



16 Hour
VREB Approval #: 58068

**Potomac Real Estate School
Box 494
Oakton, Virginia 22124**

Telephone: (703)758-0034

Fax: (703) 758-0044

info@PotomacRESchool.com

Instructions for the 16 Hour Correspondence Course

You have chosen to take the 16 Hour Continuing Education correspondence course. You may either read it online or print it.

This course is comprised of 11 sections: Agency, Contracts, Ethics, Fair Housing, Legal Updates and Emerging Trends Mortgage Fraud, Practical Aspects of Establishing Home Values, Predatory Lending, the Ins and Outs of Short Sales, Preparing the Home for Sale, and Going Green. As you complete each section of the course, take the quiz for that section. Blank answer sheets are provided for you at the end of this packet; please record your answers there. **You must answer the questions for all 11 sections.** The Virginia Real Estate Board requires a passing grade of 75% or higher.

Complete the Certification Sheet. **Have the Student Declaration notarized.** The Virginia Real Estate Board has given you the option of either sending the notarized affidavit to us or keeping it with your records.

Mail, fax, or scan and email the completed answer sheets, certification sheet and Student Declaration to us. Our mailing address is Box 494, Oakton, Virginia 22124. Our fax number is 703-758-0044. Our email address is info@PotomacRESchool.com.

Your information will be held in the strictest of confidence.

You will not be charged unless you pass the exam. If you do not pass, you will be notified immediately.

Once we have received the required paperwork from you and you have been charged, we will report your hours to DPOR and email your certificate to you. The Real Estate Board requires that we report your hours to DPOR within 5 days of receipt of your paperwork. If you need reporting in less than 5 days, please let us know.

If you have any questions, please call or email us. Our phone number is 703-758-0034. For questions of a general nature, you can call or email us at info@PotomacRESchool.com. If you have questions about the content of the course, you can call or email me at patti@PotomacRESchool.com.

Thank you.

Patti Chapell

Patti Chapell
Director

Linking Learning To Success®

TABLE OF CONTENTS

Name of Course	Page
Agency	4
Contracts	9
Ethics	16
Fair Housing	40
Legal Updates and Emerging Trends	54
Mortgage Fraud	61
Practical Aspects of Establishing Home Values	71
Predatory Lending	77
The Ins and Outs of Short Sales	86
Preparing the Home for Sale	96
Going Green	102

Agency

Part 1 – Definitions and Duties

- Definition of Agency
 - Virginia's agency statute defines agency as any relationship in which a real estate licensee acts for or represents a person by such person's express authority in a real estate transaction. This definition has been recently revised to include representation of a client as a standard agent or limited service agent.
- History of Agency in Virginia
 - In 1995, the Virginia General Assembly abolished the concept of common law agency in real estate transactions.
 - The legislature enacted an agency statute in its place that classifies the agency relationships among brokers, buyers, sellers, landlords and tenants.
 - This is referred to as "standard" or "statutory agency."
- What is a Client?
 - A client is a person who has entered into a brokerage relationship with a broker licensee.
- What is a Customer?
 - A customer is a person who does not have a brokerage relationship with the broker licensee and for whom the broker licensee may perform routine or ministerial acts.
- Statutory Duties to a Client
 - The licensee must perform according to the terms of the agreement (example: buyer agency or listing agreement).
 - The licensee must promote the best interests of the client by performing the following:
 - Seeking a sale, lease, property at the price and terms according to the agreement or one that is acceptable to the client.
 - Presenting all written offers and counteroffers in a timely manner, even after the property is under contract
 - Disclosing to the client all material facts related to the property or transaction of which the licensee has actual knowledge (except where prohibited by law, like HIV or AIDS, which cannot be disclosed to any party).
 - Accounting for all monies in a timely manner
 - The licensee must maintain confidentiality of all personal and financial information received during the term of the brokerage agreement. This duty of confidentiality remains even after the brokerage agreement has been terminated.
 - The licensee must exercise ordinary care
 - The licensee must comply with all applicable laws, such as fair housing statutes and regulations and all other statutes and regulations required by the Commonwealth.
- Duties to a Customer
 - The licensee must treat customers honestly.
 - The licensee must inform the customer of any material defects in the physical condition of the house of which the licensee has actual knowledge. Stigmatized properties do not fall under this duty to disclose as the Commonwealth of Virginia has determined that this type of information is immaterial and therefore does not need to be disclosed.
 - The licensee may perform ministerial duties for the customer.

- Ministerial duties are routine acts that do not imply representation (filling out a form)
- Imputed Knowledge
 - With statutory agency in Virginia, the liability of imputed knowledge ceased to exist.
 - Under common law agency, the licensee was obligated to know whatever he should have known.
- The Issue of Confidentiality
 - Let's say that Betty, a listing agent for the Smiths, loses the listing. During the time that she had the listing, the Smiths confided that they needed to sell quickly because they were getting a divorce.
 - Now Betty has buyer clients, the Browns. The Smiths' home, in Betty's opinion, would be perfect for the Browns. However, Betty has confidential information about the Smiths that by law, she cannot divulge and by law, must divulge to the Browns.
 - In this case, Betty can prepare a statement that says that she has confidential information about the Smiths and that the Browns acknowledge that by law she cannot share this confidential information with them. The Browns sign the statement and all should be well.

Part 2 - The Brokerage Relationship

- Brokerage Relationship
 - A brokerage relationship is a contractual relationship between client and brokerage firm. In this relationship, the broker has been hired by the client to procure a seller, buyer, option, tenant or landlord who is ready, willing and able to sell, buy, option, exchange or rent real estate.
 - Although it is usually the sales agent who has the day-to-day relationship with the client, it is the brokerage firm that has the legal relationship with the client.
 - Neither compensation nor membership in a multiple listing service establishes a brokerage relationship.
- When must a licensee first discuss agency?
 - A licensee must discuss agency with a potential customer/client as soon as there is a substantive conversation about a particular property and must be given in writing at the first practical time but no later than the time when specific real estate assistance is given.
- Establishing a Brokerage Relationship
 - A brokerage relationship must be established in writing.
 - Prior to entering into a brokerage relationship, the licensee must do the following:
 - Advise the potential client of the type of brokerage relationship and scope of the relationship
 - Advise the potential client of the terms of the compensation
 - Advise the potential client as to whether or not he will share the compensation with another broker who may represent another party to the transaction
- Termination of Brokerage Relationship
 - A brokerage relationship may be terminated as follows:
 - When the terms of the agreement have been performed
 - At the expiration of the agreement
 - By mutual agreement to terminate the relationship
 - By default by either party
 - By the licensee's withdrawal when the client refuses to consent to dual agency
 - By the death of the broker

Part 3 – Agency Relationships

- In Virginia, a real estate licensee can act as any of the following:
 - Listing Agent
 - Buyer Agent
 - Dual Agent
 - Designated Agent
 - Sub-Agent
 - Limited Service Agent
- Listing Agent
 - A listing agent represents the seller.
- Buyer Agent
 - A buyer agent represents the buyer.
- Dual Agent
 - A dual agent represents both buyer and seller in the same transaction.
 - Dual agency is legal and ethical in Virginia.
 - A dual agent cannot share confidential information he receives from one client with the other
 - A dual agent cannot do anything that would harm either party.
 - Another term for dual agency is limited agent. Let's look at an example with two scenarios.
 - Sue is the listing agent for the Greens. Another agent is the buyer agent for the purchaser. An offer is submitted. Sue discusses several concerns with the Greens; the earnest money deposit is low, the settlement date is five months out, the offer is well below the comparables. The Greens make a counter-offer.
 - Sue is the listing agent for the Greens and the buyer agent for the Smiths. The Smiths write an offer on the Greens' home. Sue is now a dual agent. The offer written is well below the comps, the earnest money deposit is low, the settlement date is five months out. Since Sue is now a dual agent, she cannot advise the Greens in any way that would hurt the Smiths. She is truly a "limited" agent.
 - In order to act as a dual agent, both buyer and seller must consent to the dual agency in writing.
 - Most buyers and sellers do not understand the implications of dual agency when they agree to allow their agent to act as a dual agent.
 - If a licensee wishes to practice dual agency, it is imperative that he, the agent, explain it accurately.
 - Some buyers and sellers will not have an objection to dual agency. But they must know that the dual agent will be limited in the representation he can give them.
 - Dual agency can be explained like this:
 - "Mr. Seller, I am your listing agent and I represent you fully. When an offer is submitted I will advise and guide you based on my expertise. There may be a time when I represent a buyer who is interested in your home. At that point, if I continue to work with both of you, I will be a dual agent, as long as you and the buyer agree to allow this. What this means is that I will do my best to help achieve a meeting of the minds, but I will not be able to share confidential information that the buyer gives me with you and vice versa. In addition, I will not be able to advise you in a way that could potentially harm the buyer, and I will not be able to advise the buyer in a way that could potentially harm you."

- What's the answer if these clients do not agree to dual agency? Does this mean that their agent will have to give either buyer or seller to another agent and, therefore, give up a commission? Not necessarily. The agent has at least three options in this case:
 - If the licensee is the listing agent and a buyer, who he does not yet represent, wishes to see his listing, he can offer to either refer that buyer to someone who can fully represent him, or he can offer to work with the buyer as a customer. If the buyer is a customer, the real estate agent is acting as only a seller's agent. He can only perform ministerial duties for the buyer, and the buyer would have no representation. In this case, the licensee would receive a commission on both sides.
 - If the buyer wants full representation, the licensee can refer the buyer to a person in his company with whom he has a "time for time" arrangement. In this case, that agent represents the buyer and does not receive any payment (the referring agent gets both sides) because he offers the same service when that agent is in the same circumstance. In this case, the referring agent receives a commission on both sides.
 - The third option is to refer the buyer to someone and take a referral fee. In this case, the real estate agent gives up most of the commission on the buyer's side.
 - Lastly, if the buyer or seller refuses to allow the agent to work as a dual agent, the agent can terminate the agency relationship.
- If the agent chooses to practice dual agency, he must be very careful. Although it is legal and ethical in the Commonwealth of Virginia, it is a risky proposition. In a, "VREB Speaking", the Virginia Real Estate Board states, "We are still seeing numerous cases involving the dangerous practice of dual agency."
- Coming July 12, 2012
 - New Residential Standard Agency Law
 - The law is a fundamental shift in the area of Dual Agency.
 - Dual Agency will be permitted only after an enhanced disclosure is given to both parties.
 - Three hours of Continuing Education must be completed on the changes resulting from the bill.
 - All licensees need the class if their license expires between July 1, 2012 and June 30, 2014.
 - This CE requirement applies to the following:
 - New salesperson licensees who have to complete post-license education
 - Inactive licensees attempting to activate their licenses during the time period noted above.
 - Completing this course will be a one-time renewal requirement and will be in addition to the required 16 hours (salesperson) or 24 hours (broker) of CE or the required 30 hours of post-licensing.
- Designated Agent
 - Designated agency occurs when the same Broker (company) is on both sides.
 - The Broker becomes the dual agent because the company is representing both buyer and seller.
 - The Broker (either directly or indirectly) designates the listing agent to represent the seller and the buyer's agent to represent the buyer.
 - Both buyer and seller receive full representation.
 - In cases of dispute, the Broker cannot take the side of either.
- Sub-Agent

- In sub-agency, the agent working with the buyer is not representing the buyer but rather representing the seller. That agent can perform ministerial duties for the buyer; however, the buyer has no representation.
- This is the manner in which agents customarily worked before the early '90s when buyer agency was introduced.
- Standard Agent
 - A standard agent is a licensee who acts for, or represents, a client in an agency relationship.
- Limited Service Agent
 - A licensee may act as a limited service representative only pursuant to a written brokerage agreement as follows:
 - It discloses that the licensee is acting as a limited service representative
 - It provides a list of the specific services that the licensee will provide to the client
 - It provides a list of the specific duties of a standard agent that the limited service representative will not provide the client.
 - A written disclosure such as the following is required: "By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed consent to the limited service representation by the licensee and do further acknowledge that neither the other party to the transaction nor any real estate licensee representing the other party is under any legal obligation to assist the undersigned with the performance of any duties and responsibilities of the undersigned not performed by the limited service representative."
 - Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box.
- Selling Agent
 - A selling agent is any agent working with the buyer as either a buyer agent, sub-agent, or limited service agent. Agents frequently mistake "selling agent" to mean "listing agent." In a transaction, there will be a listing agent and a selling agent. The selling agent is the agent working on the buying side.

Agency Final Quiz

1. A real estate agent who represents both the buyer and seller on the same property is a
 - a. Dual Agent
 - b. Buyer Agent
 - c. Listing Agent
 - d. Designated Agent
2. A real estate agent working with (not for) a buyer and performing ministerial duties for the buyer is a
 - a. Buyer Agent
 - b. Designated Agent
 - c. Sub-agent
 - d. Secret agent
3. In Question 2, the buyer is the agent's
 - a. Client
 - b. Customer
 - c. Employer
 - d. None of the above

4. Joan, an agent with Company A, is the listing agent for the Browns. Jackie, an agent with Company A, is the buyer agent for the Whites. Jackie writes an offer for the Whites to purchase the Brown's property. Joan and Jackie are
 - a. Dual agents
 - b. Designated agents
 - c. Listing agents
 - d. Buyer agents
5. In Question 4, Company A is
 - a. The listing company
 - b. The selling company
 - c. The Dual agent
 - d. All of the above
6. Does a licensee have an agency relationship with a customer?
 - a. Yes
 - b. No
7. Does a licensee have duties to a customer?
 - a. Yes
 - b. No
8. Are the duties of an agent in the Commonwealth of Virginia according to common law or statute?
 - a. Common law
 - b. Statute
9. A brokerage relationship is between the following:
 - a. The agent and client
 - b. The broker firm and client
 - c. The customer and agent
 - d. None of the above
10. When must a licensee first discuss agency?
 - a. At the time of writing the Sales Contract
 - b. When first talking on the phone
 - c. At the first substantive discussion about a property
 - d. None of the above

Contracts

Part 1 - Types of Contracts and Terms

- Sales Contracts in Virginia
 - The code of Virginia allows real estate licensees to prepare contracts as incidental to the transaction.
 - A real estate licensee hired to write a contract for a buyer may be found guilty of practicing law without a license because the preparing of the contract is not, in this case, incidental to the transaction.
- Definition of a Contract

- A contract is a voluntary, legally enforceable promise between two competent parties to perform or not perform some legal act in exchange for consideration.
- Express and Implied Contracts
 - An express contract uses words. It must be either oral or written.
 - An implied contract is one in which the agreement is demonstrated by the parties' actions.
 - In Virginia, a real estate contract must be in writing to be legally enforceable.
- Essential Elements of a Contract
 - Offer and acceptance
 - There must be an offer by one party and acceptance by the other.
 - Consideration
 - There must be a definite statement of consideration in a contract to show that something of value was given in exchange for the promise.
 - Legally competent parties
 - All parties to the contract must be 18 or older and have enough mental capacity to understand the consequences of their actions in the contract.
 - A contract entered into with a minor is voidable by the minor.
 - Any contract that is entered into by a person who has been deemed insane by the courts is automatically void.
 - Clearly identified property description
 - Legal purpose
 - The purpose for which the contract is written must be legal.
- Termination of a Contract
 - There are several ways in which a contract can be terminated.
 - Performance
 - Many contracts call for performance by a specific date. When a contract states that "time is of the essence," the contract must be performed within the time limit specified unless amended in writing.
 - Abandonment by one or both parties
 - Revocation
 - Breach by one party
 - A breach of contract occurs when one party to the contract violates a term of the contract unless there is legal justification.
 - If the buyer or seller breaches the contract, the injured party can sue for specific performance or damages.
 - Assignment
 - A contract may be assigned to a third party if assignment is not prohibited in the contract.
 - When assignment takes place, the original parties to the contract remain primarily obligated under the contract unless specifically released.
 - Novation
 - Novation occurs when one contract is substituted for another.

Part 2 – Real Estate Contracts

- Contracts Used in the Real Estate Business
 - Listing Agreement
 - This is an agreement between the seller and broker (company).
 - It is essentially an employment agreement.
 - The listing agent needs to fill in all blanks. If something does not apply, an "N/A" or line should be placed in the blank.

- The listing agent should check all information himself and NOT rely on facts from a previous listing agent. This applies to items such as:
 - Septic perking
 - Sizes of rooms
 - Utilities
 - Schools
- The tax record should be consulted by the listing agent before putting the property on the market.
- It is important for the listing agent to complete the seller's net sheet and have it signed by the seller at
 - The time of listing the property
 - Each time the property price is reduced
 - Each time a contract comes in
 - If the appraisal comes in low
- Exclusive Right to Represent Agreement
 - This is an agreement between the buyer and broker (company).
 - This also is essentially an employment agreement.
 - It is important to clearly state the commission and explain fully to the buyer.
- Option
 - An option is an agreement to keep open for a set period of time, an offer to sell or purchase property.
- Land or Installment Contracts or Contract for Deed
 - An installment contract is a contract for the sale of real estate whereby the purchase price is paid in periodic installments by the purchaser, who has possession of the property even though the seller retains title until a future date.
- Leases
 - A lease is a contract between a landlord and a tenant that transfers the right to exclusive possession and use of the landlord's real property to the tenant for a specified period of time and for a specified amount of rent.
- Sales Contract
 - A sales contract is an agreement between the buyer and seller. The broker is not a party to this contract.
 - The selling agent must fill in all blanks. If something does not apply, an "N/A" or line should be placed in the blank.
 - In addition to the essential elements of a contract, several details frequently appear in a Sales Contract for the purchase of real property:
 - The sales price and terms
 - A legal description of the land
 - A statement of the kind and condition of the title, and the form of deed to be delivered by the seller
 - A statement of all the terms and conditions of the agreement between the parties, and any contingencies
 - Common clauses in Sales Contracts include the following:
 - Personal property, fixtures and utilities
 - Equipment, maintenance and condition
 - Price and Financing
 - Earnest money deposit
 - Down payment
 - Loan application and approval
 - Appraisal
 - Access to the property
 - Termite and wood-boring insect inspection
 - Damage or Loss
 - Title and Settlement

- Possession Date
- Disclosures
- Notices

Part 3 – Contingencies and Additional Forms

- The term, “Sales Contract,” applies not just to the sales agreement form, but to a series of documents that together, form the Sales Contract.
 - The forms listed below are added to comply with federal regulations:
 - Lead-Based Paint Disclosure Form
 - The EPA requires this disclosure on all properties built prior to 1978.
 - FHA Home Inspection Notice
 - If FHA financing is used, a notice of information on a home inspection is required.
 - By statute, the following are inclusions to the sales contract in the Commonwealth of Virginia:
 - Property disclosure form to accompany all contracts for the sale of a home.
 - If the agent(s) is acting as a dual or designated agent, all parties to the contract must agree to that representation in writing.
 - A Jurisdictional Addendum is often required when many localities use the same basic Sales Contract.
 - Lenders often require forms for well and septic inspection
 - The following are statutory contingencies required by the Commonwealth of Virginia:
 - Review of POA Disclosure Packet by Purchaser
 - The Virginia POA Act requires that the seller request and provide the disclosure packet regarding the subject property. The purchaser is afforded a contingency based upon his acceptance of the content of the documents.
 - Review of Condo Resale Packet by Purchaser
 - The Virginia Condominium Act requires that the seller request and provide the disclosure packet regarding the subject property. The purchaser is afforded a contingency based upon his acceptance of the content of the documents.
 - “Disclosure of Brokerage Relationship” must be made to non-represented buyers on the first substantive discussion about a specific property.
 - “Disclosure of Brokerage Relationship” should be made to a party represented by a limited service agent by the other agent to avoid the appearance of undisclosed dual agency.
 - The following forms/clauses may be added at the option of the purchaser:
 - Home Inspection Contingency
 - Radon Contingency
 - Contingency on Sale of Home
 - Coinciding Settlements
 - Contingency on third party approval
- Spousal Consent in Virginia
 - If property is owned in severalty by one person who is married, the spouse should sign the Sales Contract in order to eliminate any future spousal claim.

- If the spouse of the owner refuses to sign the documents, the buyer can sue the seller for breach of contract because the seller is not transferring the deed with clear title.
- A smooth process of contract to closing depends upon the following:
 - Education of the buyer/seller by the agent
 - The agent's understanding of the contract and forms
- Education of the buyer/seller by the agent
 - The agent should begin this process at the first meeting.
 - The client should be educated regarding what is expected of him in the transaction.
 - The client should be educated regarding all costs that will or might be charged to him.
- The following are some of the items that might be outlined in a Sales Contract. It is important that the agent understand them.
 - The difference between contract ratification and contingencies
 - Ratification means that all parties to the contract have signed and initialed all terms. They are in agreement as to all the terms of the contract.
 - Sometimes, a Sales Contract calls for delivery in order to be ratified.
 - A ratified contract may have contingencies. Contingencies typically allow either the seller or buyer to void the contract if something occurs or does not occur. Contingencies do not have to be met in order to have a ratified contract. Usually, once a contract is ratified, the time limit for contingencies begins.
 - Once a contract is ratified with all of its contingencies, it can only be modified by amending it.
 - This should never be done on the ratified contract itself. Amending a contract involves preparing a new form, called an amendment.
 - Does the agent need to get a commitment letter from a lender? When? What form must it take?
 - Does the Sales Contract have items listed that the seller warrants will be in normal working order? If so, what happens if during the home inspection, it is discovered that some of those items are broken?
 - Often, those items must be listed separately from defective "home inspection" items.
 - Usually, home inspection items are listed on an addendum/amendment and the warranted items on a "notice" form because, in some cases, listing warranted items along with home inspection items makes them negotiable.
 - What happens if the appraisal calls for repairs? Must the seller make these repairs?
 - Usually not, but he may not be able to sell his house if he doesn't.
 - What happens if a homeowner's association or condominium association lists violations in the disclosure packet/resale certificate?
 - Does the buyer have the right to require the seller to fix them?
 - If those items are not fixed, does this become a future liability for the purchaser?
 - Regarding contingencies, who must respond and when? What happens if one party or the other misses the deadline?
 - Some contingencies are worded in such a way that, the contract is void if someone misses a deadline.
 - If the lender's documents are not completed by the settlement date, is the purchaser in default?
 - The answer is "yes" in some contracts.
 - Does the contract state that the sale of the home is not subject to the sale or lease of other property?

- In this case, if the buyer must rent his current property in order to settle, there had better be a contingency stating that. Otherwise, if the buyer doesn't rent the property, he might be in default.
- Does the appraisal affect the financing contingency?
- What, exactly, does the financing contingency say?
- When does the clock start ticking with the Virginia Property Owners' Association and Condominium Acts?
 - Who must the documents be delivered to?
 - If the purchaser wishes to void the contract based on one of these contingencies, how does notice need to be given and to whom?
 - Recently, the law was changed to make electronic delivery of notice acceptable.
- What happens if termites or Carpenter Ants are found?
 - What happens if there is structural damage from these wood-boring insects?
- The agent must know the time periods for everything in the contract and should record those expirations.
- Educating the client
 - Why is this so necessary?
 - For the seller, he must know that just because he has agreed to a price, there might be future financial obligations such as the following:
 - He may be required to make repairs identified as a result of the home inspection and walk-through, repairs called for by the homeowner's association, repairs required by the lender, etc.
 - If he is fully educated regarding these possible costs, there should be no big surprises.
 - He needs to understand contingencies and how they work.
 - For the buyer, he has a right to know what he can and cannot expect from the seller.
 - He must know that, once the contract is ratified, he can no longer negotiate.
 - He should know which defective items he can expect the seller to fix because the contract states that these items will be in normal working order.
 - He should know the difference between what the seller is expected to do regarding these "contract" items and "home inspection," or negotiable items.
 - Like the seller, he needs to understand contingencies and how they work.
- Power of Attorney
 - There are times when a buyer or seller cannot be present at settlement and must be represented by another, usually called an "attorney-in-fact."
 - In Virginia, the property and parties involved must be stated on the power of attorney; therefore, a general power of attorney does not work.
 - The power of attorney must be notarized and recorded with the deed.
 - The best practice is for the settlement company to draw up the power of attorney. Many military notaries are from other states and may not be familiar with the requirements of the Virginia code. If the power of attorney is not drawn up correctly, it cannot be used.
 - It is not a good idea for the agent to be the attorney-in-fact for his client. It is best to suggest that another person perform in that role.

Contracts Final Quiz

1. In order to have a contract, there must be "legally competent parties." Which of the following would not fit this definition of "legally competent"?
 - a. A nineteen year old female
 - b. An immigrant from Eastern Europe
 - c. A seventeen year old male
 - d. A recovering alcoholic who has been sober for 15 years
2. A limited service agent, hired only to write an offer to purchase for a buyer may find himself in hot water because of the following:
 - a. He won't make enough money
 - b. The writing of the contract is not incidental to the transaction.
 - c. He must attend the walk-through.
 - d. He must negotiate the contract.
3. In Virginia, oral contracts are legal and enforceable. Is this also true of a real estate Sales Contract?
 - a. Yes. An oral Sales Contract is legal and enforceable.
 - b. No. A Sales Contract must be written in order to be enforceable.
4. If the buyer assigns his Sales Contract to his cousin
 - a. He is no longer responsible.
 - b. He is breaking the law.
 - c. His cousin is breaking the law.
 - d. He remains primarily liable.
5. A listing agreement is a contract between
 - a. The buyer and the broker
 - b. The seller and the listing agent
 - c. The buyer and the seller
 - d. The seller and the broker
6. Lulu is looney. She was even declared to be mentally incompetent by a judge. One day, Lulu decided that she had had enough of her son and daughter-in-law with whom she was living, and she went out and signed a sales contract to purchase a house. Was this a valid contract?
 - a. Of course. She was an adult.
 - b. Yes. She needed to get away.
 - c. No. She didn't have enough money.
 - d. No. A person found legally incompetent by a court cannot enter into a valid contract.
7. Oral contracts are valid in Virginia. Is an oral contract for the sale and purchase of land legal?
 - a. No. It must be in writing.
 - b. Yes. It is legal but it isn't enforceable.
 - c. Neither a nor b
8. Ted's agent writes an offer for Tim's land. In the offer, Ted's agent fills in the legal description of the land as "the parcel at the end of Knot Street." Is this description sufficient?
 - a. Only if "the parcel at the end of Knot Street" is clearly identifiable to everyone
 - b. Definitely
 - c. No way

- d. None of the above
9. Why should the listing agent consult the tax record rather than rely on the information given by the previous listing agent?
- a. The listing agent can use the information from the previous listing agent.
 - b. The previous listing agent might have used incorrect information.
 - c. Some of the information may have changed since the home was last listed.
 - d. Both b and c
10. A buyer broker agreement is
- a. An agreement between buyer and broker
 - b. An agreement between seller and agent
 - c. An employment agreement
 - d. Both a and c

Ethics

Part 1 – The Code

- What are Professional Ethics?
 - Professional conduct involves more than merely complying with the law. In our profession, state licensing laws are in effect to establish legal and illegal activities. However, complying with the law does not always mean that a licensee's activities are ethical. Ethics refers to a system of morals, rules, and standards of conduct. They go beyond legalities and illegalities.
- The National Association of Realtors® Code of Ethics
 - Many professions have adopted codes of professional conduct. The National Association of Realtors® (NAR) adopted a Code of Ethics for its members in 1913, five years after the association was formed. The code was adopted to establish a professional standard of conduct for real estate practitioners. Before that time, there were no standards of conduct or state regulatory agencies and the public was at risk when dealing with real estate practitioners. With the formation of the Code of Ethics, Realtors®, or members of NAR, came to be expected to subscribe to this strict code of conduct, which is based on the concept of "let the public be served." As state regulatory agencies came into existence, they based their license laws to a large extent on the NAR Code of Ethics.
 - Not all licensees are Realtors® and only those who are members of NAR are bound by the Code of Ethics. However, many courts recognize the NAR Code of Ethics to be the standard for licensee behavior in the profession and have held licensees who are not NAR members, to standards applied to Realtors®.
 - From the inception of the Code of Ethics, arbitration has been required when monetary disputes between Realtors® were at issue.
 - The national organization established Professional Standards Committees at the state and local levels to administer compliance with the Code of Ethics. The practical applications of the Articles of the code are known as Standards of Practice.
 - What does a Realtor® do when the Code of Ethics and the law are in opposition?
 - In a case such as this, the Realtor® must follow the law.

- What is the Realtor's® obligation with respect to stigmatized properties?
 - Article 2 of the Code of Ethics requires that Realtors® reveal any "pertinent" facts relating to the property or the transaction.
 - Virginia law does not consider a stigma to be material. Therefore, the stigma does not need to be disclosed, and, if the Realtor® (listing agent) does disclose this stigma to the buyer or buyer's representative, he may be breaching his duty to his client.
- If the seller died of AIDS, should this be disclosed?
 - Absolutely not. AIDS is covered under the Fair Housing laws and cannot be revealed.
- Definition of a Realtor®
 - A Realtor® is someone who has earned his/her real estate license and also earned the right to use the title. Realtor® is a registered trademark term reserved for the sole use of active members of local Realtor® boards affiliated with the National Association of Realtors®.
- The Preamble of the Code of Ethics
 - The Preamble of the Code of Ethics is the aspirational foundation of the Code of Ethics and is a summary of the timeless principles upon which the code of conduct in the industry rests.
 - To summarize some of the important points, the following apply:
 - The Realtor® pledges to treat the public according to the Golden Rule.
 - The Realtor® pledges to continue education and remain current in the industry.
 - The Realtor® pledges to be both student and teacher and help maintain the professionalism of others in the industry by sharing what has been learned.
 - Not only is the Realtor® obligated to act in a professional manner, he is also obligated to act as a "watch dog" in the industry by identifying and eliminating unprofessional conduct of others.
 - The Realtor® pledges to urge exclusive representation of clients as this is in their best interest.
 - Good, healthy competition is encouraged; however, unfair advantage over competitors is forbidden.
 - When speaking of others in the industry, the Realtor® pledges to do so in a professional manner.
- Four principles of the Code of Ethics can be outlined as follows:
 - Duties to clients
 - Cooperation with other brokers
 - Truthfulness in statements and advertising
 - Respect for exclusive relationships that other Realtors® have with their clients
- The Articles and Standards of Practice
 - The articles and standards of practice are broad statements of ethical principles and are arranged in order of priority. Therefore, Article 1 is the most important article ("Duties to Clients and Customers"), and the first standard of practice is the most important standard of practice under Article 1.
 - Articles' three major sections
 - Duties to Clients and Customers
 - Duties to the Public
 - Duties to Realtors®
 - Standards of Practice
 - Support, interpret and amplify the Articles
 - Only articles can be violated
 - Articles 1 and 9 are the most often violated articles. The Realtor® should pay particular attention to these.

Part 2 - Complaints

- Enforcement of the Code of Ethics
 - Local associations have the duty to enforce the Code. There are two types of complaints that these associations enforce.
 - Ethics complaints
 - Violations of the Code (Anyone, whether Realtor or member of the public, can file a complaint.)
 - Arbitration requests
 - Issues involving money (Agents in different firms are obligated to arbitrate instead of going to court.)
 - The process for Ethics complaints
 - A screening committee, known as the Grievance Committee, made up of appointed association members, determines whether or not the Code might have been violated.
 - If the Grievance Committee decides that there could be merit to a case, they forward it to the Professional Standards Committee's Hearing Panel, which conducts an investigation and hears evidence.
 - If the Professional Standards Committee's Hearing Panel finds the Realtor charged guilty of violating the Code of Ethics, it determines the discipline to be imposed on the violator.
 - Authorized Discipline and administrative processing fees
 - Letter of Warning
 - Letter of Reprimand
 - Education
 - Fine not to exceed \$5,000
 - Probation for one year or less
 - Suspension for not less than 30 days nor more than one year
 - Expulsion from membership for period of one to three years
 - Suspension or termination of MLS privileges
 - Administrative processing fee (if found in violation) not to exceed \$500 (Court Costs)
 - The process for Arbitration requests
 - The Grievance Committee decides whether a request is worthy of arbitration. The process is as follows:
 - Request is filed under Article 17. Arbitration can occur under the following circumstances:
 1. Contractual disputes or specific non-contractual disputes (Standard of Practice 17-4)
 2. Between Realtors® (principals) associated with different firms
 3. Arising out of their relationship as Realtors®.
 - Mediation
 - A voluntary process agreed to by both parties, who meet with a mediator appointed by the Association
 - Can occur before or after the Grievance Committee reviews the request for arbitration
 - If there is agreement between the principals, an agreement is signed and arbitration does not occur.
 - Professional Standards Hearing Panel
 - The panel's role is to fully investigate the complaint and conduct a hearing.

- The Panel consists of members of the Professional Standards Committee.
 - Based on the evidence, the Panel makes a determination as to which party is entitled to the money, usually a disputed commission.
3. Procuring Cause
- Typically brought about by a broker to broker dispute
 - Key factors in a procuring cause dispute
 - No predetermined rule of entitlement may be established by an association.
 - Hearing panels should consider the entire course of events in the transaction, not just one event.
 - Factors that many think should settle a procuring cause dispute, such as the writing of the offer, the first showing of the property, the existence of an agency relationship, do not by themselves determine procuring cause.
 - Key concepts of procuring cause come from the definition in Black's Law Dictionary, Fifth Edition:
"The proximate cause, the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object."

Part 3

Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2011

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®s.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public,

and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

Duties to Clients and Customers

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

- Standard of Practice 1-1
REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)
- Standard of Practice 1-2
The duties imposed by the Code of Ethics encompass all real estate-related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

- Standard of Practice 1-3
REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.
- Standard of Practice 1-4
REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)
- Standard of Practice 1-5
REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (Adopted 1/93)
- Standard of Practice 1-6
REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. (Adopted 1/93, Amended 1/95)
- Standard of Practice 1-7
When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. (Amended 1/93)
- Standard of Practice 1-8
REALTORS®, acting as agents or brokers of buyers/tenants, shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS®, acting as agents or brokers of buyers/tenants, shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. (Adopted 1/93, Amended 1/99)
- Standard of Practice 1-9
The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law.

REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

1. reveal confidential information of clients; or
2. use confidential information of clients to the disadvantage of clients; or
3. use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless:
 - a. clients consent after full disclosure; or
 - b. REALTORS® are required by court order; or
 - c. it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
 - d. it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. (Adopted 1/93, Amended 1/01)

- Standard of Practice 1-10
REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. (Adopted 1/95, Amended 1/00)
- Standard of Practice 1-11
REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. (Adopted 1/95)
- Standard of Practice 1-12
When entering into listing contracts, REALTORS® must advise sellers/landlords of:
 1. the REALTOR®'s company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities;
 2. the fact that buyer/tenant agents or brokers, even if compensated by listing brokers, or by sellers/landlords may represent the interests of buyers/tenants; and
 3. any potential for listing brokers to act as disclosed dual agents, e.g. buyer/tenant agents. (Adopted 1/93, Renumbered 1/98, Amended 1/03)
- Standard of Practice 1-13
When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:
 1. the REALTOR®'s company policies regarding cooperation;
 2. the amount of compensation to be paid by the client;

3. the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties;
 4. any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc., and
 5. the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. (Adopted 1/93, Renumbered 1/98, Amended 1/06)
- Standard of Practice 1-14
Fees for preparing appraisals or other valuations shall not be contingent upon the amount of the appraisal or valuation. (Adopted 1/02)
 - Standard of Practice 1-15
REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker. (Adopted 1/03, Amended 1/09))

Article 2

REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. (Amended 1/00)

- Standard of Practice 2-1
REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines. (Amended 1/96)
- Standard of Practice 2-2
(Renumbered as Standard of Practice 1-12 1/98)
- Standard of Practice 2-3
(Renumbered as Standard of Practice 1-13 1/98)
- Standard of Practice 2-4
REALTORS® shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.
- Standard of Practice 2-5
Factors defined as "non-material" by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not "pertinent" for purposes of Article 2. (Adopted 1/93)

Article 3

REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to

share commissions, fees, or to otherwise compensate another broker. (Amended 1/95)

- Standard of Practice 3-1
REALTORS[®], acting as exclusive agents or brokers of sellers/ landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. (Amended 1/99)
- Standard of Practice 3-2
To be effective, any change in compensation offered for cooperative services must be communicated to the other REALTOR[®] prior to the time that REALTOR[®] submits an offer to purchase/lease the property. (Amended 1/10)
- Standard of Practice 3-3
Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. (Adopted 1/94)
- Standard of Practice 3-4
REALTORS[®], acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/ landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 1/02)
- Standard of Practice 3-5
It is the obligation of subagents to promptly disclose all pertinent facts to the principal's agent prior to as well as after a purchase or lease agreement is executed. (Amended 1/93)
- Standard of Practice 3-6
REALTORS[®] shall disclose the existence of accepted offers, including offers with unresolved contingencies, to any broker seeking cooperation. (Adopted 5/86, Amended 1/04)
- Standard of Practice 3-7
When seeking information from another REALTOR[®] concerning property under a management or listing agreement, REALTORS[®] shall disclose their REALTOR[®] status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their relationship with the client. (Amended 1/11)
- Standard of Practice 3-8
REALTORS[®] shall not misrepresent the availability of access to show or inspect a listed property. (Amended 11/87)

- Standard of Practice 3-9
REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (Adopted 1/10)
- Standard of Practice 3-10
The duty to cooperate established in Article 3 relates to the obligation to share information on listed property, and to make property available to other brokers for showing to prospective purchasers/tenants when it is in the best interests of sellers/landlords. (Adopted 1/11)

Article 4

REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. (Amended 1/00)

- Standard of Practice 4-1
For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. (Adopted 2/86)

Article 5

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR®'s firm may receive as a direct result of such recommendation. (Amended 1/99)

- Standard of Practice 6-1
REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. (Amended 5/88)

Article 7

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR®'s client or clients. (Amended 1/93)

Article 8

REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Article 9

REALTORS[®], for the protection of all parties, shall assure whenever possible that all agreements related to real estate transactions including, but not limited to, listing and representation agreements, purchase contracts, and leases are in writing in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party to such agreements upon their signing or initialing. (Amended 1/04)

- Standard of Practice 9-1
For the protection of all parties, REALTORS[®] shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. (Amended 1/93)
- Standard of Practice 9-2
When assisting or enabling a client or customer in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.) electronically, REALTORS[®] shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party. (Adopted 1/07)

Duties to the Public

Article 10

REALTORS[®] shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, or sexual orientation. REALTORS[®] shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin or sexual orientation. (Amended 1/11)

REALTORS[®], in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, or sexual orientation. (Amended 1/11)

- Standard of Practice 10-1
When involved in the sale or lease of a residence, REALTORS[®] shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS[®] may provide other demographic information. (Adopted 1/94, Amended 1/06)
- Standard of Practice 10-2
When not involved in the sale or lease of a residence, REALTORS[®] may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR[®] to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail. (Adopted 1/05, Renumbered 1/06)
- Standard of Practice 10-3
REALTORS[®] shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap,

familial status, national origin, or sexual orientation. (Adopted 1/94, Renumbered 1/05 and 1/06, Amended 1/11)

- Standard of Practice 10-4
As used in Article 10 “real estate employment practices” relates to employees and independent contractors providing real estate-related services and the administrative and clerical staff directly supporting those individuals. (Adopted 1/00, Renumbered 1/05)

Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. (Amended 1/10)

- Standard of Practice 11-1
When REALTORS® prepare opinions of real property value or price, other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, such opinions shall include the following unless the party requesting the opinion requires a specific type of report or different data set:
 1. identification of the subject property
 2. date prepared
 3. defined value or price
 4. limiting conditions, including statements of purpose(s) and intended user(s)
 5. any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
 6. basis for the opinion, including applicable market data
 7. if the opinion is not an appraisal, a statement to that effect (Amended 1/10)
- Standard of Practice 11-2
The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. (Adopted 1/95)
- Standard of Practice 11-3
When REALTORS® provide consultive services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultive services, a separate compensation may be paid with prior agreement between the client and REALTOR®. (Adopted 1/96)

- Standard of Practice 11-4
The competency required by Article 11 relates to services contracted for between REALTORS® and their clients or customers; the duties expressly imposed by the Code of Ethics; and the duties imposed by law or regulation. (Adopted 1/02)

Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

- Standard of Practice 12-1
REALTORS® may use the term “free” and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. (Amended 1/97)
- Standard of Practice 12-2
REALTORS® may represent their services as “free” or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time. (Amended 1/97)
- Standard of Practice 12-3
The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)
- Standard of Practice 12-4
REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)
- Standard of Practice 12-5
REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTOR®'s firm in a reasonable and readily apparent manner. This Standard of Practice acknowledges that disclosing the name of the firm may not be practical in electronic displays of limited information (e.g. "thumbnails", text messages, "tweets", etc.). Such displays are exempt from the disclosure requirement established in the Standard of Practice, but only when linked to a display that includes all required disclosures. (Adopted 11/86, Amended 1/11)
- Standard of Practice 12-6

REALTORS[®], when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS[®] or real estate licensees. (Amended 1/93)

- Standard of Practice 12-7

Only REALTORS[®] who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have “sold” the property. Prior to closing, a cooperating broker may post a “sold” sign only with the consent of the listing broker. (Amended 1/96)

- Standard of Practice 12-8

The obligation to present a true picture in representations to the public includes information presented, provided, or displayed on REALTORS[®]' websites. REALTORS[®] shall use reasonable efforts to ensure that information on their websites is current. When it becomes apparent that information on a REALTOR[®]'s website is no longer current or accurate, REALTORS[®] shall promptly take corrective action. (Adopted 1/07)

- Standard of Practice 12-9

REALTOR[®] firm websites shall disclose the firm's name and state(s) of licensure in a reasonable and readily apparent manner.

Websites of REALTORS[®] and non-member licensees affiliated with a REALTOR[®] firm shall disclose the firm's name and that REALTOR[®]'s or non-member licensee's state(s) of licensure in a reasonable and readily apparent manner. (Adopted 1/07)

- Standard of Practice 12-10

REALTORS[®]' obligation to present a true picture in their advertising and representations to the public includes the URLs and domain names they use, and prohibits REALTORS[®] from:

1. engaging in deceptive or unauthorized framing of real estate brokerage websites;
2. manipulating (e.g., presenting content developed by others) listing content in any way that produces a deceptive or misleading result; or
3. deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic, or to otherwise mislead consumers. (Adopted 1/07)

- Standard of Practice 12-11

REALTORS[®] intending to share or sell consumer information gathered via the Internet shall disclose that possibility in a reasonable and readily apparent manner. (Adopted 1/07)

- Standard of Practice 12-12

REALTORS[®] shall not:

1. use URLs or domain names that present less than a true picture, or
2. register URLs or domain names which, if used, would present less than a true picture. (Adopted 1/08)

- Standard of Practice 12-13

The obligation to present a true picture in advertising, marketing, and representations allows REALTORS[®] to use and display only professional

designations, certifications, and other credentials to which they are legitimately entitled. (Adopted 1/08)

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 14

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes. (Amended 1/99)

- Standard of Practice 14-1
REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. (Amended 1/95)
- Standard of Practice 14-2
REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. (Amended 1/92)
- Standard of Practice 14-3
REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. (Adopted 11/87, Amended 1/99)
- Standard of Practice 14-4
REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. (Adopted 11/88)

Duties to REALTORS®

Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices. (Amended 1/92)

- Standard of Practice 15-1
REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. (Adopted 1/00)
- Standard of Practice 15-2
The obligation to refrain from making false or misleading statements about competitors, competitors' businesses and competitors' business practices includes the duty to not knowingly or recklessly publish, repeat, retransmit, or republish false or misleading statements made by others. This duty applies whether false or misleading statements are repeated in person, in writing, by technological means (e.g., the Internet), or by any other means. (Adopted 1/07, Amended 1/10)

- Standard of Practice 15-3
The obligation to refrain from making false or misleading statements about competitors, competitors' businesses, and competitors' business practices includes the duty to publish a clarification about or to remove statements made by others on electronic media the REALTOR® controls once the REALTOR® knows the statement is false or misleading. (Adopted 1/10)

Article 16

REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. (Amended 1/04)

- Standard of Practice 16-1
Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees, compensation or other forms of payment or expenses. (Adopted 1/93, Amended 1/95)
- Standard of Practice 16-2
Article 16 does not preclude REALTORS® from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this standard. (Amended 1/04)

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR®, and

Second, mail or other forms of written solicitations of prospects whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of subagency or cooperation. (Amended 1/04)

- Standard of Practice 16-3
Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage) or from offering the same type of service for property not subject to other brokers' exclusive agreements. However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. (Amended 1/04)
- Standard of Practice 16-4
REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing; i.e., an

exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. (Amended 1/94)

- Standard of Practice 16-5
REALTORS® shall not solicit buyer/tenant agreements from buyers/ tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Adopted 1/94, Amended 1/98)
- Standard of Practice 16-6
When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 1/98)
- Standard of Practice 16-7
The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such prospect's future business. (Amended 1/04)
- Standard of Practice 16-8
The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. (Amended 1/98)
- Standard of Practice 16-9
REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. (Amended 1/04)
- Standard of Practice 16-10
REALTORS®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. (Amended 1/04)
- Standard of Practice 16-11
On unlisted property, REALTORS® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 1/04)

REALTORS® shall make any request for anticipated compensation from the seller/ landlord at first contact. (Amended 1/98)

- Standard of Practice 16-12
REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. (Amended 1/04)
- Standard of Practice 16-13
All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. (Adopted 1/93, Amended 1/04)

- Standard of Practice 16-14
REALTORS® are free to enter into contractual relationships or to negotiate with sellers/ landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. (Amended 1/98)
- Standard of Practice 16-15
In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.
- Standard of Practice 16-16
REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/04)
- Standard of Practice 16-17
REALTORS®, acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/04)
- Standard of Practice 16-18
REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create

buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. (Amended 1/02)

- Standard of Practice 16-19
Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. (Amended 1/93)
- Standard of Practice 16-20
REALTORS[®], prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS[®] (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. (Adopted 1/98, Amended 1/10)

Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS[®] (principals) associated with different firms, arising out of their relationship as REALTORS[®], the REALTORS[®] shall submit the dispute to arbitration in accordance with the regulations of their Board or Boards rather than litigate the matter.

In the event clients of REALTORS[®] wish to arbitrate contractual disputes arising out of real estate transactions, REALTORS[®] shall arbitrate those disputes in accordance with the regulations of their Board, provided the clients agree to be bound by the decision.

The obligation to participate in arbitration contemplated by this Article includes the obligation of REALTORS[®] (principals) to cause their firms to arbitrate and be bound by any award. (Amended 1/01)

- Standard of Practice 17-1
The filing of litigation and refusal to withdraw from it by REALTORS[®] in an arbitrable matter constitutes a refusal to arbitrate. (Adopted 2/86)
- Standard of Practice 17-2
Article 17 does not require REALTORS[®] to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (Amended 1/93)
- Standard of Practice 17-3
REALTORS[®], when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS[®] absent a specific written agreement to the contrary. (Adopted 1/96)
- Standard of Practice 17-4
Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:
 1. Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the

respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97, Amended 1/07)

2. Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the seller or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97, Amended 1/07)
3. Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
4. Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (Adopted 1/97)
5. Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, claims to be the procuring cause of sale or lease. In such cases arbitration shall be between the listing broker and the buyer or tenant representative and the amount in dispute is limited to the amount of the reduction of commission to which the listing broker agreed. (Adopted 1/05)

- **Standard of Practice 17-5**
The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR®'s association, in instances where the respondent(s) REALTOR®'s association determines that an arbitrable issue exists. (Adopted 1/07)

The Code of Ethics was adopted in 1913. Amended at the Annual Convention in 1924, 1928, 1950, 1951, 1952, 1955, 1956, 1961, 1962, 1974, 1982, 1986, 1987, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, and 2010.

Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in Interpretations of the Code of Ethics.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.

Copyright 2011, National Association of REALTORS®, All rights reserved. Form No. 166-288 (12/10)

Part 4 – Case Studies

➤ **Article 1 Case Study**

- Article 1 establishes that a Realtor® should never put his interests ahead of his client's. Article 1 also says that a Realtor® must be honest with all parties in the transaction, not just his client but also the other real estate practitioner and his client.
 - REALTOR® B is a sales associate with XYZ, REALTORS®. To promote its own in-house listings, the brokerage offers bonuses to the company's sales associates for each one of XYZ's listings they sell. REALTOR® B represents a buyer, Dr. Z, whose needs included a swimming pool for his wife's rehabilitation. REALTOR® B shows Dr. Z several houses in a subdivision, one of which, listed with XYZ REALTORS®, has an outdoor swimming pool. Dr. Z purchases the home. Several months later, he lodges an ethics complaint against REALTOR® B after learning that a house more suitable for his needs on the same block but not listed with XYZ REALTORS®—it had an indoor swimming pool—had never been shown to him, even though it was similarly priced and better fit his needs.

- After a hearing, it is determined that REALTOR® B had chosen not to show Dr. Z the other property because of the in-house bonus. This places him in violation of Article 1. He put his own interests (the bonus) ahead of his client's. (Case #1-26)
- Article 2 Case Study
 - Article 2 requires full disclosure of all pertinent facts with regard to the property or transaction to the buyer and/or seller.
 - What if your client asks you to conceal the fact that the roof leaks? Article 2 says you have to avoid exaggeration, misrepresentation, and concealment of pertinent facts. Following Article 2, then, you have to disclose the leaky roof, and Article 1 says you have to be honest with all parties. So what are you going to do? The ethical choice is to choose disclosure or reconsider your relationship with that client. You want to gain a reputation in your community as someone consumers and practitioners can trust. Plus, if you make the wrong decision, you may be paying for the repairs to that leaky roof.
- Article 12 Case Study
 - Article 12 addresses truthfulness in statements and advertising. This is important for building trust—by both REALTORS® and future clients. It also will keep the Realtor on the right side of the law.
 - Here are two cases regarding a common prospecting tool: the neighborhood newsletter. In one case, REALTOR® A created a neighborhood newsletter and under the title "Recently Sold" listed a number of transactions derived from MLS data. REALTOR® B also created a neighborhood newsletter and under the title "Recently Sold" listed a number of transactions drawn from MLS data. They are both brought up before hearing panels of their local associations for not creating a "true picture" in their advertising, but to different ends. REALTOR® A is found in violation of Article 12 and REALTOR® B is not. Why? REALTOR® B's advertising was not misleading and even included a disclaimer stating that the list of sold properties came from MLS information, that the practitioner wasn't claiming to have listed or sold every property identified. That made REALTOR® B's newsletter ethical, truthful, and not in violation of Article 12. REALTOR® A's newsletter appeared to mislead readers by claiming that he had listed and sold all of the properties in question.

Case Studies above reprinted in part from REALTOR® Magazine Online (<http://www.realtor.org/realtormag>) with permission of the NATIONAL ASSOCIATION OF REALTORS®, Copyright 2008. All rights reserved.

- Article 16 Case Study
 - Article 16 says that a Realtor® cannot solicit the listing of another Realtor®.
 - Realtor® A, as part of her marketing plan, sends monthly newsletters to everyone in the Apache Subdivision. Currently, there are fifteen active listings in the Apache Subdivision. Realtor® A's newsletter goes to all residents, including the fifteen homes with active listings.
 - Realtor® B, as part of her marketing plan, sends monthly newsletters to all homes in the Apache, Laredo and Potomac subdivisions that are, at any one time, on the market. Currently, there are 50 homes with active listings in the three subdivisions that Realtor® B markets.
 - A listing agent with three active listings in the Apache Subdivision, lodges a complaint against Realtors A and B, citing that both Realtors® were soliciting her listings in the Apache Subdivision.
 - Realtor® A was found to be not guilty because she did not specifically target the homes that were on the market but rather the entire subdivision.
 - Realtor® B was found guilty under Article 16 because she specifically targeted those homes which were actively listed.

Ethics Final Quiz

1. The two basic types of complaints that are handled by local associations are:
 - a. License law complaints and arbitration
 - b. Ethics complaints and requests for arbitration
 - c. Ethics complaints and license law complaints
 - d. None of the above

2. Requests for arbitration are most commonly based on disputes concerning
 - a. An earnest money dispute
 - b. A commission
 - c. A claim for damages
 - d. None of the above

3. Realtors have an obligation to treat all parties
 - a. Fairly
 - b. Honestly
 - c. Nicely
 - d. a and c

4. Disciplinary action in an ethics complaint may not include
 - a. A phone call to apologize
 - b. Probation for one year or less
 - c. Education
 - d. A fine not to exceed \$5,000

5. According to Article 1, Realtors acting as listing agents are obligated to
 - a. Market the property between contract acceptance and closing
 - b. Submit offers to the seller between contract and closing.
 - c. Both a and b
 - d. Neither a nor b

6. The National Association of Realtors® Code of Ethics is based on the concept of
 - a. Let the seller beware.
 - b. Let the buyer beware.
 - c. Let the public fend for themselves.
 - d. Let the public be served.

7. The preamble of the Code of Ethics
 - a. Sets out rules and regulations by which Realtors® must conduct themselves
 - b. Is the aspirational foundation of the Code of Ethics and is a summary of the timeless principles upon which the code of conduct in the industry rests
 - c. Has three sections
 - d. None of the above

8. The Code of Ethics was adopted
 - a. To establish standards of conduct for the industry
 - b. In 1952
 - c. Only as recommendations for proper conduct
 - d. Long after real estate licensing laws were in existence

9. A Realtor® is
 - a. A person who sells real estate
 - b. A person with a real estate license
 - c. A licensee who is a member of the National Association of Realtors®
 - d. None of the above

10. According to the National Association of Realtors®,
 - a. Article 3 is more important than Article 1
 - b. Article 1 is more important than Article 14
 - c. Article 2 is more important than article 9
 - d. Both b and c

11. The Code of Ethics is primarily enforced through
 - a. State associations of Realtors®
 - b. Local associations of Realtors®
 - c. The National Association of Realtors®
 - d. Both a and b

12. Which two committees are most involved in the complaint process?
 - a. Grievance Committee and Professional Standards Committee
 - b. Grievance Committee and Education Committee
 - c. Education Committee and Legislative Committee
 - d. None of the above

13. A request for mandatory arbitration is based on
 - a. A monetary dispute between Realtors® (principals) in different firms
 - b. A legal claim for damages between Realtors® in different firms
 - c. A monetary dispute between salespersons in the same firm
 - d. A legal claim for damages between a Realtor® and his broker

14. Can a Realtor® be assured that he will win in a dispute concerning procuring cause if he wrote the Sales Contract?
 - a. Definitely. The definition of procuring cause is the person who writes the contract.
 - b. No. The person who writes the contract never wins a procuring cause debate.
 - c. Maybe, but not necessarily. Procuring cause involves a string of events.
 - d. None of the above

15. A cooperating broker in a transaction may
 - a. Post a "sold" sign on the property sold after the closing (with the buyer's permission)
 - b. Claim to have sold the property involved
 - c. May state that he "participated" or "assisted" in the transaction.
 - d. Both a and b

16. An example of a violation of Article 9 would be
 - a. A listing agent extending the expiration date on a listing without obtaining the seller's signed consent.
 - b. Speaking poorly of a fellow Realtor®
 - c. Commingling of funds by a Realtor®

- d. Both b and c
17. An example of a violation of Article 3 could be
- A Realtor® selling his own listing
 - A pocket listing
 - A Realtor® selling someone else's listing
 - None of the above
18. According to Article 1
- A Realtor should always work for the customer
 - When representing a buyer, seller, landlord, tenant, or other client as an agent, Realtors® must protect and promote the interests of their client.
 - Realtors must always treat everyone in a transaction fairly.
 - None of the above
19. Can Realtors® represent their services as free?
- Yes
 - No
20. When a Realtor® presents a contract for a property he wishes to purchase, he must
- Disclose his Realtor® status to the seller and/or listing agent.
 - Make the disclosure in writing.
 - Both a and b
 - Neither a nor b

Fair Housing

Part 1 - The Law

- What is Fair Housing?
 - Fair Housing is the term used to describe a national policy against most types of discrimination in housing.
- The History Behind Fair Housing
 - Civil Rights Act of 1866
 - It states that "All citizens of the United States shall have the same right in every State and Territory, as is enjoyed by the white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property."
 - The Civil Rights Act of 1866 lay dormant until the case of Jones vs. Mayer in 1968.
 - Plessy vs. Ferguson (1896)
 - U.S. Supreme Court affirmed the concept of "separate but equal." This allowed the states to enforce the separation of the races so long as each race was provided with "equal" services or facilities.
 - Brown vs. Board of Education (1954)
 - Struck down "separate but equal" in the field of public education
 - Jones vs. Mayer in 1968
 - Supreme Court case that affirms that the 1866 act prohibits "all racial discrimination, private as well as public, in the sale of real property."

- The 1968 Fair Housing Law, also known as the Title VIII of the Civil Rights Act of 1968 and Fair Housing Act
 - This law makes it illegal to discriminate in connection with the sale or rental of housing and any vacant land offered for residential construction or use based on the following protected classes:
 - Race
 - Color
 - Religion
 - National Origin
 - In the 2011, the National Association of Realtors (NVAR) added a sixth protected class, Sexual Orientation.
 1. This is not a matter of legality. Although some local jurisdictions do make it illegal to discriminate based on sexual orientation, NAR makes discrimination of this kind unethical. Therefore, a person who is a Realtor® (member of NAR), cannot discriminate based on sexual orientation.
 - The 1968 Fair Housing Law provides protection against the following acts if they are based on the above listed protected classes:
 - Refusing to sell, rent, or negotiate with any person
 - Discriminating in buying or renting housing in the terms or conditions
 - Discriminating by advertising that housing is not available to people in a protected class
 - Denying that housing is available for sale or rent when, in fact, it is available
 - Denying or making different terms or conditions for mortgages by commercial lenders
 - Denying to anyone the use of any real estate services, such as multiple listing services or other facilities related to the selling or renting of housing
 - Steering
 - Blockbusting
 - The Fair Housing Act applies to the following types of housing:
 - Single family housing owned by private individuals when a real estate licensee is used and/or advertising is used
 - Single family housing not owned by private individuals
 - Single family houses owned by a private individual who owns more than three such houses or who, in any two-year period, sells more than one in which the individual was not the most recent resident
 - Multifamily dwellings of five or more units
 - Multifamily dwellings containing four or fewer units, if the owner does not reside in one of the units
- Exemptions to the Fair Housing Act
 - Sale or rental of single family houses
 - For Sale By Owners where a broker is not used, and the seller is not a broker/agent
 - If discriminatory advertising is not used
 - No more than one house, in which the owner was not the most recent resident, is sold during any two-year period
 - Discrimination relating to race is never exempted, even if a broker is not used.
 - Rental of rooms or units in owner-occupied dwellings for two to four families, provided discriminatory advertising is not used
 - Sale, rental or occupancy of dwellings that a religious organization owns or operates for other than a commercial purpose to persons of

- the same religion, so long as membership in that religion is not restricted on race, color or national origin
 - The rental or occupancy of lodgings that a private club owns or operates for its members for other than commercial purpose
 - In all cases, discriminatory advertising is not allowed.
 - The Fair Housing Act was amended in 1972 to require that equal opportunity posters be displayed at brokerage houses, model home sites and mortgage lender offices.
 - Housing and Community Development Act of 1974
 - Added sex to the list of federally protected classes
 - 1988 Amendment to the Fair Housing Act
 - Made disability or handicap a federally protected class. Included are the following:
 - Mental and physical disabilities
 - Mobility, vision and hearing impairments
 - Emotional problems, mental illness and retardation
 - Age-related problems associated with aging
 - HIV/AIDS
 - Alcoholics and former substance abusers only if treatment was sought
 - The 1988 Amendment to the Fair Housing Act also made familial status a federally protected class (the presence of children under the age of 18)
 - The Housing for Older Persons Act of 1995 (HOPA)
 - HOPA made several changes to the 55 and older exemption.
 - It eliminated the requirement that 55 and older housing have “significant facilities and services” designed for the elderly.
 - It established a “good faith reliance” immunity from damages for persons who in good faith believe that the 55 and older exemption applies to a particular property, if they do not actually know that the property is not eligible for the exemption, and if the property has formally stated in writing that it qualifies for the exemption.
 - Requirements for New Buildings
 - In buildings that were ready for first occupancy after March 13, 1991, and have an elevator and four or more units, the following requirements apply:
 - Public and common areas must be accessible to persons with disabilities.
 - Doors and hallways must be wide enough for wheelchairs.
 - All units must have
 - An accessible route into and through the unit
 - Accessible light switches, electrical outlets, thermostats and other environmental controls
 - Reinforced bathroom walls to allow later installation of grab bars
 - Kitchens and bathrooms that can be used by people in wheelchairs
 - If a building with four or more units has no elevator and was ready for first occupancy after March 13, 1991, these standards apply to ground floor units.
 - Fair Housing-Related Presidential Executive Orders:
 - Executive Order 11063 prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.
 - Executive Order 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin.
 - Executive Order 12892, as amended, requires federal agencies to affirmatively further fair housing in their programs and activities and provides that the Secretary of HUD will be responsible for

- coordinating the effort. The Order also establishes the President's Fair Housing Council, which will be chaired by the Secretary of HUD.
- Executive Order 12898 requires that each federal agency conduct its program, policies and activities that substantially affect human health or the environment in a manner that does not exclude persons based on race, color or national origin.
 - Executive Order 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted and federally conducted programs and activities.
 - Executive Order 13217 requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.
- The protected classes outlined above are federally protected classes. Many states and localities include additional protected classes to the federal ones.
- In Virginia, the elderly, defined as age 55 and older, is a protected class.
 - Check with your state, counties and/or cities for possible additional protected classes.

Part 2 - Discriminatory Practices

- Discriminatory practices prohibited by Fair Housing Laws
- Steering
 - Steering is the practice of channeling home seekers toward or away from particular neighborhoods based on race, color, sex, religion, national origin, disability, familial status or some other consideration. Steering accounts for the majority of complaints filed against real estate licensees under the Fair Housing Act.
 - Blockbusting
 - Also called panic selling or panic peddling, blockbusting is the illegal practice of encouraging the sale or renting of property by claiming that the entry of a protected class of people into the neighborhood will negatively affect property values.
 - Discriminatory Advertising
 - Redlining
 - Redlining applies to mortgage lenders.
 - Redlining is the practice of refusing to make mortgage loans to people who live in certain geographic areas.
 - Discriminatory Appraising
 - Appraisers are prohibited from using information relating to protected classes when appraising a home.
- Renting to Applicants with a Pet
- A landlord has the right to refuse to rent to tenants who have pets.
 - If a disabled tenant requires a service animal, such as a "seeing-eye dog," the law does not treat the dog as a pet, and landlords must rent to the tenant, even if the landlord normally refuses to rent to people with pets.
 - Refusal to rent to tenants with pets must be applied to all applicants consistently, with the exception of service animals stated above
- Renting to Applicants with Children

- Familial status is a protected class. Therefore, a landlord may not refuse to rent to a family with children.
- Source of Income and Section 8
 - Where “source of income” is not a protected class, landlords may discriminate against prospective tenants who receive subsidies under Section 8. However, where “source of income” is a protected class, landlords cannot refuse to rent to tenants based upon where the tenant receives his income.
- Landlord’s requirements regarding disability
 - Landlords must make reasonable accommodations such as
 - Providing accessible parking spaces
 - Allowing a tenant to make reasonable structural changes to the home at the expense of the tenant, such as installing grab bars in bathrooms or installing a ramp to an entrance for a person in a wheelchair.
 - The landlord may not require an additional security deposit for these changes.
 - The landlord may ask that the unit be returned to the original state at the end of the lease term at the tenant’s expense.

Part 3 – Agent/Broker Responsibilities

- Who is liable under Fair Housing laws?
 - The real estate firm, broker, owner and even the investors in property can be sued under the federal housing laws if an agent is found to have discriminated. All can be held liable.
- The broker/manager’s responsibilities
 - The broker/manager should never assume that a potential customer would best be served by an agent in a particular protected class.
 - The broker/manager may not direct a potential customer to an agent based upon any protected class.
- Agents’ Duties
 - Agents should discuss up front with all clients/customers the fair housing laws and their commitment to equal housing opportunity. This will keep agents out of trouble at a later time. Both listing agreements and buyer broker agreements contain Fair Housing language. This is the perfect time to address the Fair Housing laws.
 - Agents must provide all clients and customers with equal professional service.
 - Agents should develop uniform procedures to gather information on client/customer preferences.
 - Agents must refuse to steer customer/clients and, if necessary, explain to them that it is illegal to do so. If a buyer/tenant asks about the racial, familial or any other category of protected class of a neighborhood, the agent can refer him to local governmental agencies that would have this demographic information.
 - Agents should refrain from giving opinions regarding crime in any area.
 - Agents must refrain from providing information to a seller about a buyer’s protected class
 - Whatever an owner does with one property, the owner must do with all properties. For example, if an owner’s policy is to allow pets in his rental units, that owner must allow pets in all of his rental units.
 - Working with the seller/landlord
 - The law prohibits brokers and agents from entering into listing agreements with a seller/landlord who restricts the rental or sale of a property on the basis of any of the protected classes. If the seller or

landlord wishes to engage in discriminatory practices in the sale or rental of his home, the agent should

- Inform the seller/landlord of the illegality.
 - Give the seller/landlord a copy of "What Everyone Should Know About Equal Opportunity in Housing," published by the National Association of Realtors®
 - If the seller/landlord continues to engage in discrimination, the agent should refuse to take the listing and tell the seller/landlord that to take the listing would be illegal.
 - Agents are required to report acts of discrimination. The agent must report the seller/landlord to the broker and explain the situation fully.
 - If the agent already has a signed listing agreement, the agent must terminate the listing.
- Working with the buyer/tenant
 - It is illegal to qualify a buyer/tenant differently from other buyers/tenants based on any of the protected classes. Qualifying must be based on financial information and should be accomplished in a non-discriminatory manner. The agent should
 - Use objective information in the qualifying process.
 - Qualifying procedures must be uniform for all prospects.
- Advertising
- When advertising property, agents should focus on the property, not the people.
 - It is a violation of the Fair Housing Act to "make, print, or publish" any advertising for real estate that is discriminatory or expressly implies discriminatory preferences.
 - Advertising includes the following:
 - The written and spoken word
 - Email
 - MLS listings and comments
 - The internet
 - Displays
 - Flyers
 - Phone messages
 - All ads should be approved by the broker before being placed.
 - Agents can consult a list of words and phrases that are acceptable and not acceptable. The Virginia Association of Realtors has compiled a list of suggested fair housing advertising words and phrases. Following are some of these words and phrases:
 - Acceptable words and phrases
 - Credit check required
 - Den
 - Equal Housing Opportunity
 - Family Room
 - First Time Buyer
 - Fixer-upper
 - Luxury Townhouses
 - Near mass transit
 - Near golf course
 - Neighborhood name
 - Nice
 - No drinking
 - No drugs
 - No drug users
 - No smoking
 - Number of bedrooms

- Nursing Home
- On bus route
- Privacy
- Private driveway
- Private entrance
- Private setting
- Quality construction
- Quiet
- Reference required
- School district
- School name
- Security provided
- _____ square feet
- Starter home
- Caution
 - Active
 - Board approval required
 - Close to _____
 - Desirable neighborhood
 - Domestic neighborhood
 - Female roommate
 - Gentleman's farm
 - Grandma's house
 - Golden ages
 - Handyman's dream
 - Membership approval required
 - Near _____
 - Near country club
 - No students
 - Number of persons
 - Prestigious
 - Quality neighborhood
 - Quiet neighborhood
 - Retirees
 - Seniors
 - Senior citizens
 - Senior housing
 - Sophisticated
 - Students
 - Within walking distance
 - * For use when housing requirements meet the Fair Housing Act criteria for "housing for older persons"
- Not Acceptable:
 - Able-bodied
 - Adult living
 - Adult community
 - Adults only
 - African
 - Agile
 - Asian
 - Bachelor
 - Bachelor pad
 - Catholic
 - Caucasian
 - Chicano
 - Chinese
 - Colored

- Couple
- Couples only
- Empty nesters
- (Ethnic references)
- Exclusive
- Executive
- Healthy only
- Hispanic
- Indian
- Irish
- Integrated
- Jewish
- Landlord (description)
- Latino
- Mature couple
- Mature individual
- Mature person
- Mexican-American
- Mormon Temple
- Mosque
- Must be employed
- (Nationality)
- Near church(es)
- Near synagogue
- Near temple
- Newlyweds
- No AIDS
- No alcoholics
- No blacks
- No blind
- No children
- No crippled
- No deaf
- No drinkers
- No impaired
- No mentally handicapped
- No mentally ill
- No play area
- No retarded
- No unemployed
- Not for handicapped
- Older person
- One child
- One person
- Oriental
- Physically fit
- Puerto Rican
- Sane tenant only
- Shrine
- Singles only
- Single person
- Stable person
- Tenant (description of)
- White
- White only

➤ Intent

- It is prudent for owners and licensees to examine their actions and policies to determine if unintentional discrimination is occurring. When policies or actions result in unequal treatment of people, they are considered discriminatory regardless of the intent.
- The Fair Housing Partnership Agreement
 - The National Association of Realtors® (NAR) and the U.S. Department of Housing and Urban Development (HUD) have joined in partnership, reaffirming their commitment to fair housing in all communities in the country. This partnership is based on the following principles:
 - All those involved in the real estate community share an obligation for achievement of fair housing.
 - HUD and NAR will, on an ongoing basis, identify fair housing issues that need to be addressed.
 - The partnership will establish measurable strategies and actions to further fair housing goals.
 - The partnership will evaluate these strategies in order to determine whether or not further action is necessitated.
 - Although the partnership is national in scope, it will be implemented on both the local and national levels.
- Fair Housing Training
 - The Virginia legislature and Real Estate Board take Fair Housing and issues related to Fair Housing seriously.
 - Currently, a new real estate licensee in the Commonwealth of Virginia must have three hours of post-licensing Fair Housing training during the first year that the agent is licensed.
 - Currently, those agents renewing their license for the second time or beyond must take two hours of continuing education in fair housing in order to renew their license.

Part 4 – Enforcement of the Fair Housing Act

- Complaints
 - Historically, most housing complaints were based on race.
 - Race continues to lead in complaints; however, an increasing number of complaints are being filed relating to disability.
 - According to HUD, 70% of fair housing complaints involve rental transactions.
- Testers
 - Real estate agents are approached by fair housing testers on a regular basis.
 - Testers are individuals who call and/or visit real estate offices to determine compliance with Fair Housing laws.
 - They are normally people of one or more protected classes.
 - They play the role of people looking to buy or rent.
 - It is virtually impossible to spot a tester.
 - If fair housing laws are violated, the testers lodge a complaint with the appropriate fair housing agency.
 - The only way that an agent can protect himself is to make sure that he knows and follows the law.
- Enforcement of the Fair Housing Act
 - The Virginia Real Estate Board administers the Fair Housing Act.
 - The members of the Fair Housing Committee of the Virginia Real Estate Board review findings of fair housing cases where real estate licensees are involved.

- The licensee can call the Virginia Fair Housing Office at 888-551-3247 or 804-551-3247 to report discrimination.
- The committee recommends whether or not to find reasonable cause that discrimination has occurred.
- The committee then can recommend conciliation of a case. All committee recommendations come before the full Board for approval.
- The person who feels that he is the recipient of discrimination can file a written complaint with the Department of Housing and Urban Development in Washington, D.C.
- Or he can file in a U.S. District Court or state or local court.
- Or he can file a complaint with the U.S. Attorney General.
- Enforcing the Civil Rights Act of 1866
 - If someone is seeking enforcement of the 1866 act, he must file a suit in a Federal Court.

Part 5 - Recent Fair Housing Cases

- HUD No. 08-004
 - A family alleged, among other things, that Hollie Meeks, the resident manager of Ontario Townhouses, harassed Hispanic families and subjected them to different terms and conditions than non-Hispanic families.
 - HUD's investigation found that Meeks, an employee of Ontario Townhouse Limited Partnership and Edgewood Management Corporation, overcharged rent, refused to do repairs, and yelled at Hispanic residents because they did not speak English. When one family received notice of a rent increase, they requested help from Meeks, but she demanded more documents, harassed, yelled and threatened them with eviction. "Residents of Ontario Townhouses should be able to enjoy their homes without being harassed because of their national origin," said Kim Kendrick, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "We are pleased that the owners of this development are taking steps to eliminate the kind of behavior that unlawfully violates the rights of hardworking families."
 - Under the settlement agreement, Ontario Townhouse Limited Partnership and Edgewood Management Corporation paid \$10,344 to one family and terminated Meeks. The owners of Ontario Townhouses were also to provide oral interpretation services, display and maintain fair housing posters in English and Spanish and have the new resident manager and other staff participate in a fair housing training course.
- HUD No. 08-003
 - Several tenants alleged that Sun and Christine Young, owners of Summer Place Apartments, discriminated against families with children and refused to make reasonable accommodations to persons with disabilities.
 - "Finding safe and affordable housing for families can be difficult, and it should not be complicated by persons who refuse to rent to people with children, or to make reasonable accommodations," said Kim Kendrick, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "Equal access is more important than ever and we are extremely pleased with Summer Place Apartment's responsiveness and its commitment to achieve full civil rights compliance."
 - Under the agreement, Summer Place Apartments was to:
 - Pay \$75,000 to families who were adversely affected by the owners' discriminatory practices. Included in the \$75,000 is \$35,000 to a woman who was evicted because she had a child under the age of

18; a total of \$10,500 to three individuals whom the owners tried to evict because they have children; and \$29,500 to create a fund to compensate other persons who show they were denied housing going back to December 1, 2005, because they have a child or were pregnant.

- Stop advertising Summer Place Apartments as an "Adult Community."
 - Stop denying applicants with children the opportunity to rent based on their familial status.
 - Sun and Christine Young of the Summer Place Apartments voluntarily agreed to pay \$75,000 to several tenants and to cease discriminatory practices against families with children and to stop refusing to make reasonable accommodations to persons with disabilities. Summer Place and its agent admitted no wrongdoing.
- United States, et al. v. Hawthorne Gardens Associates, et al
- The complaint was filed on February 20, 2003. It alleged that the defendants (Hawthorne Gardens Associates) engaged in a pattern or practice of discrimination against families with children at four rental properties with approximately 490 units. Specifically, the complaint alleged that the defendant violated the Fair Housing Act by maintaining and enforcing its policy that prohibited children under ten years of age from living in second floor apartments at their buildings. The action was brought on behalf of six individual complainants who were rejected for housing based on familial status at the defendants' apartments and on behalf of the Fair Housing Council of Northern New Jersey, which had conducted fair housing testing at the defendants' properties.
 - The department of Housing and Urban Development received the complaint, conducted an investigation and issued a charge of discrimination. The result was a consent order, which provided for fair housing training, notification of non-discrimination policies, record keeping and reporting, revised rental application provisions and compliance testing. Additionally, the consent order required the defendants to pay \$168,000 in compensatory damages to the individually names complainants, \$20,000 for a victims' fund and a \$4,000 civil penalty. The consent order was to remain in effect for three years.
- Indiana Court of Appeals, 2006 Villas West II of Willowridge v. McGlothlin
- An Indiana court has ruled that efforts by a homeowner's association to enforce an anti-leasing covenant violated the Fair Housing Act. In this case, a couple bought a home in the development. Their purchase agreement contained a standard clause prohibiting them from leasing their home "for the protection of owners with regard to financially responsible residents."
 - Two years after buying the home, the owners were placed in a nursing home, and the house was leased. Three years later, the homeowner's association became aware that the home was leased and filed an injunction against the homeowners. The owners sued and both the trial court and later the appeals court ruled in favor of the owners.
 - The appellate court stated that the HOA's attempt to enforce the anti-leasing covenant supported discriminatory housing practices in the area since many more racial minorities in the town leased their residences. In addition, almost no racial minorities were home owners at the development.
 - Looking at the number of minorities in the community as a percentage of the total population compared to the percentage of minorities at the development, the court decided the prohibition on leasing had a greater impact on minorities than on whites.
 - The court also dismissed the association's argument that the anti-leasing provision protected property values. It noted that leasing didn't have a negative effect on values and that many other HOA requirements on landscaping, trash removal, etc., provided sufficient protections to property values. However, the

court noted that not all anti-leasing covenants would violate the Fair Housing Act.

- This case was reprinted from REALTOR® Magazine Online (<http://www.realtor.org/realtormag>) with permission of the NATIONAL ASSOCIATION OF REALTORS®, Copyright 2008. All rights reserved.

Fair Housing Final Quiz

1. There are exemptions to the Fair Housing Laws; however, there is one protected class of which there is never an exemption. That protected class is
 - a. Race
 - b. Disability
 - c. National Origin
 - d. Sex
2. A real estate agent shows prospective buyers homes in the \$300,000 range in all areas east of the river but does not show buyers homes in the same price range in areas west of the river because of certain protected classes that live west of the river. This is an example of:
 - a. Blockbusting
 - b. Redlining
 - c. Steering
 - d. Good business
3. A tenant in a wheelchair moves into an apartment and decides to make some reasonable structural modifications. Which of the following is/are true?
 - a. The landlord can expect the tenant to pay for the modifications.
 - b. The landlord can refuse to rent to the tenant.
 - c. The landlord can expect the tenant to restore the property to its original condition at the end of the lease.
 - d. a and c
4. A real estate agent knocks on all doors of a particular neighborhood urging people to sell their homes immediately because the purple people will soon be taking over the neighborhood and values will surely drop. This is an example of
 - a. Blockbusting
 - b. Steering
 - c. Good business
 - d. A violation of the "Do Not Knock" law
5. In Virginia, which of the following is a protected class?
 - a. Smokers
 - b. Elderly
 - c. Appearance
 - d. Political Affiliation
6. A listing agent brings an offer to purchase to his seller. The seller remembers the buyers who have made the offer and he remembers that they were green people. Because they are green, he refuses to sell to them. The listing agent should educate him on the Fair Housing laws and
 - a. If the seller still refuses to sell to the green people, suggest that he sell to orange people instead.
 - b. If the seller still refuses to sell to the green people, agree with him.

- c. If the seller agrees to sell to the green people, refuse to represent him further.
 - d. If the seller still refuses to sell to the green people, terminate the listing and report the seller to the appropriate Fair Housing authority.
7. Under the federal fair housing law, the seven protected classes include
- a. Race, color, source of income, handicap, national origin, marital status, religion.
 - b. Race, color, religion, sex, handicap, familial status, national origin.
 - c. Race, sexual orientation, sex, familial status, handicap, national origin, political affiliation.
 - d. None of the above.
8. The fair housing laws prohibit all of the following except
- a. Refusal to show, rent or sell a property because of disability
 - b. Expressing a preference for middle-aged adults in a listing comment
 - c. Evicting a current drug user
 - d. Marketing your listings exclusively in a religious publication
9. Based on federal fair housing law, which of the following people would be protected?
- a. A quadriplegic male
 - b. A 35-year old single, Muslim man
 - c. An African American woman
 - d. All of the above
10. When a prospect asks about the racial makeup of a neighborhood, the agent should respond by saying
- a. "I believe the neighborhood has a few Asian families, but I will check and get back to you."
 - b. "Residents in this neighborhood value diversity. You'll fit right in."
 - c. "I wouldn't worry about that. This neighborhood is safe and the schools are good."
 - d. "The Fair Housing Act prohibits me from providing that kind of information. I recommend you contact the school district, municipal government, or the local library."
11. A female licensee makes it her policy to meet female prospects the first time at a listing; however, she also makes it a policy to not meet male prospects the first time at a listing. Is this acceptable under Fair Housing law?
- a. Yes. It's common sense.
 - b. Yes. As long as she's consistent.
 - c. No. She is discriminating against men and sex is a federally protected class.
 - d. Both a and b.
12. A seller refuses to sell to an army veteran returning from Iraq. Is this discrimination under the Federal Fair Housing Laws?
- a. Yes and the seller should be ashamed of himself.
 - b. No. Veterans are not a protected class.
 - c. No. Veterans are a protected class but Iraqi veterans are not.
 - d. None of the above.
13. Can a state have more protected classes than the federal government?
- a. Yes
 - b. No

14. Which law prohibits discrimination in housing related to race only?
 - a. The Fair Housing Act
 - b. Plessy vs. Ferguson
 - c. The Civil Rights Act of 1866
 - d. The Fair Housing Act as amended in 1972

15. Are people with HIV and Aids protected under Fair Housing?
 - a. No. Prospective purchasers should always be told if the seller died of Aids.
 - b. Yes, but only in certain instances.
 - c. Yes, always.

16. Can a landlord refuse to rent to an applicant with a pet?
 - a. Yes, all the time.
 - b. No. Pets are a protected class.
 - c. Not if the pet is a service animal for an applicant who has some type of disability.

17. If a prospective buyer tells an agent that he does not want to live in any neighborhood dominated by a particular protected class, can the agent exclude homes in those neighborhoods when showing houses?
 - a. Absolutely not. Never.
 - b. Of course. The request came from the buyer, not the agent.
 - c. Yes. Only if the agent shows the buyer at least three neighborhoods.
 - d. Yes. Only if the agent is not a member of that protected class.

18. In Virginia, is it acceptable if a landlord does not want to rent to a gay couple?
 - a. No. Sexual orientation is a protected class in Virginia.
 - b. Yes, always.
 - c. Yes, but only if the locality does not prohibit discrimination against gay people and a Realtor® is not involved.
 - d. None of the above.

19. What is the best method for ensuring that an agent does not inadvertently discriminate?
 - a. All agents should have a set of non-discriminatory professional policies and abide by them at all times.
 - b. Agents should not work with any protected classes.
 - c. Agents should decide which protected classes with whom they will not work and abide by this policy at all times.

20. Lulu wrote an ad which stated that the neighborhood was a good family neighborhood with "many children." Is this acceptable?
 - a. Yes. The description will help a family decide whether or not they would like the neighborhood.
 - b. No. The language in the ad is discriminatory and might make a childless couple uncomfortable.
 - c. Yes, it is acceptable but not recommended.
 - d. Both a and c

21. If an agent is accused of discrimination and the agent can prove that the discrimination was unintentional, will the agent be found not guilty of violating Fair Housing laws?
 - a. Not necessarily. Intent is not a consideration in establishing guilt.
 - b. Yes. As long as the agent's motives were pure, he is fine.

- c. Neither a nor b.
22. Why would a consumer file a suit in a Federal Court?
- He is Catholic and the sellers of a house wouldn't sell to him because of his religion.
 - He is in a wheelchair and his agent discriminated against him because of that.
 - He has children and the landlord won't rent to children.
 - He is an African American and he suffered discrimination from his agent.

Legal Updates and Emerging Trends

Part 1 – New Educational Requirements

- New Educational Requirements
 - Educational requirements for all salespersons within one year of licensure are as follows:
 - Effective July 1, 2008, the Board will establish guidelines for an educational curriculum of at least 30 hours of classroom, or correspondence or other distance learning, instruction in specified areas which shall be required of all salespersons within one year of being issued a license by the Board. If a new licensee fails to complete the 30-hour curriculum within one year of obtaining a real estate salesperson's license, the license will be placed on inactive status by the Board until the curriculum has been completed.
 - Prior to this time, the requirement has been for newly licensed salespersons to complete the 30 hour curriculum within the first two years of licensure.
 - Post-licensing requirements apply to both active and inactive licensees.
 - After review of information, the Advisory Council concluded that the post-license education program's three practice track format has not succeeded in meeting the program's initial goal of providing the best possible education for new real estate salespersons.
 - Since its inception in 2004, 98.1% of the new salespersons completed or selected the Residential track to renew their license. The Advisory Council voted unanimously to recommend that the Real Estate Board work expeditiously to have the Code of Virginia amended to remove the three practice tracks from the post-licensing program.
 - Continuing Education and Re-licensure
 - For licenses that expire on or after July 1, 2007, the Ethics and Standards of Conduct Continuing Education requirement for salespersons was changed from one hour to three hours. This change is for those needing continuing education (re-licensure) as opposed to post-licensing.
 - Effective July 1, 2008, brokers for whom active licenses have been issued by the Board shall be required to satisfactorily complete courses of not less than 24 hours of classroom or correspondence or

- other distance learning instruction during each licensing term. Of the 24 hours, the curriculum shall include
- 16 hours as outlined above for the licensed salesperson
 - In addition to the 16 hours, all brokers will be required to complete a minimum of eight hours of courses relating to supervision and management of real estate agents and the management of real estate brokerage firms as approved by the Board.
- Coming July 12, 2012
 - New Residential Standard Agency Law
 - The law is a fundamental shift in the area of Dual Agency.
 - Dual Agency will be permitted only after an enhanced disclosure is given to both parties.
 - Three hours of Continuing Education must be completed on the changes resulting from the bill.
 - All licensees need the class if their license expires between July 1, 2012 and June 30, 2014.
 - This CE requirement applies to the following:
 - New salesperson licensees who have to complete post-license education
 - Inactive licensees attempting to activate their licenses during the time period noted above.
 - Completing this course will be a one-time renewal requirement and will be in addition to the required 16 hours (salesperson) or 24 hours (broker) of CE or the required 30 hours of post-licensing.
 - The Real Estate Board now has the flexibility to require new continuing education topics on an accelerated basis in order to respond to changes in the market and industry.
 - Reactivation of licenses
 - Board regulations shall include remedial educational requirements for any salesperson or broker who has been inactive for more than three years. The regulations shall require the applicant to meet the educational requirements for a salesperson or broker in effect at the time either becomes active.
 - When the license has been inactive for more than three years, the Board may waive the educational requirements for reactivation of a license under the following conditions
 - During the time the license has been inactive, the holder of such inactive license has been engaged in an occupation whereby the knowledge of real estate would be retained or
 - The holder of such license is a member or the spouse of a member of the armed forces of the United States who has been permanently assigned outside Virginia for a portion of the time the license has been inactive, and the holder of the inactive license remained current in the field of real estate and demonstrates this fact to the satisfaction of the Board.
 - The Board or its agent shall require proof of identity prior to an applicant taking the state examination.

Part 2 – Other Legislation

- Limited Service Representative, Contract Disclosure Required

- A licensee may act as a limited service representative only pursuant to a written brokerage agreement in which the limited service representative
 - Discloses that the licensee is acting as a limited service representative
 - Provides a list of the specific services that the licensee will provide to the client
 - Provides a list of the specific duties of a standard agent that the limited service representative will not provide to the client.
 - Such disclosure shall be conspicuous and printed either in bold lettering or all capitals, and shall be underlined or in a separate box. A disclosure needs to contain language that complies substantially in effect with the following: "By entering into this brokerage agreement, the undersigned do hereby acknowledge their informed consent to the limited service representation by the licensee and do further acknowledge that neither the other party to the transaction nor any real estate licensee representing the other party is under any legal obligation to assist the undersigned with the performance of any duties and responsibilities of the undersigned not performed by the limited service representative."
 - A licensee engaged by one client to a transaction and dealing with an unrepresented party or with a party represented by a limited service representative and who, without additional compensation, provides such other party information relative to the transaction or undertakes to assist such other party in securing a contract or with such party's obligations thereunder, shall not incur liability for such actions except in the case of gross negligence or willful misconduct. A licensee does not create a brokerage relationship by providing such assistance or information to the other party to the transaction. A licensee dealing with a client of a limited service representative may enter into an agreement with that party for payment of a fee for services performed or information provided by that licensee. Such payment shall not create a brokerage relationship; however, the licensee providing such services of information for a fee shall be held to the ordinary standard of care in the provision of such services or information.
- Reciprocity Updates
 - Effective January 23, 2007, the West Virginia Real Estate Commission and the Virginia Real Estate Board entered into a reciprocal agreement.
 - Any applicant who holds either a resident Virginia Salesperson license or a resident West Virginia Salesperson license will be allowed to obtain a comparable license in the other jurisdiction.
 - Effective January 30, 2007, the Oklahoma Real Estate Commission and the Virginia Real Estate Board entered into a reciprocal agreement.
 - All applicants coming to Virginia by reciprocity from any state, must pass the Virginia state portion of the licensing exam prior to renewing their license.
- Additional Requirements for Licensure
 - The 2006 General Assembly have made it a requirement that a person must have a high school diploma or GED to sit for the licensing exam.
 - Fingerprinting and Criminal Background Check
 - As of July 1, 2009, fingerprinting is mandatory for a Virginia Real Estate Licensure Application.
 - Each applicant must submit a set of fingerprints to the Virginia Central Criminal Records Exchange for the purpose of conducting a state and national fingerprint-based criminal history record.
- Legislative Changes to Condominium Resale Certificates and Property Owners Association Disclosure Packets (2007 Session of the General Assembly)
 - The Condominium Act and the Property Owners' Association (POA) Act will require the association to pay a managing agent to prepare a resale certificate/disclosure packet upon request from the unit/lot owner or authorized

- agent and assess the fee to the requesting owner. The fee is not the responsibility of the purchaser. The managing agent is allowed to collect a reasonable fee not to exceed \$325 (the maximum allowable amount of such fee shall adjust annually based on the annual increases in the CPI-U, to prepare the resale certificate/disclosure packet on the following conditions:
- Reflects the actual cost
 - Is established in the contract between the unit owners' association and any managing agent
 - Is disclosed on the association's website or the website of its managing agent
- Property owners' associations and condominium associations that do not have a managing agent or have not met the above stated requirements must receive the written request before beginning the preparation and delivery of the resale certificate/disclosure packet. The actual cost, not to exceed \$100, does not need to be received with the written request. The preparation fee for property owner association disclosure packets must be received with the written request.
 - Associations may send the resale certificate/disclosure packet by electronic means unless either the seller or the purchaser requests a paper resale certificate/disclosure packet.
 - The notification of cancellation was amended for the Condominium and Property Owners' Association Acts so that the unit/lot owner or their agent may receive the request to cancel the purchase contract by the following:
 - Hand delivery
 - United States mail, postage prepaid, with the sender retaining proof of mailing
 - Electronic means where the sender retains sufficient proof of the electronic delivery
 - Overnight delivery using a commercial service or United States Postal Service. The sender shall have the burden to demonstrate delivery of the cancellation notice.
 - The association or the association's managing agent must still provide the resale certificate/disclosure packet to the seller/agent within 14 days of the request and may charge, with the mutual agreement of the seller, a rush fee not to exceed \$25, the actual cost of any mailing or delivery, and any actual cost incurred at the request and consent of the purchaser.
 - A "statement of the balance due of any outstanding loans of the association" has been added to both the resale certificate and disclosure packet. This amendment will result in the Disclosure Packet Notice form, created by the Real Estate Board pursuant Section 54.1-2105.1 of the Code of Virginia, to be revised. The form is available at <http://dpor.virginia.gov/dporweb/cicform.cfm>.
 - Effective 2011, the Residential Property Disclosure Act is kept on a website maintained by the Real Estate Board, and purchasers will be given a form referring them to that website.
 - Contingencies generated by statute
 - If the property is a condominium, the contingency may not be waived by the purchaser.
 - If the property is in a subdivision bound by a property owners' association, the contingency may not be waived by the purchaser.
 - Why might a buyer want to waive either contingency?
 - In a strong seller's market where buyers are in competition with each other, they often attempt to strengthen their contract by waiving contingencies (home inspection, radon, etc.). By law, they are unable to waive the condo and POA contingencies.
- Septic System Waivers Require Disclosure

- Owners of a home with a defective but otherwise compliant septic system who have sought a waiver of the obligation to correct the defect must disclose that waiver to prospective buyers.
- A failed (non-working) system does not need to be replaced or repaired if the system was permitted for the house it serves, such as a three bedroom permit for a three bedroom house.
- The owner may obtain a waiver from the health department permitting the owner to continue to live in the house without making repairs that might otherwise be required. This waiver must be recorded in the land records and the seller must disclose the existence of the waiver to prospective buyers and lenders on a separate disclosure form.
- This waiver does not transfer to the new purchaser, who will be required to bring the system into compliance.
- Wastewater Systems
 - The Residential Disclosure Statement has a new provision regarding wastewater systems.
 - This provision states that the owner makes no representations with respect to the presence of any wastewater system and purchasers are advised to exercise due diligence.
 - The General Assembly enacted legislation in 2007, which changes the Residential Property Disclosure Act.
 - Representations about zoning violations were added to the existing disclosure and disclaimer statement effective July 1, 2007.
 - Effective January 1, 2008, the use of the disclaimer statement was eliminated, and the Board revised the disclosure statement form accordingly.
 - The use of the new form, revised by the Board, must be used by all owners after January 1, 2008.
- Immunity from lawsuits
 - Effective July, 2011, real estate licensees are provided immunity from lawsuits for relaying publicly available information from localities that turns out to be inaccurate.
- Maintenance of Records
 - Effective July, 2011, all required records can be maintained electronically according to the Uniform Electronic Transactions Act.
- Disclosure of Chinese Drywall
 - Real estate licensees and landlords who have actual knowledge of defective Chinese drywall in a dwelling are required to disclose that information to a prospective tenant or buyer
 - A tenant may terminate his lease if the disclosure is not provided within 60 days of the discovery of defective drywall.
- Historical buildings
 - Property tax rates for buildings on the Virginia Landmarks Register are separate from other property tax rates.

Part 3 – Emerging Trends

- Short sales and foreclosures
 - Both are likely to continue as they have been.
- Current and pending legislation may give some sellers relief
 - HARP

- A program started in 2009 that allows purchasers to refinance their properties at current interest rates with less than the previously required 20% equity.
- Changes to HARP coming
 - Many of the extra fees required to participate in the program are being waived.
 - The degree to which a homeowner's home has declined in value will not affect the seller's eligibility to participate in the program.
 - Homeowners must have current mortgages that are backed by either Fannie Mae or Freddie Mac in order to be eligible for the program.
 - The program is going to be extended through 2013.
 - We can expect the government to establish other avenues to helping homeowners take advantage of low mortgage rates by refinancing and thereby reducing their monthly payments.
- The role of the Federal Reserve
 - Look to the Federal Reserve to provide more options such as doing another round of bond purchases
 - This would lower long-term interest rates more.
- The role of banks
 - State and federal officials are negotiating with banks to help more upside down homeowners qualify for refinancing assistance.
 - The plan being negotiated
 - Would make refinancing available to some homeowners whose houses are worth less than their loans
 - The homeowners would have to be current on their mortgage payments.
 - This plan would apply only to mortgages owned by banks, not by investors in mortgage-backed securities.
- Interest rates
 - Interest rates will most probably rise in the next couple of years.
 - This should create urgency to buy as potential purchasers try to lock in lower rates.
- A change in how consumers make their buying choice
 - 2010 was the first year that more consumers found the house that they ultimately bought than their Realtors®
 - This is due to consumers having a much greater access to data from a variety of sources.
 - More available data means less power for sellers, who were used to having more control.
 - Since more and more consumers are going online, the agent will need to create a stronger online presence.
 - Purchasing behavior of different generations
 - Aging baby boomers (55 to 64)
 - Many will need to stay in their current homes until the housing market improves.
 - Those that do move, will choose mixed-age living environments that cater to active lifestyles or nearby suburban town centers.
 - Younger baby boomers (46 to 54)
 - They will likely have less equity in their homes than the older members of their generation.
 - They will be unable to purchase a second home.
 - Generation X
 - Many are just now considering homeownership as they begin families
 - Generation Y

- They are not as interested in home ownership as other generations
 - They will likely rent.
- More people will be renting.
 - People are no longer looking at real estate as an investment.
 - They want to hold on to their cash.
 - There is a surge in commercial development of rental/multi-family housing.
- Large real estate corporations
 - Large real estate corporations will also be hit hard when it comes to the economy.
 - We will see more consolidation and mergers of the large companies.
- Adjustable rate mortgages
 - Loans made during 2005, 2006, and 2007 are coming due.
 - Their adjustment rates are very uncertain at this time.

Legal Updates and Emerging Trends Final Quiz

1. Changes to educational requirements for a salesperson include
 - a. three hours of fair housing
 - b. two hours of contracts
 - c. two hours of agency
 - d. three hours of ethics
2. Effective July 1, 2008, new salespersons and those applying for reciprocity must complete 30 hours of post-licensing education within
 - a. One year of licensure
 - b. Two years of licensure
 - c. Neither a nor b
3. HARP is a program that
 - a. can help a homeowner refinance their mortgages at a lower rate without having to meet the typical requirement of having at least 20% equity in their home.
 - b. can help a homeowner refinance by lowering the value of their home
 - c. can help a purchaser buy a home with special financing
 - d. can help a homeowner refinance by giving that homeowner up to \$10,000
4. Virginia has reciprocity agreements with
 - a. Oklahoma and New York
 - b. New Jersey and West Virginia
 - c. Oklahoma and West Virginia
 - d. None of the above
5. The new requirement, effective July 1, 2012, for all licensees to take a 3 hour course on the new Residential Standard Agency Law is
 - a. A one time requirement
 - b. In addition to 16 hours of continuing education for salespersons and 24 hours of continuing education for brokers
 - c. In addition to 30 hours of post-licensing for new salespersons
 - d. All of the above
6. Effective July 1, 2008, active brokers were required to
 - a. Take 24 hours of continuing education
 - b. Take 8 hours of continuing education

- c. Take 16 hours of continuing education
 - d. Take no continuing education
7. A limited service agent must
- a. Provide all services to his client
 - b. Spell out the services that he will perform and not perform to his client
 - c. Work with the client of the other agent
 - d. None of the above
8. An agent representing a purchaser may now deliver notice to a seller that the buyer is voiding the Sales Contract on the homeowner's documents
- a. Verbally
 - b. The buyer can no longer void the contract on the homeowners' documents
 - c. Electronically where the sender retains sufficient proof of the electronic delivery
 - d. None of the above
9. The Residential Disclaimer form has been replaced with a Disclosure form.
- a. True
 - b. False
10. Does a septic system waiver transfer from seller to purchaser?
- a. No
 - b. Yes

Mortgage Fraud

Part 1 – What is Mortgage Fraud?

- What is mortgage fraud?
 - Mortgage fraud, according to the FBI, is "any material misstatement, misrepresentation or omission relied upon by an underwriter or lender to fund, purchase or insure a loan."
 - Mortgage fraud is not the same thing as predatory lending. Mortgage fraud is when one or more individuals defraud a financial institution; predatory lending is when a dishonest financial institution willfully misleads or deceives the consumer.
 - Mortgage fraud may be perpetrated by one or more participants in a loan transaction, including the borrower, a loan officer who originates the mortgage, a real estate agent, appraiser, title representative or attorney or by multiple parties as in a fraud ring described below.
 - The mortgage industry estimates that 10 – 15 percent of the mortgage loans processed annually involve some type of fraud.
- There are two types of fraud.
 - Fraud for the home
 - According to the FBI's "Financial Crimes Report To The Public Fiscal Year 2006," 20 percent of today's mortgage fraud stems from a home buyer lying about income, debt or other information in order to buy a home.
 - This involves the purchaser falsifying the loan application in order to buy a home that he cannot afford.

- By inflating the income or omitting debt on the application, the purchaser can buy a more expensive home.
- Typically, these buyers are sub-prime borrowers and don't plan to default. Whether they are investors or homeowners, their intention is not to walk away with cash but to get a roof over their or someone else's head. Sometimes real estate agents coach these purchasers to fill out the applications not according to the truth but according to what the banks want to see.
- Fraud for profit
 - 80 percent of all mortgage fraud involves fraud for profit.
 - This typically involves a number of professionals who conspire to inflate the price of the home, such as an appraiser, a mortgage broker, an outside investor and straw buyer, real estate agent, title company representatives and even representatives of the lenders.
 - Fraud for profit is also called "Industry Insider Fraud".
 - This type of fraud is committed by the real estate professionals and involve making loans and reselling them, knowing that the purchaser of the loan might never be repaid.
 - A study by BasePoint Analytics, a fraud research company, provides evidence that fraud for profit is widespread. The study showed that 70% of "early payment defaults" or non-payments at the beginning of the mortgage term, could be traced to loan applications with significant misrepresentations.
 - In an especially hard hit region, the Southwest, experts claim that the biggest scam has involved cash back schemes where the price of homes has been artificially inflated in order to give cash back to purchasers.
 - Some of those charged with mortgage fraud try to hide behind the push for greater home ownership, claiming that they are just helping people get into homes.

Part 2 – Examples of Mortgage Fraud

- What are some examples of mortgage fraud?
 - Undisclosed kickbacks
 - When a seller gives money to a buyer for repairs that are not part of the sales contract, fraud is committed. The buyer and seller or the buyer and real estate agent collude to deceive the lender as to the true sales price of a property. The seller or the real estate agent gives the buyer a cash rebate which is not disclosed to the lender. As a result, the lender lends too much, and the buyer and/or seller pocket the overage.
 - All exchanges of money need to be approved by the lender and need to be on the HUD-1.
 - Foreclosure schemes
 - Homeowners who are in default are targeted by unscrupulous individuals who claim that the homeowners can save the house in exchange for a transfer of the deed and upfront fees.
 - Purchase loans disguised as refinance
 - Purchase loans that are disguised as refinances require less documentation and lender scrutiny.
 - Silent second mortgage
 - A silent second is a second mortgage given the purchaser by the seller, used as the purchaser's down payment, and hidden from the lender.
 - Falsifying employment income occurs
 - Anytime that a purchaser inflates his income, whether he is self-employed or employed. This often occurs in "stated income" or low doc

or no doc loans, which do not require verification. In some cases, the borrower alters an employer-issued W-2 to overstate income.

- Failure to disclose liabilities
 - Some borrowers may conceal other mortgages or recent additional credit card debt in order to obtain larger loans.
- Occupancy fraud
 - This occurs when an investor is purchasing a property and claiming on the sales contract and loan application that he is planning to occupy the property. This is done to obtain a loan with more lenient down payment guidelines and lower interest. The lender is defrauded because he is making a riskier loan and is not being compensated for the additional risk.
- Mortgage fraud rings
 - Multiple parties are involved in financially motivated attempts to defraud lenders of large sums of money.
 - Some schemes involve a straw borrower whose credit report is used, a dishonest appraiser who intentionally and significantly overstates the value of the subject property, a dishonest attorney who prepares two sets of HUD closing documents and a property owner, all in a coordinated attempt to obtain an inappropriately large loan. If undetected, a bank may lend hundreds of thousands of dollars against a property that is actually worth far less. The parties involved split the illegal gains and disappear without making one payment on the mortgage.
- Shotgunning
 - There are two types of shotgunning
 - When a person simultaneously takes out multiple loans with different lenders for the same home, he is shotgunning. Typically after committing the mortgage fraud, the person leaves the country.
 - Shotgunning also takes place when there are multiple sales of the same house.
- Air Loans
 - Air loans are non-existent property loans where there is no collateral. The property is fictitious.
- Identity Theft occurs
 - When a person assumes the identity of a homeowner and takes out a mortgage on his property. Sometimes this is part of a mortgage fraud ring where a seller assumes the identity of the home owner, and a buyer who seeks the mortgage to buy the house, both of whom are using false identities, share the illegal gains and disappear without making payments on the mortgage.
- Nominee Loans/Straw Buyers

The true borrower is concealed through the use of this "nominee" or "straw buyer," who allows the borrower to use the person's name and credit history to apply for a loan.
- The purchaser receives a gift he plans to repay for the down payment.
 - A gift letter states that there is no intent on the recipient's part to repay the loan and the giver of the loan does not expect re-payment. When the agreement between giver and recipient is that the recipient will repay the loan, but the gift letter says otherwise, this is loan fraud.
- Inflated purchase price is
 - When there are two sales contracts for the same property and the agent sends the higher, false one to the lender in hopes of obtaining a better appraisal.
- Property flips

- The property is purchased, falsely appraised at a higher value, and then quickly resold.
- Appraisal fraud
 - If a home's appraised value is deliberately overstated, more money can be obtained by the borrower in the form of a cash-out refinance or obtained by the seller in a purchase transaction. A dishonest appraiser may inflate the value, or someone with knowledge of graphic editing tools such as Adobe Photoshop can alter an appraisal. In many cases of mortgage fraud, the appraisal is involved.
 - Studies show that more than 50% of appraisers say they have been pressured to overstate property values.
 - Even fairly honest lenders will use a "special appraiser" who they know will bring in a higher appraisal than their "honest appraiser."

Part 3 – Remedies and Reasons

- What should the consumer or agent do if he suspects mortgage fraud?
 - If the consumer is approached by a real estate professional who asks him to become part of a mortgage fraud scheme, he should report the person to the FBI.
 - Federal Bureau of Investigation (FBI)
935 Pennsylvania Avenue, NW
Washington, D.C. 20535
202-324-3000
<http://www.fbi.gov/whitecollarcrime.htm>
 - OR
 - Contact the FTC
 - The Federal Trade Commission (FTC)
600 Pennsylvania Avenue, NW
Washington, D.C. 20580
Identity Theft Clearinghouse: 877-438-4338
Consumer Response Center: 877-382-4357
<http://www.ftc.gov> or
<http://www.ftc.gov/bcp/edu/microsites/idtheft/>
 - OR
 - Talk to a reputable real estate lawyer or the state licensing authority.
OR
 - Contact the Mortgage Bankers Association's (MBA) website dedicated to stopping and reporting mortgage fraud at
www.stopmortgagefraud.com
800-348-3931
- Why is mortgage fraud so prevalent?
 - A recent study by Demos, a research firm in New York City, states that Americans have more debt now than ever. They have been taking equity out of their homes in record amounts to consolidate debt, and Americans actually own less of their homes today than thirty years ago. This climate (frequent refinancing) depends heavily on a continuing appreciating real estate market. In the current declining market, many homeowners have taken on mortgages that exceed the true market value of their homes, thanks to appraisal fraud. The report asserts that mortgage fraud exists because the financial incentives of those involved in the mortgage loan process often work against the very idea of securing an honest appraisal.
 - Since loan officers are paid on a commission basis, their livelihood depends upon having loans close without problems.

- In the refinancing situation, the appraisal must come in at a certain level in order for the refinancing to occur. Therefore and ironically, the lender's own rules contribute to the necessity to hit a dollar figure with the appraisal.
- Loan originators don't really care if the loan defaults since most loans are sold to the secondary market and are not held by the institution at which the loan officer is employed.
- The livelihoods of appraisers depend upon a steady flow of work from lenders. If an appraiser has a practice of bringing in low appraisals, he will soon find himself out of business.
- Consumers often think only of the short-term when purchasing or refinancing. They want the house, or they want the money from the refinance. They don't think in the long term about the possibility of being, at some point, "upside down" with a loan balance that is higher than the value of the house.
- Appraisers agreed to inflate property value since the market was appreciating.
- Agents wrote offers with increasing amounts of cash back.
- Mortgage lenders told borrowers that they would get the loan for them no matter what.
- During the housing boom, "no documentation" mortgages grew in popularity, because, as home prices rose, qualifying for a traditional mortgage became more and more difficult.
- Also, during the hot sellers' market, relaxed underwriting standards were introduced to give previously underserved consumers a better shot at home ownership. However, this easy money allowed too many loans to go to purchasers who could not afford them.
- In some cases, sub-prime mortgage fees can be as much as a third of the value of the home.
- The strong seller's market caused an increased reliance by both financial institutional and non-financial institutional lenders on third-party brokers.
- A significant portion of the mortgage industry is void of any mandatory fraud reporting.
- Who is involved in mortgage fraud?
 - The perpetrators of mortgage fraud span the entire spectrum from the innocent consumer to organized crime.
 - The FBI states that, based on existing investigations and mortgage fraud reporting, 80 percent of all reported fraud losses involve collaboration or collusion by industry insiders.
- What are the consequences of mortgage fraud?
 - Mortgage fraud is a prosecutable crime and is against the law.
 - Fines and prison sentences are stiff. According to the FBI, sentences can be up to 30 years and fines up to one million dollars or both.
 - If the lender subsequently discovers that any part of the consumer's loan application is false, he can demand immediate full payment of the loan.
 - When homes were appreciating, homeowners with unaffordable mortgage payments could either refinance or sell their homes, often at a profit, so these fraudulent scams went unnoticed.
 - Everything came crashing down when the market turned. Foreclosures, bankruptcies and short sales have been the result.
 - When applications inflate income and/or omit debt, this is a recipe for default.
 - These foreclosures, bankruptcies and short sales have contributed to a decline in the nation's median home price and forced contractors out of work.
- What is being done about mortgage fraud?
 - Unfortunately, during the hot real estate market, rising real estate covered up all of the illegal activities. Everyone was making money. Federal prosecutors claim that mortgage fraud has been around for years but has gone unnoticed.

- The FBI is focusing its efforts on mortgage fraud schemes perpetrated by industry insiders. The FBI is identifying fraudulent trends within the mortgage industry and educating the public.
- The U.S. Department of Housing and Urban Development (HUD) was the first agency to address flipping by establishing a rule stating that if a person receives an FHA home loan, they must own that house 90 days before reselling it.
- The Veterans Administration (VA) now has the same rule.
- HUD also will not allow someone to buy property and then resell it without going to settlement. Before this came about, agents were buying lease-purchase properties and then assigning their contracts to the new buyer of the home after flipping. HUD requires that in order to sell the property, the owner must have title to it first.
- In 2007, Ohio passed a law that prohibits lenders from trying to influence appraisers. A common scam has been for purchasers borrowing more money than the home is worth.
- New York, Baltimore and Cleveland are suing mortgage lenders for damages after a rash of foreclosures.
- In a recent case, an attorney in Georgia was convicted of fraud and got 30 years in a federal penitentiary with no possibility of parole.

Part 4 – The Agent’s Duty

- What are red flags that the real estate agent and consumer should look for?
 - The listing agent is asked to raise the list price in the computer after the sales contract has been ratified.
 - The buyer requests a specific appraiser.
 - The mortgage broker tells the agent not to send a contract amendment to him.
 - Hyped Appraisals
 - When the buyer is willing to pay more than the appraised value of the house, there may be a mortgage scam unfolding.
 - During the hot seller’s market, it was difficult for lenders to spot appraisals that were higher than the value of the properties; however, with the cooling of the market, these inflated appraisals are easier to recognize.
 - The property has been on the market for a long time but sells for significantly more than the list price.
 - Bogus Fees
 - Mortgage fraud does not always involve millions or even thousands of dollars. It can simply be a matter of padding the paperwork. The real estate agent and the principals to the transaction should carefully review the pre-settlement HUD-1 and then compare it to the HUD-1 that is presented at settlement.
 - No Name Vendors
 - Real estate sales associates should be careful to work only with reputable vendors. They should check these people out and get a referral from a trusted colleague.
 - The agent’s Instincts are Screaming at him that Something is Wrong
 - When the agent mentions it, those who are perpetrating the questionable act tell the agent that it’s fine and that it is standard practice.
 - The agent needs to make sure that the true facts of a transaction are reflected in the contract (with all its amendments) and on the HUD-1.
- FBI tips to protect the consumer from becoming a victim of mortgage fraud

- Get referrals for real estate and mortgage professionals. Check the licenses of the industry professionals with state, county or city regulatory agencies.
- If it sounds too good to be true, it probably is. An outrageous promise of extraordinary profit in a short period of time signals a problem.
- Be wary of strangers and unsolicited contacts, as well as high-pressure sales techniques.
- Look at written information to include recent comparable sales in the area, and other documents such as tax assessments to verify the value of the property.
- The consumer needs to understand what he is signing and agreeing to--If he does not understand, he needs to re-read the documents or seek assistance from an attorney.
- The consumer needs to make sure that the name on the application matches his name.
- The consumer should review the title history to determine if the property has been sold multiple times within a short period--It could mean that this property has been "flipped" and the value falsely inflated.
- The consumer needs to know and understand the terms of his mortgage and should check the information against the information in the loan documents to ensure they are accurate and complete.
- The consumer should never sign any loan documents that contain blanks--This leaves him vulnerable to fraud.
- The consumer should check out the tips on the Mortgage Bankers Association's (MBA) website at <http://www.StopMortgageFraud.com> for additional advice on avoiding mortgage fraud.
- The consumer should beware of e-mails or web-based advertisements that promote the elimination of mortgage loans, credit card and other debts while requesting an up-front fee to prepare documents to satisfy the debt. The documents are typically entitled Declaration of Voidance, Bond for Discharge of Debt, Bill of Exchange, Due Bill, Redemption Certificate or other similar variations. These documents do not achieve what they claim.
- There is no magic cure-all to relieve a person of debts incurred.
- Borrowers may end up paying thousands of dollars in fees without the elimination or reduction of any debt.
- Perpetrators mislead the homeowners into believing that they can save their homes in exchange for a transfer of the deed, usually in the form of a Quit-Claim Deed, and up-front fees. The perpetrator profits from these schemes by re-mortgaging the property or pocketing fees paid by the homeowner without preventing the foreclosure. The victim suffers the loss of the property as well as the up-front fees.
- The consumer should be aware of offers to "save" homeowners who are at risk of defaulting on loans or whose houses are already in foreclosure.
- The consumer should seek a qualified Credit Counselor or attorney to assist him in making some of the decisions.

Part 5 – Case Studies

➤ Case Studies

- A buyer has entered into a contract to purchase a property for \$200,000, but, after learning about a roof problem, asks for and gets a price concession of \$10,000 from the seller. At a \$190,000 sales price, the buyer might obtain a 90 percent loan-to-value mortgage for \$171,000 and bring approximately \$19,000 to close. However, the buyer has only \$10,000 in cash and needs to get a loan of \$180,000 to buy the property. The seller proposes a rebate plan to close the deal. On the sales contract, the seller will keep the price at \$200,000.

In that way, the buyer will be able to borrow \$180,000 with a 90 percent loan. At closing, the seller rebates \$10,000 to the buyer. Aware that the lenders will probably treat the \$10,000 rebate as a price concession, the deal participants agree not to tell the lender about the rebate. That's fraud.

- A mortgage broker charges a borrower \$10,000 in points and fees (the charges are a disguise for fraud). The seller agrees to pay for those loan charges and discloses this payment to the lender. Unbeknownst to the lender, the mortgage broker then rebates the \$10,000 to the buyer outside of the closing. Again, this is fraud. Another example is that instead of the buyer bringing \$20,000 in cash to the closing, the seller agrees to carry a second mortgage for \$10,000. The seller discloses the second mortgage to the lender. However, the seller and buyer agree that the second mortgage will never be paid. Again, the buyer gets a loan based on an inflated price. Once more, it's fraud.
- One of the truisms about mortgage fraud is that if the seller's concession is shown on the HUD-1 settlement statement, there's no fraud. But that's true only if the description on the HUD-1 is accurate. Among the gimmicks used to create the illusion of disclosure is a debit from the seller's proceeds suggesting a charitable contribution by the seller or the payment of a debt owed by the seller. If the deducted money is being used to satisfy real debt of the seller or make a real contribution, then it's perfectly legal. But if the debit and payment to the third party are really a disguise to route money from the seller back to the buyer or other promoter of fraud, such as the mortgage broker, again, it's fraud. Routing the payment through a so-called charitable organization doesn't avoid the fraud because the stated contract price exaggerates the true price received by the seller.

Reprinted from Realtor® Magazine with permission of the National Association of Realtors®, Copyright 2008, All rights reserved.

- In 2007, four people connected with a San Marcos Realty office pleaded guilty to charges that they illegally secured mortgages for financially unqualified consumers, thereby pocketing more than one million dollars in fraudulent commissions.
 - "Straw buyers," purchasers with higher credit scores and income, were substituted for less qualified buyers on mortgage applications.
 - Financial information was falsified on loan applications, indicating higher balances on bank statements.
 - Employment was falsified.
 - Bank statements, social security cards and other documents were falsified.
- Johnson Cuffy, a Florida real estate investor, bought a house in 2005 for \$245,000. Then, Cuffy obtained an inflated appraisal of \$340,000. Cuffy then recruited a straw buyer, Kervyn Harris. Then he arranged for Fremont Investment & Loan of California to lend Harris \$340,000. When the sale closed on December 30, 2005, Cuffy walked away \$95,000 richer. Cuffy divided the proceeds among his father, sister and the man who provided the straw buyer. The house went into foreclosure. The Florida Department of Financial Services' fraud division arrested all involved.
- REO FLIPWAGON (JACKSONVILLE): In December 2003, the FBI initiated a UCO to address the massive amount of mortgage fraud in the Jacksonville area. On

September 16, 2004, as a result of this investigation, seven search warrants were executed, and two arrests were made. Mortgage broker J. R. Parker and closing attorney, Dale Beardsley, were arrested via complaint, charging them with bank fraud for their role in this alleged scheme.

- **OPERATION CLEAN DEED (CHARLOTTE):** In November 2002, an FBI UCO was initiated utilizing a cooperating witness to introduce undercover FBI Agents into seven organizations involved in a multimillion-dollar mortgage fraud ring. Investigation led to the identification of fraudulent loans which exposed financial institutions and mortgage companies to potential losses of \$130 million. On September 16, 2004, informations were filed in U.S. District Court, Western District of North Carolina, charging six individuals with bank fraud for their roles in a multimillion-dollar mortgage fraud.
- **JAMES MCLEAN; PRESIDENT ET AL; FIRST BENEFICIAL MORTGAGE COMPANY - VICTIM (CHARLOTTE)** A two-year joint investigation by the FBI, the Internal Revenue Service, and HUD-OIG revealed a fraud for profit scheme committed by several insiders of First Beneficial Mortgage Corporation. This two-year fraud was perpetrated against Fannie Mae and Ginnie Mae home loan programs resulting in losses exceeding \$30 million. Recently, the president of First Beneficial Mortgage Corporation and six others were convicted on conspiracy, bank fraud, wire fraud, and money laundering charges. The president was sentenced to 21 years in prison, ordered to pay \$23 million in restitution and forfeited about \$8 million in property.
- **MAGGIE CUEVAS; FAG-HUD; FIF (LOS ANGELES)** A joint investigation conducted by the Los Angeles FBI Office and HUD-OIG illustrated an extensive scheme in which fraudulent identification and employment documents were used to perpetrate mortgage frauds. The scheme was largely assisted by an individual who regularly manufactured false identity and income documents for a profit. This document forger created W-2s, pay stubs, credit letters and social security printouts over an eight-year period. These documents were used by real estate professionals who knowingly submitted the falsified information to lending institutions. The loans were then insured by HUD and caused a loss to that agency of more than \$18 million. A search warrant executed during the investigation revealed more than 100 real estate professionals had ordered false documents in the past. To date, the document forger and six associates have been convicted in the scheme, as well as 14 real estate professionals.
- **BRENT BARBER dba MIDTOWNE RESTORATION, L.L.C (KANSAS CITY)** A two-year joint investigation conducted by the Kansas City FBI Office, IRS and HUD-OIG culminated on August 13, 2004 with the arrest of Brent Barber, real estate investor. Barber, along with his three business associates, was charged in U.S. District Court for their alleged roles in purchasing run-down properties, securing fraudulent appraisals and obtaining mortgages in the names of straw purchasers. It is alleged that the straw purchasers were paid \$2,000 for their role in the scheme whereby they placed properties in foreclosure, leaving Barber and his associates with the mortgage proceeds. This scenario was repeated approximately 300 times, resulting in losses to lending and financial institutions in excess of \$15 million.

Mortgage Fraud Final Quiz

1. Tom and Amy are purchasing a townhouse, which they plan to rent out. Which of Tom's following statements could indicate mortgage fraud?
 - a. "We'll probably have to put 10% or 20% down since this is an investment property."
 - b. "Let's fix it up before we put it on the market."

- c. Both a and b
 - d. "We'll get a better interest rate if we say we're going to live in it."
2. Sally and John are purchasing a home in the Briarwood Subdivision. They love the home but have expressed concern about the condition of the carpet. They called the sellers and, during the conversation, the sellers indicated that they would be willing to commit mortgage fraud. Which of their statements indicate this?
 - a. "We'll give you a closing credit of \$2,000. Have your agent draw up an amendment to the contract and we'll sign it."
 - b. "We'll just give you a \$2,000 check for carpet outside of closing."
 - c. Both a and b
 - d. Neither a nor b
 3. Does mortgage fraud always involve a lot of money?
 - a. Yes
 - b. No
 4. Who is addressing the mortgage fraud epidemic?
 - a. HUD
 - b. VA
 - c. FBI
 - d. All of the above
 5. Fraud for profit is
 - a. Fraud typically committed by the buyer
 - b. 20% of fraud committed
 - c. Fraud typically committed by real estate professionals.
 - d. None of the above
 6. How are mortgage fraud and predatory lending different?
 - a. They're not. They're the same thing.
 - b. Mortgage fraud is when one or more individuals defraud a financial institution; predatory lending is when a dishonest financial institution willfully misleads or deceives the consumer.
 - c. Mortgage fraud is committed by the lender and predatory lending is committed by the buyer.
 - d. None of the above
 7. Martin, a listing agent, sells a home for \$450,000. The appraisal comes in at \$420,000. Martin implores, even bribes the appraiser to raise the appraisal to \$450,00, which the appraiser does. Is this fraud?
 - a. Yes. It is appraisal fraud.
 - b. No. This is done all the time.
 - c. Yes. It is shotgunning.
 - d. None of the above
 8. Sue, a listing agent, sells a home for \$620,000. The appraisal comes in at \$605,000. Sue looks into the appraisal and sees that the appraiser, not familiar with the area, did not use the best comparables. Sue brings this to the appraiser's attention and asks her to take a look at these new comps. Is this fraud?
 - a. Of course.
 - b. Yes, but Sue needed this sale in order to buy her new mink coat.
 - c. No. Sue is merely asking the appraiser to consider better comps.
 - d. None of the above

9. Donna and Mike sign a Sales Contract for a \$600,000 home. They barely qualify but just make it, according to their lender. Two days before closing, Mike purchases a boat, that he puts on his credit card. He tells Donna that they are not going to tell the lender because the added debt will prohibit them from getting the loan. Is this legally acceptable?
 - a. No. It's mortgage fraud.
 - b. No. It's predatory lending.
 - c. Yes. What the lender doesn't know won't hurt him.
 - d. None of the above.
10. What are some of the causes of mortgage fraud?
 - a. Greedy lenders and appraisers
 - b. Buyers who want a house that they cannot afford
 - c. Both a and b
 - d. Neither a nor b
11. A person committing mortgage fraud can
 - a. Lose the house
 - b. Go to prison
 - c. Be fined up to one million dollars
 - d. All of the above
12. During the strong seller's market, mortgage fraud
 - a. Went unnoticed
 - b. Was rampant
 - c. Did not exist
 - d. Both a and b
13. The following are red flags that mortgage fraud may be occurring except
 - a. The buyer requests a specific appraiser.
 - b. The loan officer tells the agent not to send a contract amendment to him.
 - c. In the Sales Contract, the purchaser requests that the seller pay \$1,000 toward closing costs.
 - d. The property sells for more than the list price after being on the market for a year.
14. The consumer can protect himself against mortgage fraud by being diligent and doing the following:
 - a. Obtaining a referral for real estate professionals
 - b. Not signing any document which contains blanks.
 - c. Both a and b
 - d. Neither a nor b

Practical Aspects of Establishing Home Values

Part 1 - Introduction

- Introduction
 - Location and square footage are the most important factors when determining value

- This course will not attach specific values to any amenities/improvements since values differ according to price range.
- This course will not teach how to complete a CMA, but, instead, it will discuss some principles of value

Part 2 – Track Homes

➤ Track Homes

- Ideally, the agent should look for homes that are the same model as the subject property.
 - 3 “availables”
 - 3 “under contracts”
 - 3 “solds” within the past 3 months
 - “Expireds” or “Withdrawns”
- If the same model cannot be found, the agent can use other models but adjust for amenities and square footage. Over time, different models tend to adjust toward each other, and differences in price start to diminish.
- All four statuses help in pricing a home.
 - In a flat market, the subject home can be priced at or slightly above the “solds.”
 - In a declining market, the subject home should be priced below the “solds.” Otherwise, the seller is constantly “chasing the market down,” having to reduce the price multiple times.
 - In a rising market, the seller can price his home above the comparables.
 - In all cases, “availables” contribute some very important information. They show what the competition is and they reveal a snapshot of today’s market.
- For all comparables, the listing agent needs to look at “Days on the Market.”
 - The agent needs to be certain to look at the number of days that the home has been on the market, not the number of days that the home has been on the market with a particular MLS number.
 - A comparable may show up as having had a particular MLS number for 2 days but the property may have been on the market 300 days with multiple brokers.
- Cost vs. Value
 - When analyzing the data, the agent should not be influenced by the sellers’ insistence that they should get back 100% of their cost for all options they purchased when the house was new.
 - If they can get 50% back, they are doing well. For example, if a prime lot carried a \$25,000 premium when the home was new, the sellers will probably now get closer to \$12,000 or \$13,000 than the \$25,000 they originally paid.
 - In some cases, an “upgrade” or “improvement” might not add value to the home but may cause it to sell faster.
 - Example: Sellers decide to add a deck to their townhouse because their competition has decks. This may not add to the resulting sales price but will certainly help sell the home
 - In some cases, an “improvement” may devalue the home, as is frequently the case with pools. Many families do not like to purchase homes with pools because of safety and liability factors.
- Amenities
 - The agent should compare amenities that could differ from one house to the next. Then, adjustments can be made.
 - Example: The subject property is an end unit townhouse with a brick front, finished walk-out basement, 3.5 baths, 4 levels (loft)

and one car garage. All of the comparables have finished walk-out basements and one car garages. But some have 2.5 baths, are 3 levels and have vinyl siding on the front. You will adjust upward for the extra bath, the extra level and the brick front and disregard the finished walk-out basement and one car garage.

- Location
 - The location needs to be assessed. An adjustment for location may be necessary.
 - Two identical homes will differ in value if, for example, one backs to parkland and the other backs to a shopping center.
 - Level lots are worth more than sloped lots.
 - Homes on a main road are worth less than homes on a quiet road.
 - Homes on pipe stems are worth less than homes not on pipe stems.
 - Homes on cul-de-sacs are worth more than homes not on cul-de-sacs.
- Interior vs. End Units (townhouses)
 - End unit townhouses are worth more than interior townhouses.
- How much should the subject property be adjusted upward or downward for different amenities?
 - That's a difficult question because there is no one answer that can be applied universally.
 - The amount by which the subject property is adjusted will be dependent upon the price range of the subdivision.
 - For example, an end unit townhouse in the \$300,000 price range will not yield as large an adjustment as an end unit townhouse in the \$800,000 range. The agent will have to look at other townhouses in the price range of the subject property to determine from the sales how much to adjust the price.
- Square Footage
 - Let's say that the subject property is a single family home with 4 bedrooms, and there is a comparable in the MLS, which is the same model, but with 5 bedrooms.
 - It cannot be automatically assumed that the house with 5 bedrooms is larger and therefore worth more. The owners may have turned a family room or living room into the 5th bedroom and now the house has no family room or living room. In a case such as this, the agent should look at the interior square footage of the comps. In the example above, both homes probably have the same interior square footage, which means that the comparable is not necessarily worth more. In fact, it may be worth less because potential buyers might prefer the family or living room to that 5th bedroom.
- Updating/Remodeling
 - All updating of the subject property should be noted.
 - Putting on a new roof is not updating; it's maintaining the home or "bringing it up to standard."
 - Updating kitchens and bathrooms will give sellers the largest rate of return on their investment.
 - However, if the owners updated well above what the subdivision supports, their rate of return will be lower. If their home is the best in the neighborhood, they will suffer from the principle of regression; the value of homes around theirs will pull the value of their home down.
 - The following is adapted from Remodeling Magazine by Realtor Magazine in 2007:
 - Home rehabbers who are considering a move in the not-too-distant future should focus mostly on exterior upgrades.

That's the message from REALTORS® who participated in Remodeling magazine's 20th annual "Cost vs. Value Report", done in cooperation with REALTOR® Magazine.

- REALTORS® in 65 markets were given construction specs and costs on 29 upscale and midrange projects and asked to estimate the percentage return at resale.
 - Of projects that saw national cost recovery rates of more than 80 percent in 2007, only one — a minor kitchen remodel, with 83 percent of cost recovered — was a strictly interior job. The others were an upscale siding replacement using fiber cement materials (88.1 percent), a wood deck addition (85.4 percent), midrange vinyl siding replacement (83.2 percent), and upscale vinyl and midrange wood window replacements (81 percent and 81.2 percent, respectively).
 - On most projects, the value of remodeling trended down in 2007 compared with 2006. No project exceeded an 88 percent return. The likely culprits for the year-to-year drop: rising remodeling costs and slowing home appreciation brought on by the lackluster housing market in many areas.
 - Nationally, projects at the bottom of the cost-recovery ladder included home office re-models (57 percent), installing a back-up power generator (58 percent) and adding a mid-range sunroom (59.1 percent).
 - *Reprinted from REALTOR® Magazine Online (<http://www.realtor.org/realtormag>) with permission of the NATIONAL ASSOCIATION OF REALTORS®, Copyright 2008. All rights reserved.*
- And of course, property condition is always a factor and will need to be adjusted accordingly.

Part 3 – Custom Homes

➤ Custom Homes

- Pricing custom homes is more challenging than pricing tract homes.
 - This is where the agent will be helped immeasurably if he knows the market. There may not be another home in any listing status that is like the subject home. There may not be another home in the subdivision that has sold in years. What can the agent do to determine value? The agent can search by
 - Zip code or mailing address
 - The agent should look at the lot size and try to compare homes with similar size lots.
 - Age
 - Newer is worth more than older
 - Style
 - Colonials are worth more than other styles with split foyers worth the least
 - Square footage
 - Updates
 - Lot location
 - Condition
 - Tax assessment

- Care must be taken when comparing tax assessments. In many cases, assessments do not take into account updating.
- In newer homes, tax assessment analyses will be more accurate than in older homes.
 - Utilities
 - Gas heat will raise the value of a house over a heat pump or oil heat.
 - Public water will raise the value of a house over a well.
- The agent should preview as many “availables” as is possible in the same or similar price ranges.
 - When choosing comparables, the agent should think about which other homes a potential buyer, who looks at this subject property, might go to.
 - These homes are the competition.
 - Looking at these homes can help price the subject property.
- Lot size won't matter too much unless there is a huge difference, or the difference allows the owner to use the lot differently or subdivide the lot.
 - For example, there probably would not be a large difference in price between a .75 acre and 1 acre lot unless perhaps the .75 acre home backed to parkland and the one acre home did not. In this case, the .75 acre lot may bring a higher price than the one acre lot. If the subject home is on two acres and can be used for horses, it shouldn't be compared to a home on a smaller lot that cannot be used for horses.

Part 4 - An Example

- Subject Home
 - Custom built home in Lakeside Subdivision in Pleasantville, Virginia 11110
 - 37 years old
 - 3 level split
 - No sales in 2 years
 - 4 bedrooms and 3.5 baths
 - On septic, well and oil heat
 - 1+ wooded acre
 - Interior Square Footage is 1800 square feet.
 - Walk-out lower level
 - Kitchen completely remodeled
 - Bathrooms completely remodeled
 - Home is in good condition
- The Search for Comparables
 - There are no sales in the past two years in the Lakeside Subdivision.
 - Pleasantville mailing address is next searched for split level homes over a certain age.
 - Most likely, since split levels are no longer built, any split level homes found will be older.
 - The search reveals three 3-level splits that have sold in Pleasantville in the last six months.
- Let's work with just one.
 - This comparable is 22 years old and on an acre.
 - It is closer to the city than the subject home.
 - It has gas heat, public water and septic.
 - It is slightly larger than the subject home with 2100 square feet.
 - It has 4 bedrooms and 2.5 baths.

- It has an in-ground basement.
- It has not been updated.
- Condition is good.
- When making adjustments to the subject
 - Subtract value because subject is older.
 - Add value for the extra bathroom.
 - Subtract for well water and oil heat.
 - Add to the subject for the walk-out as opposed to in-ground basement.
 - Add to the subject for the new kitchen and bathrooms.
 - Subtract value from your subject property for smaller home (less square footage).
 - Again, the agent will have to use his judgment when calculating the value of each of the adjustments.
-

Aspects of Valuation Final Quiz

1. Which of the following will most affect value?
 - a. location
 - b. walk-out basement
 - c. hardwood floors
 - d. Jacuzzi bathtub

2. Which of the following will most affect value?
 - a. color of carpet
 - b. square footage
 - c. front door
 - d. brick front

3. When pricing a custom home
 - a. The age of the home should be considered.
 - b. The style of the home should be considered.
 - c. The square footage of the home should be considered.
 - d. All of the above

4. Why should "availables" be previewed when attempting to price a home?
 - a. The "availables" are the subject home's competition.
 - b. "Availables" should not be previewed. Everyone knows that homes should be priced only according to the "solds."
 - c. Neither a nor b

5. Why might a 5 bedroom home be worth the same as a 4 bedroom home of the same model?
 - a. It wouldn't be.
 - b. No one wants a 5th bedroom
 - c. The 5th bedroom might be a converted family room.
 - d. None of the above.

6. Do all "improvements" add to the value of a home?
 - a. Yes. Of course.
 - b. No
 - c. Neither a nor b

7. Will a seller recoup his cost for all "improvements"?
 - a. Yes. He can expect to get more due to the improvements appreciating.
 - b. Usually not.

- c. Yes. After all, these are called "improvements."
8. When it comes time to sell, is it good for a seller to have the best house in the neighborhood?
- Yes. He can show it off and make a bundle.
 - No. The principle of regression will bring the value of his house down.
 - Yes. He will sell his house much faster than the others in the neighborhood.
 - None of the above
9. What types of problems can occur if the subject property is new construction and the surrounding homes are 60 years old?
- Most new homes are colonials and many 60 year old homes are of different styles.
 - New homes have features that don't compare to older homes like higher ceilings, floor plans with family rooms on the main level, etc.
 - Both a and b
 - Neither a nor b
10. Why is it difficult to use tax assessments in calculating values for older homes?
- Tax assessments often do not take into account updating.
 - Tax assessments do not have anything to do with value.
 - It is not difficult to use tax assessments in calculating values for older homes.
 - None of the above

Predatory Lending

1 - Responsible Lending

- According to NAR, in testimony before the U.S. Senate Committee on Banking, Housing and Urban Affairs, abusive and predatory lending practices are putting our nation's communities at risk. These practices can cause more families to lose their homes and savings through higher foreclosure rates.
 - All Realtors should seek to prevent abusive lending because abusive lending erodes confidence in the Nation's housing system
 - Not all sub-prime lending is predatory or abusive, and NAR supports federal legislation and regulation that prevents predatory lending while maintaining a role for responsible sub-prime lending.
- What are responsible lending principles?
 - NAR supports the general principle that all mortgage originators should act in "good faith and with fair dealings" in a transaction and treat all parties honestly.
 - Affordability
 - NAR supports strong underwriting standards that require all mortgage originators to verify the borrower's ability to repay the loan based on all its terms, including taxes and insurance, without having to refinance or sell the home.
 - Underwriting Sub-prime Loans with "Teaser Rates"
 - Some sub-prime loans are structured with a significant jump in monthly payments often resulting in "payment shock" for the

- borrower. While these mortgages may be a reasonable choice for sub-prime borrowers who can afford them, a majority of sub-prime borrowers do not understand the unique terms and conditions of these risky mortgage products that can result in a significant "payment shock." Therefore, lenders (including mortgage brokers) should exercise more caution when underwriting such loans to sub-prime borrowers to make sure the borrower is able to afford the mortgage. Examples of these risky mortgage products include loans with a short-term interest "teaser" rate for the first two or three years (known as 2/28s and 3/27s), loans with an initial interest-only period and mortgages that negatively amortize.
- Reasonable debt-to-income ratio
 - NAR supports requiring lenders to make sub-prime loans that have a reasonable debt-to-income ratio. Borrowers should have enough residual income after making their monthly mortgage payment, including taxes and insurance, to meet their needs for food, utilities, clothing, transportation, work-related expenses and other essentials. Requiring underwriting at a fully amortizing, fully indexed rate is meaningless if the lender uses such high debt-to-income ratios that the family doesn't have enough income remaining to pay for other necessities.
 - Escrow/Reserve for payment of taxes and insurance
 - Lenders that make sub-prime mortgage loans should generally require that the monthly payment include an amount to be held by the mortgage servicer in an escrow/reserve/impound account for the payment of the borrower's periodic payments, such as taxes and insurance. Similar to the exception for prime loans in some jurisdictions, borrowers that make at least a 20 percent down payment should have the option to budget for these payments independently.
 - Limit Stated Income/Stated Assets Underwriting
 - Because mortgages underwritten based on "stated income" and/or "stated assets" (also known as "no income verification" or "no doc" loans) typically have higher rates, lenders making sub-prime loans should, as a general rule, underwrite loans based on verified income and assets. The main exception should be for borrowers whose incomes derive from hard-to-verify sources (such as self-employed borrowers).
 - Flexibility for Life Circumstances
 - NAR believes that a standard for determining a borrower's ability to repay must be flexible to accommodate borrowers with unique circumstances, such as
 - Borrowers who have demonstrated the ability to make monthly payments over a long term, that are higher than underwriting standards would otherwise allow. Lenders should consider, for example, the borrower's history of making rent and student loan payments.
 - Borrowers with high assets but low income who, for cash management or other financial planning reasons, elect a mortgage with a monthly payment that their current income is not sufficient to cover.
 - Borrowers who anticipate a jump in income or assets due to life events such as graduation, completion of professional training, completion of payment obligations for student or car

- loans, another member of the household entering the work force when young children start school or an inheritance.
- Anti-Mortgage Flipping Policy
 - NAR supports an anti-mortgage flipping rule requiring mortgage originators making or arranging for a loan that refinances an existing residential mortgage, to verify that the new loan provides a significant benefit to the borrower. The lender should consider the circumstances of the borrower and all terms of the new loan including taxes and insurance, fees and other costs of refinance, prepayment penalties and the new interest rate compared to that of the refinanced loan.
 - Bar Prepayment Penalties
 - NAR opposes prepayment penalties for all mortgages. Prepayment penalties often work to trap borrowers in loans they cannot afford by making it too expensive to refinance. If complete prohibition of prepayment penalties is not feasible, NAR supports permitting prepayment penalties for the shortest time and the lowest amount possible. For example, a borrower in a 2/28 mortgage should be able to refinance by the end of the initial two-year “teaser” rate period without having to pay a prepayment penalty.
 - Improvements for Assessing Creditworthiness
 - Borrowers with little or no credit history, as traditionally measured, usually have lower credit scores and must pay more every month for their mortgage than those with higher scores. NAR supports ongoing efforts to take into account consumer payment history not typically considered, such as rent, utility, telephone and other regular payments and urges HUD, the regulators, the GSEs (government-sponsored enterprises), and lenders to work to strengthen these efforts. Use of alternative credit approaches will be especially beneficial for low- and moderate- income first-time homebuyers and borrowers with problematic loans that need to refinance their mortgage to avoid foreclosure.
 - Another public policy issue associated with credit histories is the failure of furnishers to report good payment histories to the consumer reporting agencies. NAR has heard reports that many problematic sub-prime lenders purposefully withhold information on timely mortgage payments from the credit bureaus in order to prevent their customer from refinancing with another lender. The result is obvious – the borrowers with no positive payment histories for their sub-prime loan keep trading the waters of high-interest rates and expensive credit products. NAR supports requiring all institutional mortgage lenders, or the mortgage servicers acting on their behalf, to report payment history of all borrowers to at least the three national credit bureaus on a monthly basis.

2 – Responsible Lending

- Mortgage Choice for Borrowers
 - NAR supports requiring mortgage originators to offer borrowers one or more mortgages with interest rates and other fees that appropriately reflect the borrower’s credit risk. It remains the responsibility of borrowers to decide which is the best mortgage for their needs and circumstances, but they may only do so if they understand all the facts so they can make an informed decision. For

originators who offer nontraditional mortgage products, the originator should

- Offer all borrowers a choice of several significantly different mortgage options
 - Include at least one traditional loan product as one of the options for the borrower to consider, if the borrower qualifies for such a product offered by the originator and,
 - Before application acceptance, disclose information about the maximum potential payment over the life of the loan and the date the initial payment will increase to a fully amortizing, fully indexed payment amount.
- For sub-prime borrowers, originators that offer FHA insured mortgages or VA home loan guaranty mortgages, should consider whether these types of mortgages should be offered as an appropriate option
- If the originator does not offer mortgages with rates and fees appropriate for the borrower's credit risk, the originator should inform the borrower a lower interest rate may be available from another originator or that the borrower may wish to seek housing counseling to allow the borrower an opportunity to shop elsewhere or receive counseling before proceeding.
- For loans originated by a mortgage broker, the broker should offer mortgage options that are among the lowest-cost products appropriate for the borrower.
- Enforcement/Remedies
 - NAR supports enactment of strong remedies and penalties for abusive acts by mortgage originators. Among the options for consideration are
 - Criminal penalties similar to those under RESPA
 - Civil penalties similar to those under RESPA
 - Prohibition of mandatory arbitration clauses that bar victims' access to court
- Improved Consumer Mortgage Disclosures
 - Lenders have a responsibility to ensure that consumers understand the loans they receive, including their terms and all costs. Consistent with this principle, NAR recommends that HUD improve consumer disclosures under the Real Estate Settlement Procedures Act (RESPA). In particular, NAR believes that consumers should receive a Summary GFE (Good Faith Estimate), accompanied by a detailed GFE with explanations for each subcategory of fees to help consumers more fully understand the services they are receiving and the cost of each service. The revised GFE should closely parallel the HUD-1 settlement form so consumers can compare the GFE they receive when they apply for a loan to their closing documents at settlement.
- Strengthen Appraiser Independence
 - NAR believes that the independence of appraisers should be strengthened to ensure that appraisals are based on sound and fair appraisal principles and are accurate. There are reports that appraisers have been pressured to meet targeted values or risk losing business. Appraisal pressure undermines the integrity of the mortgage lending process if the result is a mortgage loan made based on an inaccurate property valuation. NAR recommends the following measures to strengthen the appraisal process:
 - Require lenders to inform each borrower of the method used to value the property and give the borrower the right to receive a copy of each appraisal

- Establish enhanced penalties against those who improperly influence the appraisal process. Those with an interest in the outcome of an appraisal should only request the appraiser to
 - consider additional information about the property
 - provide further detail, substantiation or explanation for the appraisal and
 - correct errors
- Provide federal assistance to states to strengthen regulatory and enforcement activities related to appraisals
- Support enhanced education and qualifications for appraisers

Copyright National Association of REALTORS, Reprinted with permission

3 - Predatory Lending

- What are “prime” and “sub-prime” loans?
 - Until fairly recently, only a borrower with good credit could purchase a home. Those with poor credit were prevented from obtaining a loan. Loans to these creditworthy borrowers were called “prime” loans.
 - In recent years, some lenders decided to take on those with poor credit and offer them “sub-prime” loans. Borrowers obtaining sub-prime loans posed more of a risk to lenders; therefore, measures were taken to compensate the lenders of these loans for the added risk taken.
 - Usually the interest rate was higher than that for a prime loan.
 - Pre-payment penalties were stiffer.
 - In some, interest rates fluctuated more frequently.
- What is predatory lending?
 - According to the Federal Trade Commission, a predatory loan is “an unsuitable loan with abusive terms.” NAR lists nine possible warning signs that may indicate an abusive loan:
 - Interest rates or fees that are much higher than the local market average
 - Balloon payments or payments that will greatly increase over the life of the loan
 - A balloon payment is a loan with periodic payments that are not enough to fully amortize the loan by the time the final payment is due; therefore, the final payment is larger than the others.
 - Pre-payment penalties or other barriers to refinancing
 - “No down payment” loans
 - Short “Introductory Rate” periods
 - Inflated property appraisal
 - Offers to lend more money than the borrower has the ability to repay
 - Fees for nonexistent products or services (“junk fees”)
 - Unethical loan document management
- Who is affected by predatory lending?
 - Usually, first-time homebuyers
 - Borrowers refinancing on the verge of losing their homes
 - Elderly
 - Minorities
 - Immigrants
 - Individuals with Low Credit Scores
 - Low income buyers
 - Predatory lenders target certain groups of people and use pressure tactics to force borrowing decisions that are not in the best interest of those people.

- What has precipitated predatory lending?
 - Appreciation in the price of homes has brought about these abusive loans in an effort to get people into houses they cannot afford.
- FBI tips to protect the consumer from becoming a victim of predatory lending
 - Before purchasing a home, the consumer should research information about prices of homes in the neighborhood.
 - The purchaser should shop for a lender and compare costs. He also needs to beware of lenders who tell him that they are his only chance of getting a loan or owning his own home.
 - The consumer should beware of “No Money Down” loans. This is a gimmick used to entice consumers to purchase property that they likely cannot afford or are not qualified to purchase. The consumer should be wary of the mortgage professional who falsely alters information to qualify him for the loan.
 - The consumer should not let anyone convince him to borrow more money than he can afford to repay.
 - The consumer should not let anyone persuade him into making a false statement such as overstating his income, the source of his down payment or the nature and length of his employment.
 - The consumer should never sign a blank document or a document containing blanks.
 - The consumer should read and carefully review all loan documents signed at closing or prior to closing for accuracy, completeness and omissions.
 - The consumer should be aware of cost or loan terms at closing that are not what he agreed to.
 - The consumer should not sign anything he does not understand.
 - If it sounds too good to be true, it probably is.
- How can we, as Realtors, help prevent predatory lending?
 - Recognize the warning signs.
 - Educate our buyers about the mortgage lending process.
 - Ensure that our clients fully understand all aspects of the home buying process.
 - In some cases, refer our buyers to a financial advisor or counseling organization.
 - Share resources, such as the following, with our buyers:
 - Freddie Mac – “Don’t Borrow Trouble” campaign
http://www.dontborrowtrouble.com/en/anti_predatory.html
 - National Community Reinvestment Coalition – Anti-Predatory Lending Toolkit:
<http://www.ncrc.org/policy/predatoryLending.php>
 - My Money – the Federal Government’s Website with links to many sites, including those on the following subjects: Budgeting and Taxes, Credit, Financial Planning and Homeownership.
www.MyMoney.gov
 - HUD’s Website – a wealth of information about home buying
www.hud.gov/buying/index.cfm
 - Freddie Mac’s Credit Smart Program – helps consumers understand, build, and maintain better credit
www.freddiemac.com/creditsmart
 - FDIC’s Money Smart Program – “a training program to help adults outside the financial mainstream enhance their money skills and create positive banking relationships”
www.fdic.gov/consumers/moneysmart/overview.html
 - Credit-Power – targets students and contains information about credit and homeownership
www.credit-power.org/default_eng.asp

- A brochure, "Shopping for a Mortgage? Do Your Homework First," produced jointly by NAR and the Center for Responsible Lending, identifies the warning signs of predatory loans. It outlines interest-only mortgages, negative amortization mortgages and option payment ARM mortgages. It also gives consumers tips on how to avoid these loans, and includes questions consumers should ask when shopping for a mortgage. Questions include
 - "How much can my monthly payments increase, and how soon can these increases happen?"
 - "Do I expect my income to increase, or do I expect to move before my payments go up?"
 - "Will I be able to afford the mortgage when the payments increase?"
 - "Am I paying down my loan balance each month, or is it staying the same or even increasing?"
 - "Will I have to pay a penalty if I refinance my mortgage or sell my house?"
 - "What is my goal in buying this property? Am I considering a riskier mortgage to buy a more expensive house than I can realistically afford?"
 - Anyone can get a copy of this brochure by going to <http://www.coloproerty.com/links/specialtymortgage.pdf>

*Copyright National Association of REALTORS,
Reprinted with permission*

- The Homeownership Preservation Foundation is a non-profit group that offers free counseling for victims of predatory mortgage lending. It can be contacted at 1-888-995-HOPE.
- On July 11, 2007, the NAACP filed a Federal class action lawsuit against fourteen of the country's largest sub-prime mortgage lenders.
 - This lawsuit is designed to bring about equitable lending practices that do not adversely affect borrowers based on their race.
 - In a 2006 study, the Center for Responsible Lending found that when creditworthiness and credit risk were equal, African-Americans were still 31 percent to 34 percent more likely to receive higher rates and more expensive sub-prime loans than Caucasians.
 - The National Community Reinvestment Coalition revealed that lenders on average made high-cost sub-prime loans to higher-qualified African-Americans 54% of the time, compared to 23% of the time for Caucasians, even when the Caucasian applicants were less qualified.
 - These and other studies demonstrate that African-American homeowners are paying higher mortgage interest rates than their Caucasian counterparts.
- The Mortgage Bankers Association reported that at least 1.3 million home mortgage loans were either seriously delinquent or in foreclosure at the end of September, 2007.
- Deal brokered with mortgage industry in December of 2007
 - Froze certain sub-prime loans - those offered to borrowers with weak credit histories - for five years if the borrowers could not afford the higher monthly payments as those loans adjusted after being at lower introductory rates
- Project Lifeline
 - Announced February 12, 2008
 - Program was put together by six of the nation's largest financial institutions, which service almost 50 percent of the nation's mortgages.
 - Homeowners who are 90 or more days overdue on their monthly mortgage payments would be able to put the foreclosure process on hold for 30 days

- while they attempt to work with the lenders to make their mortgages more affordable.
- The group, calling themselves the “Hope Now Alliance,” are comprised of the following banks:
 - Bank of America Corporation
 - Citigroup, Inc.
 - Countrywide Financial Corporation
 - J.P. Morgan Chase and Company
 - Washington Mutual, Inc.
 - Wells Fargo & Company
- Predatory Lending Legislation
- Congress and many individual states have passed and are continuing to pass legislation to fight predatory lending.

Predatory Lending Final Quiz

1. Prevention of predatory lending is in the best interest of
 - a. Realtors
 - b. The public
 - c. Both a and b
 - d. Neither a nor b
2. Would a predatory loan be one which a consumer cannot afford?
 - a. Probably
 - b. No
3. The current housing crisis can be blamed on
 - a. Predatory lending
 - b. High rate of foreclosures
 - c. Shortage of building materials
 - d. a and b
4. All might be examples of predatory lending except
 - a. No documentation loan
 - b. 30 year fixed rate loan
 - c. No down payment loan
 - d. Loan with balloon payment coming after first two years
5. What is sub-prime lending?
 - a. Extending a loan whose rate is at least 5 points below prime.
 - b. Lending to high risk borrowers.
 - c. A loan that is available only to people who make over \$200,000 annually.
 - d. All of the above
6. Loan flipping is the practice of
 - a. Selling your home after the first month
 - b. Lowering the interest rate on a loan
 - c. Repeatedly refinancing a loan, often in the favor of the lender.
 - d. None of the above
7. What is a balloon payment loan?

- a. A loan in which the required payments do not exceed the interest charged, often resulting in a large payment of the entire principal at the end of the loan term
 - b. The practice of adding extra charges, such as unemployment insurance, to the principal of a loan in order to increase the interest accrued
 - c. A special offer where the lending institution gives out promotional balloons to your children every time you refinance a loan
 - d. a and b
8. Which of these are warning signs of a predatory lending deal?
- a. The lender tells you to misrepresent or falsify information on your loan application.
 - b. The lender pressures you into applying for more money than you need.
 - c. The lender fails to provide required loan disclosures or tells you not to read them.
 - d. All of the above
9. Why do sub-prime loans have higher interest rates than prime loans?
- a. They are better loans.
 - b. Mortgage companies don't like them.
 - c. Both a and b
 - d. They are riskier loans; the higher interest rates help compensate the lender for the added risk.
10. Who would probably not be affected by predatory lending?
- a. Middle-aged couples with a large down payment
 - b. Immigrants
 - c. First-time homebuyers
 - d. Minorities
11. NAR is in favor of
- a. Barring pre-payment penalties
 - b. Eliminating the use of the HUD-1
 - c. Eliminating use of the Good Faith Estimate
 - d. None of the above
12. What is a pre-payment penalty?
- a. Extra fees that may be due if you pay off a loan early
 - b. Extra fees charged to sub-prime loans before the loan is approved
 - c. Another term for the points on a mortgage
 - d. None of the above
13. Why should the payment history of rent, utility and telephone bills be considered as part of certain borrower's credit history?
- a. Prompt payment of telephone bills is not essential
 - b. Some borrowers have lower than desirable credit scores just because they have little credit history
 - c. Both a and b
 - d. None of the above
14. What is the result of mortgage companies not reporting good payment histories to the consumer reporting agencies?
- a. Those with sub-prime loans can never refinance with a more favorable loan product
 - b. Those with sub-prime loans cannot raise their credit scores
 - c. Both a and b

15. For originators who offer nontraditional mortgages, the originator should
 - a. Offer all borrowers a choice of several significantly different mortgage options.
 - b. Offer just one mortgage product
 - c. Always offer an FHA product
 - d. None of the above

16. If the loan originator does not offer mortgages with rates and fees appropriate for the borrower's credit risk, he should
 - a. Offer the borrower one of his best products
 - b. Tell the borrower that he will not qualify for any type of mortgage.
 - c. Inform the borrower that a lower interest rate may be available from another originator.
 - d. None of the above

17. NAR supports enactment of strong remedies and penalties for abusive acts by mortgage originators. Among options for consideration are
 - a. Civil penalties similar to those under RESPA
 - b. Criminal penalties similar to those under RESPA
 - c. Prohibition of mandatory arbitration clauses that bar victims' access to court
 - d. All of the above

The Ins and Outs of Short Sales

Part 1 – Reasons for a Short Sale

- What is a Short Sale?
 - A short sale is a process where the lender will look at the loan which the owner has with them and determine whether or not the house owes more than its fair market value or has such a small amount of equity that if sold, could not cover the agent and closing costs. When the lender determines that to be true, they will consider discounting the loan to reflect a price which will facilitate the sale of the property. The lender then decides to receive payment on the note for less than the face amount.
 - A seller who would benefit from a short sale is a seller who, if he were to sell the home in the customary way, would have to bring money to settlement because he is "upside down."
 - A short sale is a potentially high risk transaction for real estate agents and their clients.
- Other names for Short Sale
 - Short Payoff
 - Pre-foreclosure Sale
- In what type of real estate climate do we see short sales?
 - When there are a record number of listings in the market
 - When there are fewer buyers than in recent years
 - When credit standards are tighter than usual
 - When borrowers have more consumer debt than usual
 - When a large number of mortgages have been financed with 100% loans

- When a large number of consumers have consolidated debt or pulled equity out of their homes by refinancing
- When home prices have declined
- When there are a record number of foreclosures
- When there are a record number of adjustable rate mortgages refinancing due to spiking interest rates
- What is the result of the above described real estate climate?
 - Home owners can no longer make their mortgage payments.
 - Home owners can no longer sell their homes, pay fees and closing costs and have enough to pay off the balance of their mortgages.
 - There are a large number of listings with the key words:
 - "third party approval required"
 - "bank approval required"
- Homeowners can go into foreclosure in these cases; however there are alternatives to foreclosure.
 - Homeowners who do not want to sell may have the following options:
 - Move into a more affordable home and rent out their existing home
 - Take a roommate.
 - Seek out a HUD-approved housing counseling agency that offers default counseling (<http://www.hud.gov/offices/hsg/sfh/hcc/hccprof14.cfm>)
 - The lender may agree to a short-term payment reduction plan.
 - The lender may agree to a repayment plan for the delinquency.
 - The lender may modify the loan and extend the amortization.
 - The lender might reduce the interest rate.
 - The lender might allow the homeowner to forgo a couple of monthly payments to help him get back on his feet.
 - The lender might agree to a forbearance plan.
 - The lender may agree to a deed in lieu of foreclosure
 - Short Sale
- Owners need to beware widespread predatory schemes.
 - In some, an investor offers to take over the loan payments and allows the owner to pay rent, then asks the owner to sign a quitclaim deed, transferring title to the investor.
 - A quitclaim deed transfers interest but not liability.
 - If the owner transfers himself out of title, the lender might decide to call the note due and payable.
 - The owner should never transfer his title.

Part 2 – Advantages and Disadvantages of a Short Sale

- What are the advantages of a short sale to the seller?
 - The seller may be able to avoid foreclosure and/or bankruptcy. With a short sale, the owner is back on his feet much faster than with a foreclosure.
 - In most cases, the seller does not have to bring money to the table.
 - A short sale can minimize the impact to the seller's credit rating.
- What is the down side for the seller?
 - There's no guarantee that the lender and other creditors will accept a short sale even under the most favorable terms.
 - The entire process can be overwhelming and embarrassing.
 - The process can take a very long time and discourage potential buyers.
 - Even where lenders cooperate, there is no guarantee that they will forgive the remaining indebtedness.

- Due to the length of time a short sale can take, foreclosure may occur before short sale processing can be done.
- The short sale must be disclosed to potential buyers. The listing agent should check his local MLS policies and procedures about disclosing the “short sale” terms to the other members of his MLS.
- What are the advantages for the buyer?
 - The buyer may be able to get the property at a very good price.
- What is the down side for the buyer?
 - The home may hold hidden risks such as property defects, legal and tax issues and unforeseen expenses.
- What is the downside for everyone?
 - The short sale process is often misunderstood if the parties to the contract have not been fully educated. When this happens, attorneys report a large number of lawsuits.
 - Short sales often cause surrounding property values to drop.
- Advantages of a short sale over foreclosure to the lender
 - Often, a short sale has a far better return on an investment to the lender than a foreclosure. A study by the Tower Group estimates that the average cost of a foreclosure to the lender is \$58,000.
 - The lender is often paid much sooner with a short sale than with a foreclosure.
 - Attorneys’ fees are lower with a short sale than a foreclosure.
 - The banks want to minimize the amount of real estate they own in this weak housing market with declining prices.
 - The banks do not want to own these homes because new homes are selling faster than existing ones, and often, the condition of the property is poor.
 - Foreclosed homes, which often continue to have heat, lights and water, have become home to many of the nation’s homeless people, as reported by the AP on February 18, 2008 because these foreclosed homes often have an advantage over abandoned, boarded up and dilapidated houses.
 - Due to the above, many large lenders, such as Bank of America Corporation, Citigroup, Inc. and National City are reaching out to troubled borrowers, trying to help them head off delinquencies.
- What are the advantages to the agent?
 - The agent may be able to get a listing, earn a commission and help save the seller’s credit (to a certain extent).
 - If the agent can get someone out of a difficult situation, he will have a client for life. They will refer people to him and will come back to him when they are ready to buy again.
 - The buyer agent may be able to find a good value for their client and expand the selection of available homes.
- Specializing in short sales can be a profitable niche for the real estate agent. Target marketing can include the following:
 - Using word of mouth
 - The agent can market himself and his expertise to other agents.
 - Attending credit counseling classes, which are required prior to filing bankruptcy
 - Targeting people who receive state notices of loan defaults
 - Targeting homeowners named on lists of ARMS that will be adjusted in the coming months
 - Targeting FSBOS, who are frequently “upside down” sellers who think they can’t afford to pay a commission and, therefore, try to sell on their own. Many don’t know that in a short sale, the lender pays the broker’s commission.
 - Purchasing lists from foreclosures.com
 - Purchasing lists from ForeclosuresDaily.com
 - Marketing himself on his website as someone who specializes in short sales and/or foreclosures

- Going to foreclosure auctions to find prospective buyers
- Checking the Internal Revenue Service's property site (www.treas.gov/auctions/irs/index.html)
- Forming bonds with mortgage brokers, bankers, lawyers and other real estate professionals, all of whom will refer business to the agent if they know that he can aid their customers

Part 3 – The Agent's Role

- What does the listing agent need to do?
 - The prudent real estate agent will engage in short sales only after he has educated himself fully regarding his role and responsibilities.
 - The earlier the agent can start the process, the better chance there is of getting the short sale approved.
 - Most of the time, the real estate agent does not know that the owner is in trouble before the listing presentation and the completion of the seller's net sheet.
 - Once it is determined that the cost of selling is more than the loan balance, the listing agent should have an open and frank discussion with the owner.
 - The listing agent and owner need to determine whether or not the owner must sell.
 - Is the owner yet delinquent on his payments?
 - What is the financial situation of the owner?
 - Current market value should be discussed with the owner.
 - At this point, if it is evident that the owner is in trouble and foreclosure or bankruptcy are likely to occur in the near future, the agent should discuss options with the owner. (Refer back to Section 1.)
 - If it is clear that the owner needs to unload the property, the short sale process should be explained in detail.
 - The listing agent can make the short sale process smoother if
 - He takes a checklist of documents needed to the listing appointment. This can prevent the listing agent from wasting his time if potential sellers do not want to be bothered with all of the paperwork.
 - It should be explained that the seller will have to negotiate with the lender. At this point, the agent should ask for written authorization to be included in the communication with the lender.
 - All of the pros cons should be explained.
 - The agent should explain that the property will have to be priced aggressively.
 - The agent should encourage the seller to contact an attorney, tax advisor or financial planner for advice on the financial implications of the sale relating to debt forgiveness.
 - The listing agent should build a relationship with the seller's lender(s). Once credibility has been established, the entire process becomes easier.
 - The agent will have to call the lender for the loan balance.
 - Then, the agent contacts the bank's short sale department (not the collection or customer service department, which is only interested in collecting past due loan payments), the group that will decide whether to accept a short sale. Finding the decision maker can be one of the biggest initial challenges in short sales. The agent may have to make a half dozen phone calls before finding the person responsible for handling short sales. The supervisor should be the one on the other end of the phone, the person actually capable of making the decision.

- Then, the listing agent needs to submit a very specific financial proposal to the lender. This will expedite the entire process.
 - If the owner has been late with any payments, it should be written into the proposal that any late charges will be dismissed.
- The listing agent submits a letter of authorization with the following information
 - Property Address
 - Loan Reference Number
 - Name of Owner
 - Date
 - Agent's Name and Contact Information
 - Preliminary Net Sheet
 - Hardship Letter
 - Proof of Income and Assets
 - Copies of Bank Statements
 - Comparative Market Analysis
- In the proposal, the agent should request that the lender not report any more delinquencies (if there are any) to the credit reporting companies.
- Real estate investors are often willing to help the listing agent negotiate short sales with the banks so they can buy their listings.
- What should the buyer agent do?
 - The buyer agent might want to run two sets of comps, (homes that sold with a short sale and those that sold without a short sale) when preparing the offer.
 - The seller of the home might be using all of the comps to justify his price.
 - The two sets of comps might create a reality check for the seller.
 - The buyer agent needs to be patient and remember that to the lender, his transaction is just a number.
 - A lot of contingencies should be written into the offer but no one should expect the lender to agree to them.
 - The buyer agent should know the condition of the property through inspections so there are no surprises after settlement.
- Once the seller has accepted a contract, the listing agent should
 - Send the contract and listing agreement to the lender. Include an accounting of all expenses, which the seller will pay at settlement and a final number that the lender will receive when settlement takes place.
 - It is helpful for the listing agent and seller to have a HUD-1 settlement statement prepared.
 - The seller should be able to go to the settlement table knowing all the terms and conditions on which the lender will accept the short sale, including whether or not he will have to come up with money at the settlement table.

Part 4 - The Process

- Lender considerations before accepting a short sale
 - Is the seller legitimately suffering a financial hardship? Someone with the assets or the income to pay is unlikely to be considered.
 - Has the seller defaulted on the loan? Has the foreclosure process started?
 - Has the seller prepared a short sale package with the following:
 - Lender-provided short sale application
 - Hardship letter describing seller's situation
 - Financial documentation, which includes
 - Two years of tax returns
 - Two years of W-2s

- Two months of bank statements
 - Two months of pay stubs
 - Broker Price Opinion (BPO) for the property
- Has the seller given written authorization for the agent or attorney to communicate with the creditor(s)?
- What must the agent be prepared for?
 - A short sale involves a lot of paperwork.
 - The potential short sale must be disclosed.
 - The agent needs to advise seller and/or buyer client of the need for third-party approval, possible time issues and other downsides.
 - The commission may be reduced on both sides by the lender.
 - Potential commission reduction would have to be disclosed to both sides (brokers and parties to contract)
 - Or, the listing agent can state in the MLS that the commission is subject to third party approval.
 - The settlement of the short sale might not take place due to the third-party approval process; the lender calls all the shots.
 - The agent must be a facilitator, not a negotiator, of the seller's outstanding debts.
 - The process will be much more time consuming than a typical transaction.
 - There will most likely be time delays; it can take forever.
 - This is a very risky transaction and all of the potential difficulties can result in the agent being blamed when the buyer or seller is disillusioned. (In 2007, E & O attorneys indicated that short sales resulted in many lawsuits and complaints being filed nationwide.) Agents are accused of
 - Not submitting offers
 - Not following up
 - Lying about offers being "accepted"
 - Lying about "highest and best" deadlines
 - The parties to the transaction must be fully prepared as to what to expect!
 - There is no uniformity in lenders' documents.
 - The lender reserves the right to reject any offer.
 - If there are two mortgages, both lenders have to agree to accept less than the payoff amounts. Property encumbered by a second mortgage might kill a short sale deal.
 - If the short sale fails, the seller might face foreclosure.
 - Closing will occur where the lender stipulates. Often, a quick closing is called for.
 - In preparing the packet for the lender, the agent should look for any discrepancies between the seller's income and the income used to obtain the loan.
 - There is a large group of people who are finding themselves unable to make payments on loans that they initially qualified for by providing "stated income" without documentation. Much of the stated income was inflated.
 - A big gap might indicate mortgage fraud.
 - These owners are unlikely to have a short sale approved by the lender.
 - The lender calls the shots
 - From purchase price to seller concessions
 - From timing of negotiation to time of closing
 - From "as is" addendum to broker commissions

What paperwork is necessary at the time of listing?

- Seller's statement of need or hardship
- Seller's current employment situation
- Seller's current income status/pay stubs
- Seller's financial statements

- Seller's tax returns
- Seller's credit analysis
- Property appraisal or BPO
- Listing paperwork
- Short Sale Brokerage Fee Agreement
 - This is the agreement between the listing and selling brokers and is initiated by the listing side
- Short Sale Listing Addendum
 - Creditor Authorization and Release Form (This provides the authority for listing agent to contact the seller's creditors.)
- Addendum that states that lender can void sale if taking deed in lieu of foreclosure
- Statement of why owner needs to sell home
- An application, provided by the lender and completed and signed by the seller
- How should the short sale property be disclosed to potential purchasers?
 - Most experts favor disclosing that a property is a short sale in the comments section of the MLS listing.
- Paperwork at time of offer
 - Submission of offer
 - Net to seller
 - Lender addenda
 - Lender requirements
 - Short Sale Contingency Addendum to Sales Contract
 - This form is made a part of the sales packet. Without language in the contract stating that the lender must approve the offer and release all liens on the property, the seller could face a legal problem for failing to execute the contract if the short sale is not approved.
- What type of buyer does the lender favor?
 - A buyer who is willing to close in 30 days
 - A buyer who can make a substantial down payment
 - A buyer who has been pre-approved for a mortgage before submitting the offer
- Legislation that can aid the seller of a short sale
 - The Homes Affordable Program
 - It's a program that started in 2009 and allows home owners to refinance their mortgages at lower rates without having to show 20% equity in their home.
 - Only home owners with loans backed by Fannie Mae or Freddie Mac can participate.
 - It gives sellers up to \$3,000 for relocation expenses.
- Time Delays
 - A short sale involves as much if not more paperwork than an original mortgage application. That is due to the fact that, instead of proving creditworthiness and financial stability, the seller must prove that he is broke. He must be without cash flow, including savings, investments, trusts, liquid retirement funds or other finances to tap.
 - Most lenders require preliminary evaluation before an offer will be reviewed for approval.
 - The listing agent must receive written authorization from the seller to contact the loss mitigation supervisor of the lender at the earliest possible time.
 - This is only one of thousands of short sale requests being processed by the lender. This seller is just a number in the chain.
 - Lenders will typically not consider a short sale unless the owner has been delinquent at least 30 days. Many lenders wait 60 or 90 days before considering a short sale.

- If the listing agent has not assisted the seller in submitting the required paperwork, approval of the short sale can take weeks and with no guarantee of approval. (Most delays are the fault of the listing agent.)
- Sometimes, the lender intentionally delays the process hoping for a better offer to come along.
- Most offers are not accepted as written but are countered.
- It is recommended that any third party approval contingency be for at least 30 days, if not more.
- The Homes Affordable Program can create more paperwork and slow down the short sale process
- The process can be expedited by using the Equator System.
 - The Equator System is a collection database for documents needed in a short sale.
 - No processor is necessary to collect the documents. It is completely computerized.
 - The agent does not deal with a person until all forms are in.
 - As a result, the usual four to five months previously needed to close is usually reduced to two to three months.
- Any delay might depend upon how much of the process has taken place prior to obtaining a ratified contract.
- Contract Negotiations
 - Acceptance by the bank is given in writing.
 - Commonly, the lender negotiates the price and terms agreed to by the buyer and seller.
 - Many lenders will limit or refuse to
 - Help with down payment assistance
 - Pay buyer closing costs
 - Make repairs
 - Most lenders' addenda state that the buyer is accepting the property in "as is" condition.
 - It is still wise to have a home inspection conducted. Therefore, the agent should write into the contract that the buyer will take the property in "as is" condition once he is satisfied with the condition as revealed by the home inspection.
 - It can take weeks to get a response from the lender. This is a problem if an offer expiration date is written.
 - Banks will not accept electronic signatures in short sales negotiations.
 - Banks might require proof of funds showing that the buyer has the ability to close.
- If any of the following occur, it is prudent to release the listing and not move forward:
 - Bankruptcy
 - The house is not available for sale while it is under the protection of the trustee of the bankruptcy court.
 - Judicial Foreclosure
 - The owner's court date for foreclosure has arrived, and there is not a signed letter authorizing a short sale with a closing date before the foreclosure date.
 - Notice of Auction of the property
 - The owner of the home no longer has legal ownership of the property.
- Banks are now trying to prevent the need for short sales because new legislation allows the refinancing of homes that are owned by sellers who have less than 20% down when Fannie Mae or Freddie Mac are involved.

Part 5 - Seller Consequences

➤ Tax Issues

- The tax law, up until December of 2007, stated that “forgiven debt” was taxable as current income in the year the debt was forgiven. Many lenders sent 1099 forms at the end of the year.
 - On December 20, 2007, President Bush signed The Mortgage Forgiveness Debt Relief Act of 2007 to provide financial relief for sellers facing foreclosure or short sales. The bill gives a tax break to homeowners who have mortgage debt forgiven as part of a foreclosure or renegotiation of a loan. No taxes would be owed on the value of any debt forgiven or written off.
- The exclusion of capital gain does apply so long as the seller has owned and occupied the property as his personal residence for 2 of the last 5 years.

➤ Credit Issues

- Just because the lender releases the lien after the short sale, it does not mean that the debt is forgiven or that the seller’s credit will not be negatively affected. The following could occur:
 - The lien is released; however, the seller could be required to carry the remaining debt on a pre-payment plan.
 - The lien is released; however, the seller could be forced to liquidate other assets to pay the remaining balance.
 - The lien is released; however, the lender sues the seller on the note for deficiency.
 - The lien is released; however, the lender reports the amount of loss as a “charge-off” or “collection” to the credit bureau thereby causing the seller’s credit to be negatively impacted. Even so, the credit report will show better with a short sale than with a foreclosure.
- Often, the seller thinks that a short sale will solve all of his problems. In many cases, this is NOT true. However, if the seller has decent credit up to this point, the short sale will minimize the harm to his credit whereas the foreclosure will not.
- The seller should be encouraged by the agent to sign a lease on a rental property before the credit is damaged by the short sale.

Short Sales Final Quiz

1. Is the seller’s credit affected by a short sale?
 - a. Usually
 - b. Never
 - c. Only if the lender counters the buyer’s offer
 - d. None of the above.

2. Who has most of the control in a short sale?
 - a. The agent
 - b. The buyer
 - c. The owner
 - d. The lender

3. Can working with short sales be advantageous for an agent?
 - a. No way. It’s just a pain in the neck.
 - b. Absolutely. An agent who works short sales can provide a wonderful service for owners who are in trouble. When an agent provides a much needed service like this, he is likely to have referrals from those he helped.

- c. No. They take too long.
 - d. None of the above
4. What is one downside to purchasing a short sale?
- a. There are no downsides.
 - b. The prices on short sales are usually well above market value.
 - c. The buyer may be required to settle quickly
 - d. None of the above
5. A seller in the following situation might benefit from a short sale:
- a. He has paid off his mortgage
 - b. He has a lot of equity in his home
 - c. He can't make his payments, and he owes more than his house is worth
 - d. None of the above
6. The following alternatives to foreclosure should be considered by an owner in financial trouble:
- a. Consider a short sale
 - b. Moving into a smaller home and renting the larger, more expensive home
 - c. Asking the lender to modify the loan and extend the amortization
 - d. All of the above
7. What type of real estate climate contributes to a rash of short sales?
- a. Homes rapidly appreciating
 - b. A depreciating home market
 - c. A lot of existing mortgages with 100% financing
 - d. b and c
8. Going the short sale route instead of the foreclosure route will completely save the owner's credit.
- a. True
 - b. It will help but not completely save the owner's credit.
 - c. The owner's credit will be affected more by a short sale than a foreclosure
9. Why might an owner decide not to go the short sale route?
- a. To save the embarrassment
 - b. He finds the process completely overwhelming.
 - c. He cannot cope with the length of time a short sale might take.
 - d. All of the above
10. How might the listing agent minimize the effect of a short sale on neighborhood values?
- a. By putting a remark in the MLS after settlement or by checking a box stating that the transaction was a short sale
 - b. There's no way to minimize the effect a short sale will have on the neighborhood.
 - c. Short sales never affect property values.
 - d. None of the above
11. Why must a listing agent educate himself fully in short sales before attempting one?
- a. To minimize the chance of a lawsuit
 - b. To make the process go more smoothly
 - c. Both a and b
 - d. None of the above

12. Once a seller's net has been prepared, and it is determined that if the owner sells, he will be "upside down," the listing agent should
 - a. Determine, along with the owner, if the owner must sell
 - b. List the house
 - c. Offer to give up his commission
 - d. None of the above
13. The first thing that the listing agent should do once it is determined that the seller is upside down and must sell is
 - a. Have a frank discussion about short sales
 - b. Discuss staging with the owner
 - c. Explain to the owner that it will be impossible to sell the house
 - d. None of the above
14. Which of the following can be a potential problem in short sale negotiations?
 - a. Lenders do not respond quickly.
 - b. Lenders would prefer foreclosure to short sale.
 - c. Lenders do not want to be involved in the negotiations.
 - d. None of the above
15. In a short sale situation, lenders often refuse to
 - a. Help with down payment assistance
 - b. Make repairs
 - c. Accept electronic signatures
 - d. All of the above
16. Lenders sometimes drag their heels on accepting an offer
 - a. Because they do not want the short sale to go through
 - b. Because they want to wait for another potentially better offer to come in
 - c. They don't like listing agents
 - d. None of the above
17. In a short sale situation, what kind of buyer do lenders like?
 - a. Ones with a lot of cash
 - b. Ones who can be flexible on settlement date and willing to patiently wait out the process
 - c. Ones who have been pre-approved
 - d. All of the above

Preparing the Home for Sale

Part 1 - Why and When?

- What is preparing the home?
 - Preparing the home (also referred to as staging) is packaging the home for profit
 - Just as department stores package items for sale at the Holidays, a home should also be packaged before it goes on the market.
 - Once a home goes on the market, it becomes a product for sale
- What does preparing the home accomplish?

- Preparing the home gives it an advantage over other homes in the market that might not show as well.
- Homes that are prepared/staged sell faster and for more money.
- Agents are more likely to show staged homes than homes that are not staged.
- Appraisers are more likely to appraise staged homes for more.
- When should preparing the home take place?
 - Preparing the home should be accomplished before the home goes on the market because
 - You don't get a second chance to make a good first impression.
 - If you work on preparing the home while the home is on the market, buyers don't see the home at its best.
 - Buyers see things as they are, not as they might be. It's very difficult for most buyers to visualize improvements that have not yet been made.
 - When a seller offers to give buyers a closing cost credit for repairs and/or cosmetic improvements, there might be problems with the lender. The lender wants everything to be in perfect condition at settlement.
- Can't the home be sold "as is" or as a "handyman special"?
 - Yes, but it will cause the home to be sold at a significantly lower price.
 - Purchasers tend to overestimate repairs and improvements by approximately double what they would cost.
 - Even purchasers looking for a "handyman special" often choose the home that shows well because they become overwhelmed with the work needed to bring the "handyman special" up to standard.

Part 2 - Repairs

- First, repair as necessary.
 - Having a home inspection before putting the house on the market can be advantageous.
 - The repairs can be completed before the home goes on the market ensuring that once the home does go on the market, it shows well.
 - The seller can leave the home inspection report out on the dining room table along with receipts for the repairs. This will give prospective purchasers coming through a sense of ease.
 - The down side is that if the seller chooses not to make repairs, the needed repairs will need to be disclosed by the agent, if the agent has actual knowledge of the home inspection report.
 - Why should the seller make repairs?
 - Granted, the home is not new construction; however, the closer to perfection that the home can be, the faster it will sell, and the more money it will net.
 - A properly functioning home will give the purchasers confidence that the home was well cared for.
 - Buyers expect everything in their new home to operate safely and properly.
 - Repairs left undone can lead buyers to question whether or not the seller has taken good care of the home.
 - Will all repairs net more money?
 - Most often, it's not that the sellers will net more money than the competition; rather, the sellers will not net less than the competition.
 - An example of this is a new roof. Sellers will not net more money than the competition for a new roof because a new roof is considered to be a maintenance item. When a new roof is

installed, or a new furnace is installed, those repairs are considered to be “bringing the home up to standard.”

- In other words, a well maintained home will at least put the home on a level playing field with the competition.

Part 3 - The Exterior

➤ The first impression

- The very first impression will be the front exterior of the house as the buyer drives up.
- If the exterior is not appealing, there is a good chance that the buyer will ask the agent to skip that house.
- As a part of the listing process, the listing agent will need to walk across the street and look at the house with a critical, buyer’s eye.
 - Does the landscaping need a boost?
 - Is the front door freshly painted with gleaming hardware? Does it have a welcome feeling?
 - If there is a screened door, is it in good condition or is it torn?
- One can tell a lot about the level of maintenance of a house just by looking at the exterior.
- In preparation for the market, the agent should give a checklist to the owner, review it with him, and the home should not go on the market until everything on the checklist is marked off. The following checklist is recommended for the exterior of the home:
 - If necessary, touch up paint on doors, trim, window frames.
 - If necessary, paint the outside of the house.
 - Mow and edge the lawn frequently before and while the house is on the market.
 - If the grass is brown, water, fertilize, and if necessary, reseed.
 - Cut back overgrown shrubbery. Trim trees; it is difficult to sell a house if it can’t be seen!
 - Weed lawns and flowerbeds.
 - Have chimney inspected and cleaned.
 - Repair and repaint loose siding and caulking.
 - Keep walks clear of snow and ice. If the buyer cannot get in easily, the house won’t sell.
 - Flowers and/or ground cover add to the appeal of a home.
 - Replace missing shutters.
 - Repair gutters and downspouts as needed.
 - Properly grade the area under the downspouts and around the house so rainwater flows away from the foundation.
 - Replace any missing shingles on the roof.
 - Repair cracks in the driveway and sidewalks. If necessary, reseal asphalt driveway.
 - Sweep the driveway and walkway.
 - Use a mild bleaching agent to repair stucco water stains.
 - Repair and paint fences, if necessary.
 - Wash the outside of all windows.
 - Remove any junk or clutter from the yard.
 - Store toys, bicycles, roller skates, gardening equipment out of sight.
 - Remove any tree limbs and leaves from the yard.
 - Place a new doormat at the entry.
 - If the mailbox and post have aged, purchase new ones.
 - Make sure outdoor furniture is clean and orderly.
 - If the exterior of the house is dirty or moldy, power wash it.

- Power wash deck, then seal or stain.
- Clean pool and spas.
- Check all exterior lights and make sure that they are working.
- Add mulch to planting beds and around trees. This freshens the look of the yard.
- Keep the garage door closed.

Part 4 – The Interior

- General
 - Remove family pictures. Buyers cannot picture their family in the house if there are pictures of another family on the walls.
 - Remove and pack away anything of value.
 - Remove and pack away anything that is breakable.
 - If necessary, refinish hardwood floors.
 - Clean fans.
 - Clean all mirrors.
 - Remove any cobwebs.
- Painting
 - When it comes to getting a house ready to put on the market, painting results in the best return for money spent.
 - New paint always gives the home a fresh look.
 - Keep colors neutral. This way, the home will appeal to more buyers, who can move right in without having to make changes.
- Carpeting
 - If carpet is acceptable, a good steam cleaning is recommended.
 - If the carpet is worn, it should be replaced.
 - A carpet allowance is not recommended. Again, buyers do not generally have vision and lenders do not like decorator allowances.
- Safety
 - Pay particular attention to safety.
 - Loose railings should be fixed.
- Clutter
 - Eliminate clutter entirely.
 - Pack up and store or discard. Everything will need to be packed up anyway, so now is as good a time as any.
 - If necessary, rent a storage bin.
- Living Room
 - Keep furniture at a bare minimum to ensure easy traffic flow, also to make the room appear larger.
 - If the living room is being used for some other purpose, consider changing it back. Most buyers relate better to rooms that are used for the builder's intended purpose.
 - Organize bookshelves and remove excess clutter.
- Family Room
 - Make this room look like it is comfortable and inviting but not overly lived in.
 - Keep furniture to a minimum.
 - A fire in the fireplace provides a warm and inviting atmosphere.
- Dining Room
 - Set the dining room table with your best dishes.
 - Splurge and purchase fresh flowers.
- Kitchen
 - Clean the oven.
 - Clean the outside of all appliances so they sparkle.

- Clean the stove hood filter.
- Clean and shine cabinets.
- Clean all countertops and backsplashes thoroughly.
- Remove all clutter from countertops.
- Clean floor thoroughly.
- If there is ceramic tile, clean or whiten grout.
- Remove all magnets and other items, including children's pictures, from the front of the refrigerator.
- Do not cook foods with strong odors while the house is on the market.
- New cabinet knobs and curtains can spruce up an otherwise dated kitchen.
- Place an attractive bowl with fresh fruit on the kitchen island.
- Bedrooms
 - Remove all clutter.
 - Pay close attention again to traffic flow.
- Bathrooms
 - Clean all ceramic tile and grout.
 - Use the highest wattage available in light fixtures.
 - Make sure that faucets do not drip. If they do, fix them.
 - Thoroughly clean sinks and tubs and caulk.
 - Remove any evidence of mildew from shower and bathtub.
 - Towels should be fresh and clean.
 - Open shower curtain completely. This makes the bathroom look more spacious.
 - Keep all toilet seat lids closed.
- Closets
 - Discard items not used or worn.
 - Organize.
 - Hang all items of clothing in the same direction.
- Doors and Windows
 - Be sure that all doors and windows are operational.
 - Replace broken glass or glass with broken seals.
 - Wash all windows and doors with glass.
- Basements
 - Place a dehumidifier in basement if damp or musty.
 - Remove clutter.
 - Replace furnace filter.
 - If necessary, seal the walls.
- Garages
 - Remove clutter, showing that house has enough storage without having to use the garage for that purpose.
 - Clean oil marks on floor or repaint floor.
- Clean
 - Clean the house thoroughly.
 - Wax floors.
 - Replace or wash light bulbs.
 - Pay particular attention to keeping the kitchen and bathrooms spotless.
- Smells
 - The sense of smell is our strongest scent.
 - Smells can kill everything; a buyer who smells an unpleasant odor upon entering a house will leave without going beyond the front door..
 - Air the house out every day.
 - Do not use potpourri. Potpourri makes buyers think that the sellers are trying to cover up an odor.
 - Spray Fabreze, which neutralizes odors, everywhere.
 - Dry clean the draperies.

- Empty trash cans frequently.
- Do not smoke in the house.
- The best smell is a clean smell.
- Cleaning supplies with a lemon scent are appealing.
- Baking cookies is a nice touch.
- If the seller has cats, the litter box should be cleaned every day and changed often.
- If the seller has dogs, the dogs should be washed frequently.
- The Vacant Home
 - Hire a professional stager.
 - A stager will bring furniture and accessorize the house in order for the buyer to better imagine how each room functions.
- When Showing the Home
 - Be sure to set the thermostat at a comfortable temperature. This is conducive to buyers lingering.
 - If possible, take pets outside.
 - Turn lights on when showing the house.
 - Open all window treatments to add brightness.
 - Wash, fold and put away all laundry.
 - Play soft, relaxing music.
 - Display a vase of fresh flowers in the foyer.
 - Be sure that all dishes are washed and put away.
 - Make all beds.
- Selling During the Holidays
 - There are some definite advantages to marketing the home during the winter holidays.
 - The inventory of available homes is lower during this time of year so there is not as much competition.
 - Use the season to your advantage. The holidays lend themselves to atmosphere.
 - Decorate tastefully for the holidays.
 - Keep a fire in the fireplace as long as someone is home to watch it.
 - Bake or simmer hot mulled cider, allowing the aromas to travel throughout the house.
 - Take advantage of any views that might be hidden when the leaves are on the trees.
 - Take advantage of the leaves being off the trees and the natural light coming in the windows.

Preparing the Home for Sale Final Quiz

1. What is preparing the home to sell?
 - a. Packaging the home for profit
 - b. Pricing the home
 - c. Filling out the listing forms
 - d. None of the above

2. What is the justification for spending time and money preparing the home to sell?
 - a. The home will sell for more.
 - b. The home will sell more quickly.

- c. The home that shows well will beat the competition.
 - d. All of the above
3. Wouldn't it be easier to just sell the home "as is"?
- a. Absolutely, and that's how it should be sold.
 - b. Yes, but the seller will get significantly less for the house.
 - c. It doesn't matter one way or the other.
 - d. None of the above
4. When should repairs to a home be made?
- a. Before the home is put on the market
 - b. While the home is on the market
 - c. After a contract is accepted.
 - d. None of the above
5. Will repairs net the seller more than the competition?
- a. Probably not
 - b. Definitely
 - c. Neither a nor b
6. Why should a home be functioning properly when it is on the market?
- a. It gives purchasers a sense that the home was well cared for.
 - b. It will cost less to make the repairs before the home is put on the market than afterwards.
 - c. Neither a nor b
7. What will likely happen if the home has poor curb appeal?
- a. The buyers will not stop at an open house.
 - b. The buyers will ask the agent to drive by the house and not stop.
 - c. The buyers will definitely want to see the inside.
 - d. a and b
8. If the exterior of the home is in poor condition, the buyers will probably think that
- a. The rest of the house will be alright.
 - b. The sellers did not have enough time to fix up the outside.
 - c. The entire home was not well maintained.
 - d. None of the above
9. Why can the Holidays be a good time to sell a house?
- a. The seller can take advantage of the Holiday atmosphere.
 - b. More homes sell at this time.
 - c. There is a smaller inventory of homes and less competition.
 - d. Both a and c
10. All rooms should be neat and clean but two rooms, in particular, need to absolutely shine. They are
- a. Bedrooms
 - b. Kitchens
 - c. Bathrooms
 - d. Both b and c

Going Green

Part 1 - Background

- What is green building?
 - Green or sustainable building is the practice of creating healthier and more resource-efficient models of construction, renovation, operation, maintenance, and demolition.
- Following are some of the reasons that so many people are interested in buying "green":
 - Consumers like the idea that they can help the planet by making smarter purchases and lifestyle decisions.
 - Al Gore's documentary, *An Inconvenient Truth*
 - A growing body of green building standards, advocated by the *National Association of Home Builders* and the *U.S. Green Building Council*
 - Rapidly rising energy prices
 - The improvement in healthier indoor air quality that green buildings offer
 - Homes are growing in size and high ceilings are popular.
 - 100% of green home buyers surveyed by McGraw Hill identified lower utility, maintenance and operating costs as an incentive for purchasing a green home.
- Who is interested in buying "green"?
 - This trend is not limited to one demographic group or geographic area.
- Examples of Green Buildings
 - Time Equities, Inc.'s condo-hotel in New York City with
 - Solar panels on roof
 - Windows that help to keep out the heat
 - Energy-efficient HVAC system that will automatically adjust cold or hot air

Part 2 - Green Building

- *The National Association of Home Builders' Voluntary Model of Green Home Building Guidelines*
 - Established in 2005
 - Helped move environmentally friendly home building concepts further into the mainstream marketplace
 - The guidelines contain six primary sections as follows:
 - Lot Preparation and Design
 - Careful planning can reduce the home's impact on the environment.
 - Resource Efficiency
 - The guidelines address the optimization of the use of building materials, the reduction in the amount of time and money needed for home maintenance, and waste management concepts.
 - Energy Efficiency
 - The guidelines address energy efficient mechanical systems, appliances, and lighting with resulting savings in long-term utility bills.
 - Water Efficiency/Conservation
 - The guidelines help to reduce water bills.
 - Occupancy Comfort and Indoor Environmental Quality
 - The guidelines help promote healthier indoor air quality by addressing moisture and ventilation.

- Operation, Maintenance and Education
 - This section aids the home builder in educating the homeowner on how to best operate and maintain the home.
- By the end of 2007, more than half of *NAHB's* members, who build more than 80 percent of the homes in the United States, were incorporating green practices into the development, design and construction of new homes.
- Types of Green Building Materials for the Home
 - Green flooring materials are usually made from recycled or renewable products. They can be installed in an eco-friendly manner without harmful gas emissions.
 - The following are some green flooring materials:
 - Cork Floors
 - Cork floors are made from stripped tree bark and leave the trees intact.
 - Bamboo Flooring
 - Bamboo flooring, which is made from a grass, renews itself every three to five years.
 - Recycled Carpeting
 - Besides being stain resistant and shock-free, recycled carpeting does not emit volatile organic compounds (VOC), which irritate the lungs.
 - Linoleum Flooring
 - Linoleum floors are made from natural raw materials and are stain resistant. They do not absorb water and are biodegradable at the end of their useful life, which is approximately 40 years.
 - Eco-Friendly Wood Flooring
 - Eco-friendly wood flooring is harvested from well-managed forests with renewable resources. It is manufactured using formaldehyde-free adhesives.
 - Other Green Building Materials and Options:
 - Recycled building materials from homes about to be torn down
 - Hand-hewn wood beams
 - Rough sawn lumber
 - Copper roofs
 - Timber framing
 - Rainwater holding tanks
 - Chemical-free lighting
 - Green toilets
 - Induction cook tops
 - Geothermal heating and cooling
 - Attic heat blocker
 - Reclaimed wood countertops
 - Nontoxic paint
 - Formaldehyde-free insulation
 - Smart irrigation systems
 - Green furniture
 - Construction materials and interior finish products with zero or low emissions
 - Adequate ventilation and high-efficiency in-duct filtration systems
 - Materials resistant to microbial growth
 - Building systems that control humidity
 - Solar Energy
 - Passive
 - Heating water in swimming pools
 - Direct
 - Converting to electricity using photovoltaic cells
 - Large, flat panels with grids of solar cells are installed on top of roofs.

- Many utility companies offer rebates and credits to home owners who install solar panels.
- Energy-Efficient Windows
 - Infrared and ultraviolet light, light that is not visible to us, fades furniture and floors.
 - Low-e is a hard glaze coating on windows.
 - It blocks some of the harmful rays
 - It reduces heat loss in the winter
 - It keeps homes cooler in the summer.
 - Dual pane windows offer insulation against the elements and aid in soundproofing.
 - Many energy-efficient windows qualify for rebates and credits.
- Energy-Efficient Products
 - *Energy Star* is a government-backed program that identifies energy efficient products.
 - According to *Energy Star*, compact fluorescent light bulbs use 75% less energy and last ten times longer than regular light bulbs. They cost more than regular light bulbs but are actually less in the long run.
 - Consumers have many appliances from which to pick that carry the *Energy Star* label.
- Building Green
 - "Research by the *U.S. Department of Energy* and the *U.S. Green Building Council* shows that energy-efficient construction compliant with *Leadership in Energy and Environmental Design (LEED)* and *Energy Star* standards produces annual energy savings of twenty to fifty percent.
 - Commercial developers can recoup a project's cost in as few as two years, while residential builders earn their payback within five years.
 - *LEED* certified buildings offer other benefits as well, such as lower operating costs and higher asset values.
 - In addition, better indoor air quality and natural light boost worker productivity, improve employee attendance, and even drive up sales."

"Building Green" sub-section is reprinted from Realtor® Magazine Online (<http://www.realtor.org/realtomag>) with permission of the National Association of Realtors®. Copyright 2008. All rights reserved.
- Green remodeling
 - Green remodeling promotes healthier indoor air quality through
 - Properly sized and vented exhaust fans
 - Addition of fans to laundry rooms
 - Zero or low-VOC paint
 - Formaldehyde-free carpet and plywood
 - Better energy efficiency is gained through the use of
 - Dual-flush toilets
 - Tankless water heaters
 - HVAC systems with at least a 17 SEER rating
 - Furnaces with a 90+ rating
 - Fluorescent lighting and *Energy Star-rated appliances*
 - Sealing ducts with mastic, not tape
 - Radiant barrier decking
 - Double-pane, low-E windows
 - Balanced attic air intake
 - Exhaust and spray foam insulation
 - Lower exterior maintenance is achieved through the use of
 - Fiber cement siding
 - 40-year shingles
 - Engineered wood framing
 - Physical termite barriers

Part 3 – Advantages of Green Building

- Economic Advantages
 - When owners make improvements to their homes, they may qualify for federal income-tax credits and local-government or utility assistance with the cost of the work.
 - States are jumping on the bandwagon by subsidizing loans for energy-efficient improvements.
 - Pennsylvania has a program that offers low interest, unsecured financing for energy-related home improvements such as windows, doors, insulation and air conditioning systems that meet certain criteria.
 - Kansas has a similar program.
 - New York started a loan program several years ago that allows families to qualify for reduced interest-rate loans for up to \$20,000. Participation in this program grew 20% in 2007.
 - Energy costs are lower.
- In a buyer's market
 - Simple energy upgrades can make one home stand out.
 - The agent should ensure that the appraiser sees receipts for work done.
- Higher resale values often result.
 - Based on evidence from the commercial market, green homes will have higher resale values in the future.
- Improved Health
 - Better indoor air quality improves occupants' health and increases productivity.
- Green Home Buyer Satisfaction is phenomenal
 - There is an 85% satisfaction level among green home buyers.
- The Environment
 - Green buildings and green improvements have profound and long-lasting positive effects on the environment.

Part 4 – “Green” Mortgages

- Purchasers interested in buying a green home or existing owners wishing to refinance a green home can reap rewards with green mortgages, also known as *Energy Efficient Mortgages (EEM)*.
 - In a mortgage crisis climate, energy-efficient mortgages can be a more secure way to qualify marginal borrowers because these purchasers will be saving money on utility bills.
- Some major mortgage lenders are attracting “green-minded” homeowners with discounts for upgrades that make a home more eco-friendly.
 - Citigroup Inc., Bank of America, and JP Morgan Chase and Co. are among a group of lenders touting special programs for what are being called “green mortgages.”
 - Citigroup and Bank of America are both offering \$1,000 off closing costs for meeting certain standards.
 - JP Morgan Chase is offering \$500 when spray foam insulation is used in a home.
 - The Fannie Mae Energy Efficient Mortgage

- Allows the buyers to upgrade the house they are purchasing in energy efficient ways
 - Finances the improvements into the loan
 - Improves cash flow each month
 - Allows the savings to count as added income for qualifying ratios
 - The building may cost more up front but saves through lower operating costs over the life of the building.
- Steps to obtain a “green mortgage”:
- The first step is to find a lender familiar with the loan product.
 - The second step is an energy audit. An energy audit must be performed by a trained professional acceptable to the lender.
 - The utility company should be contacted to see if it offers free or discounted energy audits to its customers. If not, a home energy professional can be hired, such as a certified Home Energy Rater, to evaluate the home's energy efficiency. The company performing the energy audit will need to be certified in the *Home Energy Rating System (HERS)*.
 - To find a Home Energy Rater, an Energy Star Partner can be found by going to http://www.energystar.gov/index.cfm?fuseaction=new_homes_partners.showHomesSearch
 - A professional auditor uses a variety of techniques and equipment to determine the energy efficiency of a home. Thorough audits often involve the use of equipment such as blower doors, which measure the extent of leaks in the building and infrared cameras, which reveal hard-to-detect areas of air infiltration and missing insulation.
 - The company will provide the following information:
 - A list of recommended improvements
 - An estimate of the cost of the improvements in the local market
 - The energy cost savings based on local utility rates
 - Rating scores are between 1 and 100 with higher scores indicating better efficiency.
 - The exam typically costs between \$100 and \$300.
 - EEM loans are available through various sources, such as the Federal Housing Authority (FHA), Veterans Affairs (VA) Fannie Mae and Freddie Mac.
 - The third step is to shop for bids among contractors.
 - Fourth, a contractor is chosen to perform the work.
 - The lender then adds the cost of the work to the loan amount.
 - The lender places the extra improvement money in an escrow account and pays the contractors directly when the work is completed.
 - The buyers' monthly payment will be slightly higher. However, the savings in utility bills will more than offset the higher monthly mortgage payments.
- Unfortunately, these mortgages haven't generated much interest for the following reasons:
- The products are not marketed as they should be.
 - Many consumers do not know that these mortgage products are available.
 - Some lenders claim that the monthly savings aren't enough to get buyers interested.
 - For this reason, some banks have been adding incentives like the \$1,000 in closing cost savings.

Part 5 – The Agent and Green Building

- Real estate agents need to understand green building and the associated terms in order to help their “green-minded” clients.
- Home Energy Audit
 - This is easy and inexpensive. For purchasers concerned with green building, a home energy audit can be written into a sales contract, or a contract can be contingent upon an energy audit much in the same way that contracts are written contingent upon home inspections.
- For sellers
 - The listing agent can show sellers how to appeal to buyers by reducing energy costs.
 - The easiest and least expensive energy saver is caulking and weather-stripping windows.
 - Another is increasing the insulation in the attic.
 - A very effective, but more expensive, energy improvement is installing dual-zone heating and air conditioning systems.
 - A home can be sheltered from the wind and sun by planting trees and tall shrubs.
 - The listing agent should mention all energy savers in the marketing pieces.
 - Appliances can be looked up at www.energystar.gov to determine whether or not they are energy efficient.
- For buyers
 - The buyer agent should point out high-efficiency products and discuss material enhancements that would make potential purchases more environmentally friendly.
- For past customers and clients
 - It would be advantageous to provide former customers and clients with energy-saving information, such as
 - How much money they could save by replacing light bulbs with CFL bulbs (compact fluorescent lights).
 - How they can economize through energy-saving discounts
 - The agent can tell these past buyers and sellers about refinancing with an energy-efficient mortgage.

Part 6 – Eco Friendly Terms and References

- EcoBroker
 - This real estate certification program helps practitioners become experts in helping consumers and communities use energy efficiency and sustainable design. Through EcoBroker educational courses, you acquire knowledge and resources to become a Certified EcoBroker, which gives you a leg up in assisting home owners in purchasing and marketing properties with green features. Classes are available online, and may count as continuing education credits in your state.
- FSC-certified wood
 - A key component of green building is using sustainable wood. Quickly renewable woods like bamboo are inherently sustainable. In selecting other types of hardwoods, it’s important that the wood be grown and harvested in a sustainable manner. The Forest Stewardship Council (FSC) maintains standards and certifies woods for sustainability.
- Geothermal
 - Geothermal power uses heat from the earth to generate electricity. This is a clean, renewable power source. Geothermal energy is harnessed with a

Ground Source Heat Pump (GSHP) to tap the stored energy beneath the planet's surface. These pumps can be used to provide heating, cooling and hot water for residential and commercial buildings.

➤ LEED

- LEED is an abbreviation for Leadership in Energy and Environmental Design. The LEED rating system was designed by the U.S. Green Building Council and is the standard for the design, construction and operation of green buildings. LEED started in the commercial building sector, and a rating system for residential construction is in the works. Architects and builders often refer to themselves as LEED AP; the AP stands for Accredited Professional. This means they have passed the LEED exam and are well-versed in the program's standards.

➤ Native landscaping

- Selecting plants indigenous to your area means they're better adapted to the local climate, use appropriate amounts of water, resist local pests and provide food for area wildlife.

➤ Runoff

- The waste water that flows from our gardens, lawns, driveways and streets into our sewer systems carries various pollutants, including fertilizers and pesticides from our yards. The water eventually travels into rivers and oceans where they degrade water quality for humans and animals. To reduce runoff, home owners can make sure they don't over-water their lawns or accidentally water their sidewalks and driveways. Permeable stone pavers in driveways also help curb runoff.

➤ Solar PV/Solar Water Heaters

- Solar PV stands for Solar Photovoltaic, which are the panels used to create electricity. PV cells are comprised of semi-conductors, most often made of silicon, which convert sun power into electricity. These are different from (and more expensive than) solar water-heating systems. A solar water-heating system is fairly simple with the solar panels typically installed on a roof. The sun then heats the panels; the solar collectors heat a fluid in pipes held in the interior of the panel boxes, and the fluid is transported into the house where it heats water in a storage tank.

➤ Sustainable/Sustainability

- Sustainability refers to meeting present needs without compromising the ability of future generations to meet their needs. This involves using, re-using, and conserving natural resources to do the least harm to the natural environment. It's now used almost interchangeably with "green" and "eco-friendly."

➤ VOC

- An abbreviation for Volatile Organic Compounds, VOCs are emitted as gases from various solids and liquids like wall paint, furniture and household cleaning supplies. Many chemicals are harmful to human health; some are carcinogenic. But no- or low-VOC products now available represent good non-toxic replacements.

Information in this section on terms is copyrighted by the National Association of Realtors® and reprinted with permission.

➤ For more information

- *Sustainable Building Technical Manual*, <http://www.sustainable.doe.gov/freshstart/articles/ptipub.htm>
- U.S. Department of Energy Web site: www.sustainable.doe.gov/buildings/gbintro.shtml
- Environmental Building News: www.buildinggreen.com/
- U.S. Green Building Council Web site: www.usgbc.org

Going Green Final Quiz

1. All measures below might make a home more desirable to “green-minded” buyers except
 - a. Hook-ups in the garage for electric cars
 - b. Appliances with the *Energy Star* label
 - c. Cork floors
 - d. All of the above would make a home more desirable to “green-minded” buyers
2. Why might a “green mortgage” help a marginal buyer?
 - a. Qualifying will be easier since the utility bill savings will be factored into the qualifying ratios.
 - b. It will not help a marginal buyer.
 - c. The marginal buyers need to first change employment.
 - d. None of the above
3. Geothermal power
 - a. Comes from the sun
 - b. Uses heat from the earth to generate electricity
 - c. Can provide heating, cooling, and hot water for residential and commercial buildings
 - d. b and c
4. A real estate agent can differentiate himself by
 - a. Earning the EcoBroker designation
 - b. Referring “green-minded” buyers to other agents
 - c. Both a and b
 - d. Neither a nor b
5. Which of the following is not a reason that people are buying green homes?
 - a. Energy prices are rapidly rising
 - b. Green homes’ healthier indoor air quality
 - c. Al Gore’s film, *An Inconvenient Truth*
 - d. The movie, *Breach*
6. *The National Association of Home Builders’ Voluntary Model of Green Home Building Guidelines*
 - a. Were established in 2005
 - b. Promote green building
 - c. Are mandatory for builders
 - d. Both a and b
7. Energy Efficient Windows
 - a. Have a hard glaze coating on windows
 - b. Blocks harmful rays from the sun
 - c. Reduces heat loss in winter
 - d. All of the above
8. *Energy Star* is
 - a. A new program of green mortgages
 - b. A government-backed program that identifies energy efficient products
 - c. A refrigerator that is battery operated

- d. None of the above
9. Economic advantages of green building and remodeling include
 - a. A reduction in the cost of energy
 - b. Special consumer friendly loans for upgrading homes in energy efficient manners
 - c. Tax credits for energy saving improvements
 - d. All of the above
 10. Other advantages for green building and remodeling include
 - a. Probable increase in value of the building
 - b. Positive effects on the environment
 - c. Both a and b
 - d. Neither a nor b
 11. *Energy Efficient Mortgages or EEMs*
 - a. Finance energy-efficient improvements into the loans
 - b. May qualify borrowers adding utility bill savings into the qualifying equation
 - c. Both a and b
 - d. Neither a nor b
 12. An important step in obtaining a "green mortgage" is
 - a. Hiring a contractor to make the energy-saving improvements
 - b. Paying off all outstanding credit cards
 - c. Hiring a professional to conduct an energy audit
 - d. Both a and c
 13. Improvements to the home are paid for by
 - a. The mortgage company, which has the funds held in an escrow account
 - b. The purchaser directly
 - c. The loan officer
 - d. None of the above
 14. How can the real estate agent be helpful to past customer and clients?
 - a. By sending them information about "going green."
 - b. By giving them information about "green" refinances.
 - c. By giving them energy useful websites.
 - d. All of the above
 15. How can the agent help a seller take advantage of energy savers in the selling of the house?
 - a. By encouraging the sellers to add insulation in the attic.
 - b. By asking the sellers to use less water.
 - c. By asking the sellers to heat the house with the fireplace.
 - d. None of the above

Name _____ Date _____

16 Hour Continuing Education Quizzes (Mandatory)

Agency

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D

Contracts

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D

Ethics

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D
15. A B C D
16. A B C D
17. A B C D
18. A B C D
19. A B C D
20. A B C D

Name _____

Page 2

Fair Housing

Legal Updates

- 1. A B C D
- 2. A B C D
- 3. A B C D
- 4. A B C D
- 5. A B C D
- 6. A B C D
- 7. A B C D
- 8. A B C D
- 9. A B C D
- 10. A B C D
- 11. A B C D
- 12. A B C D
- 13. A B C D
- 14. A B C D
- 15. A B C D
- 16. A B C D
- 17. A B C D
- 18. A B C D
- 19. A B C D
- 20. A B C D
- 21. A B C D
- 22. A B C D

- 1. A B C D
- 2. A B C D
- 3. A B C D
- 4. A B C D
- 5. A B C D
- 6. A B C D
- 7. A B C D
- 8. A B C D
- 9. A B C D
- 10. A B C D

Name _____

Page 3

16 Hour Continuing Education Quizzes (Electives)

Mortgage Fraud

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D

Establishing Home Values

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D

8. A B C D
9. A B C D
10. A B C D

Predatory Lending

1. A B C D
2. A B C D
3. A B C D
4. A B C D
5. A B C D
6. A B C D
7. A B C D
8. A B C D
9. A B C D
10. A B C D
11. A B C D
12. A B C D
13. A B C D
14. A B C D
15. A B C D
16. A B C D
17. A B C D

Name _____

Page 4

Short Sales

- 1. A B C D
- 2. A B C D
- 3. A B C D
- 4. A B C D
- 5. A B C D
- 6. A B C D
- 7. A B C D
- 8. A B C D
- 9. A B C D
- 10. A B C D
- 11. A B C D
- 12. A B C D
- 13. A B C D
- 14. A B C D
- 15. A B C D
- 16. A B C D
- 17. A B C D

- 8. A B C D
- 9. A B C D
- 10. A B C D

Going Green

- 1. A B C D
- 2. A B C D
- 3. A B C D
- 4. A B C D
- 5. A B C D
- 6. A B C D
- 7. A B C D
- 8. A B C D
- 9. A B C D
- 10. A B C D
- 11. A B C D
- 12. A B C D
- 13. A B C D
- 14. A B C D
- 15. A B C D

Preparing the Home for Sale

- 1. A B C D
- 2. A B C D
- 3. A B C D
- 4. A B C D
- 5. A B C D
- 6. A B C D
- 7. A B C D

Potomac Real Estate School Certification Sheet for Correspondence Course

Please fax to (703) 758-0044, scan and email to info@PotomacRESchool.com, or mail to Potomac Real Estate School, Box 494, Oakton, Virginia 22124

Print Name _____ **Course: 16 Hour CE**

Billing Address _____
 _____ (VREB Approval # 58068)

RE License # _____ (10 digits)

Expires _____

Phone # _____

Email _____

Company Affiliation _____

Payment by Check

_____ I enclose a check payable to Potomac Real Estate School LLC in the amount of \$59.00

OR

_____ I have a \$5.00 coupon with code _____ and am enclosing \$54.00.

Payment by Credit Card

_____ Please charge \$59 to my ___ Visa ___ Master Card ___ American Express ___ Discover

OR

I have a \$5.00 coupon with code _____. Please charge \$54.00 to my ___ Visa ___ Master Card ___ American Express ___ Discover

Card # _____ Expiration Date _____

Security Code _____ Signature _____

Did you find the material well organized?	Yes	No
Was the material well written?	Yes	No
Was the course material relevant?	Yes	No

Suggestions _____

How did you find us? Please circle

Internet Postcard Referred by _____ Email

Personal Note/Letter Ad VREB NVAR Repeat

Other _____



Student Declaration: I hereby certify that I completed this continuing education course (16 Hour) on my own without assistance.

Signed _____

Date _____

Name (Print) _____

Notary Public Declaration: Taken, subscribed, and sworn

before me this ____ day of _____, 20__

In the City/County/Town of _____

In the State/Commonwealth of _____

My commission expires ____/____/_____

Notary Public _____

Notary Signature Required

But Seal NOT Required