

EFFECTIVE 01/01/08-12/31/09

ADOPTED 07/31/07

Current Issues in Washington Residential Real Estate **A 3-Hour Mandated Curriculum & Learning Objectives**

Upon completion of this course the student will be able to:

MODULE 1 –SELLERS DISCLOSURES – Suggested time frame: 30 minutes - (Refer to NWMLS Legal Bulletin 175 for reference information)

1. Explain the New vacant land disclosures from the 2007 legislative session.
2. Explain the changes in residential disclosures from the 2007 legislative session.
3. Understand environmental disclosures – (Environmental issues were part of the last core so explanations are brief with emphasis placed on any new Federal or State or other required disclosures.)
 - a. Provide or illustrate the resources or documents available to make the required disclosures.
 - b. Provide a brief explanation of environmental hazards.
 - c. Review new hazard issues to include lead (look at new federal laws and cases).

MODULE 2 – CURRENT LEGAL/REGULATORY ISSUES – Suggested time frame: 60 minutes

1. Explain the new mortgage licensing requirements of the Department of Financial Institutions and how it relates to real estate licensees.
 - a. Explain why a real estate licensee should not deal with a mortgage originator unless they are licensed or exempt from licensure.
 - b. Instruct on how to find out if a mortgage originator is licensed or exempt.
 - c. Show where a real estate licensee can look to find out if a mortgage originator has had disciplinary action against their license.
 - d. Identify the specific disclosure that must be given if a real estate licensee is also a mortgage originator. ([RCW 19.146.0201](#))
2. Explain how to use standardized Purchase and Sale Agreements (This was covered in the last core, so this should be a refresher only. If available at the time of course approval, apply these topics to any new or combined forms.)
 - a. Briefly review the Cultum vs. Heritage House and other relevant legal cases regarding the drafting of real estate documents.
 - b. Instruct on proper methods or forms to counter.
 - c. Explain the problems of mixing addenda from different Form providers.

- d. List available resources for licensees to utilize when they are unfamiliar with the forms.
3. Explain Anti-Trust and Unfair Business Practices related to other real estate licensees and different business models (i.e. limited service)- **Use the Unfair Business Practices- Limited Service Modes Case Studies provided by the Department.**
4. RESPA (RESPA issues were part of the last core so explanations are brief with emphasis placed on review and any new Federal or State RESPA issues)
 - a. Explain RESPA requirements regarding **Interrelated Companies.**
 - b. Describe RESPA **Compensation & Disclosure** issues.
 - c. Explain and define **Predatory Lending.**

MODULE 3 – LICENSING ISSUES – Suggested Time Frame: 60 minutes

1. Review the contractual elements necessary to make the contract valid.
2. Explain and discuss the agency and licensing issues from the perspective of a selling and listing agent in regards to Handling of Earnest Money.
 - a. Include a description of actions that may be adverse or detrimental to the purchaser and seller.
 - i. Not collecting the earnest money or collecting the full amount of earnest money
 - ii. Not delivering the earnest money
 - iii. Not delivering or depositing the earnest money timely
 - iv. Misrepresentation of the earnest money status
 - v. Not communicating the status (not delivered, collected or untimely delivery/deposit) of the earnest money to the seller or seller's broker
3. Review laws and rules that pertain to Earnest Money
 - a. How mishandling Earnest Money impacts your license
 - i. Review 18.85.230(3) – misrepresentation of earnest money
 - ii. Review 18.85.230(2) – with the exercise of reasonable care and inquiry could have known the falsity of the statements
 - iii. Review 18.85.230(5) – conversion of any money
 - iv. Review 18.86.030(1)(a) – to exercise reasonable skill and care
 - v. Review 18.86.030(1)(c) – to present all written offers, notices and communications
 - vi. Review 18.86.030(1)(e) – to account in a timely manner for all money and property received

- vii. Review 18.235.130(4) - incompetence, negligence or malpractice that creates an unreasonable risk that a consumer may be harmed
 - viii. Review 18.235.130(12) – For Brokers – Failure to adequately supervise or oversee auxiliary staff whether they are employees or contractors to the extent that consumers may be harmed.
- b. Explain the Broker and affiliated licensees responsibilities for maintaining Transaction Files - **Use the Transaction File Case Studies provided by the Department.**
- i. Explain Broker’s duties
 - 1. What must be maintained in a transaction file? WAC 308-124C-020(2)(a)
 - a. Include discussion of receipts.
 - 2. Do pending transactions have to be maintained at the broker’s office? RCW 18.85.310(1) “...all transactions...”
 - 3. Do the records need to be current? WAC 308-124C-030(1)
 - ii. Explain agent’s duties (i.e. what goes into the transaction file, and when)
 - 1. Why does the licensee have to give records to their broker?
 - a. RCW 18.85.010(2) – ...person who represents a real estate broker
 - b. RCW 18.85.155 – Responsibility for subordinates
4. Increased familiarity with RCW 18.235, the Uniform Regulation of Business and Professions
- a. Purpose of 18.235 – to give a consistent disciplinary process, process and standards of conduct for all persons and entities licensed with Business and Professions
 - b. Review 18.235.030 – describe powers of investigation or audit
 - c. Review 18.235.110 – describe sanctions that can be given by the Department
 - d. Review 18.235.130 – describe “Unprofessional conduct”

UNFAIR BUSINESS PRACTICES- LIMITED SERVICE MODES CASE STUDIES:

1. A real estate salesperson viewed a property with his clients. The property was listed by a limited service brokerage. The owner called the salesperson to get feedback. The owner asked the salesperson if he would be showing the home to other prospective buyers. The salesperson replied that he would not until the home was listed with a full service licensee. The salesperson went on to claim the seller's geographic area was one of the traditional full service brokerage locations and he would not show the home. He added, I told my buyer not to waste their time on a property that had been listed with an inferior company. He stated that the listing company had licensees with criminal backgrounds. The salesperson told the owner, when you are ready to really sell the property to give him a call. The salesperson does not know if any of the employees or licensees of the listing company have criminal backgrounds.

- a. If proven, what elements in the above case could subject the salesperson to disciplinary action by the Department?
- b. Discuss the duties a licensee owes to the property owner. To their buyer.
- c. Discuss other federal laws the licensee should be aware of.

2. A full service real estate broker was taking a potential buyer to view several homes that met the buyer's requirements. As they were viewing one home the prospective buyer noticed the home across the street was listed by a limited service company that was a member of the same multiple listing service. The prospective buyer asked the broker if she could show the home. The broker replied, "no", and went on to state that her company does not do business with limited service brokers. The broker explained that limited service brokerages are extremely bad for buyers and sellers as they do not provide any marketing services, and further stated that she is not allowed to show the home due to MLS rules.

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ANSWER KEY & DISCUSSION POINTS
UNFAIR BUSINESS PRACTICES- LIMITED SERVICE MODES
CASE STUDIES:

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- d. If proven, what elements in the above case could subject the salesperson to disciplinary action by the Department? **A licensee, who makes statements to others that are not true or that are misleading, could be subject to disciplinary action. Review RCW 18.85.230(2) & (3) & RCW 18.235.130(4)**
- e. Discuss the duties a licensee owes to the property owner. To their buyer. **Review RCW 18.86.030(1)(a) & (b)**
- f. Discuss other federal laws the licensee should be aware of. **Review recent FTC and DOJ rulings or announcements.**

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- e. Discuss the duties a licensee owes to the property owner. To their buyer. **Review RCW 18.86.030(1)(a) & (b)**
- f. Discuss other federal laws the licensee should be aware of. **Review recent FTC and DOJ rulings or announcements.**

TRANSACTION FILE - CASE STUDIES:

1. Salesperson A is an affiliated licensee with True Blue Realty. Salesperson A is also a team leader of several other affiliated licensees. Salesperson A writes a purchase and sale agreement on a Big Farm Realty listing. Please discuss the licensing law requirements of the following:
 - a. Does Salesperson A have to keep a copy of the purchase and sale agreement for his records?
 - b. For the team, does Salesperson A, as the team leader, need to keep a copy of the purchase and sale agreement?
 - c. Does Salesperson A need to provide a copy of the purchase and sale agreement to True Blue Realty?
 - d. Discuss how many copies of completed transactions need to be maintained by whom and at what locations.

2. A salesperson maintains a personal file regarding transaction property located at 123 State Street. The personal file includes correspondence, the purchase and sale agreement, addenda, septic report, home inspector report and extensive daily notes of conversations. The salesperson provides the broker with a copy of the purchase and sale agreement and addenda.
 - a. Does the salesperson's broker need to have a copy of the salesperson's daily notes from the personal file of the salesperson?
 - b. Does the salesperson's broker need to have the septic and home inspection report?

3. A salesperson leaves her broker and moves to a new broker.
 - a. How long does the salesperson need to keep her personal file on listings?
 - b. Does the new broker need to maintain a copy of the salesperson's listings from her first broker?

ANSWER KEY & DISCUSSION POINTS

TRANSACTION FILE - CASE STUDIES:

- 1. Salesperson A is an affiliated licensee with True Blue Realty. Salesperson A is also a team leader of several other affiliated licensees. Salesperson A writes a purchase and sale agreement on a Big Farm Realty listing. Please discuss the licensing law requirements of the following:**
 - a. Does Salesperson A have to keep a copy of the purchase and sale agreement for his records? **No, only the broker is required to maintain records. RCW 18.85.310(1), WAC 308-124C-020**
 - b. For the team, does Salesperson A, as the team leader, need to keep a copy of the purchase and sale agreement? **No, only the broker is required to maintain records. RCW 18.85.310(1), WAC 308-124C-020**
 - c. Does Salesperson A need to provide a copy of the purchase and sale agreement to True Blue Realty? **Yes, the broker is responsible for all records and activities of their licensees. An affiliated licensee can not perform real estate activity other than through their broker. RCW 18.85.010, RCW 18.85.310(1), RCW 18.85.155**
 - d. Discuss how many copies of completed transactions need to be maintained, by whom and at what locations. **A broker can allow their affiliated licensees to have copies, but the broker is the licensee responsible for maintaining files and copies of records at their licensed location. WAC 308-124C-030(2)**

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 - a. Does the salesperson's broker need to have a copy of the salesperson's daily notes from the personal file of the salesperson? **Yes, WAC 308-124C-020(2)(a) The salesperson can not perform licensing activities except in the name of their broker and behalf of their broker. The broker is responsible for all the salesperson activity. Thus all records need to be in the possession of the broker at the licensed location.**
 - b. Does the salesperson's broker need to have the septic and home inspection report? **Only if the broker or the licensee was given a copy of the reports. A broker would normally not need to secure copies. However, if part of the purchase and sale contract were contingent upon these inspections, a broker may find it necessary to secure copies.**

3. A salesperson leaves her broker and moves to a new broker.

- a. How long does the salesperson need to keep her personal file on listings?
Only a broker needs to keep records – for 3 years. WAC 308-124C-030(2)
- b. Does the new broker need to maintain a copy of the salesperson's listings from her first broker? The new broker is not responsible for the licensee's previous activity. If the first broker releases the file/records to the new broker, then the new broker would have record keeping responsibility.