction: Instructor should review and discuss the topic *in substantial depth*, using examples (as appropriate) to reinforce understanding of ideas, principles and practices, and requiring students to complete *practical work assignments* (as appropriate) to demonstrate both their understanding of the topic and their ability to *apply their knowledge to common fact situations* that will be encountered in real estate practice.

Instructor Notes

Schools and instructors are **REQUIRED** to comply with the assigned Instructor Notes when teaching this course. Any “recommended activities” are suggestions and are not required to be implemented.

Real Estate Mathematics Instruction

Instruction on relevant mathematical functions is to be provided under the appropriate subject areas rather than as a separate arithmetic course section. To assist instructors, however, all required real estate mathematics instruction is listed together in Section XXII of the Outline. Consideration was given to the amount of mathematics involved in each subject area when establishing the recommended number of classroom hours for subject areas. This integrated approach is recommended because it helps assure that students understand how various mathematical functions relate to the various areas of real estate practice. *Instruction in basic mathematics concepts such as decimals, fractions, percentages, multiplication, division, etc. is not included in this course syllabus. Students deficient in basic math skills should be provided special assistance outside of class or directed to take a math refresher course.*

Course Scheduling

Refer to [Commission Rule 21 NCAC 58H .0208](#) for course scheduling parameters.

Textbooks and Other Instructional Materials

Approved textbooks and other required/recommended materials are described in the Bibliography that follows the Outline portion of this syllabus.

Schools and Instructors

Any real estate school wishing to conduct this course must have a current Commission school approval or license prior to commencement of any advertising for the course. Prelicensing instructors must be actively approved by the Commission prior to commencement of the course. (Contact the Commission’s Education & Licensing Division for detailed information.)

Course Completion Standards

Course completion standards are described in [Commission Rule 21 NCAC 58H .0210](#). *It is especially important that school officials and instructors fully understand and strictly adhere to all the standards described in this rule.* Note especially the requirements for:

- at least 80% class attendance and
- a 75% minimum passing score on the end-of-course examination.

Schools and instructors are held accountable by the Commission for the performance of their students on the real estate license examination. It is essential that schools and instructors establish and enforce course completion standards that are sufficiently high to assure that the performance of their students on the license examination is satisfactory.

End-of-Course Examinations

- *The Commission strongly recommends that approved schools and instructors use the end-of-course examinations that have been developed by the Commission for use in this course.*
- Commission-provided examinations are copyrighted and may only be used by schools and instructors as all-inclusive end-of-course examinations. Exams and individual questions from these examinations may not be used as
 - “practice” examinations, nor
 - for any other purposes.
- Schools that do not use the end-of-course examinations developed by the Commission may be required to submit their comprehensive examinations for Commission review and approval.
- The minimum passing score required by rule on all end-of-course examinations is 75%.

Syllabus Copies

- The public may access this syllabus on the Commission website: www.ncrec.gov
- Copies provided free of charge by the NC Real Estate Commission to *licensed/approved schools* and to *approved instructors*.
- Schools/instructors may reproduce all or part of this syllabus for student use at their own expense, and may charge students for the cost of reproduction.

RECOMMENDED MAJOR SUBJECT AREA EMPHASIS

Pages	Subject Area	Number of Classroom Hours
	Course Orientation and Overview	0.25
1-2	I. Basic Real Estate Concepts	0.75
2-8	II. Property Ownership and Interests	4.5
8-9	III. Property Taxation and Assessment	1.5
9-12	IV. Transfer of Title to Real Property	2.0
12-14	V. Land Use Controls	2.0
15-16	VI. Environmental Issues in Real Estate	0.5
16-24	VII. Brokerage Relationships: Laws and Practice	6.5
24-31	VIII. Agency Contracts (Sales) and Related Practices	6.0
31-33	IX. Basic Contract Law	1.75
33-36	X. Sales Contracts and Related Procedures	7.5
36-42	XI. Real Estate Financing	7.0
43-46	XII. Closing a Sales Transaction	8.0
46-50	XIII. Real Property Valuation	6.0
50-51	XIV. Property Insurance Basics	1.25
51-53	XV. Landlord and Tenant	2.25
53-54	XVI. Property Management	1.0
55-56	XVII. Fair Housing	1.5
56-57	XVIII. Federal Income Taxation of Home Ownership/Sale	0.75
58-61	XIX. Basic Construction	1.0
61	XX. Basic Real Estate Investment	0.5
61-66	XXI. Real Estate License Law and Commission Rules	8.0
66	XXII. Agent Safety	0.5
66-68	XXIII. Real Estate Mathematics <i>[No separate time allocation]</i>	0.0
	Review (Instructor Discretionary Time)	0.5
	Final Examination	<u>3.5</u>
	TOTAL CLASSROOM HOURS	75

REAL ESTATE BROKER PRELICENSING COURSE OUTLINE

I. BASIC REAL ESTATE CONCEPTS [0. 75 hours] [Level 1]

A. Basic Terminology and Definitions

1. The terms *real property*, *real estate* and *land* may be used interchangeably
2. *Land* includes the earth's surface (plus any naturally attached components) down to the center of the earth & upward to infinity
3. *Real Estate* includes *Land* plus all artificially attached items (improvements)
4. *Real Property* includes *Real Estate* plus interests, rights, & benefits of ownership.; may be legally referenced as *Land*, *Tenements* and *Hereditaments*
5. **Personal Property:** All property that is not real property

B. Physical Characteristics of Land

1. **Immobility**
2. **Indestructibility**
3. **Uniqueness** (Non-homogeneity)

C. Economic Characteristics of Land

1. **Scarcity**
2. **Location** (Situs or area preference)
3. **Improvements**
4. **Permanence of Investment**

D. General Concepts of Land Use and Investment

1. **The Highest and Best Use Concept**
2. **Public and Private Land Use Restrictions** [*Brief introduction here; cover in Section V. Land Use Controls*]
3. **Real Estate as an Investment** [*Brief introduction here; cover in Section XX. Basic Real Estate Investment*]
4. **Scope of the Real Estate Business**
5. **The Real Estate Market**

II. PROPERTY OWNERSHIP AND INTERESTS [4.5 hours]

A. The Concept of Property [*Level 2 except as noted below*]

1. Real Property

- a. Basic Definition: Land, the improvements thereon, and the interests, rights & benefits of ownership
- b. The *Bundle of Legal Rights* Concept
 - (1) Basic property rights [*Level 1– this subtopic*]
 - (a) Right to possession
 - (b) Right to control (property & profits)
 - (c) Right of enjoyment (to use in any legal manner)
 - (d) Right of exclusion
 - (e) Right of disposition (to transfer ownership or interests)
 - (2) Appurtenances (appurtenant rights)
 - (a) Subsurface rights
 - (b) Air rights
 - (c) Water rights
 - Riparian rights
 - Littoral rights
 - Terms: *accretion, erosion, and avulsion*
 - Doctrine of Prior Appropriation
 - (d) Right to lateral support
 - (e) Right to subjacent support
 - (f) Benefit of any appurtenant easement [*Cover in depth under subsection D. Encumbrances to Real Property*]
 - (g) Benefit of any protective (restrictive) covenants [*Cover in depth under Section V. Land Use Controls*]

2. Personal Property (Chattel or Personalty)

- a. Moveable items
- b. Severance vs. annexation
- c. Factory-built homes unless permanently affixed to the land

3. **Fruits of the Soil** [*Level 1– this subtopic*]
 - a. *Fructus Naturales*
 - b. *Fructus Industriales (emblems)*

4. **Fixtures** [*Level 3 – this subtopic*]
 - a. Definition
 - b. Total Circumstances Test: Criteria for Determining If Item Is a Fixture
Note: Students should be able to apply these criteria to common fact situations.
 - (1) Intent of annexor
 - (2) Relationship of annexor to property
 - (3) Method of annexation
 - (4) Adaption to real estate
 - c. Trade Fixtures
 - (1) Usually owned & installed by commercial tenant for tenant’s use
 - (2) Remain personal property of the tenant
 - (3) Removable by tenant prior to end of lease
 - (4) Tenant responsible for any damage caused by removal
 - d. North Carolina Agricultural Fixtures
 - (1) Become real property once attached
 - (2) Tenant cannot remove without written agreement with landlord
 - e. Effect of NC Uniform Commercial Code (UCC) (G.S. 25-9-313) concerning security interests in fixtures
 - (1) Filed security agreement gives creditor right to repossess financed item
 - (2) Financed item remains personal property of homeowner until paid for in full

5. **Improvements (on or to land)** – meaning depends on context; *Improved Land* or *Improved Lot* may have dual meaning
Note: On the National exam section, an improvement is an appurtenance.

6. **Factory Built (Manufactured) Housing**
 - a. Manufactured housing
 - (1) Description
 - (a) Built to HUD standards; HUD certification label
 - (b) Titled & regulated by Dept. of Motor Vehicles (DMV)
 - (c) Permanent non-removable steel chassis
 - (2) Personal property until converted to real property by:
 - (a) Attaching to permanent foundation on land owned by owner of home;
 - (b) Removing wheels, axle and moving hitch; and
 - (c) Filing affidavit of conversion to cancel DMV title

- b. Modular housing
 - (1) Description
 - (a) Built to state building code
 - (b) State inspection label with serial number
 - (c) Assembled by builder on-site
 - (2) Becomes real property as soon as assembled on building site

B. Estates in Real Property [Level 1]

1. Freehold Estates

- a. Estates of Inheritance
 - (1) Fee Simple Estate (Fee Simple Absolute)
 - (2) Defeasible Fee Estates
 - (3) Estate for Life of Another (*pur autre vie*)
- b. Estates Not of Inheritance (Life Estates)
 - (1) Estate for Tenant's Own Life (Conventional Life Estate)
 - (2) Marital Life Estates
 - (3) Remainder vs. Reversionary Interest
 - (4) Rights of Life Tenants
 - (5) Homestead

- 2. **Nonfreehold (Leasehold) Estates** [*Mention only; cover under Section XV. Landlord and Tenant*]

C. Ownership of Real Property [Level 2 except as noted below]

1. Severalty (Sole) Ownership

2. Concurrent (Joint) Ownership

- a. Tenancy in Common
 - (1) Undivided fractional interest; may be unequal interest
 - (2) Unity of possession
 - (3) Co-owner may dispose of individual interest without permission of co-tenant(s)
 - (4) Upon death, undivided interest of co-owner passes to the heir(s)
- b. Joint Tenancy

Note: Though used infrequently in NC, joint tenancy is widely used in many other states and is tested on the National exam section.

 - (1) Title must intentionally create joint tenancy
 - (2) 4 required unities/elements
 - (a) Unity of possession
 - (b) Unity of interest

Note: Can be unequal in NC, if clearly stated in title.

- (c) Unity of time
- (d) Unity of title
- (3) Right of survivorship
 - (a) Automatic in states other than NC
 - (b) In NC, survivorship NOT automatic; exact wording in title required for survivorship
- (4) Termination
 - (a) Voluntary agreement of co-owners
 - (b) Partition suit between co-owners
 - (c) Termination of any of the unities, including sale of a co-owner's interest to a new owner
- c. Tenancy by the Entirety
 - (1) Available only to married couples
Note: Default ownership for married buyers in NC.
 - (2) Equal undivided interest
 - (3) Automatic right of survivorship
 - (4) Conveyance requires signatures of both spouses; a spouse cannot convey ½ interest
 - (5) Termination
 - (a) Mutual agreement of spouses
 - (b) Divorce (change to tenants in common)
 - (c) Death of a spouse
 - (d) No right of partition

3. **Common Interest Community Ownership**

- a. Condominium Ownership
 - (1) Governed by horizontal property acts, such as North Carolina Condominium Act of 1986
 - (a) Developer's disclosure requirements
 - (b) Public offering statements
 - (c) Buyer's 7-day rescission period on new condos
 - (d) Resale certificate for resale condos
 - (2) Administered by owners' associations (e.g., HOA)
 - (3) Individual unit owner holds fee simple *title to airspace* for unit
 - (4) Individual unit owners own a share of *common elements* (e.g., land, building exterior, amenities)
 - (a) Own as tenants in common without right of partition
 - (b) Maintenance funded by periodic fees/assessments charged to unit owners
 - (c) Possible exclusive use of *limited common elements* (e.g., balconies, assigned parking or storage areas)
- b. NC Townhouse Ownership
 - (1) Individual unit ownership includes ownership of exterior of the unit and the land upon which the unit sits

- (2) Individual unit owners have use of *common elements* (e.g., amenities)
 - (a) Owned by homeowners' associations (e.g., HOA)
 - (b) Maintenance funded by periodic fees/assessments charged to unit owners
 - c. Cooperative Ownership [*Level 1 – this subtopic*]
 - (1) Title to land and building held by corporation
 - (2) Tenant purchases corporate stock shares to receive *proprietary lease* for a specific apartment for the life of the corporation; no individual deed for units
 - d. Time Share Ownership
 - (1) Allows multiple parties to buy interest in real estate (e.g., resort or hotel property); buyers receive right to occupy property for a specific time period during ownership
 - (2) Use may or may not be transferable per contract
 - (3) Cover NC Time Share Act under Section XX. Real Estate License Law and Commission Rules
4. **Trusts** [*Level 1 – this subtopic*]
- a. Fiduciary arrangement
 - (1) Third party trustee holds assets on behalf of beneficiary
 - (2) Trust agreement sets parameters of trustee's authority
 - (3) May allow assets to pass outside of probate
 - b. Living and testamentary trusts
 - c. Land trusts
 - d. Brokers should deal with trustee vs. beneficiary regarding disposition of real estate

D. Encumbrances to Real Property [*Level 2 except as noted below*]

1. **Liens**

- a. Specific Liens
 - (1) Mortgages (Deeds of Trust) [*Mention only; cover in depth under Section XI. B. Mortgages and Deeds of Trust*]
 - (2) Real Estate Tax and Assessment Liens [*Mention only; cover in depth under Section III. Property Taxation and Assessment*]
 - (3) Mechanics' Liens
 - (a) Definition
 - (b) NC mechanics' lien statutes require all residential or commercial construction projects where the cost equals or exceeds \$30,000 to:
 - a *lien agent* must be appointed
 - owner-occupied single family residences are exempt

- d. Termination of Easements
 - (1) Cessation of purpose
 - (2) Merger of parcels
 - (3) Release by dominant estate owner via quitclaim deed
 - (4) Abandonment
 - e. Effect of Change in Ownership of Dominant or Servient Estate
 - f. Party Wall (*Cross Easements*)
5. **Encroachments**
- a. Examples
 - b. How Detected
 - c. Remedies

III. PROPERTY TAXATION AND ASSESSMENT [1.5 hours]

A. Ad Valorem Property Tax [*Level 2 except as noted below*]

1. **Tax Rate and Calculations** [*Level 3 for Tax Calculations*]
 - a. NC real property tax rate is set annually by municipality
 - b. NC rate expressed as \$xxx per \$100 of assessed value
 - c. Many other states express the tax rate as a *mill rate*. A mill is 1/10th of a cent; a mill rate is described as *mills per dollar*. [A NC tax rate of \$1.50 per \$100 (which is \$0.015 per dollar) is the same as a mill rate of 15 mills per dollar.]

Note: Either of the above rates may be cited in National section questions and students must be able to perform calculations using either rate.
2. **Property Subject to Taxation**
3. **Appraisal and Assessment**
 - a. NC Machinery Act that regulates taxation
 - (1) the assessed value of real property for property taxation purposes in NC must be, with a few exceptions, its market value or "...its true value in money" at the time of assessment.
 - (2) Octennial Reappraisal: NC real property must be reassessed every 8 years
 - b. In other states, the assessed value for property taxation purposes may be a value that is less than market value – such as 50% of market value

Note: National section questions might mention an assessed value that is less than market value and these questions should be answered based on the given information rather than on the NC practice. Also, the term true market value should be assumed to mean market value.

4. **NC Tax Timetable**
 - a. January 1 = tax lien attaches to property
 - b. January 31 = taxable property listed
 - c. July 1 = annual tax rate must be set
 - d. September 1 = tax bill is due and payable
 - e. January 5 of next year = last day to pay tax bill without late penalty
5. **Property Tax Lien**
6. **Special Priority of Tax Liens**

B. Special Assessments [Level 2]

1. **Examples**
2. **Levied by Counties or Cities and Towns** (local municipalities)
3. **Special Priority of Special Assessment Liens**

IV. TRANSFER OF TITLE TO REAL PROPERTY [2.0 hours]

A. Property Description [Level 2]

1. **Adequacy of Descriptions**
2. **Methods of Describing Real Estate**
 - a. Metes and Bounds
 - b. Government (Rectangular) Survey System *[No calculations]*
 - c. Reference to Recorded Plat (Lot and Block)
 - d. Reference to Publicly Recorded Documents
 - e. Informal Reference (e.g., street address)
3. **Property Survey**

B. Methods of Transferring Title [Level 1]

1. **By Descent** (Intestate Succession; No will)
2. **By Will**
*Note: Formerly, the term devise referred to a **real** property transfer and bequest referred to a **personal** property transfer. Now, devise applies to both in NC, but both terms may still be encountered on the National exam section.*
3. **By Voluntary Alienation** (Deed) *[Deeds covered below]*

4. **By Involuntary Alienation**
 - a. Lien Foreclosure Sale [*Mention only; cover under Section IX. Real Estate Financing*]
 - b. Adverse Possession
 - (1) General Requirements
 - (2) Statutory Time Periods for Continuous Adverse Possession
 - c. Escheat
 - d. Eminent Domain
 - (1) Basic Procedures
 - (2) Condemnation is the process
 - (3) Effect of condemnation on a leasehold estate held by a tenant on the condemned property (or some portion thereof)

C. Deeds [*Level 2 except as noted below*]

1. **Essential Elements of a Valid Deed**
 - a. Named parties (Grantor/Grantee)
 - b. Words of conveyance (Granting clause)
 - c. Accurate legal description of property
 - d. Legal capacity of grantor
 - e. Acknowledgment of grantor's signature (notarization)
 - f. Delivery to and voluntary acceptance of the deed by grantee
 - g. Deed must be in writing
2. **Types of Deeds** (Purposes and characteristics of each)
 - a. Types Most Commonly Used in North Carolina and many other states
 - (1) General Warranty Deed (sometimes referred to in other states as a *Full Covenant and Warranty Deed* or just *Warranty Deed*)
 - (2) Special Warranty Deed
 - (3) Quitclaim Deed
 - b. Bargain and Sale Deed – Used in some states; very similar to a *Quitclaim Deed* [*Level 1 – this subtopic*]
 - c. Special Purpose Deeds [*Level 1 – this subtopic*]
 - (1) Trustee's Deed
 - (2) Sheriff's Deed
 - (3) Deed of Gift: Void if not recorded within 2 years
3. **NC Excise Tax** (formerly called *Revenue Stamps* or *deed transfer tax*) on Property Transfers
 - a. Excise Tax Rate
 - b. Calculations [*Level 3 – this subtopic*]
4. **Local Transfer Tax** (imposed by some counties)

D. Title Assurance [*Level 1 except as noted below*]

1. **Title Examination**
 - a. Public Records Search (by attorney or paralegal in NC; by title company staff in many other states)
 - b. Chain of Title
 - c. Abstract of Title
 - d. Opinion on Title (by attorney in NC)

2. **Title Insurance**
 - a. Purpose
 - b. Types of Policies (Owner's and Lender's)
 - c. Basic Policy Coverage
 - d. Cost and Procurement

3. **Title Recordation** [*Level 2 – this subtopic*]
 - a. Purpose
 - b. The Conner Act (*pure race* state)
 - c. Documents Required to be Recorded
 - d. Recording Contracts or Memoranda of Contract
 - e. Recordation Procedures (county Register of Deeds office in NC)
Note: Recordation of lien satisfaction (e.g., mortgage payoff) is needed to clear a title from being encumbered by the lien.

4. **Covenants of Title in Deeds** [*Mention only; covered earlier under Deeds*]

5. **Marketable Title Act and Torrens System**

6. **Action to Quiet Title:** Lawsuit resolution of title disputes (e.g., due to adverse possession claim or some other conflict)

V. LAND USE CONTROLS [2.0 hours]

A. Public Land Use Controls [*Level 2 except as noted below*]

1. **Zoning**
 - a. Historical Overview
 - b. NC Statutory Authority for Governmental Zoning (enabling act)
 - c. Zoning Purposes and General Guidelines
 - d. Zoning Districts (and Codes)
 - e. Zoning Ordinances, Systems (Districts and Codes) and Administration
 - f. Zoning Concepts, Terminology and Special Procedures
 - (1) Nonconforming use
 - (2) Illegal use
 - (3) Zoning amendments
 - (4) Variance

- (5) Special use permit (or special exception)
 - (6) Overlay district
 - (7) Historic preservation zoning
 - (8) Aesthetic zoning
 - (9) Spot zoning
 - (10) Cluster zoning
 - (11) Buffer zone
2. **Urban and Regional Use Planning** [*Level 1 – this subtopic*]
 3. **Subdivision Statutes and Regulations**
 - a. NC Definition of Subdivision
 - b. Typical Subdivision Approval Procedures (NC and elsewhere)
 - c. NC Criminal Penalty for Selling Lots in Unapproved Subdivision [*G.S. 153A-330 et seq*]
 - d. NC Subdivision Streets Disclosure Law [*G.S. 136-102.6*]
 4. **NC Building Codes** [*Mention only; cover under Section XIX. Basic Construction*]
 5. **Regulation of Special Land Types**
 - a. Flood Zones [*Mention only; cover under Section XIV. Property Insurance Basics*]
 - b. Wetlands: Land area where groundwater is at or near the surface of the ground; very susceptible to flooding; subject to many federal, state and local controls
 6. **Highway Access Restrictions** [*Level 1 – this subtopic*]
 7. **Interstate Land Sales Full Disclosure Act** [*Level 1 – this subtopic*]
 8. **Onsite Septic Systems**
 - a. Strongly recommend *soil suitability (perc) test* for unimproved land
 - (1) Improvements permits are valid for a specified period
 - (2) Permit may limit location of system and/or uses that might overload the system (e.g., dishwasher, garbage disposal)
 - b. Brokers should obtain septic permit to verify capacity of septic system and/or any system restrictions
 - (1) Check county health department for permit
 - (2) Capacity indicated by number of bedrooms
 - (3) Maximum occupancy is 2 persons per permitted bedroom
 - (4) Brokers are subject to disciplinary action for any misrepresentation of occupancy limits for property served by an onsite septic system
 - c. Straight-piping is illegal & a material fact

9. **Government Ownership** (e.g., National/State/Municipal Parks; Land acquired for preservation of natural resources) [*Level 1 – this subtopic*]
- B. Privately-Imposed Land Use Controls (Subdivision Restrictive/Protective Covenants)** [*Level 2*]
1. **Purpose**
 2. **Typical Matters Addressed**
 3. **Covenants *Run With the Land*** (*Appurtenant*)
 4. **Enforcement**
5. **When covenants differ from zoning regulations on a particular matter, the more restrictive of the two will control**
- C. Licensees' Responsibilities Regarding Verification of Land Use and Recognition of Potential Land Use Problems** [*Level 3*]
- Note: Under the NC Real Estate License Law, a licensee has a duty to avoid any misrepresentation regarding permitted land use, to recognize potential land use problems, and an affirmative duty to discover and disclose any such problems.*
1. A broker must avoid any representation about a property's zoning or permitted land uses without verifying the property's zoning and, if appropriate, flood hazard area maps and any restrictive covenants affecting the property.
 2. A broker is expected to be able to recognize *red flag* situations regarding land use issues and to advise the parties involved of the potential problem and recommend that the interested parties verify the permitted land uses. *Recognizing and taking appropriate action with regard to potential problems with restrictive covenants is particularly important.*
 3. A broker is expected to be able to recognize patent signs of flooding on a property or when a property's location may make it susceptible to flooding (e.g., location near a river or creek). A broker should assist the parties with locating and reviewing the flood hazard area maps (FEMA maps) or checking with the local planning office to determine if there is any potential flooding problem.
 4. A broker is expected to be aware of planned major highway or public transportation changes in the area where the agent works and to disclose such information when appropriate.

VI. ENVIRONMENTAL ISSUES IN REAL ESTATE [0.5 hours]

A. Significance of Environmental Issues for Real Estate Brokers [Level 1]

Note: The presence on a property of any of the environmental hazards covered below is a material fact that must be disclosed to all transactional parties including prospective buyers and lessees.

B. Selected Hazards Pertinent to Real Estate Brokerage and Relevant Laws and Regulations [Level 1 except as noted below]

1. Lead [Level 2 – this subtopic only]

Note: Review the Lead-Based Paint or Lead-Based Paint Hazard Addendum, NCAR Form 2A9-T.

- a. Lead-based paint; residential use banned in 1978; disclosure required by federal law since 1992
- b. Lead-contaminated dust or soil (e.g., on the floor or accumulated in water passing through lead plumbing)
- c. Serious health risk, especially to children and pregnant women
- d. Federal **Residential Lead-Based Paint Hazard Reduction Act of 1992** and updated HUD and EPA rules
 - (1) Disclosure requirement
 - (2) Application – *target* housing
 - (3) Agents' responsibilities (under federal rules and NC Real Estate License Law)
 - (4) Enforcement and penalties
- e. N.C. Lead-Based Paint Hazard Management Program
 - (1) Inspectors and firms/individuals performing renovation, repair and painting projects for compensation in homes and day-care facilities built before 1978 must be certified
 - (2) Fines for violations up to \$750 per day
 - (3) Do-it-yourself homeowners are exempt from certification requirement

2. Asbestos

- a. Widely used in building supplies prior to ban in 1978
- b. Characteristics
- c. Serious health risk
- d. Remediation

3. Radon

- a. Characteristics and where found
- b. Health risk
- c. Radon presence over the EPA's recommended level of 4.0 picocuries is a material fact
- d. Remediation through mitigation system

4. **Formaldehyde**
 - a. Characteristics
 - b. Found in pressed-wood products (e.g., particle board, some plywood paneling, some fiberboard, etc.) and in urea formaldehyde foam insulation (UFFI)
 - c. Health risk
 - d. Remediation

5. **Toxic Mold**
 - a. Characteristics and where found
 - b. Health risk
 - c. Potential problems with homeowner's insurance
 - d. Remediation

6. **Petroleum leaking from underground petroleum storage tanks**
 - a. Regulated by N.C. Leaking Petroleum Underground Storage Tank Cleanup Act
 - b. Owner of a property with a problematic underground storage tank may be liable for cleanup even if caused by previous owner

7. **Hazardous substances** (e.g., chemicals, wastes, etc.)
 - a. Regulated by federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
 - b. Owner of a property with hazardous waste may be liable for cleanup even if caused by previous owner

VII. BROKERAGE RELATIONSHIPS: LAW AND PRACTICE [6.5 hours]

A. Overview of Laws and Regulations Governing Brokerage Relationships *[Level 1]*

B. Law of Agency — Basic Concepts *[Level 2 except as noted below]*

1. **Basic Agency Terms**
 - a. Agency
 - b. Principal/client
 - c. Agent
 - d. Subagent
 - e. Third Party
 - f. Facilitator/Transactional Broker
 - (1) Nonagency relationship in which a real estate licensee assists buyer and seller in reaching an agreement in a real estate transaction without representing interests of either party; treats both parties equally as customers
 - (2) Disclosure of material facts is normally required
 - (3) Not allowed in North Carolina

2. **The Real Estate Agent's Fiduciary Role**
3. **Classifications of Agency Relationships**
 - a. Universal Agency
 - b. General Agency
 - c. Special Agency
4. **Methods of Creating Real Estate Agency Relationships**
 - a. Relationships between Brokers/Firms and Transaction Parties (Formed by Agency Contracts) *[Mention only; cover these contracts in Section VIII. Agency Contracts and Related Practices]*
 - (1) Listing Contract
 - (2) Buyer Agency Contract
 - (3) Dual Agency Contract
 - (4) Property Management Contract
 - (5) Tenant Representation Contract
 - b. Relationships between Brokers and Firms *[Level 1] [Mention only; cover these contracts in Section VIII. Agency Contracts and Related Practices]*
 - (1) In-House Brokerage Employment Contracts
 - (2) Cooperation Agreements between Brokers/Firms
 - c. By Conduct of Parties (Implied Agency) *[Level 1]* – For example, cooperation between firms based on brokers’ actual conduct and custom rather than an explicit agreement
5. **Scope of Agent’s Authority**
 - a. Express Authority
 - b. Implied Authority
 - c. Apparent Authority

C. Real Estate Agency Relationships *[Level 3]*

1. **The Basic Agency Relationship**
 - a. Consumer Employs Sole Practitioner Broker
 - b. Consumer Employs a Real Estate Firm
2. **Agency Relationships in Real Estate Sales (Relationships of Parties; Advantages and Disadvantages of Various Options)**
 - a. Exclusive Seller Agency
 - b. Exclusive Buyer Agency
 - c. When Different Firms/Brokers Cooperate on a Sale
 - (1) Exclusive Agency
 - (2) Seller Subagency
 - d. Both Seller and Buyer Agency with Dual Agency for In-House Sales *[G.S. 93A-6(a)(4) & (5); Commission Rule A .0104(d) and (i) - (n)]*

- (1) Unintentional, undisclosed dual agency prohibited
 - (2) Intentional, disclosed dual agency
 - (3) Dual agency with designated agents
3. **Agency Relationships in Real Estate Rentals** (Overview of Typical Agency Relationships When Licensees Handle Residential and Commercial Rentals)
 4. **Disclosure of Agency Relationships** [*G.S. 93A-6(a)(4) and (6); Commission Rule A .0104 (c-i), (m), (o) and (p)*]
 - a. Commission's Mandatory **Working with Real Estate Agents** Brochure [*Commission Rule A .0104(c); brochure is available at www.ncrec.gov*]
 - (1) Provision to Every Prospective Buyer or Seller (residential and commercial) at *First Substantial Contact*
 - (2) Mandatory review of the brochure
 - (3) Completion and retention of acknowledgment panel of brochure (include handling refusal by consumer to sign panel)
 - b. Disclosure of Agency Status by Seller's Agent or Subagent to Prospective Buyer [*Commission Rule A .0104(e)*]
 - (1) At *first substantial contact* and in writing (auction sales exception)
 - (2) Examples of *first substantial contact*
 - (3) Use of *Disclosure of Seller Subagency* portion of the acknowledgment panel on the **Working with Real Estate Agents** brochure
 - c. Disclosure of Agency Status by Buyer's Agent to Seller or Seller's Agent at Initial Contact [*Commission Rule A .0104(f)*]
 - d. Disclosure of and Consent to Proposed Dual Agency [*G.S. 93A-6(a)(4) and (6); Commission Rule A .0104(d), (i), and (n)*]
 - e. Disclosure of and Consent to Proposed Designated (Dual) Agency [*G.S. 93A-6(a)(4) and (6); Commission Rule A .0104(j-m)*]
 - f. Broker with ownership interest in listing [*Commission Rule A .0104(o)*]
 - (1) Broker cannot represent the buyer of residential listing
 - (2) Broker can represent the buyer of commercial listing if
 - (a) Broker owns less than 25% interest
 - (b) Buyer consents after full written disclosure of broker's ownership interest
 - g. Disclosure in Auction Sales Situations [*Rule A .0104(g-h)*]

D. Agent's Duties to Principal [Level 3]

1. **Agent's Duties to Principal under the Law of Agency**
 - a. Loyalty and obedience
 - b. Confidentiality
 - c. Skill, care and diligence
 - d. Disclosure of Information
 - e. Accounting
2. **Termination of Agency Relationship**
 - a. How relationship may be terminated
 - b. When agent's duties to principal typically end
3. **Agent's Duties to Principal under the Real Estate License Law and Commission Rules**
 - a. Duty to avoid any willful or negligent misrepresentation of a material fact to the principal, and to disclose to the principal all material facts about which the agent has knowledge or should reasonably have acquired knowledge [G.S. 93A-6(a)(1) and (3)]
 - b. Duty to avoid making any false promises to the principal [G.S. 93A-6(a)(2) and (3)]
 - c. Duty to avoid any undisclosed conflict of interest [G.S. 93A-6(a)(4); Commission Rule A .0104(d)-(f), (i) and (j)]
 - d. Duty to properly account for funds held in trust for the principal [G.S. 93A-6(a)(7), (12) and (14)]
 - e. Duty to act competently in the performance of services required by the agency relationship [G.S. 93A-6(a)(8); various rules]
 - f. Duty to avoid improper conduct and to be honest in all dealings with the principal (as well as in dealings with other parties) [G.S. 93A-6(a)(10)]
 - g. Duty to deliver a copy of any written agency and transactional documents to client within 3 days of broker's receipt of the executed document [G.S. 93A-6(a)(13); Commission Rule A .0106]
 - h. Duty to disclose any commissions, referral fees, kickbacks and similar payments from third parties [Commission Rule A .0109]

E. Agent's Duties to Third Persons under the Real Estate License Law and Case law [Level 3]

*Note: This topic involves a study of a broker's duties to third persons **under NC Real Estate License Law and case law**. Emphasis should be on a proper understanding of misrepresentation and omission, and especially the affirmative duty to discover and disclose material facts.*

1. **Duty to avoid any willful or negligent misrepresentation of a material fact to a third party and to disclose to the third party all material facts relating to the property about which the broker has knowledge or should reasonably have acquired knowledge [G.S. 93A-6(a)(1) and (3) and case law]**

Note: Refer to the License Law and Rules Comments in the Commission's License Law booklet (available at www.ncrec.gov) for additional explanations and examples concerning Misrepresentation and Omission.

- a. Willful Misrepresentation
- b. Negligent Misrepresentation
- c. Willful Omission
- d. Negligent Omission

Note: Explain how the prohibition against negligent omission gives rise to the affirmative duty to discover and disclose material facts.

Important Note: *Be able to explain the difference in the standard for determining what is a material fact when disclosing information to a principal versus a third party.*

2. **General duty to treat any party honestly and fairly and to avoid conduct that constitutes improper, fraudulent or dishonest dealing** [G.S. 93A-6(a)(10) and case law]
3. **Other duties arising from NC License Law and Commission Rules**
 - a. Duty to avoid making any false promises to a third party [G.S. 93A-6(a)(2) and (3)]
 - b. Duty to properly account for any funds belonging to others which come into the broker's possession [G.S. 93A-6(a)(7), (12) & (14)]
 - c. General duty to act competently in handling real estate transactions [G.S. 93A-6(a)(8); various rules]
 - d. Duty to deliver a copy of any written agency and transactional documents to customer within 3 days of broker's receipt of the executed document [G.S. 93A-6(a)(13); Commission Rule A .0106]
 - e. Duty to disclose to third parties any referral fees or kickbacks received for services recommended or procured on third parties' behalf [Commission Rule A .0109]

F. Other Laws Governing the Disclosure of Information in Real Estate Transactions [Level 3 except as noted below]

1. **Stigmatized/Psychologically Impacted Properties – Death, Illness or Conviction of Certain Crimes NOT a Material Fact in NC** [G.S. 39-50; 42-14.2]
 - a. Previous occupant died or had a serious illness while occupying the property
 - b. A convicted sex offender required to register with law enforcement authorities occupies, occupied, or resides near a property
 - c. Reputation as a haunted property
2. **Unfair or Deceptive Trade Practices Act** [G.S. 75-1.1][Level 1 – this subtopic]
 - a. Applies to real estate brokers
 - b. Possibility of treble damages

3. **Sellers' and Buyers' Responsibilities under the Common Law**
 - a. *Doctrine of caveat emptor*
 - b. Fraud or misrepresentation by seller
 - c. Broker's disclosure responsibilities under Real Estate License Law not affected by *doctrine of caveat emptor*

4. **NC Residential Property Disclosure Act**
 - a. Requirement for most sellers of 1-4 residential units to provide completed disclosure forms to prospective buyers prior to presentation of first offer
 - b. Applicability of and exemptions to the law
 - c. Real estate agents' responsibilities to advise seller of disclosure requirement, the need for continued accuracy, and to assure timely delivery of disclosure forms
Note: Agent must NOT complete the form for the seller.
 - d. Review of *Residential Property and Owners' Association Disclosure Statement* form
Note: The text of the form is included in Commission Rule A .0114; Form REC 4.22 is available at www.ncrec.gov.
 - e. Review of *Mineral and Oil and Gas Rights Mandatory Disclosure Statement* form
Note: The required content of the form is included in Commission Rule A .0119; Form REC 4.25 is available at www.ncrec.gov.
 - f. Broker's disclosure responsibilities under Real Estate License Law not affected by sellers' disclosure under this Act

5. **Sale of Property "As Is"**
Note: Broker's disclosure responsibilities under Real Estate License Law not affected by "as is" status.

6. **Residential Lead-Based Paint Hazard Reduction Act** [*Mention only: previously covered under Section VI. Environmental Issues in Real Estate*]

G. Liabilities and Consequences of Agent's Breach of Duties [*Level 3*]

1. **Disciplinary Action by NC Real Estate Commission Against Agent**
2. **Civil Liability of Agent**
3. **Criminal Liability of Agent**
4. **Civil Liability of Principal** (for Agent's Misconduct)

H. Dual Agency [Level 3]

1. Dual Agency Basics

- a. Inherent potential conflict of interest: major practical problem centers around agent's common law duty to disclose all material facts to his/her principal
- b. Unintentional, undisclosed dual agency is prohibited
- c. Intentional, disclosed dual agency requires informed, written consent of both principals [G.S. 93A-6(a)(4) and Commission Rule A .0104]

2. Current Approaches to Handling Dual Agency in North Carolina

- a. Limiting dual agent's duties by contract
Note: Reference the North Carolina REALTORS® Standard Forms #101 Exclusive Right to Sell Listing Agreement and #201 Exclusive Buyer Agency Agreement.
 - (1) Limiting disclosure of certain information to principals
 - (2) Limiting the duties of loyalty and skill, care and diligence
 - (3) Effectually eliminates agent's role as an *advocate* for either client
- b. Designated dual agency [Commission Rule A .0104(i)-(n)]
 - (1) Concept
 - (2) Duties of a designated agent
 - (3) Other provisions of rule
 - (4) Practical considerations with practicing dual agency
- c. Individual broker dual agent under Commission Rule A .0104(n)

I. Duties and Liabilities of Principals [Level 3]

1. Principal's Duties to Agent

- a. Good Faith
- b. Compensation

2. Principal's Duties to Third Persons

3. Liabilities and Consequences of Principal's Breach of Duties

- a. Possible Criminal Liability
- b. Civil Liability

VIII. AGENCY CONTRACTS (SALES) AND RELATED PRACTICES [6.5 hours]

A. Earning a Real Estate Brokerage Fee (Sales) [Level 3]

1. Earning a Fee as a Listing Agent

- a. Legal Requirements for Establishing Claim to a Fee
 - (1) Active License in Good Standing
 - (2) Valid Listing Contract
 - (3) Procurement of *Ready, Willing and Able Buyer*

- b. Sharing of the Listing Broker's Fee
 - (1) The *In-House* Sale
 - (2) The Co-brokered Sale
 - Note: MLS arrangements to be discussed in detail later in this section.*
 - (3) Co-brokerage with Broker Licensed in Another State

2. **Earning a Fee as a Buyer's Agent**

- a. *Retainer Fee* and *Success Fee*
- b. Sharing in the Listing Broker's Fee

3. **Legal Payment to Expired or Inactive Broker**

- a. License must be on active status when brokerage activity is performed
- b. Broker must stop all brokerage activity when license expires or becomes inactive

B. General Requirements for Agency Contracts (Sales and Rental Transactions)
[Level 3]

1. **Requirement for Written Agency Agreement**

[Commission Rule A .0104(a)]

- a. Basic requirement including signatures of all parties
- b. Exception: non-exclusive oral buyer or tenant agency contracts for an unspecified period of time if reduced to writing prior to 1st offer

2. **Written Employment of Broker/Firm Must Be for a Stated Definite Period of Time**

3. **Agreement Must Contain Prescribed Nondiscriminatory Language**

C. Listing Contracts *[Level 3]*

1. **Types of Listing Contracts** *[Detailed coverage follows this introduction to the basic types]*

- a. *Full Service* Listing Contracts
 - Note: Clarify the characteristics that make the three types different, especially entitlement to compensation.*
 - (1) Open
 - (2) Exclusive Agency
 - (3) Exclusive Right to Sell
- b. Limited Service Listing Contracts
- c. Protection Agreements

2. **Typical Full Service Listing Contract Provisions and Practice Preparation of Listing Contracts**

Note: Use the current NC Realtors Exclusive Right to Sell Listing Agreement #101 and the Guidelines G101 for illustration.

- a. Term of Agreement
- b. Property Description (including fixtures and personal property)
- c. Listing Price and Terms of Sale
- d. Firm's Compensation (including *protection period* provision)
 - (1) Percentage of Gross Sale Price
 - (2) Flat Fee
 - (3) Net Listing
- e. Cooperation with/Compensation to Other Firms
- f. Firm's Duties
- g. Marketing
- h. Earnest Money
- i. Seller's Representations and Duties
- j. Dual/Designated Agency Authorization
- k. Names and Signatures of Parties

3. **Limited Service Listing Contracts**

- a. Services commonly provided and typical provisions
- b. Limits services but not limited duties, especially duties under the Real Estate License Law and Commission Rules
- c. Typical fee arrangements

4. **Protection Agreement**

- a. Purpose – agreement with seller for a single transaction, usually when dealing with a FSBO situation
- b. See NC Realtors *Unrepresented Seller Disclosure and Fee Arrangement* Standard Form #150

5. **Co-listing by More than One Broker/Firm**

6. **Termination of Listing Contracts** [*See Discharge of Contracts under Section IX. Basic Contract Law*]

D. Cooperation Among Brokers [*Level 2*]

1. **Multiple or Cooperative Listing Services**

- a. Basic Operations
- b. Broker Relationships in MLS/CLS
- c. Advantage of an MLS/CLS

2. **Antitrust Law**
 - a. Price fixing: any broker collaboration in setting fees
 - b. Boycotting [Examples: (1) joining to boycott certain service providers, such as certain appraisers, attorneys, home inspectors, etc. (2) excluding certain categories of brokers, such as limited service listing brokers, from MLS membership]

E. Laws Affecting Solicitation of Clients/Customers [Level 1]

1. **Solicitation of Active Clients of Other Firms/Brokers**
 - a. Violates the Code of Ethics of the National Association of REALTORS® (which governs members of that association)
 - b. May constitute *tortious interference with contractual relations*, which may be a basis for a civil lawsuit
2. **Do Not Call Laws/Rules (Federal and NC)**
 - a. Basic restriction – the *Do Not Call Registry*
 - b. Primary exemptions
 - (1) Express permission or invitation
 - (2) Established business relationship (Note: 18-month limit)
 - (3) Personal relationship
 - c. Penalties
3. **Junk Fax Laws/Rules**
 - a. Restricts unsolicited fax transmissions without recipient's permission
 - b. Requires prominent *opt out* notice on fax cover sheet
 - c. Business relationship exemption (no time limit)
4. **CAN-SPAM Act**
 - a. Restricts spamming by email
 - b. *Opt out* option required

F. Listing Practices (Working with Sellers) [Level 3]

1. **Prelisting Activities** – Gather documents needed for prelisting meeting and advise seller to gather the following information:
 - a. Copy of Seller's Deed
 - b. Copy of Survey (if available)
 - c. Copy of Protective Covenants, Homeowners' Association Information (including dues and assessments)
 - d. Balance Due on Seller's Mortgage(s) and Status of Mortgage(s)

2. **Prelisting Meeting**
 - a. Agency Disclosure: Provide & review agency brochure (covered previously under Section VII. Brokerage Relationships) and company policies/services while taking care to caution consumer about sharing confidential information until agency is established
 - b. Inspect prospective seller's property and prepare listing data sheet
 - (1) Note all significant features *and defects*
 - (2) Identify personal property to be transferred and fixtures not to be conveyed
 - (3) Suggest needed repairs, improvements, staging, etc.
 - (4) Make sure listing data is accurate and complete
 - c. Inquire about construction/alteration/repair permits
 - d. Inquire about septic system capacity/permit (if property has onsite septic system)
 - e. Discuss marketing plan and brokerage fee
 - f. Determine if a potential *short sale* situation exists
 - g. Verify acreage of lot/parcel from seller's deed and/or survey
 - h. Verify and properly report building square footage
 - (1) Terminology
 - (2) Living Area Criteria
 - (a) Adequately heated by permanently installed heating system
 - (b) Finished to generally accepted level of construction
 - i. Ceilings at least 7 feet tall
 - ii. Sloped ceilings: at least ½ of area at 7+ feet, no lower than 5 feet
 - (c) Directly accessible from other heated living space
Note: Stairs count on both levels accessed.
 - (3) Measuring and calculating square footage
 - (4) Broker's responsibility
Note: Do not rely on tax records, blueprints or previous listing information.
3. **Determine an Appropriate Listing Price**
 - a. **Perform a Comparative Market Analysis** – Critical first step!
[Mention only; cover in Section XIII. Real Property Valuation]
 - b. **Calculate the Sale Price Needed to Net "X" Amount to Seller OR Estimating Net to Seller with Various Sale Prices**
 - c. **Calculate Net Profit/Loss to Seller on Sale**
 - d. **Review with Seller all Factors that Should Be Considered**
4. **Complete Listing Contract Form**
Note: Listing price must be determined before seller signs listing contract!
5. **Comply with North Carolina Residential Property Disclosure Act** including Mineral and Oil and Gas Disclosure if applicable *[Mention only; covered previously in Section VII. Brokerage Relationships]*

6. **Comply with Residential Lead-Based Paint Hazard Reduction Act**, if applicable [*Mention only; covered previously in Section VI. Environmental Issues in Real Estate*]

7. **Market listed property** per contract and customary marketing practices

G. Buyer Agency Contracts [*Level 3*]

1. **Types of Buyer Agency Contracts**

- a. Nonexclusive
- b. Exclusive

2. **Typical Provisions and Practice Preparation of Buyer Agency Contracts**

Note: Use NC Realtors buyer agency agreements: Standard Forms #201 and #203.

3. **Termination**

Note: See Discharge of Contracts under Section IX. Basic Contract Law.

H. Working with Buyers [*Level 3*]

1. **Provide and Review Working with Real Estate Agents Brochure; Explain Agency Relationship; Determine and Create the Agency Relationship** (Obtaining an Agreement)

- a. Working with Buyers as a Seller's Subagent
- b. Working with Buyers as a Buyer's Agent
 - (1) Option of Acting under an Oral Buyer Agency Agreement When Permitted
 - (2) Exclusive vs. Nonexclusive Agreement
 - (3) Option of Limiting Duration of an Exclusive Agreement
 - (4) Option of Limiting Exclusive Agreement to Specific Properties
- c. Switching from a Seller's Subagent to a Buyer's Agent
- d. Working with an Unrepresented Seller (e.g., For Sale By Owner or FSBO) as a Buyer's Agent

2. **Prequalify the Buyer** (Preferable approach is to have buyer prequalified by a mortgage loan officer.)

Note: Qualification of buyers using expense to income formulas utilized by lenders is covered in depth in Section XI. Real Estate Financing.

3. **Select Properties for Showing**

- a. Consider buyer's desires and financial qualifications
- b. Comply with Fair Housing laws
- c. Do not limit selections to properties listed by the broker's firm or exclude properties listed by a limited services broker

4. **Schedule Properties for Showing**
 - a. Disclose agency status to listing agent (or seller if a FSBO)
 - b. Request compensation by seller or listing firm if applicable
5. **Show Properties**
6. **Discover and Disclose Material Facts to Buyer** [*Brief reminder; covered previously* Section VII. Brokerage Relationships]
7. **Obtain or Verify Information for Buyer** (e.g., Property Disclosure Statements, HOA info, protective covenants, other info requested by buyer)
8. **Perform a CMA** (to assist buyer in determining an appropriate offer price) [*Mention only; cover in* Section XIII. Real Property Valuation.]
9. **Assist Buyer with Preparation of Offers; Present and Negotiate Offers** [*Mention only; cover under* Sales Contract Procedures *in* Section X. Sales Contracts and Related Procedures]
10. **Assist the Buyer with Preparations for Closing** [*Mention only; cover in* Section XII. Closing a Sales Transaction]

I. Broker/Firm Employment Contracts with Affiliated Licensees [*Level 1*]

1. Typical Provisions
2. Employee vs. Independent Contractor under IRS Rules

IX. BASIC CONTRACT LAW [1.75 hours]

A. Basic Contract Concepts, Terminology and Classifications [*Level 2*]

1. **Definition of a Contract**
2. **Express/Implied**
3. **Bilateral/Unilateral** [*Level 1- this subtopic*]
4. **Executed/Executory**
5. **Valid (Enforceable)/Void (Unenforceable)/Voidable**
6. **Addenda/Amendments**

- B. Essential Elements of a Contract** *[Level 2 except as noted below]*
 - 1. **Mutual Assent** (Offer and Acceptance) *[Level 3 – this subtopic]*
 - a. The Offer
 - b. Acceptance
 - c. Counteroffers
 - d. Termination of Offers
 - 2. **Consideration**
 - 3. **Capacity of the Parties**
 - 4. **Lawful Objective**
- C. Requirement for Reality of Consent** *[Level 2]*
 - 1. **Mistake**
 - 2. **Fraud and Misrepresentation**
 - 3. **Duress**
 - 4. **Undue Influence**
- D. Contract Law and Auction Sales** *[Level 1]*
 - 1. **Basic procedures**
 - 2. **With Reserve vs. Without Reserve**
- E. Statute of Frauds (applied to Real Estate Contracts)** *[Level 2]*
 - 1. **Contracts to Sell or Convey any Interest in Real Property**
 - 2. **Leases of Real Property Exceeding 3 Years in Duration**
- F. Other Concepts** *[Level 2]*
 - 1. **Uniform Electronic Transaction Act (UETA)**
 - a. Applicable to real estate transactions
 - b. Electronic signatures are binding on contract parties
 - 2. **Discharge of Contracts**
 - a. Agreement of the Parties
 - b. Full Performance
 - c. Impossibility of Performance
 - d. Operation of Law

3. **Assignment of Contracts**
4. *Time is of the essence*
5. **Novation**
6. **General Rules for Interpretation of Contracts**
 - a. *Parol evidence rule*
 - b. Written overrides oral
 - c. Contracts are interpreted as a whole
 - d. Words will be interpreted per their ordinary meaning unless other intent is clearly noted
 - e. Written overrides preprinted language
 - f. Ambiguous terms will be interpreted against the party that prepared the section in question
7. **Contract Remedies**
 - a. Money Damages
 - b. Rescission
 - c. Specific Performance

Note: Typically limited by the courts to being a remedy for a buyer upon breach by the seller, but may be permitted in some instances as a seller's remedy in some states.

X. SALES CONTRACTS AND RELATED PROCEDURES [7.5 hours]

A. Introduction [Level 2]

1. **Importance of the Sales Contract**
2. **Drafting of Sales Contracts by Brokers Prohibited** [*G.S. 93A-6(a)(12); Commission Rule A .0111; and G.S. 84-2.1.*]
3. **Importance of Using the Appropriate Standard Sales Contract Form**
4. **Sources of Contract Forms**

B. The Offer to Purchase and Contract (May be referred to as *Sales Contract, Purchase Contract, Earnest Money Contract* or some similar name in other states) [Level 3]

1. **Requirements of Regarding Preprinted Sales Contract Forms Used by Broker** [*Commission Rule A .0112*]
 - a. Inclusion of all required data
 - b. Prohibition against inclusion of
 - (1) Brokerage compensation
 - (2) Liability disclaimer of the broker

- c. Prohibition against broker drafting contract language even at instruction of a client
- 2. **The Offer to Purchase and Contract (OPC) Standard Form 2-T** and standard addenda forms jointly approved by NCAR and NCBA. Also, the *Vacant Lot/Land Offer to Purchase and Contract* Standard Form 12-T and the standard addenda forms listed below.
 - a. Proper Use of the OPC Form and the Vacant Lot/Land OPC Form
 - b. Item-by-Item Review of all OPC Contract Provisions and Instructions on Proper Form Completion Using the *Guidelines*.
 - c. Review and Proper Use and Completion of Commonly Used Standard Addenda Forms (provided by NCAR and NCBA for use with the standard Offer to Purchase and Contract form) and listed below.
 - (1) Additional Provisions Addendum (2A11-T)
 - (2) Back-Up Contract Addendum (2A1-T)
 - (3) Contingent Sale Addendum (2A2-T)
 - (4) FHA/VA Financing Addendum (2A4-T)
 - (5) Lead-Based Paint or Lead-Based Paint Hazard Addendum (2A9-T)
 - (6) Short Sale Addendum (2A14-T)
 - (7) Buyer Possession Before Closing Agreement (2A7-T)
 - (8) Seller Possession After Closing Agreement (2A8-T)
 - (9) Vacation Rental Addendum (2A13-T)

Note: If, after licensure, a broker becomes a member of the NC REALTORS®, the association has numerous other contract-related forms that deal with matters such as repair requests, negotiations, termination of contract, etc. If a licensee is not a REALTOR®, an attorney must prepare any contract-related forms provided by the licensee to the parties if the content of the document will affect the parties' legal rights.

C. Sales Contract Procedures [Level 3]

- 1. **Offer and Acceptance**

Note: Review legal requirements and apply them to the making of sales contracts through the use of practical examples.

 - a. Offer and acceptance using traditional methods (direct personal dealing, delivery through agents, mail, phone communication, etc.)
 - b. Offer and acceptance by electronic means (e-mail, DocuSign, etc.)
- 2. **Submitting Offers to Sellers** (including back-up offers)
 - a. All offers must be presented within 3 days of broker's receipt of executed offer [*Commission Rule A .0106(a)*]
 - b. Multiple offers must be presented

- c. Agent does not have authority to independently accept or reject offers

3. **Handling Contract Modifications and Counteroffers**

4. **Handling Earnest Money and Due Diligence Fee**

[Instructor Note: You may choose to cover this topic here or in Section XXI. Real Estate License Law and Commission Rules.]

5. **Handling Option Money** (with Option to Purchase Contracts)

6. **Furnishing Copies of Offers and Contracts to Buyer and Seller**

[Commission Rule A .0106(a)]

D. Installment Land Contract (Also referred to as **Contract for Deed** or **Land Contract**) *[Level 1]*

1. **Definition and Purpose**

2. **Typical Provisions**

*Note: The **buyer** is typically responsible for property taxes, assessments, homeowner dues and property insurance during the contract period.*

3. **Rights of Parties**

4. **Advantages and Disadvantages of Both Buyer and Seller**

E. Option to Purchase Real Estate *[Level 1]*

1. **Definition and Purpose**

2. **Rights of Parties**

3. **Requirements of Options**

F. Agreements for Preemptive Rights *[Level 1]*

1. **Right of First Refusal** (Distinguish from *option* and *right of first opportunity to purchase*.)

2. **Right of First Opportunity to Purchase** (Distinguish from *option* and *right of first refusal*.)

Important Note: *Buyers and sellers should be referred to an attorney for preparation of an installment land contract, option contract, right of first refusal, or right of first opportunity to purchase and advice regarding these documents. Drafting of such documents by a broker constitutes the unlawful practice of law.*

XI. REAL ESTATE FINANCING [7.0 hours]

A. Basic Finance Concepts, Terminology and Calculations [Levels as indicated]

1. **Basic Concepts and Terminology [Level 1]**
 - a. Principal and Interest
 - b. Amortization and Debt Service (including PITI)
 - (1) Equity
 - (2) Usury
 - c. Points, Discount, and Yield
 - d. Loan Fees, Loan Value and Loan-to-Value Ratio
2. **Calculations [Level 3]**

B. Mortgages and Deeds of Trust [Level 1]

1. **Basic Mortgage Terminology and Concepts**
 - a. Mortgage, Mortgagor and Mortgagee
 - b. Promissory Note (Mortgage Note)
 - c. Deed of Trust, Grantor, Trustee and Beneficiary
 - d. Lien Theory/Title Theory
 - e. Default
 - f. Foreclosure and Statutory Redemption Period
 - g. Equity of Redemption
2. **The Mortgage Note**
 - a. Essential Elements of a Valid Note
Note: A promissory note is a form of contract.
 - b. Special Note Provisions
 - (1) Acceleration Clause
 - (2) Prepayment Penalty Clause
 - (3) Due-On-Sale Clause
 - c. Negotiable Note vs. Nonnegotiable Note
 - d. Some states use a *bond* in lieu of a promissory note
3. **The Mortgage (or Deed of Trust) Instrument**
 - a. Distinction between a Mortgage and Deed of Trust
 - b. Essential Elements
Note: A mortgage or deed of trust is a form of contract.
 - c. Parties to Mortgages/Deeds of Trust
 - d. Rights and Obligations of Parties
Note: The mortgagor (borrower) is responsible for maintaining the pledged property to avoid the possibility of foreclosure due to deferred maintenance.
 - e. Signature of Spouse
Note: If husband and wife are buying as tenants by the entirety (joint tenants in many other states) and only one spouse signs the mortgage note, both spouses must still sign the mortgage or deed of trust.

4. **Rights of Borrowers**
 - a. Right to Possession
 - b. Right (Equity) of Redemption

5. **Rights of Mortgage Lenders**
 - a. Right to Foreclose
 - (1) Foreclosure Methods
 - (a) Judicial
 - (b) Power of Sale (*nonjudicial*)
 - (c) Strict
 - (2) Deficiency Judgment
 - b. Right to Transfer (Assign) the Mortgage

6. **Short Sale**
 - a. Definition
 - b. Procedures
 - c. Rights of Parties
 - d. Broker's Role

C. Sale of Mortgaged Property [Level 2]

*Note: Explain **briefly** the legal effect on seller and buyer in each of the following sales.*

1. **Cash Sale** – Seller's Existing Mortgage Paid Off
2. **Sale with Assumption of Seller's Existing Mortgage**
3. **Purchase Subject to Seller's Existing Mortgage [Level 1 – this subtopic]**

Note: Assumptions of mortgages and purchases subject to a mortgage occur very infrequently because of due on sale clauses in most modern mortgages.

4. **Short Sale [Covered previously in this section]**

D. General Categories of Residential First Mortgage Loans [Level 2 except as noted below]

1. **Conventional Mortgage Loan**
 - a. General Characteristics
 - b. Conforming and Nonconforming
 - c. Insured [Private Mortgage Insurance (PMI)] vs. Noninsured (including loan-to-value requirement for no PMI)
 - d. Home Equity Loan and Home Equity Line of Credit (HELOC)

2. **FHA-insured Mortgage Loan**

- a. Loan program operated by HUD
- b. Title II, Section 203(b) Program – most widely used program
 - (1) Applies to residential 1-4 unit property loans
 - (2) General Characteristics
 - (a) Fixed-rate loans with up to 30-year terms made by lenders under FHA guidelines and FHA provides mortgage insurance
 - (b) Owner (borrower) occupancy required
 - (c) Maximum loan amount (minimum down payment) varies by region
 - (d) Interest rates set by lender, not the FHA
 - (e) Appraisal must be by FHA-approved appraiser
 - (f) No prepayment penalty
 - (g) Assumption restricted for post-1989 loans
- c. Other FHA loan programs are available for condominium loans, graduated payment mortgages (GPM) and adjustable rate mortgages (ARM) [*Level 1- this subtopic*]
Note: It is only necessary to be aware that other programs exist.

3. **VA-guaranteed Mortgage Loan**

- a. Loan program operated by the Veterans Administration
- b. Generally residential 1-4 family dwellings loans made to qualified veterans by lenders under VA guidelines
- c. The VA *guarantees* a portion of the loan amount (the amount of the veteran's *guarantee* or *entitlement* stated in a *certificate of eligibility*) in lieu of mortgage insurance
- d. General Characteristics
 - (1) Most significant feature – possibility of no down payment
 - (2) Lender sets interest rate, not the VA
 - (3) Requires a funding fee, which is similar to a mortgage insurance premium
 - (4) Veteran-borrower must be allowed to terminate sales contract if sales price exceeds appraised value stated in a *certificate of reasonable value (CRV)*
 - (5) Available to most veterans and unremarried widows/widowers of veterans
 - (6) No prepayment penalty
 - (7) Assumption restricted for post-1988 loans
 - (8) VA makes direct loans in some exceptional situations

4. **U. S. Department of Agriculture Rural Development Loan** [*Level 1 – this subtopic*]

- a. Operated through the Rural Development Housing and Community Facilities Programs of the U.S. Department of Agriculture
- b. Both direct and guaranteed single-family housing loans (as well as various other mortgage loans) are available

- c. Eligibility Requirements (Restricted to low- income residents of rural areas or very small towns)
- d. Characteristics
 - (1) Longer than normal repayment period
 - (2) Low down payment
 - (3) Subsidized interest rates
- e. Contact the NC state office at www.rurdev.usda.gov/nc to obtain loan and area office information

5. **Purchase Money Mortgage** (Seller-financed loan) [*Level 1 – this subtopic*]

E. Types of Mortgage Loans [*Level 1 except as noted*]

1. **Types by Repayment Terms** (including basic characteristics of each)

- a. Fixed Rate - Level Payment (fully amortized) [*Level 2 – this subtopic*]
- b. Adjustable Rate
- c. Graduated Payment
- d. Term (Interest Only)
- e. Growing Equity
- f. Buydown
- g. Balloon (partially amortized)

2. **Types by Purpose or Special Feature** (including basic characteristics of each)

- a. Purchase Money

Note: Dual meaning of this term – (1) any loan obtained to purchase a property and (2) a loan financed by seller

- b. Construction
- c. Open End
- d. Blanket
- e. Package
- f. Bridge
 - (1) Short term loan to cover period between termination of one loan and the beginning of another loan; between interim construction loan and a permanent takeout loan
 - (2) Residential financing arrangement where homeowner borrows money under a 2nd mortgage on buyer's unsold current home to fund acquisition of a new home

3. **Types by Mortgage Priority**

- a. First (or Senior)
- b. Second, Third, etc. (Junior)

F. Mortgage Priorities [Level 2]

1. **Effect and Importance of Recordation of Mortgages** (Deeds of Trust) AND the Cancellation or Release of a Mortgage/Deed of Trust
2. **Subordination of Mortgages**

G. U. S. Monetary Policy [Level 1]

1. **Role of the Federal Reserve** — Control of Money Supply; Interest Rate on Loans to Member Banks (Called *Discount Rate*)
2. **Effect on Mortgage Interest Rates**
3. **Effect on Availability of Mortgage Funds**

H. The Primary Mortgage Market [Level 1]

1. **Purpose** – Origination of Mortgage Loans
2. **Various Sources of Mortgage Loans**
 - a. Direct lenders (e.g., banks, savings associations, credit unions, etc.)
 - b. Mortgage banking companies
 - c. Mortgage brokers
 - d. Others

I. The Secondary Mortgage Market [Level 1]

Note: Explain the concepts of loan pooling and mortgage-backed securities as well as how the secondary market functions generally and the role of each of its major participants.

1. **General Concept and Operation**
2. **The Various Government-Sponsored Enterprises (GSE) and Their Roles**
 - a. Federal National Mortgage Association (FNMA - *Fannie Mae*)
 - b. Government National Mortgage Association (GNMA - *Ginnie Mae*)
 - c. Federal Home Loan Mortgage Corporation (FHLMC - *Freddie Mac*)

J. Residential Lending Practices and Procedures in Transactions Subject to TRID [Level 2]

1. Loan Application Procedures

- a. Information and Documentation Typically Required
- b. Lender's Loan Estimate (LE) [*Mention only; cover under RESPA in Section XII. Closing a Sales Transaction*]
- c. *Rate Lock*
- d. Lender denial must be in writing

2. Loan Underwriting Practices

- a. Borrower Analysis (Qualifying a Buyer/Borrower)
 - (1) Credit Characteristics
 - (2) Adequacy of Assets to Close the Transaction
 - (3) Stability of Income
 - (4) Types of Acceptable Income
 - (5) Adequacy of Income (Factors Considered and Expense-to-Income Ratios)
 - (a) Conventional loan
 - (b) FHA Loan (Ratios are now 31/43)
 - (c) VA Loan
- b. Property Analysis
 - (1) Appraisal
 - (2) Title Opinion and Title Insurance
- c. Loan Analysis
 - (1) Yield (Interest Rate and Discount Points)
 - (2) Loan Term
 - (3) Loan-to-Value Ratio
 - (4) Mortgage Insurance
- d. Loan Commitment and Closing

K. Financing Legislation (Federal) [Levels as noted below]

1. Truth-in-Lending Laws/Regulations [Level 2]—The Truth-in-Lending Act (as amended), and Regulation Z as administered by the Consumer Financial Protection Bureau (CFPB)

- a. Basic Purpose and Applicability
- b. Disclosure of Credit Information to Borrowers
 - (1) Early Truth-in-Lending Disclosure Form was replaced by Loan Estimate (LE) and addresses four (4) chief disclosures:
 - (a) APR
 - (b) Finance charges
 - (c) Number and amount of payments
 - (d) Total amount financed

- (2) What APR includes
- (3) What *finance charge* includes
- c. Applicability to *Arrangers of Credit*
- d. Disclosure of Credit Terms in Advertising the Sale of Real Estate (by brokers or others)

Note: Trigger Terms include any number that describes the loan (e.g., down payment, monthly payment, dollar amount of finance charge, number of payments or repayment period).

- 2. **Fair Credit Reporting Act** (and Regulation B) — Basic Purpose and Requirements [*Level 1*]
- 3. **Equal Credit Opportunity Act** (and Regulation V) — Basic Purpose and Requirements [*Level 1*]

Important Note: Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (aka: **Dodd-Frank Act**), the **Consumer Financial Protection Bureau (CFPB)** was assigned the **consumer protection** responsibilities of seven (7) different federal agencies (including the Federal Reserve Board, HUD and the FTC). The CFPB is responsible for promulgating rules for the **Truth-in-Lending Act, RESPA, the Fair Credit Reporting Act, and the Equal Credit Opportunity Act**. One express mandate of the Dodd-Frank Act was that the CFPB consolidate the duplicate lender disclosures under TILA and RESPA, yielding the TRID rules (*TILA/RESPA Integrated Disclosures*) effective October 3, 2015.

XII. CLOSING A SALES TRANSACTION [8.0 hours]

A. Pre-Closing Procedures [*Level 3*]

1. Selecting and Providing Information to Closing Attorney and Lender

2. Buyer's Due Diligence Process

Note: Refer to the NCAR/NCBA Offer to Purchase and Contract Standard Form 2-T for buyer's responsibilities under the contract.

- a. Buyer's Loan
- b. Appraisal
- c. Property Survey
- d. Property Insurance

Note: It is extremely important for the buyer **and seller** to have appropriate insurance coverage in situations when the closing is delayed, when the buyer will occupy the property before closing, or when the seller will occupy the property after closing. Failure to have proper coverage in these situations may result in the property being uninsured for some period of time.

- e. Property Inspections
 - (1) Wood-Destroying Pest (Termite) Inspection
 - (2) Home Inspection by Qualified Professional

- (3) Physical Inspection by Buyer (and Agent Working with Buyer) – Examples of things to check:
 - (a) Tenants
 - (b) Easements and Encroachments
 - (c) Recent Construction (e.g., building permit, mechanic liens)
 - (d) Violations of Zoning or Restrictive Covenants
 - (4) Onsite Septic System (if appropriate)
 - (5) Other Inspections (if needed or desired) (e.g., Lead-Based Paint; Radon; Asbestos; Mold, Well Water)
 - f. Resolution of Repair Issues
 - g. Review of Restrictive Covenants and Homeowner’s Association Documents
 - h. Other Matters of Interest to Buyer (e.g., whether planned property use is permitted; plans for adjacent undeveloped property; public or private status of subdivision streets, etc.)
3. **Other Pre-Closing Matters**
- a. Title Examination by attorney (including personal property lien search and mechanic’s lien inquiry)
 - b. Clearing of Title Defects by seller (if needed)
 - c. Loan closing package provided to settlement agent by lender
 - d. Broker holding earnest money transfers earnest money to settlement agent no more than 10 days prior to settlement (or notifies settlement agent that EM will be retained by escrow agent firm as credit toward brokerage fee)
 - e. Brokers working with seller and buyer perform advance review of settlement statement, if available
 - f. Buyer notified as to amount of guaranteed funds needed to close
 - g. Settlement agent arranges for title insurance

B. Closing Procedures [*Level 3 except as noted below*]

- 1. **Definitions** of *Settlement*, *Settlement Meeting*, and *Closing*
- 2. **Closing Methods**
 - a. Escrow Closing [*Level 1 – this subtopic*]
 - b. Settlement Meeting Method (including role of attorneys and non-attorneys)
- 3. **Settlement Meeting Procedures**
 - a. Location where meeting is conducted
 - b. Parties attending settlement meeting
 - c. Final settlement statement review
 - d. Review and signing of documents
 - e. Collection of funds due from buyer

4. **Procedures after the Settlement Meeting**
 - a. Title Update and Recording of Deed and Deed of Trust
 - b. Disbursement of Proceeds and Brokerage Commission [*Level 1*]
 - c. Cancellation of seller's liens that were paid at closing (sometimes 30-60 days post-closing)
 - d. Income Tax Reporting Requirements

C. Real Estate Settlement Procedures Act (RESPA) [*Level 2*]

1. **Purpose and Applicability**
2. **Law is enforced by the Consumer Financial Protection Bureau (CFPB) and is implemented by rules referred to as *Regulation X***
3. **Major RESPA Requirements and Consumer Protections**
 - a. Information Booklet – *Know Before You Owe* must be provided to borrowers within three days of loan application
 - b. Loan Estimate (LE) [formerly known as Good Faith Estimate (GFE)] disclosure must be provided by loan originators to borrowers within three business days following loan application
 - c. Borrower Credit for “Yield Spread Premiums”
 - d. Buyer Closing Disclosure (BCD) form must be used by settlement agents in all transactions subject to TRID
 - e. RESPA prohibits the payment of a *kickback* or referral fee **to any settlement service provider** for referring consumers
Note: Real estate agents may neither pay nor accept any referral fee from a settlement service provider, such as an appraiser, home inspector, attorney, etc. Real estate brokers are only permitted to receive referral fees from each other. The law/rules also regulate controlled or affiliated business arrangements that provide real estate services (e.g., brokerage, mortgage loan, legal services, home inspections, etc.) under a one-stop shopping approach.
 - f. Regulates reserve (impound or escrow) accounts for payment of property taxes and insurance premiums by limiting the amounts that lenders or loan servicers may require a borrower to pay into and maintain in the account
 - g. Loan servicers must
 - (1) disclose to borrowers whether they can transfer the right to service the borrower's loan and
 - (2) disclose to borrowers if the servicing is transferred
4. **Loan Estimate (LE)**
 - a. Purposes of form
 - b. Relationship to BCD form
 - c. Review of completed sample form

5. **Borrower Closing Disclosure (BCD) Form**
 - a. Format and Features
 - b. Correlation to LE
 - c. Review of the complete 5-page sample form

D. The Settlement Statement [Level 3]

1. **Basic Settlement Statement Concepts**

- a. Debits (Charges) and Credits
- b. Prorations

Note: Students should be able to calculate prorations using both methods listed below.

- (1) 365-Day Year Method
(Most commonly used method in practice)
- (2) 360-Day Year/30-Day Month Method
(Method used on Prelicensing course end-of-course examination and real estate license examination)
- (3) Items Commonly Prorated
 - (a) Real Estate Taxes
 - (b) Homeowner's Dues
 - (c) Rents (on rented properties being sold)

2. **Settlement Statement Entries and Calculations**

Note: Students are expected to (1) be able to perform all basic settlement statement calculations, and (2) fully understand the Settlement Statement forms (Buyer and Seller Closing Disclosures) and be able to perform their responsibilities with regard to verifying the accuracy of prepared settlement statements. Students should be afforded extensive practice with performing various settlement statement calculations.

3. **Broker's Responsibilities Relating to Settlement Statements**

Note: Review [TRID section](#) from the 2015-2016 General Update.

- a. Brokers should possess a thorough understanding of settlement statements in order to help protect the interests of transaction parties
- b. For settlement statements prepared by an attorney, the broker is to confirm completion in accordance with the sales contract and to *verify the accuracy of those entries about which he or she has direct knowledge* (such as sale price, earnest money, due diligence fee, brokerage commission, etc.)
- c. For amounts due to or from third parties, the broker may assume the amounts entered by the attorney are correct (in the absence of a red flag); however, the broker is expected to assure that:
 - (1) all relevant charges and credits are properly charged or credited and
 - (2) all calculations for prorated items, escrow reserves, interim interest, excise tax and *bottom-line* figures are correct

- d. G.S. §93A-6(a)(14) requires brokers to furnish the seller and buyer a detailed and accurate closing statement. A broker may adopt a settlement statement prepared by an attorney for this purpose, but must verify its accuracy as described above

XIII. REAL PROPERTY VALUATION [6.0 hours]

A. Introduction [Level 1]

1. Key Definitions and Law Changes

*Note: See Real Estate Valuation chapter in current **Manual**.*

- a. Real Estate Appraisal
- b. Broker Price Opinion (BPO) and Comparative Market Analysis (CMA) have exactly the same meaning under NC law
- c. NC law now permits an actively licensed non-provisional broker to perform a BPO/CMA outside of a transaction for a fee
- d. A broker's BPO/CMA may only estimate the probable selling price or probable leasing price of a property, not the *value* or *worth* of a property
- e. Any estimate of a property's value is considered to be an appraisal and must be performed by a licensed or certified real estate appraiser
- f. A BPO/CMA provided by a non-provisional broker for a fee must be performed in accordance with Article 6 of the NC Real Estate License Law and rules adopted by the Real Estate Commission

2. Regulation of Appraisers

- a. Federal Agencies
- b. State Licensing/Certification by NC Appraisers Board

B. Basic Valuation Concepts [Level 2]

1. Definitions: Appraisal, Value, Cost, Price and Market Value

2. Forces and Factors Influencing Property Value

- a. Social ideas & standards
- b. Economic forces
- c. Government activities
- d. Physical forces

3. Basic Economic Principles of Value

- a. Anticipation
- b. Change
- c. Competition
- d. Conformity
- e. Contribution

- f. Highest and Best Use
- g. Substitution
- h. Supply and Demand

C. The Valuation Process (General Overview) [Level 1]

1. **Define of the Problem (Task)**
2. **Determine and Perform Appropriate Scope of Work**
3. **Collect and Analyze Data**
4. **Analyze to Determine Highest and Best Use**
5. **Apply Approaches to Value**
6. **Reconcile Approaches and Estimate Final Value**
7. **Complete Appraisal Report**

D. Approaches to Value (Appraisal Methods) [Levels as Noted Below]

1. **Sales Comparison Approach [Level 3]**

Note: Because the theory and methodology involved in this appraisal approach mirrors that used when a broker performs a BPO/CMA on a residential property, students should practice its use, with a focus on estimating the probable sales price of residential properties.

- a. Definition and General Use; Terminology
- b. Procedures (Including Calculations)
 - (1) Data collection and analysis
 - (2) Selection of *comparables*
 - (3) Adjustments to sale prices of comparables
 - (4) Reconciliation and determination of value estimate
- c. Sales Comparison Approach Calculations

2. **Cost Approach [Level 2]**

- a. Definition and General Use; Terminology
- b. Estimate of Land (Lot) Value
- c. Estimating Building Costs
 - (1) Reproduction Cost vs. Replacement Cost
 - (2) Estimating Reproduction or Replacement Cost Using the Square Foot Method
- d. Estimating Depreciation
 - (1) Definition and Basic Concepts (e.g., effective age and economic life)
 - (2) Depreciation Methods
 - (a) Age/Life (Straight-Line) Method

- (b) Market Abstraction Method [*Level 1 – this subtopic*]
- (c) Breakdown Method [*Level 1 – this subtopic*]
 - (i) Physical Deterioration (curable and incurable)
 - (ii) Functional Obsolescence (curable and incurable)
 - (iii) Economic Obsolescence (incurable only)
- e. Formulating the Opinion of Value
- f. Cost Approach Calculations

3. **Income Approaches** (Direct Capitalization and GRM Methods Only)
[*Level 2*]

- a. Definition and General Use
- b. Direct Capitalization Method
 - (1) Estimate gross potential income
 - (2) Derive net operating income estimate
 - (3) Derive capitalization rate by Market Abstraction Method
 - (4) Derive estimate of property value
- c. Gross Rent Multiplier (GRM) Method
 - (1) Obtain sales price and gross income (rent) data on recently-sold similar (comparable) properties (Also record property and other sales data for comparative purposes)
 - (2) Derive GRM for each comparable
 - (3) Reconcile data to determine appropriate GRM
 - (4) Derive estimate of subject property's value
- d. Calculations Related to Income Approach

4. **Reconciliation of the Three Approaches to Value and Derivation of Estimate of Value** [*Level 1*]

E. Broker Price Opinion (BPO)/Comparative Market Analysis (CMA)

- 1. **NC Real Estate License Law and Appraisers Act** permit a non-provisional broker to perform a BPO/CMA for a fee for anyone without the need for an actual or prospective brokerage relationship with that person/entity, subject to certain restrictions:
 - a. The BPO/CMA may NOT serve as the basis for determining the value of property for the purpose of making a mortgage loan (e.g., first, second, refinance or equity line of credit)
 - b. The BPO/CMA must estimate only the probable sales price or probable lease price and may NOT estimate the *value* or *worth* of a property
 - c. The BPO/CMA must be provided in writing

- d. The BPO/CMA must be performed in accordance with the provisions of Article 6 of the Real Estate License Law and Commission Rule A .2200
2. **Review of Standards for BPOs/CMAs** under Article 6 of the Real Estate License Law and Section A .2200 of the Commission rules
3. **Requirements for BPOs/CMAs Performed for No Fee**
4. **Real Estate Agent’s Duty with Regard to Providing a CMA/BPO**
5. **The BPO/CMA Process**

XIV. PROPERTY INSURANCE [1.5 hour] [Level 2]

A. Types of Homeowner’s (Hazard) Insurance

1. **Property or Casualty for Loss to Property & Improvements**
2. **Liability for Third Parties**
3. **Package for Combination of Both**
4. **Specialized Policies**
 - a. Homeowners (HO-3) is most common policy; minimum coverage required by mortgage lender
 - b. Renter’s coverage (HO-4) for personal property and maybe liability
 - c. Condominium coverage (HO-6) to address unique “walls in” ownership

B. Flood Insurance

Reference Note: www.FEMA.gov and www.FloodSmart.gov for flood maps, videos and additional information.

1. **Separate Policy**; not included in homeowner policy
2. **National Flood Insurance Program administered by FEMA**
 - a. Intent
 - (1) Reduce impact of flooding on private & public structures
 - (2) Encourage community floodplain management regulations
 - (3) Provide affordable insurance
 - b. Designated *flood hazard zones*
 - (1) Subject to restrictions on location, type and elevation of all improvements (e.g., residential, commercial, industrial, agricultural)

- (2) All federally related mortgage loans require flood insurance on property located in zones
- (3) If entire building is above 100 year flood plain, insurance requirement may be waived
- (4) Location in a zone of any part of property is a material fact
- c. FEMA flood maps

C. Insurance Issues

1. Insurability Issues

- a. High claim history may make property or policyholder uninsurable or insurable only with very high premiums
- b. Comprehensive Loss Underwriting Exchange (C.L.U.E.); a claims history database covering losses over the past 7 years used by insurance underwriters

Reference Note: <https://personalreports.lexisnexis.com>

2. Residential Sales Transaction Concerns

- a. *Unoccupied building exclusion*
 - (1) Standard policy provision that sets parameters to exclude coverage of a vacant property
 - (2) Listing agent should advise absentee seller to verify continued insurance coverage of unoccupied listed property
- b. Early or late possession by parties; possession addenda
 - (1) Sellers' homeowners insurance generally does not cover; no longer "owner-occupied"
 - (2) Owner will need some version of landlord insurance
 - (3) Early possession by buyer or late possession by seller will need renters insurance
- c. Keep insurance in place until recordation/closing; "Risk of Loss" provision in sales contract

XV. LANDLORD AND TENANT [2.25 hours]

A. Relationship of Landlord and Tenant [*Level 2*]

- 1. **Definitions:** Landlord (Lessor), Tenant (Lessee), Lease
- 2. **Privity of Estate and Privity of Contract Concepts**

B. Laws Protecting Residential Tenants [*Level 2*]

1. The NC Residential Rental Agreements Act

- a. Obligations of Landlord and Tenant Are Mutually Dependent
- b. Landlord's Statutory Duties
- c. Tenant's Statutory Duties
- d. Tenant Remedies for Breach by Landlord

2. **Common Law**
 - a. Concept of *Constructive Eviction*
 - b. Landlord's Liability under the Law of Negligence
 3. **Residential Eviction Laws/Procedures**
 - a. *Self-help* eviction is prohibited in NC
 - b. Act Prohibiting Retaliatory Eviction
 - c. Statutory eviction procedures initiated in small claims court utilizing the court system must be followed
 4. **NC Tenant Security Deposit Act**
 - a. Permitted Uses of Security Deposit
 - b. Accounting to the Tenant
 - c. Security Deposit Limits
 - d. Pet Deposits Permitted
 5. **Fair Housing Laws** [*Mention only; cover in Section XVI. Fair Housing/ and Law Prohibiting Sexual Harassment*]
 6. **Laws Protecting Public Housing Tenants**
 7. **Laws Protecting Tenants in Foreclosure Situations**
 8. **North Carolina Vacation Rental Act**
 - a. Purpose, Applicability and Basic Definitions
 - b. Requirement for Vacation Rental Agreements to Be in Writing
 - c. Procedures for Handling Rents and Security Deposits
 - d. Tenant Protection When Rental Property is Sold
 - e. Expedited Eviction Proceedings
 - f. Landlord/Tenant Duties
 - g. Mandatory Evacuations: Refunds and Insurance
- C. Nonfreehold Estates** [*Level 2*]
Note: Explain characteristics of each type of estate.
1. **Tenancy for Years**
 2. **Tenancy from Period to Period** (Periodic Tenancies)
 3. **Tenancy at Will**
 4. **Tenancy at Sufferance**
- D. Leases** [*Level 2 except as noted below*]
1. **Types of Leases** [*Explain use and characteristics of each type of lease*]
 - a. Fixed Rental (Flat or Gross) Lease
 - b. Percentage Lease [*Level 3 – this subtopic*]

- c. Other Lease Types *[Level 1 – this subtopic]*
 - (1) Net Lease
 - (2) Graduated Lease
 - (3) Index Lease
 - (4) Full Service Lease
 - (5) Ground Lease
- 2. **Selected Common Residential Lease Provisions**
 - a. Essential Provisions (Basically the same as any contract)
 - b. Other Common Provisions
 - (1) Tenant’s Use of Premises
 - (2) Assignments and Subleases
 - (3) Renewal and Termination
- 3. **Landlord’s Implied Covenant of Quiet Enjoyment**
- 4. **Review of Major Provisions in NC Realtors Residential Rental Contract Standard Form #410-T**
- 5. **Application of Statute of Frauds**
- 6. **Recordation of Leases**

XVI. PROPERTY MANAGEMENT [1.0 hour]

Note: Instruction should focus primarily on residential property management.

A. The Owner-Property Manager Relationship [Level 2]

- 1. **Authority of Property Manager** (Agent) Established by Property Management Contract
- 2. **Duties of Property Manager** (Agent) to Property Owner (Principal) and to Third Persons (Tenants and Prospective Tenants) *[Refer to Section IV: Brokerage Relationships: Law and Practice]*
- 3. **Property Management Fee** (Typical Fee Arrangements)

B. Property Management Contracts (Typical Provisions) [Level 2]

- 1. **Property Description**
- 2. **Contract Period**
- 3. **Agent - Property Manager’s Fee**

4. **Agent's Authority (Powers)**
5. **Agent's Responsibilities (Specific Duties)**
- C. **Typical Property Management Duties [Level 1]**
 1. **Preparing Management Plan** (including a Rental Schedule and an Operating Budget)
 2. **Marketing the Property**
 3. **Qualifying and Selecting Tenants**
Note: Discuss factors that may/may not be considered.
 4. **Executing Leases for Owner**
 5. **Collecting Rents and Security Deposits**
 6. **Handling Collected Monies According to Laws/Rules**
 7. **Maintaining the Property**
 8. **Preparing/Enforcing Rules and Regulations**
 9. **Maintaining Property Insurance**
 10. **Maintaining Accurate Records**
 11. **Preparing Income/Expense Reports and Accounting to Owner**
 12. **Performing Landlord's Legal Duties**
 13. **Instituting Legal Actions** (e.g., Tenant Eviction)
 14. **Complying with *Americans with Disabilities Act* (ADA) and Fair Housing Laws**

XVII. FAIR HOUSING [1.5 hours]

- A. **Federal Fair Housing Act (Title VIII of 1968 Civil Rights Act) [Level 3]**
 1. **Discrimination in the Sale or Rental of Housing Based on Race, Color, Religion, Sex, National Origin, Handicap or Familial Status**
 - a. *Blockbusting (or Panic Peddling)*
 - b. *Steering*

- c. Discriminatory Advertising
Note: includes any Internet or social media posting.
- d. Refusing to Sell, Rent, or Negotiate Based on Membership in a Protected Class
- e. Discrimination in Terms, Conditions, or Privileges
- f. Discrimination in the Financing of Housing (e.g., *redlining* and related practices)
- g. Discrimination in Provision of Brokerage Services

2. **Exemptions**

3. **Equal Opportunity Housing poster** must be displayed at real estate brokerage offices, model homes, lenders' offices and related places. Failure to display the poster is considered *prima facie* evidence of discrimination by HUD

4. **Design and Construction of Multi-Family Housing**

Note: All buildings with four or more residential units constructed after March 13, 1991 must allow access and use by persons with a handicapping condition.

5. **Enforcement and Penalties**

- a. By administrative procedure through the Office of Fair Housing and Equal Opportunity (OFHEO) of the Department of Housing and Urban Development (HUD); complaint must be filed within 1 year
- b. By Private Lawsuit in Federal Court; complaint must be filed within 1 year
- c. *Criminal* penalties are provided for persons who coerce, intimidate, threaten or interfere with
 - (1) a person's buying, renting or selling housing,
 - (2) a person making a complaint of discrimination; or
 - (3) a person exercising any rights under the fair housing law
- d. A NC-based complaint filed with HUD will be referred to the NC Human Relations Council for investigation because NC has an equivalent state fair housing law

B. NC State Fair Housing Act [Level 2]

1. **Unlawful Discriminatory Housing Practices**

Note: Provisions of the State Act are virtually identical to those of the Federal Act. Thus, a violation of either Act is generally a violation of the other Act.

2. **Exemptions**

Note: Exemptions under the NC State Act are substantially different from those under the Federal Act.

3. **Enforcement and Penalties**
 - a. By administrative procedure through the N.C. Human Relations Council; complaints must be filed within 1 year
 - b. By private lawsuit in state court; complaints must be filed within 1 year
- C. Federal Civil Rights Act of 1866 [Level 2]**
1. **Basic Provisions**
Note: Law only addresses discrimination based on race, without exemptions.
 2. **Enforcement by private lawsuit in federal court only**
- D. Americans with Disabilities Act (ADA) — Facility Accessibility and Use Requirements for *Commercial Facilities* or *Places of Public Accommodation* [Level 1]**
Note: A real estate office is a place of public accommodation.
- E. NC Law Prohibiting Sexual Harassment by Residential Lessors or Their Agents [Level 1]**

XVIII. FEDERAL INCOME TAXATION OF HOME OWNERSHIP/SALE **[1.0 hour] [Level 1]**

*Note: Licensees should **never** attempt to provide tax advice to clients or customers unless they possess special knowledge and expertise in the tax field that qualifies them to provide such advice. The limited instruction provided in this course in no way qualifies the student to provide tax advice and is merely intended to enable agents to recognize situations where a consumer might benefit from professional tax advice so that the agent might then refer the consumer to a qualified tax accountant or attorney.*

A. Tax Deductions from Income for Owners of Personal Residences

1. **Real Property Taxes** (Principal and Second Homes) – deduction taken in year(s) paid
2. **Loan Expenses** (Principal and Second Homes)
 - a. **Mortgage interest** – includes *regular interest* plus any *late payment charges* or *prepayment penalty*); deduction taken in year(s) paid
 - b. **Points** – includes loan *discount points* paid as *prepaid interest* at the time of loan origination to reduce the interest rate and *may* include some *loan origination fees* (consult tax advisor); generally must be deducted ratably over the life of the loan, but in some circumstances may be deducted in the year paid for a principal home

B. Taxation of Gain on Sale of Principal Residence

1. **Eligible Property** (Principal Residence Only)
2. **Terminology**
 - a. *Basis and Adjusted Basis*
 - b. *Capital Improvement*
 - c. *Gain and Loss*
3. **Rules for Taxation of Capital Gain**

C. Special Rules That May Apply to Some Residential Transactions

1. **Installment Sales** (or Contract for Deed in NC) — Basic concept
2. **Like-Kind Exchange** — Basic concept
3. **Vacation Homes** — Basic rule for owner use
4. **Office in Home** — Basic concept

XIX. BASIC CONSTRUCTION [1.0 hours] [Level 1]

*Note: The purpose of this section is to provide the student with an **elementary** knowledge of basic construction principles, techniques and terminology which will assist the student in listing/showing/selling such properties. Study is limited to the wood-frame (including brick veneer) construction because of its predominant use in NC.*

A. Basic Types

1. **One story (ranch)** – generally the most expensive to build per square foot
2. **1½ story**
3. **Multi-story** (two, 2½ or three levels)
4. **Split-level**

B. Foundations

1. **Basic Components:** Footings, slab, foundation wall, piers
2. **Major Types**
 - a. Concrete Slab
 - b. Basement
 - c. Crawl Space

3. **Termite Protection**
 - a. Chemical treatment of ground near foundation walls and piers
 - b. Pressure-treated wood
4. **Ventilation**
5. **Waterproofing**

C. Framing

1. **Framing Systems:** Platform (most common), balloon, post and beam
2. **Floors** — Major Components: sill (or sill plate or mud sill), floor joists, girders, bridging, subfloor
3. **Walls** – Basic Components: studs, headers, top plate, sole plate
4. **Roof and Ceiling Framing**
 - a. Major Roof Designs (e.g., gable, hip, shed, flat, mansard, and gambrel)
 - b. Basic Components: ceiling joists, rafters, ridge board, eaves

D. Exterior Walls

1. **Sheathing:** plywood, particleboard, or comparable product
2. **Tar paper** (asphalt treated paper or felt) or *House Wrap* that has become the material of choice instead of tar paper.
Note: A product that combines the sheathing and house wrap is also available.
3. **Siding:** wood, manufactured wood, fiber cement, brick veneer, vinyl, stucco, synthetic stucco (EIFS)

E. Windows and Exterior Doors

1. **Windows**
 - a. Types
 - (1) Sliding Windows: Double-hung and horizontal sliding
 - (2) Swinging Windows: Casement, jalousie, hopper, and awning
 - (3) Fixed Windows: Picture, bay, and bow
 - b. Major Components: sill, header, jamb, sash, muntins, & mullions
2. **Doors:** Major Types include: Flush, panel, sliding glass, and French

F. Roofing Components

1. **Roof Sheathing (Decking):** plywood or material similar to wall sheathing
2. **Roofing Felt**
3. **Outer Roof Covering:** asphalt & fiberglass composition shingles, wood shingles or shakes, tile
4. **Eaves** (including fascia board, soffit & frieze board)
5. **Pitch**

G. Insulation

1. **Insulation Materials:** fiberglass batts or blankets, loose fill insulation, foam
2. **Required insulation under North Carolina Uniform Residential Building Code:**
 - a. Walls R-13
 - b. Ceilings R-30
 - c. Floors R-19

Note: Higher R-values are required in the colder, mountainous counties of northwestern North Carolina.
3. **Weatherstripping**
4. **Moisture Control:** vapor barriers and attic ventilation

H. Heating/Air Conditioning Systems

1. **Heating Systems**
 - a. Power Sources: The sun, gas, oil, electricity, coal, wood, etc.
 - b. Measured in British Thermal Units (BTUs)
 - c. Methods of Heating: Solar, warm air, hot water, steam, electric wire
 - d. Types of Heating Systems
 - (1) Central Forced Warm Air (the common system in homes built in the last half-century that use heat pumps or gas furnaces with fan and duct distribution system)
 - (2) Gravity Warm Air (e.g., central furnace with no duct distribution system and fan)
 - (3) Electric Baseboard
 - (4) Space Heating Systems (e.g., wood stoves, gas heaters, kerosene heaters, electric heaters, radiators, fireplaces, etc.)
 - (5) Solar Heating Systems (Active, Passive)

2. **Air Conditioning Systems**
 - a. Central Forced-Air (may be powered by electricity, gas or oil)
 - b. Room Air Conditioners
3. **Combination Systems: Heat Pump**

I. Government Regulation

1. **North Carolina Uniform Residential Building Code**
 - a. Building permits
 - b. Certificate of occupancy (CO)
2. **HUD Minimum Standards**
3. **Contractor Licensing**

XX. BASIC REAL ESTATE INVESTMENT [0.5 hours] [Level 1]

Selected Basic Real Estate Investment Concepts

1. **Equity and equity buildup**
2. **Leverage**
3. **Cash flow after debt service** (also referred to as *before tax cash flow* or *cash throwoff*)
4. **Appreciation**

XXI. REAL ESTATE LICENSE LAW AND COMMISSION RULES [8.0 hours]

A. Requirement for a License [Level 2 unless otherwise noted]

1. **Basic Licensing Requirement [G.S. 93A-1]**
2. **License Categories [Level 1]**
 - a. Provisional Broker, Broker & Broker-In-Charge [G.S. 93A-2(a), 2(a1) and 2(a2)]
 - b. Limited Nonresident Commercial Broker [G.S. 93A-9(b); Commission Rules A. 1801, A .1803(a), A. 1806, A. 1807(a)-(c), A .1808]

- c. Licensing of Business Entities (Firms) [G.S. 93A-1 and 2; Commission Rule A .0502]
3. **Activities Requiring a License** [G.S. 93A-2(a)]
 - a. Listing (or offering to list) real estate for sale or rent
 - b. Selling or buying (or offering to sell or buy) real estate
 - c. Leasing or renting (or offering to lease or rent) real estate
 - d. Conducting (or offering to conduct) a real estate auction
 - e. Selling, buying, leasing, assigning or exchanging any interest, in connection with the sale or purchase of real estate
 - f. Referring a party to a real estate licensee, if done for compensation
 4. **Permitted Non-brokerage Activities of Unlicensed Assistants/ Employees**
 5. **Exempt Activities** [G.S. 93A-2(c)]
 - a. Business entity selling or leasing entity-owned real estate
 - b. Attorney-in-fact
 - c. Attorney-at-law
 - d. Person acting under a court order (e.g., receiver, trustee, guardian, administrator, executor)
 - e. Trustee
 - f. Salaried employees of broker-property managers
 - g. Individual property owner selling or leasing personally owned real estate
 - h. Housing authority under G.S. 157

B. The Real Estate Commission [Level 1]

1. **Composition** [G.S. 93A-3(a)]
2. **Purpose and Powers** [G.S. 93A-3(a), (c) and (f); G.S. 93A-6; G.S. 93A-4(d), 4A and 4.1, 4.2 & 4.3; G.S. 93A-9]
3. **Disciplinary Authority** [G.S. 93A-6(a)-(c)]

C. General Licensing Provisions [Level 1]

Note: This section is not discussed in the License Law and Rule Comments but must be covered.

1. **Licensing of Individual Persons** [G.S. 93A-4(a) and (a1); Commission Rules Section A .1900]
 - a. Provisional Broker (PB): Prelicensing and Postlicensing Education Requirements
 - b. Termination of Provisional Status and Consequence of Not Satisfying Postlicensing Education Requirement

2. **License Expiration and Renewal** [G.S. 93A-4(c); Rule A .0503]
3. **Continuing Education** [G.S. 93A-4.1; Commission Rule Section A .1700]
4. **Active and Inactive License Status** [Commission Rule A .0504]
5. **License Reinstatement** [G.S. 93A-4(c); Commission Rule A .0505]
6. **Broker Supervision of Provisional Brokers** [G.S. 93A-2(b); Commission Rule A .0506]
7. **Payment of License Fees** [G.S. 93A-4(a); Commission Rule A .0507]
8. **Proof of Licensure** [Commission Rule A .0101(a)-(d)]
9. **Change of Name or Address** [Commission Rule A .0103]
10. **Reporting Criminal Convictions** [Commission Rule A .0113]

D. Prohibited Acts/Conduct [*Level 3*]

Important Note: Topics relating to G.S. 93A-6(a)(1), Misrepresentation and Omission of Material Fact, as well as G.S. 93A-6(a)(4) and (6) and Commission Rule A .0104(d), Conflicts of Interest, are also covered in Section VII. Brokerage Relationships: Law and Practice.

1. **Making False Promises** [G.S. 93A-6(a)(2) and (3)]
2. **Improper Brokerage Commissions** [G.S. 93A-6(a)(5),(6) and (9)]
3. **Unworthiness and Incompetence** [G.S.93A-6(a)(8)]
4. **Improper, Fraudulent or Dishonest Dealing** [G.S. 93A-6(a)(10)]
5. **Discriminatory Practices** [G.S. 93A-6(a)(10); Rule A .1601]
6. **Practice of Law** [G.S. 93A-4(e); G.S. 93A-6(a)(11); Rule A .0111]
7. **Violation of Any Rule** [G.S. 93A-6(a)(15)]
8. **Other Prohibited Acts** (Other Grounds for Disciplinary Action) [G.S. 93A-6(b)]
9. **Injunctive Relief for Unlicensed Activity** [G.S. 93A-6(c)]
10. **License Surrender** [G.S. 93A-6(e)]

11. **Imposition of Restrictions on License or Approval** [G.S. 93A-6(f)]
12. **Commingling trust money with personal funds** [G.S. 93A-6(a)(12)]

E. General Brokerage Provisions [Level 3]

Important Note: Topics relating to Rules A .0104 Agency Agreements and Disclosure and A .0112 Offers and Sales Contracts are covered in Section VII. Brokerage Relationships: Law and Practice, Section VIII. Agency Contracts and Related Practices, and Section X. Sales Contracts and Related Procedures. A Broker's Responsibility for Settlement Statements is covered in Section XII. Closing a Sales Transaction.

1. **Advertising** [Commission Rule A .0105]
2. **Delivery of Instruments** [G.S. 93A-6(a)(13) and (14); Commission Rule A .0106]
3. **Retention of Records** [Commission Rule A .0108]
4. **Brokerage Fees and Compensation** [Commission Rule A .0109]
5. **Drafting Legal Instruments** [Commission Rule A .0111]
6. **Disclosure of Offers** [Commission Rule A .0115]

F. Broker-in-Charge [Level 1] [G.S. 93A-2(a1) and 93A-4.2; Commission Rule A .0110]

1. **Requirement for a Broker-in-Charge; Sole Proprietors**
2. **Broker-in-Charge Qualification Requirements**

G. Handling Trust Funds [Level 2]

Important Note: Syllabus calls for covering basics of trust accounts and handling of trust money. Detailed accounting/recordkeeping procedures for brokerage trust accounts are NOT covered in this course and are NOT tested on the license examination. Instructors and students are strongly urged to use the coverage of this topic in the License Law and Rule Comments.

1. **Definition of Trust Money** [G.S. 93A-6(a)(12); Commission Rule A .0116(a)]
Trust money is all money received by a broker acting in his/her fiduciary capacity as a broker (including money received as an escrow agent or as the custodian or manager of the funds of another person or entity which relate to or concern that person's or entity's interest or investment in real property). Most common examples: earnest money, down payments, tenant security deposits, and rents.

2. **Trust Account Basics** (Other than Accounting and Recordkeeping Procedures)[G.S. 93A-6(a)(12) and (g); 93A-45(c); Commission Rule A .0116(c),(d),(e) and (f); Commission Rule A .0117(b) and (c)(4)(B); *License Law and Rule Comments on Handling Trust Funds*] [*Level 1*]
 - a. Basic Required Features of Trust Account [G.S. 93A-6(g)]
 - b. Requirements of Tenant Security Deposit Act Regarding Location of Trust Account Holding Residential Tenant Security Deposits on Properties Located in NC [See LL&R Comments]
 - c. Proper Designation of Trust Account and FDIC Insurance [See LL&R Comments]
 - d. When a Trust Account Is Required [See LL&R Comments]
 - e. Number of Trust Accounts Required/Permitted [See LL&R Comments]
 - f. Commingling of Funds Prohibited [G.S. 93A-6(a)(12)]
 - g. Limited Exception to Commingling Prohibition Allowed to Cover Bank Service Charges on Trust Accounts [Commission Rule A .0117(c)(4)(B)]
 - h. Requirements for Interest-Bearing Trust Account [G.S. 93A-6(a)(12); Commission Rule A .0116(c)]
 - i. Broker-In-Charge Is Responsible for Trust Account [Commission Rule A .0110(g)(4)]
 - j. Trust Account Custodian Other than BIC [See LL&R Comments]
 - k. Disbursement of Earnest Money to Settlement Agent; Use of Earnest Money in Trust Account [Commission Rule A .0116(e)]
 - l. Handling Disputed Trust Funds [Commission Rule A .0116(d)]

3. **Handling of Trust Money** [G.S. 93A-6(a)(12); G.S. 93A-45(c); *primarily* Commission Rule A .0116]
 - a. Basic Deposit Rule – Deposit in trust account within 3 banking days following receipt [Commission Rule A .0116(a)]
 - b. Exceptions to Basic Deposit Rule [Commission Rule A .0116(b)]
 - (1) Trust Money Received by Provisional Broker (PB) must be delivered upon receipt to the supervising broker with whom PB is affiliated
 - (2) Trust Money Received by a Limited Nonresident Commercial Broker [See Commission Rule A .1808]
 - (3) Earnest Money or Tenant Security Deposits Paid by *Other than Currency* must be deposited in trust account within 3 days following acceptance of offer or lease
 - (4) Check or other negotiable instrument payable to seller for an option or due diligence fee
 - (5) Check or other negotiable instrument payable to third party escrow agent in sales transaction for trust monies
 - c. General Responsibility of Licensees to Safeguard Trust Monies and Prohibitions Against Misuse of Trust Monies [Commission Rule A .0116(g)]

H. North Carolina Time Share Act [Level 1]

1. Definitions [G.S. 93A-41(2), (7a), (9), (9a), (12) and (13)]
2. Registration of Time Share Projects [G.S. 93A-40]
3. License Requirement [G.S. 93A-40]
4. Developer's Obligation to Record Time Share Instruments [G.S. 93A-42]
5. Escrow Requirements [G.S. 93A-42(c) and (d)]
6. Developer's Public Offering Statement [G.S. 93A-44]
7. Purchaser's Right to Cancel [G.S. 93A-45]
8. Commission's Disciplinary Authority [G.S. 93A-54]
9. Penalties [G.S. 93A-56]
10. Requirements for Registrar and Project Broker [G.S. 93A-58]
11. Time Share Sales Operations [Commission Rules Section B .0400]
12. Handling and Accounting of Funds [Commission Rules Section B .0500]
13. Project Broker [Commission Rules Section B .0600]

XXII. AGENT SAFETY [0.5 hours]

XXIII. REAL ESTATE MATHEMATICS

[Level 3; No separate time allocation]

- A. Brokerage Commissions** (Sales and Property Management transactions)
- B. Estimating Net to Seller** after Brokerage Fee and other Closing Expenses are Paid (when setting listing price or considering an offer) [Includes sale price needed to net \$X to seller]
- C. Profit/Loss on Sale of Real Estate** (including percentages); Equity (including percentages)
- D. Area and Related Calculations**
 1. Conversion of acreage to square footage and vice-versa
 2. Square footage of variously-shaped buildings and parcels of land with straight-line sides, including irregular shaped parcels/buildings. (Use formulas for calculating the area of squares, rectangles, trapezoids and right triangles.)
 3. Square yards
 4. Cost/price per square foot/acre/front foot

E. Ad Valorem Property Taxes (amount of tax using a given rate and assessed value; students should be able to perform calculations using either a rate in dollars per \$100 [NC method] or a mill rate [National exam section math])

F. Excise Tax on Property Transfers

G. Finance Calculations

1. Simple Interest (How to compute monthly interest, and amount of interest paid over life of a fixed-rate loan)
2. Monthly Principal & Interest Payment (How to compute monthly P & I payment using *factors*, if given the loan amount, interest rate, term and factor)
3. Mortgage Debt Reduction (How to compute principal balance after **one** monthly payment, given previous principal balance, monthly P & I payment and interest rate, without using amortization tables)
4. Loan Origination Fees and Discount Points
5. Loan Value (applying loan-to-value ratios)
6. Yield (on mortgage loans involving discount points using *rule of thumb* value) [*Level 1—this subtopic*]

H. Settlement Statements

1. Calculation of amounts to be entered on settlement statement when the licensee has the data necessary to perform the needed calculation [e.g., Prorations (real estate taxes, rent, HOA dues); interim interest; escrow deposits; etc.]
2. Calculation of bottom-line figures given all relevant needed information: Total settlement charges to buyer-borrower and seller; net due seller (cash to seller); cash from buyer-borrower

I. Valuation (Appraisal) Calculations

1. Sales Comparison Approach and Comparative Market Analysis
2. Cost Approach
3. Income Approach
 - a. Income Capitalization
 - b. Gross Rent Multiplier

REAL ESTATE BROKER PRELICENSING COURSE

BIBLIOGRAPHY

This Bibliography lists: (1) required student materials; (2) currently approved textbooks; (3) special instructor resources; (4) reference books and resource/study materials that may be helpful to instructors and students; (5) required NC Realtors Standard Forms; and (6) **publisher ordering information.**

Required Student Materials

- (1) An approved textbook (see list below)
- (2) ***North Carolina Real Estate License Law and Commission Rules (Also including the Comments on the Law and Rules)***: Available for download or as published booklet for purchase on www.ncrec.gov
- (3) ***Residential Square Footage Guidelines***: Available for download or as published booklet for purchase on www.ncrec.gov
- (4) ***North Carolina Real Estate Agent Safety Guide*** brochure published by the North Carolina Real Estate Commission and the North Carolina Association of REALTORS® Real Estate Safety Council: Available for download or as published booklet for purchase on www.ncrec.gov
- (5) **Standard NC Realtors Contract Forms** (as indicated in the outline): Available via Sharefile.

Currently Approved North Carolina Textbooks

Use of the most current edition is required.

Galaty, Allaway, and Kyle, *Modern Real Estate Practice in North Carolina*, 9th ed. (2017) Dearborn Publishing Company. Deborah Long is a contributing author. Instructor Materials with test bank questions, basic Power Point slides, and *North Carolina Exam Guide* software also available.

Mangum and Keck, *North Carolina Real Estate Principles and Practices*, Revised 7th ed. (2014) OnCourse Learning. Instructor's Manual with lecture outlines and PowerPoint slides available.

Special Instructor Resource

Hetrick, Moylan and Outlaw, *North Carolina Real Estate Manual*, (2017 Edition) North Carolina Real Estate Commission. *To order, select the "Publications" tab on the Commission's website (www.ncrec.gov).*

Reference Books and Resource/Study Materials

The materials listed below are not endorsed by the Commission but may be useful to instructors and/or students.

Real Estate Mathematics

Armbrust, Bradley and Armbrust, *Practical Real Estate Math*, OnCourse Learning.

Crawford, Linda L., *Real Estate Math: What You Need to Know*, Dearborn.

Mettling, Cusic, & Mettling, *Real Estate Math Express: Rapid Review and Practice with Essential License-Exam Calculations*, Performance Programs Company.

Tamper, *Mastering Real Estate Math*, Dearborn.

Real Estate Reference Materials (Dictionary/Encyclopedia Style)

Reilly, *The Language of Real Estate*, Dearborn.

Preparing for the Examination Books and Software

These resources primarily contain sample questions and examinations.

Mettling, Cusic, & Mettling, *North Carolina Real Estate License Exam Prep: All-in-One Review and Testing to Pass North Carolina's PSI Real Estate Exam*, Performance Programs Company.

Reilly and Vitousek, *Questions and Answers to Help You Pass the Real Estate Exam*, Dearborn.

Spada, Maria Darvin, *Real Estate National Licensing Exam Prep*, OnCourse Learning.

PSI Self-Assessment Examination (Online)

PSI has available online self-assessment examinations that are similar to the National section of the NC license examination and that may be taken *online only for a fee*.

To access these examinations:

- Go to PSI's website at www.psiexams.com; Under *More PSI Services*, click on *Online Practice Test*, then click on *North Carolina on the side bar*, then click on *North Carolina Real Estate Practice Exam*.
- Purchase the *National Real Estate Broker Multiple-Choice Self-Assessment Examination* (with detailed explanations for each item) *Suitable for Broker candidates in IL, NC, SD and WA*.

Ordering Information

NC Real Estate Commission publications

- *License Law and Commission Rules* (July 2018)
- *Residential Square Footage Guidelines*
- *NC Real Estate Agent Safety Guide*
- *North Carolina Real Estate Manual*

Access the Commission's Website at www.ncrec.gov and click the *Publications* tab on the home page. Please note that the *Manual* is available as a standard textbook (hard copy) or via Online Subscription.

Dearborn — by phone at 1-800-972-2220 or by email at reorders@dearborn.com

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