



# 1 Hour Legal Updates & Emerging Trends

VREB Approval #: 58069

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## Instructions for the 1 Hour Legal Updates & Emerging Trends Correspondence Course

You have chosen to take the 1 hour Legal Updates & Emerging Trends course by correspondence. You may either read it online or print it. After you complete the course, take the quiz. A blank answer sheet is provided for you to record your answers. 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 sheet, 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](mailto: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](mailto:info@PotomacRESchool.com). If you have questions about the content of the course, you can call or email me at [patti@PotomacRESchool.com](mailto:patti@PotomacRESchool.com).

Thank you.

*Patti Chapell*

Patti Chapell  
Director

*Linking Learning To Success®*

# 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

Name\_\_\_\_\_Date\_\_\_\_\_

## LEGAL UPDATES AND EMERGING TRENDS FINAL QUIZ

Please circle the correct answer for each question.

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

# Potomac Real Estate School Certification Sheet for Correspondence Course

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

Print Name \_\_\_\_\_ **Course: 1 Hour**

Billing Address \_\_\_\_\_ **Legal Updates CE**  
 \_\_\_\_\_ (VREB Approval #58069)  
 \_\_\_\_\_

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 \$15.00

**OR**

**Payment by Credit Card**

\_\_\_\_\_ Please charge \$15.00 to my \_\_\_Visa\_\_\_Master Card\_\_\_American Express\_\_\_Discover

**OR**

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    L&F

Other



**Student Declaration: I hereby certify that I completed this continuing education course (1 Hour Legal Updates and Emerging Trends) 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**