

*Current Issues in Washington Commercial Real Estate
A 3-Hour Mandated Curriculum and Learning Objectives
Effective 02/26/16 through 12/31/17
Revised 02/26/16*

Commercial Forms Products and the Limits of Licensees' Practice of Law

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

1. Describe the limits of licensees' ability to practice law through a review of *Heritage House* and its progeny.
2. Identify the resources available for appropriate commercial real estate transaction forms.
3. Describe best practices with regard to completing the forms.
4. Identify the available resources to help with the completion of transaction documents.

The Statute of Frauds

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

Understand the statute of frauds and its effects on real estate transaction documentation, including leases, purchase and sale agreement, and listings and brokers' compensation.

Agency

Upon completion of this section, the student will:

1. Understand how agency and dual agency relationships are formed and the role the written agreements serve.
2. Understand the distinction between agency disclosure and an agency agreement.
3. Appreciate the importance of making referrals when a subject matter exceeds the scope of a broker's license or other expertise, and understand the proper way to make referrals to third party vendors, both pursuant to RCW 18.86 and RCW 18.235.130, and how to minimize risk at the same time as providing competent referrals.
4. Understand the courts' recent decisions with regard to disclosure and the implications to the brokerage community of a shift towards caveat emptor.
5. Understand how to handle commission/compensation disputes between brokers in pending transactions without breaching agency duties
6. Recognize what constitutes proof of signatory authority for clients such as guardians, power of attorney, personal representatives, corporations, LLC's, and trustees.

Legislative/Legal Update

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

1. Explain sellers' disclosure obligations under RCW 64.06.010 (Seller Disclosure Statement):
 - a. When and which Seller Disclosure Statement is required.
 - b. The appropriate procedure for completion of the form and how and when to see that the form can be waived.
 - c. When a waiver of the right to receive the form is possible and how to accomplish the waiver.
 - d. How to deal with sellers reluctant to provide a Seller Disclosure Statement.
2. Describe and appreciate the significance of the statutory presumption of brokers' independent contractor status. (RCW 49.46.130(2)(i)) (Substitute House Bill 1853)
3. Explain and refer consumers to information sources for learning about landslide hazards and other geologic perils as identified in Senate Bill 5088. Student should be able to explain that consumers can obtain information online from the Washington State Department of Natural Resources.
4. Explain when Escrow/Closing Agents are not licensed to practice real estate and cannot present transaction forms to buyers and sellers for signatures or initials. Licensees must present transaction forms to buyers and sellers for signatures and/or initials.
5. Explain and refer consumers to information sources for learning about changes to the National Flood Insurance Program (NFIP) and how flood insurance rates may be going up significantly for properties, especially for those properties located in hazard areas defined as A and V Zones.
 - a. Understand how to refer their customers to flood insurance agents for flood insurance coverage and not be the source of rate information.
 - b. https://www.floodsmart.gov/floodsmart/pages/residential_coverage/rc_overview.jsp and www.FloodSmart.gov
6. This area is reserved for any new legislation that comes from the 2016 or 2017 session. The Department will post the information to our web site.

Real Estate Licensing Law Relating to the Referral of Title Insurance Providers RCW 18.85.053

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

1. Describe the limitations on licensees' conduct with regard to:
 - a. Giving or receiving gifts, kick-backs, or money;
 - b. Accepting money or things of value;
 - c. Denying access to competing title companies; or
 - d. Requiring consumers to obtain title and services from a title company where the licensee has an interest in the company.

Licensing Law Relating to the Multi-State Transactions

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

1. Understand the implications of providing real estate brokerage services outside the State of Washington, as well the implications of a licensee from outside Washington providing services inside the state.

2. Understand resources available to assure compliance with other jurisdictions' license laws when working out of state.
3. Understand Washington law when associating with a licensee from outside Washington providing services inside the state.

Advertising, the Internet and Social Media

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

1. Explain "One Click Away."
2. Explain the Licensing Law requirements for all advertising, with a special emphasis on advertising in Social Media. This component cannot be used to explain or demonstrate how to utilize social media or how to incorporate social media into a marketing plan.
3. Identify the issues and licensee responsibilities when using third party websites (anything not directly controlled by MLS or a firm).
4. Understand that licensees must keep advertising information current and ensure its accuracy.
5. If the Real Estate Commission authorizes DOL to issue a rule requiring licensees' license numbers on all advertising, it will be included in the CORE.

(link to [Social Media & Internet Guidelines for Real Estate Professionals](#) [text](#) and [video](#))

Copyright and Intellectual Property Rights

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

1. Understand intellectual property rights in typical listings.
2. Be aware of key intellectual property rights court cases in the field.
3. Understand how to avoid infringing the intellectual property rights of others.
4. Understand how to protect the student's and/or firm's intellectual property rights from infringement by others.

Property Management

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

1. Explain why real estate licensees cannot perform property management without approval from their designated broker.
2. Explain that property management is a real estate activity and the designated broker has responsibility for property management activities done by his or her licensees
3. Describe the necessary agreements, record keeping, and funds management procedures associated with property management as described by WAC 308-124D-215. The student will indicate awareness of how funds are to be treated as trust funds where appropriate
4. Identify which Property Management functions can be authorized in the firm's written policy and written delegation agreements.