

2024/2025 Current Issues Washington Real Estate Commercial Real Estate Course Curriculum

Introduction

The Department of Licensing (DOL) is responsible for developing real estate curricula. Schools and instructors apply and build their own detailed curriculum for teaching real estate courses. Their application will provide the details based on the curriculum outline from DOL. Course approval will follow the process outlined in [chapter 308-124H WAC](#).

Recommended Hourly Breakdown

Required Course: 2024 to 2025 Current Issues in Washington Commercial Real Estate (CORE)

Duration: 3 hours

Recommended Learning Level: B-2 Comprehension

Course providers may choose to employ any hourly breakdown that meets the required hours for fair housing. DOL recommends the following hourly breakdown:

- Topic Area I: Agency Law Review and Update (45 minutes)
- Topic Area II: Legal Update (45 minutes)
- Topic Area III: Business Practices Update & Professional Standards (1 hour 30 minutes)

Learning levels, known as “Bloom’s Taxonomy,” are described in the designations on page 2. These designations are used to identify the learning level recommended for a particular set of topics.

Given the difficulty to attain deep learning levels with three hours of instruction, topics in this curriculum should be taught at the B-2 Comprehension level. Additionally, while it is not required to teach subjects in the sequence shown in this curriculum, every educational provider must ensure that the courses taught meet the basic learning objectives required to ensure that prospective licensees are minimally competent. See Recommended Learning Levels for more information.

NOTE: With ever-evolving legislative, legal, and business practices in the real estate profession, this curriculum is subject to change. Such changes are often minor, rarely involving more than the modification of a sub-objective or an element of a sub-objective, and in most cases do not constitute re-adoption of the curriculum by the Commission. Should they occur, DOL will post an updated curriculum with such changes to its website at <https://www.dol.wa.gov/professional-licenses/real-estate-educators/curriculum-real-estate-educators>

Topic Areas

- I. Agency Law Review and Update (45 minutes)
 1. History of Agency Law in Washington
 2. Definitions
 3. Establishing Agency; Service Agreement Requirements
 4. Exception for Commercial Real Estate
 5. General duties in RCW 18.86.030
 6. Buyer/Seller Duties
 7. Limited Dual Agency
 8. Duration of Agency Relationship
 9. Compensation
 10. Real Estate Brokerage Pamphlet

- II. Legal Update (45 minutes)
 1. Failure to maintain a complete transaction log/file
 2. Requirements for Brokers with licenses for less than 2 years
 3. Case Studies
 4. Competition in Commercial Brokerage

- III. Business Practices Update & Professional Standards (1 hour 30 minutes)
 1. Working in a team environment
 2. The Licensee's Status as Independent Contractor
 3. Broker Personal Safety
 4. DOL Online Renewal and License Maintenance Features
 5. Risk Avoidance Reminders

Recommended Learning Levels

Learning Levels

B-1 Knowledge

Knowledge is defined as the remembering of learned material. This may involve the recall of a wide range of material, from specific facts to complete theories, but all that is required is the remembering of the appropriate information.

Examples: Know definitions of common terms, basic concepts, methods and procedures and principles.

B-2 Comprehension

Comprehension is defined as the ability to grasp the meaning of material. These learning levels go one step beyond the simple remembering of material and represent the lowest level of understanding.

Examples: Understand and interpret facts and principles.

B-3 Application

Application is defined as the ability to use learned material in new situations.

Examples: Apply laws and theories to practical situations. Demonstrate correct usage of a method or procedure.

B-4 Analysis

Analysis refers to the ability to study or determine the nature and relationship of the parts.

Examples: Distinguish between fact and inference and evaluate the relevance of data.

B-5 Synthesis

Synthesis refers to the ability to put parts together to form a new whole. Learning outcomes in this area stress creative behaviors, with major emphasis on the formulation of new patterns or structures.

Examples: Propose a plan for an experiment, integrate learning from the different areas into a plan for solving a complex problem.

B-6 Evaluation

Evaluation refers to the ability to determine the significance or worth of something by careful study.

Examples: Form a valid opinion through weighing of evidence.

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Agency Law Review and Update

Recommended Duration: 45 minutes

Upon completion of this unit, the learner will know and be able to:

Educational Objective: Real Estate Brokerage Relationships

Understand the changes to and requirements of RCW 18.86

Specifically, the learner will know and be able to identify and describe:

a. History of Agency Law in Washington

- Pre-1996: “Sub-agency” – all brokers represented the seller
- Agency Reform Act, adopted in 1996, created buyer agency
 - Creation of agency relationships
 - General duties of a broker
 - Duties of a seller’s agent
 - Duties of a buyer’s agent
 - Dual agency duties
 - Duration of agency relationship
 - Compensation
- Unlike seller agency, buyer agency did not require a written agreement

- Significant changes were enacted in 2023, which go into effect January 1, 2024

b. Definitions

- Students will review the definitions in RCW 18.86.010, including agency relationship, agent, brokerage services agreement or services agreement, buyer’s agent, limited dual agent, principal, and seller’s agent

c. Establishing Agency; Service Agreement Requirements

- How to establish agency relationships with buyers and sellers; how to create dual agency
- Requirements related to services agreements, including:
 - Timing of agreement
 - Contents of the agreement, including special requirements for buyer agreements
 - Limited dual agency consents

d. Exception for Commercial Real Estate

- Written services agreement not required for a buyer’s agent providing services solely for commercial real estate
- Buyer’s agent utilizing this exception must make a “Compensation Disclosure” that is contained either in the agreement between buyer and seller or in a separate written document identifying:
 - Amount of compensation broker expects to receive
 - Source of all compensation broker expects to receive

e. General duties in RCW 18.86.030

- Background: Washington Court of Appeals ruled in Falcon Props. LLC v. Bowfits (2020) that brokers owe duties in RCW 18.86.030 only to an agent’s principal in a transaction
- The law enacted in 2023 made clear that 18.86.030 duties are owed to all parties in the transaction, including
 - Reasonable skill and care
 - Deal honestly and in good faith
 - Present all written offers
 - Disclose material facts
 - Review definition of material facts
 - Account for money and property
 - Provide the pamphlet on Real Estate Brokerage, including requirements of:
 - When to provide the pamphlet
 - Obtain an acknowledgment of receipt of the pamphlet
 - To whom the pamphlet must be provided
 - Disclosing who the agent represents and any terms of compensation offered by a party or firm represented by another party

f. Buyer/Seller Duties – duties in RCW 18.86.040 and RCW 18.86.050 that are owed to buyer or seller, including:

- Duty of loyalty
- Disclosure of conflicts of interest
- Advising client to seek expert advice
- Not to disclose confidential information
 - Review definition of confidential information
- Continuous good faith effort to find a buyer for seller’s property or a property for the

buyer (unless otherwise agreed)

g. Limited Dual Agency

- New terminology: “limited dual agency” – a limited dual agent may not advocate for one party to the detriment of the other
- Duties in RCW 18.86.060:
 - No adverse action
 - Disclosure of conflicts of interest
 - Advising client to seek expert advice
 - Not to disclose confidential information
 - Review definition of confidential information
 - Continuous good faith effort to find a buyer for seller’s property or a property for the buyer (unless otherwise agreed)
- Discussion of role of designated broker and managing broker acting as dual agent

h. Duration of Agency Relationship

- Review how agency relationships are completed, expired, and terminated as set forth in RCW 18.86.070.

i. Compensation

- Review requirements for a firm to receive compensation in RCW 18.86.070, including the necessary contents of the services agreement related to compensation
- Review the option of a Compensation Disclosure for commercial real estate

j. Real Estate Brokerage Pamphlet

- Review the contents of the Real Estate Brokerage in Washington pamphlet set forth in RCW 18.86.120 which is due to be distributed January 2024. See [RCW 18.86.120](#).

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Recommended Duration: 45 minutes

Upon completion of this unit, the learner will know and be able to:

Educational Objective 1: Common Complaints/Investigations/Findings

Identify and describe common concepts relating to consumer-driven complaints/investigations/findings received/initiated/issued by DOL.³ Additionally, describe how and where to file a complaint against a licensee⁴, as well as how and where to view disciplinary actions against licensees.⁵

Specifically, the learner will know and be able to identify and describe:

- a. Failure to maintain a complete transaction log/file (RCW 18.85.285(1); WAC 308-124C- 105) What is required to be kept in a transaction file, and how long the file must be retained by the Broker. Brokers must also retain files for transactions that do not close.
- b. Requirements for Brokers with licenses for less than 2 years.
 - i. Elements of a complete transaction log/file
 - Trust account records
 - Other records

Educational Objective 2: Case Studies

Identify and describe common concepts relating to current legal trends.

Specifically, the learner will know and be able to identify and describe:

- a. Seller disclosure versus caveat emptor (Douglas v. Visser, 295 P.3d 800 – Wash: Court of Appeals, 1st Div. 2013)
 - i. It is more important than ever for buyers to be advised to conduct thorough inspections prior to purchasing. Give examples what must be disclosed, and what client information must not be disclosed
 - ii. Agency Law duty for brokers to disclose material facts actually known by broker; no duty to investigate; reasonable reliance
- b. Scope of broker’s obligation to convey offer to client is limited (*Beauregard v. Riley*, 9 Wn. App. 2d 248, 443 P.3d 827 – Washington Court of Appeals 2019)
 - i. Broker’s duty under RCW 18.86.030(1)(c) to convey all written offers pertains only to services offered or rendered for which compensation is offered or there is an expectation of compensation.
 - ii. Is a response required for rejected offers?
 - iii. Brokers taking a listing for sale need not present offer to lease.

³ The following sub-objectives have been identified as consumer-driven complaints/investigations/findings received/initiated/issued by DOL Real Estate Programs Regulatory & Enforcement Unit.

⁴ <http://www.dol.wa.gov/business/realestate/complaint.html>

⁵ <http://www.dol.wa.gov/business/disciplinary/disciplinaryrealest.html>

- c. The Washington Consumer Protection Act (RCW 19.86) applies to real estate brokers (Edmonds v. John L. Scott Real Estate, 942 P. 2d 1072 – Wash: Court of Appeals, 1st Div. 1997)⁶
 - i. The Washington Consumer Protection Act (CPA) is liberally construed so as to protect the public and foster fair and honest competition
 - ii. Under the CPA real estate sales clearly constitute “trade” or “commerce”
 - iii. Deceptive acts are unlawful under the CPA
 - iv. Court of Appeals provides direction with regard to what is required drafting and addendum or amendment to purchase agreements and what is required to meet the standard of care of an attorney as required by Heritage House. What can a broker draft and what can a broker not draft?

Educational Objective 3: Competition in Commercial Brokerage

- a. The U.S. Department of Justice is investigating issues pertaining to commissions and compensation of real estate brokers
 - i. Potential antitrust violations
 - ii. Transparency and candor regarding compensation and negotiability are key
 - iii. Consumers uninformed
- b. Class action antitrust lawsuits filed on the residential side

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⁶Instructors are welcome to make licensees aware of more recent court decisions, i.e., Deegan v. Windermere Real Estate/Center-Isle, Inc. 197 Wn. App. 875, 391 P.3d 582 (2017), that highlight the Washington Consumer Protection Act’s (CPA) application to real estate brokers. However, instructors are *required* to teach all information contained within Educational Objective 2: Case Studies, c. The Washington Consumer Protection Act (RCW 19.86) applies to real estate brokers (Edmonds v. John L. Scott Real Estate, 942 P. 2d 1072 – Wash: Court of Appeals, 1st Div. 1997).

Recommended Duration: 1 hour 30 minutes

Educational Objective 1: Organizational Structures, Roles, & Responsibilities

Identify and describe common concepts relating to emerging organizational structures, roles, and responsibilities in the commercial real estate sector. Identify and describe both state and federal compliance issues surrounding emerging organizational structures, roles, and responsibilities in the commercial real estate sector. Additionally, describe where to go for and how to perform license maintenance.⁷

Specifically, the learner will know and be able to identify and describe:

Specifically, the learner will know and be able to identify and describe:

- a. Working in a team environment
 - i. Responsibilities of designated brokers and firms
 - 1. Delegation of responsibility to managing brokers who supervise the real estate brokerage activities of other brokers or managing brokers
 - ii. Supervision
 - 1. Licensed assistants: These terms become very confusing within the industry. You are either licensed or you are not. However, whether someone is licensed or not the firm/DB is still responsible for their conduct.
 - 2. Unlicensed assistants: What are they allowed to do and not allowed to do?
- b. The Licensee’s Status as Independent Contractor
 - i. The difference between an independent contractor and an employee
 - 1. Situations where a licensee may be considered an employee
 - ii. Income tax, health insurance, and retirement savings issues affecting independent contractors
- c. Broker Personal Safety
 - 1. Teach safety practices for showing vacant buildings. (Especially important in areas with high homeless populations)
- d. DOL Online Renewal and License Maintenance Features
 - i. Online renewal
 - 1. Ensuring continuing education is complete at renewal
 - 2. Finger printing through IdentoGO
 - ii. Using your dashboard (teach how to use the new system)
 - 1. Updating information
 - 2. Online transfer process
 - a. Notifying your firm of separation

⁷ <http://www.dol.wa.gov/business/realestate/brokersrenew.html>.

<http://www.dol.wa.gov/business/realestate/brokersupdate.html>

Educational Objective 2: Risk Avoidance Reminders

Identify and describe common concepts relating to risk avoidance practices in the commercial real estate sector.

Specifically, the learner will know and be able to identify and describe:

a. Commercial Real Estate Transaction Forms

- i. Resources available for procuring appropriate forms
- ii. Services Agreement for Sellers – Listing Agreements
 - Common provisions of a listing agreement, including those required by RCW 18.86.020 and 18.86.070, including
 - Appointment of broker to act as agent, duration of agreement, exclusivity, and consent to limited dual agency
 - Compensation
 - Other common provisions
 - Requirement in WAC 308-124C-140 to deliver executed services agreement to firm within two days
- iii. Forms for Buyer Agency
 - Review requirements for buyer agency and commercial real estate exception in RCW 18.86.020 and 18.86.080
 - Common provisions in services agreements for buyers, including:
 - Appointment of broker to act as agent
 - Duration of agreement (default 60 days)
 - Checkboxes for exclusive and nonexclusive relationship
 - Consent to limited dual agency
 - Compensation
 - Optional Compensation Disclosure document for commercial real estate
- iv. Resources available to help with the completion of transaction documents
 - When is a lease required to be notarized? What happens if lease is not notarized? How to use electronic notaries. Is electronic signature of leases adequate so it doesn't need to be notarized? Earnest Money needs to be deposited by the date specified on PSA. What if it is not? Use of escalator Clause, Show example of form
 - Time frame for presentation of offers (Presentation of offers and how is it presented)

b. Statute of Frauds

- i. Effects on real estate transaction (e.g., documentation, including leases, purchase and sale agreement, and listings and brokers' compensation)
- ii. Off Market Transactions
 - Presenting off market property to multiple buyers. You can only represent one party so once an offer is made you cannot present to another buyer until first buyer deal fails.

⁸<https://www.fema.gov/national-flood-insurance-program>

- c. Subject Matter Exceeding the Scope of a Broker's License and Making Competent Referrals to Third-Party Vendors**
 - i. Identifying subject matter that exceeds the scope of a broker's license
 - ii. Making referrals to third party vendors pursuant to RCW18.86 and RCW 18.235.130

Is it ok to receive referral fees?

Can a broker pay part of their commission to service provider who helps with a transaction? (attorney, architect, contractor, etc.)

- d. Limitations on Licensees' Conduct about Referral of Title Insurance Providers**
 - i. Giving or receiving gifts, kickbacks, or money
 - ii. Accepting money or things of value
 - iii. Denying access to competing title companies
 - iv. Requiring consumers to obtain title and services from a title company where the licensee has an interest in the company

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Resources for Instructor

- Age Discrimination in Employment Act (ADEA): <https://www.eeoc.gov/statutes/age-discrimination-employment-act-1967>
- Americans with Disabilities Act (ADA): www.ada.gov
- Equal Credit Opportunity Act: <https://www.justice.gov/crt/equal-credit-opportunity-act-1>
- “Guide to Service Animals and the Washington State Law Against Discrimination,” Washington State Human Rights Commission: [Service Animals and the Washington Law Against Discrimination-032019.pdf](https://www.humanrights.wa.gov/wp-content/uploads/2019/03/Service-Animals-and-the-Washington-Law-Against-Discrimination-032019.pdf)
- Merriam Webster: <https://www.merriam-webster.com/>
- Municipal Research and Services Center of Washington: <https://mrsc.org>
- National Housing Law Project: <https://www.nhlp.org/initiatives/fair-housing-housing-for-people-with-disabilities/fair-housing-and-domestic-violence/>
- Oyez: <http://oyez.org>
- Seattle Office for Civil Rights: <https://www.seattle.gov/civilrights/civil-rights/fair-housing/fair-chance-housing>
- City of Seattle Office for Civil Rights – Types of Racism: <https://www.seattle.gov/Documents/Departments/RSJI/Resources/RSJI-4-Types-of-Racism-August-2021-City-of-Seattle-Office-for-Civil-Rights.pdf>
- The Seattle Civil Rights & Labor History Project (University of Washington): <https://depts.washington.edu/civilr/segregated.htm>
- United States Department of Justice: <https://www.justice.gov/>
- U.S. Equal Employment Opportunity Commission: <https://www.eeoc.gov>
- Washington State Commission on Hispanic Affairs: www.cha.wa.gov
- Washington State Human Rights Commission: <https://www.hum.wa.gov/fair-housing>
- Washington State Legislature: <https://leg.wa.gov>
- Washington State Department of Licensing Real Estate Program Webpage: <http://www.dol.wa.gov/business/realestate/index.html>
- National Association of Realtors’® Federal Issues Tracker: www.nar.realtor/political-advocacy/nars-federal-issues-tracker
- Washington Legislature Webpage: <http://leg.wa.gov/>
- Douglas v. Visser, 295 P.3d 800 – Wash: Court of Appeals, 1st Div. 2013: <https://casetext.com/case/douglas-v-visser-1> and other sources

- *Beauregard v. Riley*, 9 Wn. App. 2d 248, 443 P.3d 827 – Washington Court of Appeals 2019:
https://scholar.google.com/scholar_case?case=17965512967828937175&q=beauregard+v.+riley&hl=en&as_sdt=6,48&as_vis=1
- *Edmonds v. John L. Scott Real Estate*, 942 P. 2d 1072 – Wash: Court of Appeals, 1st Div. 1997:
http://scholar.google.com/scholar_case?case=16934759942007581459&q=edmonds+v.+scott+real+estate&hl=en&as_sdt=6,48&as_vis=1 and other sources
- Advertising:
 - Advertising: Real Estate
<https://www.dol.wa.gov/business/realestate/advertising.html>
 - Washington State Real Estate Advertising Guidelines
<https://www.dol.wa.gov/business/realestate/docs/620400.pdf>
- Renewing your license:
 - (webpage): <http://www.dol.wa.gov/business/realestate/brokersrenew.html>
 - Uploading document instructions
 (PDF): <http://www.dol.wa.gov/business/docs/uploading-document-instructions.pdf>
 - Fingerprinting and background checks
 (webpage): <http://www.dol.wa.gov/business/fingerprinting.html>
- Real Estate Educators
<https://www.dol.wa.gov/business/realestate>
- Course Search (Chrome Browser)
<https://professions.dol.wa.gov/s/course-search>
- Fingerprinting & Background Checks
 - WAC 308-24A-700
 - <https://www.dol.wa.gov/business/fingerprinting.html>

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