

Larson

EDUCATIONAL SERVICES

Florida Real Estate, CAM and Mortgage School



14 Hour Florida Real Estate CE eBook

Correspondence
Course



Rick Larson

2022 Edition

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General Manager: Amanda Larson

Director of Publishing and Product Development: Rick Larson

Co-Owner: Brad Larson

Co-Owner: David Larson

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Published by Larson Educational Services

Royal Palm Square

1400 Colonial Boulevard, Suite #44

Fort Myers, FL 33907

(239) 344-7510

www.LarsonEd.com

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Printed in the United States of America.

10/28/2021

Real Estate Courses at Larson Educational Services

Welcome to Larson Educational Services. It is our goal to make your experience with us both educational and enjoyable. Please take a moment to review the following Frequently Asked Questions, course completion requirement, as well as the information about school policies.

What is my continuing education requirement?

you are required to complete 14 hours of Florida real estate continuing education during every two-year license period thereafter.

Three hours must be *Florida Core Law*, three hours must be *Business and Real Estate Ethics*, and eight hours can be from Specialty Credit courses.

Must I pass an exam in order to complete my continuing education requirement?

The passing of an exam is only required when completing continuing education either online or via correspondence.

How do I renew my license once I have completed the Continuing Education?

Larson Educational Services is required to notify the DBPR within 30 days of course completion. You will receive a Certificate of Completion at the conclusion of each course and we report completion to DBPR electronically on Monday, Wednesday and Friday of every week.

Prior to your initial license expiration date, you will need to visit www.myfloridalicense.com and follow the directions to renew your license.

How much does it cost to renew my license?

The cost to renew is \$64 for Sales Associates and \$72 for Brokers. To renew your license, visit the DBPR website-www.myfloridalicense.com.

Can I carry over continuing education credits between renewals?

No. After each renewal you must complete 14 hours of continuing education in the following 2-year license period. Any credits earned over 14 hours will be forfeited upon license renewal.

What happens if I do not complete the required continuing education prior to the expiration date?

Your license status will become involuntarily inactive. During the inactive period you may not perform real estate services. To activate the license, you will need to complete the 14 hours of continuing education and renew your license with the DBPR by paying the license renewal fee and a \$25 late fee within 12 months from the date of your license expiration date.

State Law Required Notice

"Recruiting for employment opportunities for any real estate brokerage firm must be accomplished outside the prescribed instructional time. Noncompliance should be reported to the Commission."

Important Telephone Numbers and Websites

Larson Educational Services

LarsonEd.com

Technical or Course Functionality Questions

P: 239-344-7510

E: info@LarsonEd.com

Course Content Questions

E: instructor@LarsonEd.com

Please allow up to 24 hours for a response. For the best results if you have multiple questions, please do your best to provide them in one email rather than multiple emails.

Department of Business & Professional Regulation

Myfloridalicense.com

Customer Contact Center.....850-487-1395

Quickly press: 4, 4, 2, 1

LarsonTrak

LarsonEd.com click LarsonTrak Student Login for to:

- Online course access
- Attendance records
- Course Completion Certificates
- Receipts of purchase

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Unit 1

FLORIDA CORE LAW

Key topics in this unit:

- Federal Fair Housing Act
- Constitutional Homestead Protection
- FIRPTA
- Water
- CAM Regulation
- Mortgage Regulation
- Business Rental Tax
- Building Permits
- Selected Rules 61J2
- EPA Lead Disclosure and Repair
- Digital Millennium Copyright Act
- Tax Planning

Unit 1: Core Law

This unit will discuss the recent changes in the laws as well as refresh your memory on some old standards that rarely change. In addition, this unit discusses how to maintain your license and generally operate within the law.

Federal Fair Housing Act

1. Prohibits discrimination based on race, religion (or creed), color, sex, national origin, handicap, or familial status in the sale or lease of residential property. Race is protected without exception. The following are exempt from compliance based upon the other protected classifications:
 - a. The owner of a single-family dwelling
 - b. The owner and occupant of a 2-, 3-, or 4-unit building
 - c. Non-profit groups
2. **Steering** is the channeling of prospective borrowers or renters, based on race or other protected class, to or away from specific neighborhoods.
3. **Blockbusting** also called panic selling, occurs when someone (such as a real estate agent) predicts the entry of minorities into the neighborhood and forecasts lower property values, higher crime rates, a decline in schools, or some other undesirable consequences.
4. **Redlining** is the refusal, for discriminatory reasons, to make loans on property located in a particular neighborhood.
 - a. Lenders may still refuse to make a loan in a neighborhood where values are declining.
 - b. However, the refusal must be based on objective economic criteria concerning the condition and value of the property and surrounding neighborhood, without regard to the racial composition of the neighborhood.
 - c. A lender may not simply equate a minority or integrated neighborhood with declining values.
5. The **Americans with Disabilities Act (ADA)** requires removal of barriers to accessibility in public accommodations.

Constitutional Homestead Protection

The Florida Constitution protects homestead property in three ways. It provides a partial exemption from real estate taxes, protects homesteads from forced sale by judgment creditors, and limits the manner in which homestead owners may alienate (transfer property to another person) or devise (leave to someone by the terms of a will) the property.

The Florida Constitution provides three categories of homestead protection:

- Disposition after **death**
- Protection from **creditors**
- Property **tax exemption**

Disposition After Death

1. Florida Statute and the Florida Constitution protect a spouse from being disinherited.
2. A married individual may have sole ownership of the homestead, but CANNOT sell, transfer or devise it without the spouse's consent. There must be a roof over the spouse's head.
3. If the decedent is survived by a spouse and one or more descendants, the surviving spouse is automatically entitled to a life estate (the right to use, occupy, and possess) with the remainder interest going to the lineal descendants then alive at the time of the first spouse's death.
4. The surviving spouse has a choice to keep the life estate OR to become a 50% owner of the homestead property as tenants in common with the decedent's children owning the other 50%.
5. Any plan for a sole owner to ultimately leave homestead property to someone other than the surviving spouse must do so with consent of both spouses

6. A homestead waiver may be agreed upon through a pre or post marital agreement or through use of this form language:

By executing or joining this deed, I intend to waive homestead rights that would otherwise prevent my spouse from devising the homestead property described in this deed to someone other than me.

7. This is not a waiver of the protection against the owner's creditor claims during the owner's lifetime and after death. Additionally, the language is not a waiver of the restrictions against alienation by mortgage, sale, gift, or deed without the joinder of the owner's spouse.

Protection from Creditors

- a. The Florida Constitution, in Article X, section 4, provides protection from forced sale of the homestead by judgment creditors before and at death.
- b. In addition, the homestead property acquired by a surviving spouse or descendants is not subject to creditors' claims against the estate.
- c. The value of a homestead that can be protected is unlimited, so long as the property occupies no more than ½ acre within a municipality or 160 acres outside of a municipality."
- d. Everyone has the right under the Florida Constitution to own a property in Florida and occupy it as his principal residence without the judgment creditor being able to attach the property or force its sale for recovery of the claim.
- e. In addition, should the sole owner of a homestead wed, the spouse is afforded the same protection, even if there is a waiver of the right to inherit the house.
- f. While the homestead exemption offers protection from forced sale to meet the demands of judgment creditors, **the homestead could be lost for failure to pay property taxes, a mortgage, a contractor's lien or mandatory association fees.**

Property Tax Exemptions

There are nine categories that qualify for additional exemptions over and above the \$25,000 homestead exemption and the additional \$25,000 exemption for non-school (city and county) taxes:

1. **SURVIVING SPOUSE OF A First Responder WHO DIED OR BECOMES PERMANENTLY DISABLED IN THE LINE OF DUTY EXEMPTION** – Any real estate that is owned and used as a homestead by the surviving spouse of a first responder who died in the line of duty is exempt from taxation. The exemption also applies to a first responder who becomes permanently disabled in the line of duty. The exemption amendment defines a first responder as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.
2. **ADDITIONAL VETERAN EXEMPTIONS** – Disabled veterans who meet the following three requirements are eligible for a property tax discount equal to the degree of their disability:
 - a. current Florida resident
 - b. 65 or older
 - c. disabled in combat
3. **SENIOR EXEMPTION:** All residents 65 years of age or older as of Jan 1, whose annual adjusted gross household income does not exceed mandated income limitation may qualify. Income limits are adjusted annually.
4. **LOW INCOME SENIORS.** The Legislature allows counties and municipalities to grant an additional homestead tax exemption equal to the assessed value of homestead property if:
 - a. the property has a just value less than \$250,000; AND
 - b. the owner has maintained permanent residency on the property for not less than 25 years; AND
 - c. the owner is at least 65 years old; AND
 - d. the owner has a low household income as defined by general law.

A recent constitutional amendment allows qualifying owners to keep their additional homestead exemption even though the value exceeds \$250,000 due to improving market conditions.

5. \$500 WIDOW/WIDOWER'S EXEMPTION
6. \$500 DISABILITY EXEMPTION – Veteran / Non Veteran – Florida residents who provide proof of total and permanent disability or proof of legal blindness may qualify.
7. VETERAN \$5,000 DISABILITY EXEMPTION – An honorably discharged ex-service member designated as 10 % through 99% disabled due to wartime or by service connected misfortune may qualify. The surviving spouse of the veteran may also qualify to receive this exemption.
8. VETERAN – TOTAL AND PERMANENT DISABILITY EXEMPTION – An honorably discharged veteran with total and permanent service-connected disability may qualify for total exemption of ad-valorem taxes.
9. TOTAL EXEMPTION OF HOMESTEAD PROPERTY FROM AD VALOREM TAXATION - Section 196.101, F.S. provides that real estate owned by quadriplegic is exempt from taxation – there is no income limitation for quadriplegics.

Homestead And Save Our Homes

Property is reassessed annually on January 1, and any change in assessed (SOH) value of the homestead is limited to the lesser of:

- 3% of the assessed value of the property for the prior year; or
- The percentage change in the Consumer Price Index (CPI)

Over time this will create a differential between the just value and the SOH value. This differential has “portability” – it can be transferred to a new homestead upon sale and purchase. As just values increase rapidly, that differential can grow substantially.

	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Market Value	\$240,000	\$254,400	\$284,928	\$296,325	\$315,475
Assessed Value (3% cap)	\$240,000	\$247,200	\$254,616	\$262,254	\$270,122
Differential	\$0	\$7,200	\$30,312	\$34,071	\$45,353

1. Transfer of homestead assessment difference:
 - a. The differential is transferrable to the next homestead in Florida
 - b. Must establish the new homestead within 3 years of abandoning the previous homestead
 - c. Maximum is \$500,000 married; \$250,000 single
 - d. Transfer of Homestead Assessment Difference Form DR-501T
 - e. File Form DR-501T by March 1st in the county where the new home is located and includes:
 - i. The date the previous homestead was sold
 - ii. The address and parcel identification number of the previous homestead
 - iii. A statement that none of the previous owners remained in the homestead and continued to receive a homestead exemption
 - iv. A sworn statement attesting to entitlement to the assessment difference transfer



TRANSFER OF HOMESTEAD ASSESSMENT DIFFERENCE

Attachment to Original Application for Homestead Tax Exemption

Section 193.155, Florida Statutes

DR-501T
R. 12/08
Rule 12D-16.002
Florida Administrative Code
Effective 11/12

If you have applied for a new homestead exemption and are entitled to transfer a homestead assessment difference from a previous homestead, file this form with your property appraiser by **March 1**.

Co-applicants transferring from a different homestead must fill out a separate form.

COMPLETED BY APPLICANT			
PART 1. New Homestead			
Applicant name		Phone 1	Phone 2
New address		Parcel ID	
		County	
		Total number of applicants	
PART 2. Previous Homestead			
Previous address		Parcel ID	
		County	
		Date sold or no longer used as your homestead	
Co-applicants who owned and lived at the previous homestead	Owners of the previous homestead not moving to new homestead		
1. _____	1. _____		
2. _____	2. _____		
3. _____	Did any of the owners stay in the previous homestead? <input type="checkbox"/> yes <input type="checkbox"/> no		
PART 3. Signature of Applicant and All Co-applicants			
I affirm that I qualify for the homestead exemption assessment transfer from the previous homestead above.			
Under penalties of perjury, I declare that I have read this application and the facts in it are true.			
Signature, applicant	Date	Signature, co-applicant 1	Date
Signature, co-applicant 2	Date	Signature, co-applicant 3	Date

Add pages, if needed.

COMPLETED BY PROPERTY APPRAISER OF NEW HOMESTEAD		
Signature, property appraiser or deputy	County	Date
If the previous homestead was in a different county, add your contact information. Send this form with a copy of the Original Application for Homestead Tax Exemption (Form DR-501) to the property appraiser's office in the county of the previous homestead.		
Contact Address	Email	
	Phone 1	
	Phone 2	
	Fax	

INSTRUCTIONS TO PROPERTY APPRAISER OF PREVIOUS HOMESTEAD
Based on your county's records, complete and return the Certificate of Transfer of Homestead Assessment Difference (Form DR-501RVSH) to the contact at the property appraiser's office above by April 1 or within 2 weeks after you receive this Transfer of Homestead Assessment Difference (Form DR-501T), whichever is later.

2. Moving up formula:

EXAMPLE: In YEAR 5 we sell for \$xxxxxxx (more than the just value) and buy for \$400,000. Our SOH (assessed) value will be \$400,000 minus \$45,353 equals \$354,647 and cannot increase more than 3% per year

3. Moving down formula is based on a percentage:

EXAMPLE: In YEAR 5 we sell for \$xxxxxxx (less than the just value) and buy for \$250,000. Our SOH (assessed) value will be based on the percentage difference between the old home's assessed value (\$270,122) divided by its just value (\$315,475) equals 86%. The new home will be assessed at 86% of its just value (\$250,000) equals \$215,000 the first year and cannot increase more than 3% per year

4. Portability when combining households:

If two people who each have their own homestead decide to acquire a new homestead together, the Property Appraiser will use whichever prior homestead would result in the highest cap differential, and thus the highest tax savings

5. Portability when abandoning joint property:

When joint owners abandon homestead property and acquire new, separate homestead properties, the cap differential that they are allowed to port is calculated as described above. However, the cap differential is then divided by either the number of owners of the prior homestead or, in the case of property owned as tenants in common, by each owner's proportionate interest in the prior homestead

6. Loss of the cap:

The cap is lost, and the property must be reassessed at just value as of January 1st of the year following a change of ownership: "any sale, foreclosure, or transfer of legal title or beneficial title in equity to any person, except as provided in this subsection"

- a. Sale
- b. Death of homestead recipient (except when left to a spouse or minor children)
- c. Removal of a co-owner from title
- d. Addition of a co-owner to title if the new co-owner applies for their own homestead exemption on the property

7. Non-homestead cap on assessed value:

The limit on change in assessed for non-homestead property is ten percent of the assessed value of the property for the prior year

8. Purchase of property with a capped assessed value:

The cap remains for the current tax year, but the assessed value next year will equal the market value – generally the purchase price of the real estate

FIRPTA Tax Withholding

1. The Foreign Investment in Real Property Act of 1980 (FIRPTA) authorized the United States to tax **foreign persons** – defined as any person / entity that is not a U.S. person/entity - on dispositions of U.S. real property interests.
2. The disposition (sale or transfer) of a U.S. real property interest by a foreign person (the transferor) is subject to FIRPTA income tax withholding.
3. Persons purchasing U.S. real property interests (transferees) from foreign persons, purchasers' agents, and settlement officers are required to withhold 15% of the amount realized on the disposition.

EXCEPTION:

If the property is for use by the transferee as a **residence** AND:

- i. the amount realized does not exceed \$300,000 –
NO withholding is required
- ii. the amount realized is \$300,001 to \$1,000,000 –
10% must be withheld
- iii. the amount realized is \$1,000,001 or more –
the full **15%** must be withheld

4. If the transferor is a foreign person and there is failure to withhold, the transferee may be held liable for the tax.
5. Forms 8288 and 8288A must be used to report and pay over any tax withheld

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(i) **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. **See STANDARD V for further information pertaining to FIRPTA.** Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.

STANDARD V. FIRPTA TAX WITHHOLDING: If a seller of U.S. real property is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code ("Code") requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding.

(i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the

IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional Collected funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

WATER

In this section we will cover:

- Sovereign submerged lands
- Beaches
- Florida water management plan
- Florida Resilient Coastlines Program
- Florida Clean Waterways Act
- National Flood Insurance Program (NFIP)

Sovereign Submerged Lands (SSL)

The state generally owns the property under navigable waters up to the mean high-water line.

1. **Mean highwater line** means the average height of the high tides over a 19-year period.
2. Mean highwater line along the shore of land immediately bordering on navigable waters is recognized and declared to be the boundary between the foreshore owned by the State of Florida in its sovereign capacity and the uplands subject to private ownership.
3. That property is defined as **Sovereignty Submerged Lands**
It includes all tidally influenced waters and navigable fresh bodies of water to the mean or ordinary highwater line in existence when Florida became a state in 1845.
4. These lands are held in trust by the state for all the people. If an individual, group or business wants exclusive use of any portion of SSL, depending on the scope and complexity of the project, approval may be required from:
 - a. the municipality,
 - b. the county,
 - c. the Florida Department of Environmental Protection,
 - d. the U.S. Army Corps of Engineers,
 - e. the Board of Trustees of the Internal Improvement Trust Fund,
 - f. the Florida Fish and Wildlife Conservation Commission,
 - g. the Department of State's Division of Historical Resources, and
 - h. other agencies as applicable for review
5. Permits are not necessarily transferrable and existing structures may be in violation of a law or ordinance. For example, some permits have expiration periods that require renewal. Also, construction of a dock or boatlift requires, at a minimum, a building permit for construction.

Possession of Beaches

Local governments are now prohibited from adopting ordinances that allow public entry to privately owned beaches.

1. The general right of the public at large to possess and use certain privately owned dry sand areas for recreational purposes is an example of **customary use**.
2. Where a customary use of a dry sand area has been established, the property owner may not use traditional causes of action like ejectment, forcible entry, or trespass to stop such public use of the private land.
3. Florida law prohibits a local government from enacting so-called “customary use” ordinances to allow the public to use private land unless they:
 - a. Adopt, at a public hearing, a formal notice of intent,
 - b. Provide notice to affected parcel owners, and
 - c. File a complaint with the circuit court to determine whether the land is subject to the customary use doctrine.
4. As an alternative, some counties have passed waterways and beach ordinances that say nothing about customary use, but include restrictions on signage such as:
 - temporary
 - limited time to display
 - sign placement
 - limited size
 - limited color
 - professionally printed
 - limited materials

Florida Water Management Plan

It is a policy of the Legislature that the state's water resources be managed at a state and regional level.

The **Department of Environmental Protection** is responsible for the administration of the water resources at the state level. It exercises general supervisory authority over the state's five water management districts, which are responsible for the administration of the water resources at the regional level.

The state's five water management districts are:

- Northwest Florida Water Management District
- Suwannee River Water Management District
- St. Johns River Water Management District
- Southwest Florida Water Management District
- South Florida Water Management District.

The four core mission areas of the water management districts are:

- water supply,
- water quality,
- flood protection and floodplain management, and
- natural systems.

1. Water Supply

The districts develop a regional water supply plan to sustain the water resources and related natural systems.

2. Water Quality

The districts construct or help fund the construction of water quality projects and administer regulatory programs to protect the state's water quality.

3. Flood Protection and Floodplain Management

The districts construct, operate and maintain flood protection structures throughout their region.

4. Natural Systems

The districts manage the flows and levels of lakes and waterways.

Florida Resilient Coastlines Program

1. The DEP has been tasked with preparing Florida's coastal communities and habitats for the effects of climate change, especially rising sea levels.
2. The **Florida Resilient Coastlines Program** is designed to help Florida's coastal communities deal with flooding, erosion and habitat shifts through technical assistance and funding.

Alternative Water Supply Development

1. The DEP estimates that by 2040 the population in Florida will increase by 23 percent, from 21.5 million to 26.4 million.
2. Floridians will require 15 percent more water – 7.4 billion gallons per day.
3. Many Florida communities have relied on fresh groundwater to meet their demand, but some areas are facing limitations on the supply of fresh and inexpensive groundwater.
4. **Alternative water supplies (AWS)** such as reclaimed water, brackish ground and surface water, seawater, and new storage facilities for surface and groundwater are being studied.
5. The water management districts are being funded to execute regional projects to implement conservation, reuse and other water supply and water resource development projects.

Clean Waterways Act

The controversial Clean Waterways Act directed the DEP to address septic tanks in Basin Management Action Plans, the watershed specific plan to reduce pollution. It also:

1. Increased fines for violations of environmental rules
2. Set up a 50% matching grant program to encourage local governments to connect septic tanks to sewer systems, upgrade septic systems where sewers aren't available and enact other wastewater improvements
3. Created new regulations for agricultural use of fertilizers
4. Requires farmers to provide fertilizer records and submit to on-site inspections to ensure best management practices are followed
5. Authorizes the state Department of Agriculture and Consumer Services to work with academic institutions to improve best management practices and reduce nutrients on farms
6. Requires municipalities to inspect sewer lines for leaks

Flood Insurance

1. **Flood** is defined as an overflowing of a large amount of water beyond its normal confines, especially over what is normally dry land.
2. Flood insurance covers the building, electrical and plumbing systems, appliances and fixtures.
3. Private insurers provide less than 10 percent of flood insurance policies in Florida.
4. The vast majority are insured through the Federal Emergency Management Agency (FEMA) as part of the National Flood Insurance Program (NFIP).

National Flood Insurance Program (NFIP)

The National Flood Insurance Program (NFIP) is managed by the Federal Emergency Management Agency and is delivered to the public by a network of insurance companies and the NFIP Direct. It was created in 1968 and has been amended many times since its inception.

1. The purpose of the NFIP is to provide insurance to fill the gap of homeowners' coverage
2. The NFIP encourages community adoption of minimum standards for new construction and new development – not existing
 - a. Identify "flood-prone areas"
 - b. Homes and buildings in high-risk flood areas with mortgages from federally regulated lenders are required to have flood insurance.
3. Flood maps show how likely it is for an area to flood.
4. Any place with a **1% chance** or higher chance of experiencing a flood each year is considered to have a high risk.
5. Those areas have at least a one-in-four chance of flooding during a 30-year mortgage.
6. Homes and businesses located in moderate-to-low risk areas are typically not required to have flood insurance, but it is up to the lender.
7. People outside of high-risk areas file nearly 25% of NFIP claims.

Required Notice in all Florida Homeowner's Insurance Policies and Renewals

This notice is now required in all homeowner's property insurance policies

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

Mortgage Regulation

1. Mortgage loan means any residential loan primarily for personal, family, or household use which is secured by a mortgage.
2. Mortgage loan originators, mortgage brokers, and mortgage lenders must be licensed to take part in making a mortgage loan.
3. Chapter 494 F.S. defines **mortgage loan originator** as an individual who:
 - a. **Solicits** a mortgage loan, or
 - b. **Accepts an application** for a mortgage loan
4. Requirements to become a licensed mortgage loan originator include:
 - a. Complete an NMLS approved 20-hour prelicensing class (LarsonEd class is approved for real estate continuing education☺)
 - b. Examination – 125 question National Exam
 - c. Application, fees and fingerprints
 - d. Credit report – Must authorize the Registry to obtain an independent credit report
 - e. Employment – Must work for a mortgage broker or a mortgage lender

Business Rent Tax (BRT)

1. **Florida's Business Rent Tax (BRT)** at the rate of 5.5% is due on the total rent charged for renting, leasing, or granting a license to use commercial real property in Florida, including commercial office or retail space, warehouses, convention and meeting rooms, and self-storage units or mini warehouses.

2. There is no limitation on the amount of surtax that may be charged by the county in which the property is located. For example, Lee County adds .50%, Collier County adds 1.00% and Hillsborough County adds 1.5%.
3. The Florida legislature has a plan in place to reduce the Florida rate to 2% when the Unemployment Compensation Trust Fund reaches \$4.07 billion.

Building Permits

Florida counties require permits to ensure that updates to a home were done safely, with proper permitting and inspections. A property owner who has opened a permit or used a contractor who opened a permit prior to performing work sometimes do not perform the work or do not close the permit at the conclusion of the project.

As a result, buyers, sellers and licensees face complications from open and expired permits. Examples include:

- Problems with unpermitted work
 - The existence of expired permits
 - Permits often expire because the required inspections have not been completed even though the work is completed
 - These expired permits can prevent the homeowner from selling their property, obtaining new permits to do additional construction, or subject the owner to possible fines
1. **Open permit** means that a permit is currently active and is still within the 180 days of issuance or within 180 days of the last inspection. An inspection can be called for an open permit.
 2. **Expired permit** means that a permit has become null and void because the work has not commenced within 180 days from the date of issuance, or the work is suspended or abandoned for a period of 90 days.
 3. If the work described in the permit or permit application was not started, or if the work described in the permit or permit application was completed with a different permit, the property owner may usually complete a form to void a permit and order an inspection.

Florida Prohibitions and Recommendations

The Florida legislature has taken on these problems by prohibiting certain actions and recommending steps to be taken by local permitting entities to resolve some of the problems.

1. Local governments MAY:
 - a. Notify the owner of the property listed on a building permit, and the contractor who was issued the permit, that a building permit is about to expire
 - b. If the local government decides to send the notice, it must send the notice no less than 30 days before the permit expires
 - c. Close a building permit 6 years after the issuance of the permit, and even in the absence of a final inspection, if the local enforcement agency determines that there are no apparent safety hazards
2. Local governments MAY NOT:
 - a. Penalize an arms-length purchaser solely because a previous owner failed to close a building permit for the property
 - b. Deny a contractor a permit solely because the contractor has expired building permits
3. Local governments MUST:
 - a. Close a permit in accordance with the building code in effect when the building department received the permit application regardless of whether the permit has expired

Florida Statutes Chapter 475

1. Performing real estate services for another and for compensation (or the expectation of compensation) without a license is a **felony of the third degree.**
2. A Sales Associate or a Broker Associate may operate as a:
 - a. **Professional corporation; or**
 - b. **Limited liability company.**

License Renewal Requirements

1. Sixty days before the end of the license period, the DBPR sends a renewal notice to your last known address.
2. You must timely complete the renewal form and pay the renewal fee to the DBPR.
3. Failure to renew the initial license by the expiration date will result in the license becoming **null and void.**
4. After the initial license renewal, licensees are required to complete **14 hours of approved continuing education** during each license period.
5. Continuing education is required for both active and inactive brokers and sales associates.
6. The 14 hours must include 3 hours of **Core Law**, 3 hours **Business Ethics** and 8 hours of specialty credit.

**The LarsonLIVE 14 Hour CE package at LarsonEd includes all required 14 hours*

Notice of Change

1. Each licensee is required to update the DBPR of changes that occur after initial licensure. **DBPR RE-10 Request for Address or Name Change** may be used **to notify the DBPR within 10 days** of any of the following:
 - a. Name Change (individual)
 - b. Name Change (business)
 - c. Change Mailing Address
 - d. Change Contact Information (phone and/or email)
 - e. Change Physical Address
2. When a sales associate changes employers the license automatically becomes invalid.
3. The licensee must request a reissue of the license within 10 days by completing DBPR RE-11 – Request for Change of Status.

Inactive License

1. Licensees can be voluntarily inactive indefinitely, as long as they are current with continuing education requirements and timely file for renewal. The status may be updated to active at any time by filing DBPR RE-11 – Request for Change of Status.
2. Failure to renew a license changes the license status to involuntarily inactive.
 - a. The license can remain in involuntary inactive status for two years, after which the license automatically becomes null and void.
 - b. To reactivate the license, the licensee must complete continuing education and apply for change of status.
 - c. If the license has been involuntarily inactive for 12 months or less, the licensee must complete 14 hours of continuing education (for the previous licensing period).
 - d. If the license has been involuntarily inactive for more than 12 months the education requirement is completion of a 28 hour reactivation course.

Lead-Based Paint Disclosure

Studies suggest that lead exposure from deteriorated residential lead-based paint, contaminated soil, and lead in dust are among the major existing sources of lead exposure among children in the United States. Under its authority, EPA and HUD established the following requirements:

1. Licensees must ensure that sellers and lessors of most residential housing built before 1978:
 - a. Disclose the **known presence** of lead-based paint
 - b. Provide **EPA pamphlet**
 - c. Provide a **10-day** opportunity for inspection
2. The following properties are among those exempt from the disclosure requirements:
 - a. Foreclosure sales
 - b. Housing for the elderly
 - c. Houses declared lead-free by a certified risk assessor or inspector

EPA Renovation, Repair and Painting Program

EPA's Lead Renovation, Repair and Painting Rule (RRP) Rule requires that firms performing renovation, repair and painting projects that disturb lead-based paint in homes, childcare facilities and pre-schools built before 1978 be certified by EPA (or an EPA-authorized state), use certified renovators who are trained by EPA-approved training providers and follow lead-safe work practices.

Common renovation, repair and painting activities that disturb lead-based paint (like sanding, cutting, replacing windows, and more) can create hazardous lead dust and chips which can be harmful to adults and children. The primary purpose of the rule is to reduce exposure to dust containing lead paint created during the course of these activities.

Home repairs that create even a small amount of lead dust are enough to poison a child and put a family at risk.

1. Applies to **contractor** renovation, repair, or painting activities in single- and multi-family housing built before 1978.
2. It generally **does not apply to minor maintenance** or repair activities where less than six square feet of lead-based paint is disturbed in a room or where less than 20 square feet of lead-based paint is disturbed on the exterior. The exception does not apply to window replacement, demolition, or prohibited practices.
3. Contracted work must be completed by a Certified Lead Contractor or Renovator.
4. Impact on Florida licensees:
 - a. The results of any testing that is associated with any Renovation, Repair, and Painting (RRP) activities must be disclosed.
 - b. The licensee should be certain to only recommend certified contractors to transaction participants.
 - c. Property managers must be trained and certified in order to perform RRP work themselves for managed properties. If outside contractors are hired, the property manager must be certain that the contractors are trained and certified.

The Digital Millennium Copyright Act (DMCA)

"I found it on the internet" doesn't mean "I have permission to use it." There is a widespread problem of real estate licensees publishing photographs they do not own without permission. The owner of the image may enforce their rights by demanding that violators pay for illegally using their photos in marketing.

1. Photographs are a **copyright** of the photographer or the company that hired the photographer if it was a work for hire. This means they hold exclusive rights to:
 - a. Reproduce the photograph
 - b. Display the image in a public space
 - c. Distribute the photo
2. If anyone uses images in their marketing—on social media or otherwise—without approval, they are violating the creator's rights and may be subject to penalties for copyright violations.
3. The owner of the website is liable for the violation, even if the website developer selected the site's images.
4. Copyright holders may serve notice and force takedown of user-uploaded material that infringes their copyrights.
5. There is a "safe harbor" provision for users of images from an IDX feed on a website if the service provider and/or website provider:
 - a. Does not have actual knowledge of the infringing content
 - b. Is not aware of facts or circumstances from which infringement is apparent
 - c. Does not receive a financial benefit directly attributable to the infringing activity
 - d. Acts expeditiously to remove the infringing content when notified

- e. Has provided a means for receiving notice of the infringing content, registered a person with the U.S. Copyright Office as the designated agent for notices about infringement, and put the agent's name, address, phone number and email address on the website.
6. Ideas for protecting yourself
- a. Audit your website to identify all the images being displayed and their source.
 - b. Pay the licensing fees to use copyrighted images.
 - c. Do not ignore a demand letter. Things could get worse.
 - d. Take your own pictures or hire someone to take pictures for you. If you hire someone, have clear agreement on ownership and use of the photos.
 - e. If you work with a web developer, consider inserting language into your service agreement that indemnifies you in the event the developer provides an image that infringes on someone's copyright.
 - f. Remember that items such as music and videos are also copyrighted.

Tax Planning

Independent Contractor Requirements

1. The single most important, yet often the most difficult, element of tax planning is **to set aside money to pay taxes.**
2. As a self-employed individual you are required to file an annual return and pay estimated self-employment tax and income tax quarterly.
3. **Self-Employment Tax (SET)** is a Social Security and Medicare tax for self-employed individuals
4. Before you can determine if you are subject to self-employment tax and income tax, you must figure your net profit or net loss from your business.
 - a. Keep careful track of your business expenses
 - b. Income tax is paid on your net profit
5. Since you do not have an employer withholding taxes, you are required to make quarterly deposits
 - a. **Form 1040-ES, Estimated Tax for Individuals** is used to figure these taxes.
 - b. Form 1040-ES contains a worksheet that is similar to Form 1040.
 - c. You will need your prior year's annual tax return in order to fill out Form 1040-ES.
 - d. Use the worksheet found in Form 1040-ES, Estimated Tax for Individuals to find out if you are required to file quarterly estimated tax.
 - e. Form 1040-ES also contains blank vouchers you can use when you mail your estimated tax payments or you may make your payments using the **Electronic Federal Tax Payment System (EFTPS)**.
 - f. If this is your first year being self-employed, you will need to estimate the amount of income you expect to earn for the year.

Unit 1 Review Exam

- 1. Lender Lenny refuses to make a loan on a property based on the racial composition of the neighborhood. This is a violation of the Fair Housing Act known as:**
 - A) steering
 - B) redlining
 - C) racial profiling
 - D) neighborhood profiling
- 2. After the initial license renewal, all sales associates and brokers must complete which topics as part of the 14-hour continuing education requirement?**
 - A) Business Ethics and Appraisals
 - B) Core Law and Business Ethics
 - C) Marketing and Business Planning
 - D) Core Law and Financing
- 3. Sales Associate Sanders suggests to neighbors that they should sell their homes because people of an ethnic background have moved into the neighborhood. This prohibited act is known as:**
 - A) bulk selling
 - B) steering
 - C) redlining
 - D) blockbusting
- 4. Removing barriers to accessibility in public accommodations is a requirement of:**
 - A) EDO
 - B) BPO
 - C) ADA
 - D) EPA
- 5. The Florida Constitution provides three categories of homestead protection. Which of the following is NOT a benefit of owning a homestead?**
 - A) Property tax exemption
 - B) Protection from creditors
 - C) Disposition after death
 - D) The homestead could be lost for failure to pay property taxes, a mortgage, a contractor's lien or mandatory association fees
- 6. Anyone who solicits a mortgage loan or accepts an application for a mortgage loan is defined as a:**
 - A) commercial banker
 - B) mortgage loan originator
 - C) real estate broker
 - D) solicitor
- 7. The general right of the public at large to possess and use certain privately owned dry sand areas for recreational purposes is an example of:**
 - A) adverse possession
 - B) customary use
 - C) easement by necessity
 - D) privilege

Unit 1 Review Exam Key

1. B) Redlining is the refusal, for discriminatory reasons, to make loans on property located in a particular neighborhood.
2. B) 3 hours of Core Law and 3 hours of Business Ethics are required topics as part of the 14-hour continuing education requirement.
3. D) Blockbusting, also called panic selling, occurs when someone predicts the entry of minorities into the neighborhood and forecasts undesirable consequences.
4. C) ADA requires removing barriers to accessibility in public accommodations.
5. D) Florida homesteads are not protected from mortgage liens, construction liens or property taxes.
6. B) Anyone who solicits a mortgage loan or accepts an application for a mortgage loan is defined as a mortgage loan originator.
7. B) Customary use is the general right of the public to possess and use certain privately owned dry sand areas for recreational purposes.

Unit 2

FINANCE AND TAXATION

Key topics in this unit:

- “Know Before You Owe” Forms
- Property taxation
- Income taxation
- Introduction to real estate as an investment

UNIT 2 Finances and Taxation

“Know Before You Owe” Forms: Summary of the TILA-RESPA Final Rule

The Dodd-Frank Act directed the Bureau to issue rules and forms that combine certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The Bureau amended RESPA and TILA to establish new disclosure requirements and forms for most closed-end consumer credit transactions secured by real property.

The rule, known as the **TILA-RESPA rule**, became effective October 3, 2015.

Scope of the TILA-RESPA Rule

The TILA-RESPA rule consolidates four existing disclosures required under TILA and RESPA for closed-end credit transactions secured by real property into two forms: a **Loan Estimate** that must be delivered or placed in the mail no later than the third **business day after receiving the consumer's application**, and a **Closing Disclosure** that must be provided to the consumer at least three **business days prior to consummation**.

TILA-RESPA Integrated Disclosure (TRID) Forms

Mortgage lenders and brokers must provide borrowers with a standard **Loan Estimate** to clearly answer the key questions they have about settlement costs when applying for a mortgage loan including:

- a. What's the term of the loan?
- b. Is the interest rate fixed or can it change?
- c. Is there a pre-payment penalty should the borrower choose to refinance at a later date?
- d. Is there a balloon payment?
- e. What are total closing costs?

1. Transactions covered by the rule

The TILA-RESPA rule applies to most **closed-end consumer credit transactions secured by real property**. It **does not apply to** HELOCs, reverse mortgages or mortgages secured by a mobile home.

2. **Restrictions** prior to consumer's receipt of the Loan Estimate:

- **Imposing fees** on a consumer before the consumer has received the **Loan Estimate** and indicated an **intent to proceed** with the transaction; NOTE: A consumer may indicate an **intent to proceed** in any manner the consumer chooses, unless a particular manner of communication is required by the creditor.
- Providing written estimates of terms or costs specific to consumers before they receive the **Loan Estimate** without a written statement informing the consumer that the terms and costs may change; and
- Requiring the submission of documents verifying information related to the consumer's application before providing the **Loan Estimate**.

3. Disclosure obligations for transactions not covered by the TILA- RESPA rule

The new Integrated Disclosures are not being used to disclose information about reverse mortgages, HELOCs, chattel-dwelling loans, or other transactions not covered by the TILA- RESPA rule. Creditors originating these types of mortgages must continue to use, as applicable, the GFE, HUD-1, and Truth-in-Lending disclosures required under current law.

Delivery of the Loan Estimate Disclosure

Generally, the creditor is responsible for ensuring that it delivers or places in the mail the **Loan Estimate** form no later than the third **business day** after receiving the consumer's **application**.

The Loan Estimate must also be delivered or placed in the mail no later than the seventh business day before consummation of the transaction.

The creditor also is responsible for ensuring that the **Loan Estimate** and its delivery meet the content, delivery, and timing requirements

FICUS BANK

4321 Random Boulevard • Somecity, ST 12340

Save this Loan Estimate to compare with your Closing Disclosure.

Loan Estimate

DATE ISSUED 2/15/2013
APPLICANTS Michael Jones and Mary Stone
 123 Anywhere Street
 Anytown, ST 12345
PROPERTY 456 Somewhere Avenue
 Anytown, ST 12345
SALE PRICE \$180,000

LOAN TERM 30 years
PURPOSE Purchase
PRODUCT Fixed Rate
LOAN TYPE ☒ Conventional ☐ FHA ☐ VA ☐ _____
LOAN ID # 123456789
RATE LOCK ☐ NO ☒ YES, until 4/16/2013 at 5:00 p.m. EDT
Before closing, your interest rate, points, and lender credits can change unless you lock the interest rate. All other estimated closing costs expire on 3/4/2013 at 5:00 p.m. EDT

Loan Terms		Can this amount increase after closing?
Loan Amount	\$162,000	NO
Interest Rate	3.875%	NO
Monthly Principal & Interest <i>See Projected Payments below for your Estimated Total Monthly Payment</i>	\$761.78	NO
Does the loan have these features?		
Prepayment Penalty	YES	• As high as \$3,240 if you pay off the loan during the first 2 years
Balloon Payment	NO	

Projected Payments		
Payment Calculation	Years 1-7	Years 8-30
Principal & Interest	\$761.78	\$761.78
Mortgage Insurance	+ 82	+ —
Estimated Escrow <i>Amount can increase over time</i>	+ 206	+ 206
Estimated Total Monthly Payment	\$1,050	\$968
Estimated Taxes, Insurance & Assessments <i>Amount can increase over time</i>	\$206 a month	This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input type="checkbox"/> Other: <i>See Section G on page 2 for escrowed property costs. You must pay for other property costs separately.</i>
		In escrow? YES YES

Costs at Closing	
Estimated Closing Costs	\$8,054 Includes \$5,672 in Loan Costs + \$2,382 in Other Costs – \$0 in Lender Credits. See page 2 for details.
Estimated Cash to Close	\$16,054 Includes Closing Costs. See Calculating Cash to Close on page 2 for details.

Visit www.consumerfinance.gov/mortgage-estimate for general information and tools.

Closing Cost Details

Loan Costs		Other Costs	
A. Origination Charges		E. Taxes and Other Government Fees	\$85
.25 % of Loan Amount (Points)	\$405	Recording Fees and Other Taxes	\$85
Application Fee	\$300	Transfer Taxes	
Underwriting Fee	\$1,097		
		F. Prepays	\$867
		Homeowner's Insurance Premium (6 months)	\$605
		Mortgage Insurance Premium (months)	
		Prepaid Interest (\$17.44 per day for 15 days @ 3.875%)	\$262
		Property Taxes (months)	
		G. Initial Escrow Payment at Closing	\$413
		Homeowner's Insurance \$100.83 per month for 2 mo.	\$202
		Mortgage Insurance per month for mo.	
		Property Taxes \$105.30 per month for 2 mo.	\$211
		H. Other	\$1,017
		Title – Owner's Title Policy (optional)	\$1,017
		I. TOTAL OTHER COSTS (E + F + G + H)	\$2,382
		J. TOTAL CLOSING COSTS	\$8,054
		D + I	\$8,054
		Lender Credits	
		Calculating Cash to Close	
		Total Closing Costs (J)	\$8,054
		Closing Costs Financed (Paid from your Loan Amount)	\$0
		Down Payment/Funds from Borrower	\$18,000
		Deposit	– \$10,000
		Funds for Borrower	\$0
		Seller Credits	\$0
		Adjustments and Other Credits	\$0
		Estimated Cash to Close	\$16,054
B. Services You Cannot Shop For			
Appraisal Fee	\$405		
Credit Report Fee	\$30		
Flood Determination Fee	\$20		
Flood Monitoring Fee	\$32		
Tax Monitoring Fee	\$75		
Tax Status Research Fee	\$110		
C. Services You Can Shop For			
Pest Inspection Fee	\$135		
Survey Fee	\$65		
Title – Insurance Binder	\$700		
Title – Lender's Title Policy	\$535		
Title – Settlement Agent Fee	\$502		
Title – Title Search	\$1,261		
D. TOTAL LOAN COSTS (A + B + C)		\$5,672	

Additional Information About This Loan

LENDER Ficus Bank
NMLS/_ LICENSE ID
LOAN OFFICER Joe Smith
NMLS/_ LICENSE ID 12345
EMAIL joesmith@ficusbank.com
PHONE 123-456-7890

MORTGAGE BROKER
NMLS/_ LICENSE ID
LOAN OFFICER
NMLS/_ LICENSE ID
EMAIL
PHONE

Comparisons	Use these measures to compare this loan with other loans.	
In 5 Years	\$56,582	Total you will have paid in principal, interest, mortgage insurance, and loan costs.
	\$15,773	Principal you will have paid off.
Annual Percentage Rate (APR)	4.274%	Your costs over the loan term expressed as a rate. This is not your interest rate.
Total Interest Percentage (TIP)	69.45%	The total amount of interest that you will pay over the loan term as a percentage of your loan amount.

Other Considerations

Appraisal	We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.
Assumption	If you sell or transfer this property to another person, we <input type="checkbox"/> will allow, under certain conditions, this person to assume this loan on the original terms. <input checked="" type="checkbox"/> will not allow assumption of this loan on the original terms.
Homeowner's Insurance	This loan requires homeowner's insurance on the property, which you may obtain from a company of your choice that we find acceptable.
Late Payment	If your payment is more than 15 days late, we will charge a late fee of 5% of the monthly principal and interest payment.
Refinance	Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.
Servicing	We intend <input type="checkbox"/> to service your loan. If so, you will make your payments to us. <input checked="" type="checkbox"/> to transfer servicing of your loan.

Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature

Date

Co-Applicant Signature

Date

1. Timing for providing the Loan Estimate to the Consumer

The **Loan Estimate** must be delivered or placed in the mail to the consumer no later than the third **business day** after the creditor receives the consumer's **application** for a mortgage loan as defined later in this section.

If the **Loan Estimate** is not provided to the consumer in person, the consumer is considered to have received the **Loan Estimate** three **business days** after it is delivered or placed in the mail.

2. Definition of an "application" that triggers an obligation to provide a Loan Estimate

An **application** means the submission of a consumer's financial information for purposes of obtaining an extension of credit. An **application** consists of the submission of the following six pieces of information:

- The consumer's name;
- The consumer's income;
- The consumer's social security number to obtain a credit report;
- The property address;
- An estimate of the value of the property; and
- The mortgage loan amount sought.

NOTE: The Bureau has revised the definition of application to remove the seventh "catch-all" element of the current definition under Regulation X, that is, "any other information deemed necessary by the loan originator."

An **application** may be submitted in written or electronic format, and includes a written record of an oral application.

3. Creditor requirement to act in good faith and exercise due diligence in obtaining information necessary to complete the Loan Estimate

Creditors are required to act in **good faith** and exercise **due diligence** in obtaining information necessary to complete the **Loan Estimate**. Normally creditors may rely on the representations of other parties in obtaining information.

However, there may be some information that is unknown (*i.e.*, not reasonably available to the creditor at the time the **Loan Estimate** is made). In these instances, the creditor may use estimates even though it knows that more precise information will be available by the point of **consummation**. However, new disclosures may be required under § 1026.17(c) or § 1026.19.

When estimated figures are used, they must be designated as such on the **Loan Estimate**.

Good Faith Requirement and Tolerances

1. General accuracy requirement for the Loan Estimate disclosures

Whether or not a **Loan Estimate** was made in **good faith** is determined by calculating the difference between the **estimated charges** originally provided in the **Loan Estimate** and the **actual charges** paid by or imposed on the consumer in the **Closing Disclosure**.

Generally, if the charge paid by or imposed on the consumer **exceeds** the amount originally disclosed on the **Loan Estimate** it is **not in good faith**, regardless of whether the creditor later discovers a technical error, miscalculation, or underestimation of a charge.

However, a **Loan Estimate** is considered to be in **good faith** if the creditor charges the consumer **less** than the amount disclosed on the **Loan Estimate**, without regard to any tolerance limitations.

2. Charges that may change without regard to a tolerance limitation

For certain costs or terms, creditors are permitted to charge consumers more than the amount disclosed on the **Loan Estimate** without any **tolerance** limitation.

These charges are:

- Prepaid interest; property insurance premiums; amounts placed into an escrow, impound, reserve or similar account.
- For services required by the creditor if the creditor **permits the consumer to shop** and the consumer selects a third-party service provider not on the creditor's **written list of service providers**.
- Charges paid to third-party service providers for services not required by the creditor (may be paid to affiliates of the creditor).

However, creditors may only charge consumers **more** than the amount disclosed when the original estimated charge, or lack of an estimated charge for a particular service, was based on the best information reasonably available to the creditor at the time the disclosure was provided.

3. Conditions under which a consumer is permitted to shop for a service

In addition to the **Loan Estimate**, if the consumer is permitted to shop for a settlement service, the creditor must provide the consumer with **a written list of services** for which the consumer can **shop**. This **written list of providers** is separate from the **Loan Estimate**, but must be provided within the same time frame—that is, it must be provided to the consumer no later than **three business days** after the creditor receives the consumer's **application**—and the list must:

- Identify at least one available settlement service provider for each service; and
- State that the consumer may choose a different provider of that service.

The settlement service providers identified on the **written list** must correspond to the settlement services for which the consumer can **shop** as disclosed on the **Loan Estimate**.

The creditor may also identify on the **written list of providers** those services for which the consumer is **not permitted to shop**, as long as those services are clearly and conspicuously distinguished from those services for which the consumer is **permitted to shop**.

4. Charges that are subject to a 10% cumulative tolerance

Charges for third-party services and recording fees paid by or imposed on the consumer are grouped together and subject to a **10% cumulative tolerance**. This means the creditor may charge the consumer more than the amount disclosed on the **Loan Estimate** for any of these charges so long as the total sum of the charges added together does not exceed the sum of all such charges disclosed on the **Loan Estimate** by more than 10%.

These charges are:

- Recording fees
- Charges for third-party services where:
 - The charge is not paid to the creditor or the creditor's affiliate; and
 - The consumer is permitted by the creditor to **shop** for the third-party service, and the consumer selects a third-party service provider on the creditor's **written list of service providers**.

5. What happens to the sum of estimated charges if the consumer is permitted to shop and chooses his or her own service provider?

Where a consumer chooses a provider that is not on the creditor's **written list of providers**, then the creditor is not limited in the amount that may be charged for the service.

When this occurs for a service that otherwise would be included in the **10% cumulative tolerance** category, the charge is removed from consideration for purposes of determining the **10% tolerance** level.

Remember, if the creditor permits the consumer to **shop** for a required settlement service but the consumer either does not select a settlement service provider or chooses a settlement service provider identified by the creditor on the **written list of providers**, then the amount charged **is included** in the sum of all such third-party charges paid by the consumer, and also is subject to the **10% cumulative tolerance**.

6. If a consumer is charged more than estimated for a particular third-party service or recording fee, but the total charges paid are still within 10% of the estimate

Whether an individual estimated charge subject to § 1026.19(e)(3)(ii) is in **good faith** depends on whether the sum of all charges subject to that section increases by more than 10 percent, even if a particular charge does not increase by 10 percent. A creditor may charge more than 10 percent in excess of an individual estimated charge in this category, so long as the sum of all charges is still within the **10% cumulative tolerance**.

7. Zero tolerance charges

For all other charges, creditors are not permitted to charge consumers more than the amount disclosed on the **Loan Estimate** under any circumstances other than **changed circumstances** that permit a revised **Loan Estimate**.

These **zero tolerance** charges are:

- Fees paid to the creditor, mortgage broker, or an **affiliate** of either;
- Fees paid to an unaffiliated third party if the creditor did not permit the consumer to **shop** for a third party service provider for a settlement service; or
- Transfer taxes.

8. Requirements when the amounts paid exceed the disclosed amounts beyond the applicable tolerance thresholds

If the amounts paid by the consumer at closing exceed the amounts disclosed on the **Loan Estimate** beyond the applicable **tolerance** threshold, the creditor must **refund** the excess to the consumer no later than **60 calendar days after consummation**.

- For charges subject to **zero tolerance**, any amount charged beyond the amount disclosed on the **Loan Estimate** must be refunded to the consumer.
- For charges subject to a **10% cumulative tolerance**, to the extent the total sum of the charges added together exceeds the sum of all such charges disclosed on the **Loan Estimate** by more than 10%, the difference must be refunded to the consumer.

Revisions and Corrections to Loan Estimates

1. Conditions under which revisions or corrections are permitted for Loan Estimates

Creditors generally are bound by the **Loan Estimate** provided within three **business days** of the **application**. Creditors are permitted to provide to the consumer revised **Loan Estimates** (and use them to compare estimated amounts to amounts actually charged for purposes of determining **good faith**) only in certain specific circumstances:

- **Changed circumstances** that occur after the **Loan Estimate** is provided to the consumer cause estimated settlement charges to increase more than is permitted under the TILA-RESPA rule;
- **Changed circumstances** that occur after the **Loan Estimate** is provided to the consumer affect the consumer's eligibility for the terms for which the consumer applied or the value of the security for the loan;
- Revisions to the credit terms or the settlement are requested by the consumer;
- The interest rate was not locked when the **Loan Estimate** was provided, and locking the rate causes the points or lender credits disclosed on the **Loan Estimate** to change;
- The consumer indicates an **intent to proceed** with the transaction more than 10 **business days** after the **Loan Estimate** was originally provided; or

- The loan is a new construction loan, and settlement is delayed by more than 60 calendar days, if the original **Loan Estimate** states clearly and conspicuously that at any time prior to 60 calendar days before **consummation**, the creditor may issue revised disclosures.

When creditors revise Loan Estimates for these reasons, the revised Loan Estimate may reflect increased charges only to the extent actually justified by the reason for the revision.

2. Explanation of a “changed circumstance”

A **changed circumstance** for purposes of a revised **Loan Estimate** is:

- An extraordinary event beyond the control of any interested party or other unexpected event specific to the consumer or transaction;
- Information specific to the consumer or transaction that the creditor relied upon when providing the **Loan Estimate** and that was inaccurate or changed after the disclosures were provided; or
- A natural disaster, such as a hurricane or earthquake, damages the property or otherwise results in additional closing costs;
- New information not relied upon when providing the **Loan Estimate** is discovered, such as a neighbor of the seller filing a claim contesting the boundary of the property to be sold.

3. General timing requirement for providing a revised Loan Estimate

The general rule is that the creditor must deliver or place in the mail the revised **Loan Estimate** to the consumer no later than **three business days** after receiving the information sufficient to establish that one of the reasons for the revision described above has occurred.

Closing Disclosures

General requirements for the Closing Disclosure

For loans that require a **Loan Estimate** and that proceed to closing, creditors must provide a final disclosure reflecting the actual terms of the transaction called the **Closing Disclosure**. The creditor is generally required to ensure that the consumer receives the **Closing Disclosure** no later than **three business days** before **consummation** (when the consumer becomes contractually obligated to the creditor) of the loan.

- **The Closing Disclosure generally must contain the actual terms and costs of the transaction.** Creditors may estimate disclosures using the best information reasonably available when the actual term or cost is not reasonably available to the creditor at the time the disclosure is made. However, creditors must act in **good faith** and use due diligence in obtaining the information. The creditor normally may rely on the representations of other parties in obtaining the information, including, for example, the settlement agent. The creditor is required to provide corrected disclosures containing the actual terms of the transaction at or before **consummation**.
- **The Closing Disclosure must be in writing and contain the information prescribed in § 1026.38.** The creditor must disclose only the specific information set forth in § 1026.38(a) through (s), as shown in the Bureau's form in appendix H-25.
- **If the actual terms or costs of the transaction change prior to consummation**, the creditor must provide a **corrected disclosure** that contains the actual terms of the transaction and complies with the other requirements of § 1026.19(f), including the timing requirements, and requirements for providing corrected disclosures due to subsequent changes.
- **New three-day waiting period.** If the creditor provides a corrected disclosure, it may also be required to provide the consumer with an additional **three-business-day waiting period** prior to consummation.

Closing Disclosure

This form is a statement of final loan terms and closing costs. Compare this document with your Loan Estimate.

Closing Information

Date Issued 4/15/2013
Closing Date 4/15/2013
Disbursement Date 4/15/2013
Settlement Agent Epsilon Title Co.
File # 12-3456
Property 456 Somewhere Ave
 Anytown, ST 12345
Sale Price \$180,000

Transaction Information

Borrower Michael Jones and Mary Stone
 123 Anywhere Street
 Anytown, ST 12345
Seller Steve Cole and Amy Doe
 321 Somewhere Drive
 Anytown, ST 12345
Lender Ficus Bank

Loan Information

Loan Term 30 years
Purpose Purchase
Product Fixed Rate
Loan Type ☒ Conventional ☐ FHA
☐ VA ☐
Loan ID # 123456789
MIC # 000654321

Loan Terms	Can this amount increase after closing?	
Loan Amount	\$162,000	NO
Interest Rate	3.875%	NO
Monthly Principal & Interest <i>See Projected Payments below for your Estimated Total Monthly Payment</i>	\$761.78	NO
Prepayment Penalty	Does the loan have these features? YES • As high as \$3,240 if you pay off the loan during the first 2 years	
Balloon Payment	NO	

Projected Payments		
Payment Calculation	Years 1-7	Years 8-30
Principal & Interest	\$761.78	\$761.78
Mortgage Insurance	+ 82.35	+ —
Estimated Escrow <i>Amount can increase over time</i>	+ 206.13	+ 206.13
Estimated Total Monthly Payment	\$1,050.26	\$967.91
Estimated Taxes, Insurance & Assessments <i>Amount can increase over time See page 4 for details</i>	This estimate includes <input checked="" type="checkbox"/> Property Taxes <input checked="" type="checkbox"/> Homeowner's Insurance <input checked="" type="checkbox"/> Other: Homeowner's Association Dues <i>See Escrow Account on page 4 for details. You must pay for other property costs separately.</i>	
	\$356.13 a month	In escrow? YES YES NO

Costs at Closing	
Closing Costs	\$9,712.10 Includes \$4,694.05 in Loan Costs + \$5,018.05 in Other Costs – \$0 in Lender Credits. See page 2 for details.
Cash to Close	\$14,147.26 Includes Closing Costs. See Calculating Cash to Close on page 3 for details.

Closing Cost Details

Loan Costs	Borrower-Paid		Seller-Paid		Paid by Others
	At Closing	Before Closing	At Closing	Before Closing	
A. Origination Charges	\$1,802.00				
01 0.25 % of Loan Amount (Points)	\$405.00				
02 Application Fee	\$300.00				
03 Underwriting Fee	\$1,097.00				
04					
05					
06					
07					
08					
B. Services Borrower Did Not Shop For	\$236.55				
01 Appraisal Fee to John Smith Appraisers Inc.					\$405.00
02 Credit Report Fee to Information Inc.		\$29.80			
03 Flood Determination Fee to Info Co.	\$20.00				
04 Flood Monitoring Fee to Info Co.	\$31.75				
05 Tax Monitoring Fee to Info Co.	\$75.00				
06 Tax Status Research Fee to Info Co.	\$80.00				
07					
08					
09					
10					
C. Services Borrower Did Shop For	\$2,655.50				
01 Pest Inspection Fee to Pests Co.	\$120.50				
02 Survey Fee to Surveys Co.	\$85.00				
03 Title – Insurance Binder to Epsilon Title Co.	\$650.00				
04 Title – Lender's Title Insurance to Epsilon Title Co.	\$500.00				
05 Title – Settlement Agent Fee to Epsilon Title Co.	\$500.00				
06 Title – Title Search to Epsilon Title Co.	\$800.00				
07					
08					
D. TOTAL LOAN COSTS (Borrower-Paid)	\$4,694.05				
Loan Costs Subtotals (A + B + C)	\$4,664.25	\$29.80			
Other Costs					
E. Taxes and Other Government Fees	\$85.00				
01 Recording Fees Deed: \$40.00 Mortgage: \$45.00	\$85.00				
02 Transfer Tax to Any State			\$950.00		
F. Prepays	\$2,120.80				
01 Homeowner's Insurance Premium (12 mo.) to Insurance Co.	\$1,209.96				
02 Mortgage Insurance Premium (mo.)					
03 Prepaid Interest (\$17.44 per day from 4/15/13 to 5/1/13)	\$279.04				
04 Property Taxes (6 mo.) to Any County USA	\$631.80				
05					
G. Initial Escrow Payment at Closing	\$412.25				
01 Homeowner's Insurance \$100.83 per month for 2 mo.	\$201.66				
02 Mortgage Insurance per month for mo.					
03 Property Taxes \$105.30 per month for 2 mo.	\$210.60				
04					
05					
06					
07					
08 Aggregate Adjustment	– 0.01				
H. Other	\$2,400.00				
01 HOA Capital Contribution to HOA Acre Inc.	\$500.00				
02 HOA Processing Fee to HOA Acre Inc.	\$150.00				
03 Home Inspection Fee to Engineers Inc.	\$750.00			\$750.00	
04 Home Warranty Fee to XYZ Warranty Inc.			\$450.00		
05 Real Estate Commission to Alpha Real Estate Broker			\$5,700.00		
06 Real Estate Commission to Omega Real Estate Broker			\$5,700.00		
07 Title – Owner's Title Insurance (optional) to Epsilon Title Co.	\$1,000.00				
08					
I. TOTAL OTHER COSTS (Borrower-Paid)	\$5,018.05				
Other Costs Subtotals (E + F + G + H)	\$5,018.05				
J. TOTAL CLOSING COSTS (Borrower-Paid)	\$9,712.10				
Closing Costs Subtotals (D + I)	\$9,682.30	\$29.80	\$12,800.00	\$750.00	\$405.00
Lender Credits					

Calculating Cash to Close

Use this table to see what has changed from your Loan Estimate.

	Loan Estimate	Final	Did this change?
Total Closing Costs (J)	\$8,054.00	\$9,712.10	YES • See Total Loan Costs (D) and Total Other Costs (I)
Closing Costs Paid Before Closing	\$0	– \$29.80	YES • You paid these Closing Costs before closing
Closing Costs Financed (Paid from your Loan Amount)	\$0	\$0	NO
Down Payment/Funds from Borrower	\$18,000.00	\$18,000.00	NO
Deposit	– \$10,000.00	– \$10,000.00	NO
Funds for Borrower	\$0	\$0	NO
Seller Credits	\$0	– \$2,500.00	YES • See Seller Credits in Section L
Adjustments and Other Credits	\$0	– \$1,035.04	YES • See details in Sections K and L
Cash to Close	\$16,054.00	\$14,147.26	

Summaries of Transactions

Use this table to see a summary of your transaction.

BORROWER'S TRANSACTION

K. Due from Borrower at Closing	\$189,762.30
01 Sale Price of Property	\$180,000.00
02 Sale Price of Any Personal Property Included in Sale	
03 Closing Costs Paid at Closing (J)	\$9,682.30
04	
Adjustments	
05	
06	
07	
Adjustments for Items Paid by Seller in Advance	
08 City/Town Taxes to	
09 County Taxes to	
10 Assessments to	
11 HOA Dues 4/15/13 to 4/30/13	\$80.00
12	
13	
14	
15	
L. Paid Already by or on Behalf of Borrower at Closing	\$175,615.04
01 Deposit	\$10,000.00
02 Loan Amount	\$162,000.00
03 Existing Loan(s) Assumed or Taken Subject to	
04	
05 Seller Credit	\$2,500.00
Other Credits	
06 Rebate from Epsilon Title Co.	\$750.00
07	
Adjustments	
08	
09	
10	
11	
Adjustments for Items Unpaid by Seller	
12 City/Town Taxes 1/1/13 to 4/14/13	\$365.04
13 County Taxes to	
14 Assessments to	
15	
16	
17	
CALCULATION	
Total Due from Borrower at Closing (K)	\$189,762.30
Total Paid Already by or on Behalf of Borrower at Closing (L) –	\$175,615.04
Cash to Close <input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower	\$14,147.26

SELLER'S TRANSACTION

M. Due to Seller at Closing	\$180,080.00
01 Sale Price of Property	\$180,000.00
02 Sale Price of Any Personal Property Included in Sale	
03	
04	
05	
06	
07	
08	
Adjustments for Items Paid by Seller in Advance	
09 City/Town Taxes to	
10 County Taxes to	
11 Assessments to	
12 HOA Dues 4/15/13 to 4/30/13	\$80.00
13	
14	
15	
16	
N. Due from Seller at Closing	\$115,665.04
01 Excess Deposit	
02 Closing Costs Paid at Closing (J)	\$12,800.00
03 Existing Loan(s) Assumed or Taken Subject to	
04 Payoff of First Mortgage Loan	\$100,000.00
05 Payoff of Second Mortgage Loan	
06	
07	
08 Seller Credit	\$2,500.00
09	
10	
11	
12	
13	
Adjustments for Items Unpaid by Seller	
14 City/Town Taxes 1/1/13 to 4/14/13	\$365.04
15 County Taxes to	
16 Assessments to	
17	
18	
19	
CALCULATION	
Total Due to Seller at Closing (M)	\$180,080.00
Total Due from Seller at Closing (N) –	\$115,665.04
Cash <input type="checkbox"/> From <input checked="" type="checkbox"/> To Seller	\$64,414.96

Additional Information About This Loan

Loan Disclosures

Assumption

If you sell or transfer this property to another person, your lender

- ☐ will allow, under certain conditions, this person to assume this loan on the original terms.
- ☒ will not allow assumption of this loan on the original terms.

Demand Feature

Your loan

- ☐ has a demand feature, which permits your lender to require early repayment of the loan. You should review your note for details.
- ☒ does not have a demand feature.

Late Payment

If your payment is more than 15 days late, your lender will charge a late fee of 5% of the monthly principal and interest payment.

Negative Amortization (Increase in Loan Amount)

Under your loan terms, you

- ☐ are scheduled to make monthly payments that do not pay all of the interest due that month. As a result, your loan amount will increase (negatively amortize), and your loan amount will likely become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- ☐ may have monthly payments that do not pay all of the interest due that month. If you do, your loan amount will increase (negatively amortize), and, as a result, your loan amount may become larger than your original loan amount. Increases in your loan amount lower the equity you have in this property.
- ☒ do not have a negative amortization feature.

Partial Payments

Your lender

- ☒ may accept payments that are less than the full amount due (partial payments) and apply them to your loan.
- ☐ may hold them in a separate account until you pay the rest of the payment, and then apply the full payment to your loan.
- ☐ does not accept any partial payments.

If this loan is sold, your new lender may have a different policy.

Security Interest

You are granting a security interest in
456 Somewhere Ave., Anytown, ST 12345

You may lose this property if you do not make your payments or satisfy other obligations for this loan.

Escrow Account

For now, your loan

- ☒ will have an escrow account (also called an "impound" or "trust" account) to pay the property costs listed below. Without an escrow account, you would pay them directly, possibly in one or two large payments a year. Your lender may be liable for penalties and interest for failing to make a payment.

Escrow		
Escrowed Property Costs over Year 1	\$2,473.56	Estimated total amount over year 1 for your escrowed property costs: <i>Homeowner's Insurance</i> <i>Property Taxes</i>
Non-Escrowed Property Costs over Year 1	\$1,800.00	Estimated total amount over year 1 for your non-escrowed property costs: <i>Homeowner's Association Dues</i> You may have other property costs.
Initial Escrow Payment	\$412.25	A cushion for the escrow account you pay at closing. See Section G on page 2.
Monthly Escrow Payment	\$206.13	The amount included in your total monthly payment.

- ☐ will not have an escrow account because ☐ you declined it ☐ your lender does not offer one. You must directly pay your property costs, such as taxes and homeowner's insurance. Contact your lender to ask if your loan can have an escrow account.

No Escrow		
Estimated Property Costs over Year 1		Estimated total amount over year 1. You must pay these costs directly, possibly in one or two large payments a year.
Escrow Waiver Fee		

In the future,

Your property costs may change and, as a result, your escrow payment may change. You may be able to cancel your escrow account, but if you do, you must pay your property costs directly. If you fail to pay your property taxes, your state or local government may (1) impose fines and penalties or (2) place a tax lien on this property. If you fail to pay any of your property costs, your lender may (1) add the amounts to your loan balance, (2) add an escrow account to your loan, or (3) require you to pay for property insurance that the lender buys on your behalf, which likely would cost more and provide fewer benefits than what you could buy on your own.

Loan Calculations

Total of Payments. Total you will have paid after you make all payments of principal, interest, mortgage insurance, and loan costs, as scheduled.	\$285,803.36
Finance Charge. The dollar amount the loan will cost you.	\$118,830.27
Amount Financed. The loan amount available after paying your upfront finance charge.	\$162,000.00
Annual Percentage Rate (APR). Your costs over the loan term expressed as a rate. This is not your interest rate.	4.174%
Total Interest Percentage (TIP). The total amount of interest that you will pay over the loan term as a percentage of your loan amount.	69.46%



Questions? If you have questions about the loan terms or costs on this form, use the contact information below. To get more information or make a complaint, contact the Consumer Financial Protection Bureau at www.consumerfinance.gov/mortgage-closing

Other Disclosures**Appraisal**

If the property was appraised for your loan, your lender is required to give you a copy at no additional cost at least 3 days before closing. If you have not yet received it, please contact your lender at the information listed below.

Contract Details

See your note and security instrument for information about

- what happens if you fail to make your payments,
- what is a default on the loan,
- situations in which your lender can require early repayment of the loan, and
- the rules for making payments before they are due.

Liability after Foreclosure

If your lender forecloses on this property and the foreclosure does not cover the amount of unpaid balance on this loan,

- ☒ state law may protect you from liability for the unpaid balance. If you refinance or take on any additional debt on this property, you may lose this protection and have to pay any debt remaining even after foreclosure. You may want to consult a lawyer for more information.
- ☐ state law does not protect you from liability for the unpaid balance.

Refinance

Refinancing this loan will depend on your future financial situation, the property value, and market conditions. You may not be able to refinance this loan.

Tax Deductions

If you borrow more than this property is worth, the interest on the loan amount above this property's fair market value is not deductible from your federal income taxes. You should consult a tax advisor for more information.

Contact Information

	Lender	Mortgage Broker	Real Estate Broker (B)	Real Estate Broker (S)	Settlement Agent
Name	Ficus Bank		Omega Real Estate Broker Inc.	Alpha Real Estate Broker Co.	Epsilon Title Co.
Address	4321 Random Blvd. Somecity, ST 12340		789 Local Lane Sometown, ST 12345	987 Suburb Ct. Someplace, ST 12340	123 Commerce Pl. Somecity, ST 12344
NMLS ID					
ST License ID			Z765416	Z61456	Z61616
Contact	Joe Smith		Samuel Green	Joseph Cain	Sarah Arnold
Contact NMLS ID	12345				
Contact ST License ID			P16415	P51461	PT1234
Email	joesmith@ ficusbank.com		sam@omegare.biz	joe@alphare.biz	sarah@ epsilontitle.com
Phone	123-456-7890		123-555-1717	321-555-7171	987-555-4321

Confirm Receipt

By signing, you are only confirming that you have received this form. You do not have to accept this loan because you have signed or received this form.

Applicant Signature

Date

Co-Applicant Signature

Date

Delivery of the Closing Disclosure

1. Closing Disclosure timing and delivery requirements

Generally, the creditor is responsible for ensuring that the consumer receives the **Closing Disclosure** form no later than **three business days before consummation**.

The creditor also is responsible for ensuring that the **Closing Disclosure** meets all content, delivery, and timing requirements.

2. Methods of delivery of the Closing Disclosure

Creditors must arrange for delivery as follows:

- By providing it to the consumer in person.
- By mailing, or by other delivery methods subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act.
- Creditors must ensure that the consumer receives the **Closing Disclosure** at least three **business days** prior to **consummation**.

3. Settlement agent providing the Closing Disclosure

Creditors may contract with settlement agents to have the settlement agent provide the **Closing Disclosure** to consumers on the creditor's behalf. Creditors and settlement agents also may agree to divide responsibility with regard to completing the **Closing Disclosure**, with the settlement agent assuming responsibility to complete some or all the **Closing Disclosure**.

4. Responsibility for providing the Closing Disclosure to a seller in a purchase transaction

The settlement agent is required to provide the seller with the **Closing Disclosure** reflecting the actual terms of the seller's transaction no later than the day of **consummation**.

5. More than one consumer involved in a transaction

In rescindable transactions, the **Closing Disclosure** must be given separately to each consumer who has the right to rescind under TILA, although the disclosures required for adjustable rate mortgages need only be provided to the consumer who expresses an interest in a variable-rate loan program.

Revisions and Corrections to Closing Disclosures

1. Creditor requirement to correct or revise Closing Disclosures

There are three categories of changes that require a corrected **Closing Disclosure** containing all changed terms.

- Changes that occur before **consummation** that require a new **three-business-day** waiting period.
- Changes that occur before **consummation** and do not require a new **three-business-day** waiting period.
- Changes that occur after **consummation**.

2. Changes before consummation that require a new waiting period

If one of the following occurs after delivery of the **Closing Disclosure** and before **consummation**, the creditor must provide a corrected **Closing Disclosure** containing all changed terms and ensure that the consumer receives it no later than three **business days** before **consummation**.

- **The disclosed APR becomes inaccurate.** If the annual percentage rate (APR) previously disclosed becomes inaccurate, the creditor must provide a corrected **Closing Disclosure** with the corrected APR disclosure and all other terms that have changed. The APR's accuracy is determined according to § 1026.22.
- **The loan product changes.** If the loan product previously disclosed becomes inaccurate, the creditor must provide a corrected **Closing Disclosure** with the corrected loan product and all other terms that have changed.
- **A prepayment penalty is added.** If a prepayment penalty is added to the transaction, the creditor must provide a corrected **Closing Disclosure** with the prepayment penalty provision disclosed and all other terms that have changed.

Additional requirements and prohibitions

1. Consumer indication of intent to proceed with a transaction

A consumer indicates **intent to proceed** with the transaction when the consumer communicates, in any manner, that the consumer chooses to proceed after the **Loan Estimate** has been delivered, unless a particular manner of communication is required by the creditor.

This may include:

- Oral communication in person immediately upon delivery of the **Loan Estimate**;
- Oral communication over the phone, written communication via email, or signing a pre- printed form after receipt of the **Loan Estimate**.

A consumer's silence is not indicative of **intent to proceed**.

The creditor must document this communication to satisfy the record retention requirements of § 1026.25.

2. Can creditors provide estimates of costs and terms to consumers before the Loan Estimate is provided?

The TILA-RESPA rule does not prohibit a creditor or other person from providing a consumer with estimated terms or costs prior to the consumer receiving the **Loan Estimate**.

However, if a person (such as a creditor or broker) provides a consumer with a written estimate of terms or costs specific to that consumer before the consumer receives the **Loan Estimate**, it must clearly and conspicuously state at the top of the front of the first page of the written estimate "**Your actual rate, payment, and costs could be higher. Get an official Loan Estimate before choosing the loan.**"

3. Are creditors allowed to require additional verifying information other than the six pieces of information that form an application from consumers before providing a Loan Estimate?

No. A creditor or other person may not condition providing the **Loan Estimate** on a consumer submitting documents verifying information related to the consumer's mortgage loan application before providing the **Loan Estimate**.

For example:

- A creditor may ask for the sale price and address of the property, but may not require the consumer to provide a purchase and sale agreement to support the information the consumer provides orally before the creditor provides the **Loan Estimate**.
- A mortgage broker may ask for the names, account numbers, and balances of the consumer's checking and savings accounts, but the mortgage broker may not require the consumer to provide bank statements or similar documentation to support the information orally provided by the consumer before the creditor provides the **Loan Estimate**.

Special Information Booklet (RESPA Settlement Costs Booklet)

If the consumer is using a mortgage broker to apply for the loan, can the broker provide the booklet?

Creditors must deliver or place in the mail the **special information booklet** not later than three **business days** after receiving the consumer's loan **application**.

If the consumer uses a mortgage broker, the mortgage broker must provide the **special information booklet** and the creditor need not do so.

Property and Personal Taxation

The Tax Jobs and Cuts Act of 2017

Corporate tax rates

the bill lowers the corporate tax rate to a flat 21% on all profits. This is not only a massive tax cut, but is a major simplification as compared to the 2017 corporate tax structure, as seen in the chart below.

Taxable Income Range	Marginal Corporate Tax Rate (2017)
\$0-\$50,000	15%
\$50,000-\$75,000	25%
\$75,000-\$100,000	34%
\$100,000-\$335,000	39%
\$335,000-\$10,000,000	34%
\$10,000,000-\$15,000,000	35%
\$15,000,000-\$18,333,333	38%
\$18,333,333 and above	35%

A territorial tax system

The tax reform bill also changed the U.S. corporate tax system from a worldwide one to a territorial system. Previously, U.S. corporations had to pay U.S. taxes on their profits earned abroad, and the new system ended this effective double-taxing of foreign profits.

The Income Tax Brackets

The Tax Jobs and Cuts Act of 2017 kept the previous seven-bracket structure but with mostly lower tax rates.

2017 brackets

Marginal Tax Rate	Single	Married Filing Jointly	Head of Household	Married Filing Separately
10%	\$0-\$9,325	\$0-\$18,650	\$0-\$9,325	\$0-\$13,350
15%	\$9,326-\$37,950	\$18,651-\$75,900	\$9,325-\$37,950	\$13,351-\$50,800
25%	\$37,951-\$91,900	\$75,901-\$153,100	\$37,951-\$76,550	\$50,801-\$131,200
28%	\$91,901-\$191,650	\$153,101-\$233,350	\$76,551-\$116,675	\$131,201-\$212,500
33%	\$191,651-\$416,700	\$233,351-\$416,700	\$116,676-\$208,350	\$212,501-\$416,700
35%	\$416,701-\$418,400	\$416,701-\$470,700	\$208,351-\$235,350	\$416,701-\$444,550
39.6%	Over \$418,400	Over \$470,700	Over \$235,350	Over \$444,550

2022 brackets

Marginal Tax Rate	Single	Married Filing Jointly	Head of Household	Married Filing Separately
10%	\$0-\$10,275	\$0-\$20,550	\$0-\$14,650	\$0-\$14,650
12%	\$10,275-\$41,775	\$20,550-\$83,550	\$14,650-\$55,900	\$14,650-\$55,900
22%	\$41,775-\$89,075	\$83,550-\$178,150	\$55,900-\$89,050	\$55,900-\$89,050
24%	\$89,075-\$170,050	\$178,150-\$340,100	\$89,050-\$170,050	\$89,050-\$170,050
32%	\$170,050-\$215,950	\$340,100-\$431,900	\$170,050-\$215,950	\$170,050-\$215,950
35%	\$215,950-\$539,900	\$431,900-\$647,850	\$215,950-\$539,900	\$215,950-\$323,925
37%	Over \$539,900	Over \$647,850	Over \$539,900	Over \$323,925

How the marginal tax bracket system works

Fortunately, you're not likely to ever have to calculate your federal income tax by hand. The vast majority of Americans use electronic methods of filing that calculate their tax for them, and even if you're among the relative few who still file a paper tax return, the IRS provides tax tables that make determining your tax easier.

Having said that, in case you were wondering how our tax system works, the IRS uses marginal tax brackets when determining the amount of tax you owe.

Here's how this works. Let's say that you're single and have taxable income of \$100,000 in 2022. According to the chart, this puts you in the 24% bracket. However, you won't pay 24% of your entire taxable income. Each marginal tax rate applies *only* to income within that range.

In other words, on \$100,000 in taxable income, a single taxpayer would pay:

- 10% of the first \$10,275 (\$1,027.50)
- 12% of the amount greater than \$10,275 up to \$41,775 (\$3,780)
- 22% of the amount greater than \$41,775 up to \$89,075 (\$10,406)
- 24% of the amount in excess of \$89,075 (\$2,622)

If you add up all of the numbers in parentheses, you'll see that this hypothetical taxpayer would owe federal income tax of \$17,833.50 for 2022. This translates to about 18% of their taxable income -- not the 24% marginal tax rate.

Standard deduction and personal exemption

The Joint Committee on Taxation estimates that over 90% of households claimed the standard deduction in recent years, up from about 70% in 2017 (when it was \$6,350 for Single and \$12,700 for married filing jointly).

Tax Filing Status	2021 Standard Deduction	2022 Standard Deduction	Change
Married filing jointly	\$25,100	<u>\$25,900</u>	\$800
Head of household	\$18,800	\$19,400	\$600
All others	\$12,550	\$12,950	\$400

Tax Cuts and Jobs Act of 2017 Effect on Real Estate Licensees

(source: nar.realtor/tax-reform)

Deduction for Qualified Business Income

Because the tax bill greatly decreased the tax rate for corporations (from the prior law's 35% to just 21%), many Members of Congress believed that the business income earned by sole proprietors, such as independent contractors, as well as by pass-through businesses, such as partnerships, limited liability companies (LLCs), and S corporations, should also receive tax rate reductions.

In addition to lower marginal tax rates, the final bill provides a significant up-front deduction of 20% for business income earned by many of these businesses, *but with certain conditions*.

Specifically, the bill limits the 20% deduction to *non-personal service businesses*. Essentially, a personal service business is one involving the performance of services in the following fields:

- Health,
- Law,
- Consulting,
- Athletics,
- Financial Services,
- Brokerage Services (not real estate), and
- "Any business where the main asset of the business is the reputation or skill of one or more of its employees or owners."

The great news for most agents and brokers is that the 20% deduction is available to them if their taxable income for the year is below a certain threshold.

Common Questions and Answers

Most real estate professionals are sales associates and are sole proprietors. Is there any tactical reason for them to restructure themselves into an LLC or S corporation to get a better deal under the deduction?

No, a change in entity type is not necessary because sole proprietorship income qualifies for the deduction. Absent other reasons to change, they should keep filing as a sole proprietorship.

What if you're a broker or otherwise have pass-through income in addition to commissions earned?

The deduction is taken on an aggregate basis, so if you have pass-through income from other sources in addition to commissions, then you combine your qualified business income with any qualified business losses before you calculate your deduction. So, if you have \$100,000 in net commission income and \$50,000 in qualified losses from other sources, the 20% would come off the aggregate amount, or \$50,000. That means your potential deduction would be \$10,000.

What pass-through activities would generate losses?

Many things do. It's not uncommon for brokerages to throw off losses today because of generous splits with sales associates. So, if you're a broker-owner who still sells, you might have losses from your brokerage operation while generating commissions earned from your own sales.

What if you have investment rental property?

The [IRS issued Rev. Proc. 2019-38](#) on September 24, 2019, finalizing a limited safe harbor initially proposed in January of 2019 (*IRS Notice 2019-07*) for taxpayers who are direct and indirect owners in rental real estate enterprises. If you qualify for the safe harbor, you can be assured your rental activities will qualify as a business and that the rental income will be eligible for the 20% deduction (subject to possible limitations). Even if you do not qualify for the safe harbor, you may be able to use a facts and circumstances analysis to support the 20% deduction.

The deduction is taken on your net qualified business income. There's no change to what counts as deductible business expenses, right?

With the exception of some new rules for depreciation and changes in deductibility for meals and entertainment, that is correct. You take out your expenses in much the same way. Did you travel to conventions? Did you buy a new car? Did you buy a computer? Did you buy office supplies?

Basic Income Tax Example: 2017 vs. 2022

Example: A real estate licensee, operating as a sole proprietor and filing as Single, has an annual earned income of \$50,000 in 2017 and \$50,000 in 2022. Calculate their taxes due in 2017 (prior to Tax Cuts and Jobs Act of 2017) vs. 2022. For the sake of simplicity, we will not be factoring in any additional credits, deductions, gains or losses.

	2017	2022
Income	\$50,000	\$50,000
Qualified Business Income Deduction (20% of income)	N/A	\$10,000
Minus Standard Deduction	(\$6,350)	(\$12,950)
Taxable Income	\$43,650	\$27,050
Tax Bracket	25%	12%
Total Tax Due	\$6,651.25	\$3,246

Calculation of Total Tax Due

Marginal Tax Due (From Charts Below)	\$5,226.25 + 25% of the amount over \$37,950	\$1,027.50 + 12% of the amount over \$10,275
Taxable Income Subject to Tax Bracket Rate	\$43,650 - \$37,950 = \$5,700	\$27,050 - \$10,275 = \$16,775
Difference Times Tax Rate	\$5,700 x .25 = \$1,425	\$16,775 x .12 = \$2,013
Total Tax Due	\$5,226.25 + \$1,425 = \$6,651.25	\$1,027.50 + \$2,013 = \$3,040.50

SINGLE TAXPAYERS

Bracket	2017 Tax Rates - Standard Deduction \$6,350	Bracket	2022 Tax Rates - Standard Deduction \$12,950
10%	0 to \$9,325	10%	0 to \$10,275
15%	\$9,325 to \$37,950	12%	\$10,275 to \$41,775
25%	\$37,950 to \$91,900	22%	\$41,775 to \$89,075
28%	\$91,900 to \$191,650	24%	\$89,075 to \$170,050
33%	\$191,650 to \$416,700	32%	\$170,050 to \$215,950
35%	\$416,700 to \$418,400	35%	\$215,950 to \$539,900
39.60%	Over \$418,400	37%	Over \$539,900

Deductions and Tax Credits

Tax deductions and tax credits both reduce your tax bill, but in very different ways.

- **Tax Deductions:** Commonly called tax write-offs, deductions are amounts that can be subtracted from your total income, so you're essentially taxed on a lower amount than you actually earned.

Example: you earned \$50,000 in income and spent \$7,000 on deductible business expenses. You can subtract the \$7,000 expenses from the \$50,000 income, so you'll be taxed on just \$43,000 (instead of being taxed on all \$50,000).

- **Tax Credits:** Tax credits are amounts that are subtracted directly from your calculated taxes due.

Example: after subtracting your deductions, your taxable income is \$27,600. If you're an individual taxpayer, your taxes would be \$3,114.50 (\$987.50 plus 12% of the amount over \$9,875 according to the tax bracket table). If you have one kid, you can take a \$2,000 tax credit which would be subtracted from the calculated taxes. So your tax bill would be just \$1,114.50.

Top 10 Tax Deductions for Real Estate Professionals

(source: Investopedia.com)

1. Home Office

The home office deduction is one of the more complex deductions. In short, the cost of any workspace that you use regularly and exclusively for your business, regardless of whether you rent or own it, can be deducted as a home office expense. You are basically on the honor system, but you should be prepared to defend your deduction in the event of an IRS audit. One way to do this is to prepare a diagram of your workspace, with accurate measurements, in case you are required to submit this information to substantiate your deduction, which uses the square feet of your workspace in its calculation.

In addition to the office space itself, the expenses you can deduct for your home office include the business percentage of deductible mortgage interest, home depreciation, property taxes, utilities, homeowners insurance and home maintenance that you pay during the year. If your home office occupies 15% of your home, for example, then 15% of your annual electricity bill becomes tax deductible. Some of these deductions, such as mortgage interest and home depreciation, apply only to those who own rather than rent their home office space.

You have two choices for calculating your home office deduction: the standard method and the simplified option, and you don't have to use the same method every year. The standard method requires you to calculate your actual home office expenses. The simplified option lets you multiply an IRS-determined rate by your home office square footage. To use the simplified option, your home office must not be larger than 300 square feet, and you cannot deduct depreciation or home-related itemized deductions.

The simplified option might be a clear choice if you're pressed for time or can't pull together good records of your deductible home office expenses. However, because the simplified option is calculated as \$5 per square foot, with a maximum of 300 square feet, the most you'll be able to deduct is \$1,500. If you want to make sure you're claiming the largest home office deduction you're entitled to, you'll want to calculate the deduction using both the regular and simplified methods. If you choose the standard method, calculate the deduction using IRS form 8829, Expenses for Business Use of Your Home.

2. Internet and Phone Bills

Regardless of whether you claim the home office deduction, you can deduct your business phone, fax and internet expenses. The key is to deduct only the expenses directly related to your business. If you have just one phone, you shouldn't deduct your entire monthly bill, which includes both personal and business use. You should only deduct costs that specifically relate to your business. If you have a second phone line that you use exclusively for business, however, you can deduct 100% of that cost. By the same token, you would only deduct your monthly internet expenses in proportion to how much of your time online is related to business – perhaps 25% to 50%.

3. Health Insurance Premiums

If you are self-employed, pay for your own health insurance premiums and were not eligible to participate in a plan through your spouse's employer, you can deduct all of your health, dental and qualified long-term care insurance premiums. You can also deduct premiums that you paid to provide coverage for your spouse, your dependents and your children who were younger than 27 at year-end, even if they aren't dependents. Calculate the deduction using the Self-Employed Health Insurance Deduction Worksheet in IRS publication 535.

4. Meals

A meal is a tax-deductible business expense when you are traveling for business or entertaining a client. The meal cannot be lavish or extravagant under the circumstances, and you can only deduct 50% of the meal's actual cost if you keep your receipts, or 50% of the standard meal allowance if you keep records of the time, place and business purpose of your travel but not your actual meal receipts. The lunch you eat alone at your desk is not tax deductible.

5. Travel

To qualify as a tax deduction, business travel must last longer than an ordinary workday, require you to get sleep or rest and take place away from the general area of your tax home (usually, outside the city where your business is located).

Further, to be considered a business trip, you should have a specific business purpose planned before you leave home, and you must actually engage in business activity – such as finding new customers, meeting with clients or learning new skills directly related to your business – while you are on the road. Handing out business cards at a bar during your friend's bachelor party won't make your trip to Vegas tax deductible. Keep complete and accurate records and receipts for your business travel expenses and activities, as this deduction often draws scrutiny from the IRS.

Deductible travel expenses include the cost of transportation to and from your destination (such as plane fare), the cost of transportation at your destination (such as a car rental, Uber fare or subway tickets), lodging and meals. You can't deduct lavish or extravagant expenses, but you don't have to choose the cheapest options available, either. You, not your fellow taxpayers, will be paying the bulk of your travel costs, so it's in your interest to keep them reasonable.

Your travel expenses for business are 100% deductible, except for meals, which are limited to 50%. If your trip combines business with pleasure, things get a lot more complicated; in a nutshell, you can only deduct the expenses related to the business portion of your trip – and don't forget that the business part needs to be planned ahead.

6. Vehicle Use

When you use your car for business, your expenses for those drives are tax deductible. Make sure to keep excellent records of the date, mileage and purpose for each trip, and don't try to claim personal car trips as business car trips. You can calculate your deduction using either the standard mileage rate (determined annually by the IRS; it's **56 cents per mile currently**) or your actual expenses.

The standard mileage rate is the easiest because it requires minimal record keeping and calculation. Just write down the business miles you drive and the dates you drive them. Then, multiply your total annual business miles by the standard mileage rate. This amount is your deductible expense.

To use the actual expense method, you must calculate the percentage of driving you did for business all year as well as the total cost of operating your car, including gas, oil changes, registration fees, repairs and car insurance. If you spent \$3,000 on car operating expenses and used your car for business 10% of the time, your deduction would be \$300. As with the home office deduction, it may be worth calculating the deduction both ways so you can claim the larger amount.

7. Publications and Subscriptions

The cost of specialized magazines, journals and books directly related to your business is tax deductible. A daily newspaper, for example, would not be specific enough to be considered a business expense.

8. Education

Any education expenses you want to deduct must be related to maintaining or improving your skills for your existing business; the cost of classes to prepare for a new line of work isn't deductible. For example, the 63 Hour Sales Associate Pre-Licensing Course is **NOT** deductible. However, the 72 Hour Broker Pre-Licensing Course **IS** deductible.

9. Advertising

Do you pay for Facebook ads, Google ads, a website, a billboard, a TV commercial, or mailed flyers? The costs you incur to advertise your business are tax deductible. You can even deduct the cost of advertising that encourages people to donate to charity while also putting your business's name before the public in the hope of gaining customers. A sign advertising "Holiday Toy Drive sponsored by 123 Realty," for example, would be tax deductible.

10. Self-Employed Retirement Plan Contributions

Contributions to SEP-IRAs, SIMPLE IRAs and solo 401(k)s reduce your tax bill now and help you rack up tax-deferred investment gains for later. You can't contribute more than you earn, and this benefit will only help you if you have enough profits to take advantage of it.

Tax Breaks for Parents

Child Tax Credit

- The Child Tax Credit offers up to \$2,000 per qualifying dependent child 16 or younger at the end of the calendar year.
- \$500 nonrefundable credit for qualifying dependents other than children (ex. 17-year-old child taking care of elderly relatives).
- This is a tax credit, which means it reduces your tax bill on a dollar-for-dollar basis. Up to \$1,400 of the Child Tax Credit is refundable; that is, it can reduce your tax bill to zero and you might be able to get a refund on anything left over.

You can qualify for the Child Tax Credit only if your modified adjusted gross income is under:

- \$400,000 for married filing jointly
- \$200,000 for everybody else.

Eligibility Requirements

1. **Age Test:** The child you claim as your dependent must have been under age 17 (so, 16 or younger) at the end of the tax year.
2. **Relationship Test:** The child must be your daughter, son, foster child or adopted child. The child can also be a grandchild or a descendant of one of your siblings.
3. **Support Test:** The child must not have provided more than half of their own "support," meaning the money they use for living expenses.
4. **Dependent Test:** The child must be claimed as your dependent on your federal income tax return.
5. **Citizenship Test:** The child must be a U.S. citizen, a U.S. national or a U.S. resident alien.
6. **Resident Test:** The child must have lived with you for more than half of the tax year (with a few exceptions detailed on the Child Tax Credit worksheet).

The Child and Dependent Care Tax Credit

- The Child and Dependent Care Credit can get you 20% to 35% of up to \$3,000 of child care and similar costs for a child under 13, an incapacitated spouse or parent, or another dependent so that you can work (and up to \$6,000 of expenses for two or more dependents).
- This credit is not refundable, which means it can reduce your tax bill to zero but you won't get a refund on anything left over from the credit

Eligibility Requirements

- A dependent child must be 12 or younger at the time the child care is provided.
- Spouses and other dependents don't have an age requirement, but IRS rules say they must have been physically or mentally incapable of self-care and must have lived with you for more than half the year.
- If you're married, you must file as married filing jointly.
- You must have earned income — money you earned from a job. Investment or dividend income doesn't count.
- You must provide the care provider's name, address and Taxpayer Identification Number — either a Social Security number or an Employer Identification Number.

You can't claim the credit for payments to care providers who are:

- Your spouse
- A parent of the dependent child
- A dependent listed on your tax return
- Your child who is age 18 or younger, even if they're not listed as a dependent on your return
- Keep in mind that qualifying expenses can go beyond physical care and extend to household expenses such as paying someone to help with cooking and cleaning.

Education tax breaks

There are currently two tax credits that apply to higher education costs: the American Opportunity Tax Credit (formerly the Hope Credit), and the Lifetime Learning Credit. The American Opportunity Tax Credit is worth up to \$2,500 for each qualifying student and is available during the first four years of postsecondary education. The credit is phased out for taxpayers with adjusted gross incomes starting at \$80,000 for single filers and \$160,000 for joint filers.

The Lifetime Learning Credit is 20% of the first \$10,000 paid for qualifying tuition and related expenses each year. The maximum credit in 2022 was \$2,000. Expenses for graduate and undergraduate work are eligible. Unlike the American Opportunity Tax Credit, there is no limit on the number of years this credit can be claimed; however, it is subject to the same AGI income phase out rules.

The Tax Jobs and Cuts Act of 2017 expanded the available use of funds saved in a 529 college savings plan to include levels of education other than college. In other words, if you have children in private school, or you pay for tutoring for your child in the K-12 grade levels, you can use the money in your 529 college savings account for these expenses.

Deductions for gifts

- The annual gift exclusion amount remains the same in 2022 at \$15,000.
- **Deductions for gifts to business customers and clients are limited to \$25 per person.** You and your spouse are treated as one person. A partnership for this rule is also considered one person.

Exceptions to the \$25 limitation would be advertising items which cost less than \$4, i.e. potholders, pens, pencils, etc., or incidental costs of wrapping, insuring or mailing the gift.

Tax Benefits of Owning and Selling a Primary Residence

Itemized Deductions

- **Mortgage interest deduction** can only be taken on mortgage debt of up to \$750,000, down from \$1 million previously. This only applies to mortgages taken after Dec. 15, 2017, prior mortgages were grandfathered in. And the interest on home equity debt can no longer be deducted at all, whereas up to \$100,000 in home equity debt could be considered.
- **(SALT) State and local sales tax**, plus real property taxes, may be deducted, but only up to a combined total limit of \$10,000 (\$5,000 if married, filing separately).
- **Acquisition debt, including equity debt**
 - Acquisition debt is defined as debt used to acquire or improve a personal residence.
 - From 2018 until 2026 the **deduction for interest paid** on home equity loans and lines of credit has been suspended, unless they are used to **buy, build or substantially improve** the taxpayer's home that secures the loan.
 - Under the new law, for example, interest on a home equity loan used to build an addition to an existing home is typically deductible, while interest on the same loan used to pay personal living expenses, such as credit card debts, is not.
 - As under prior law, the loan must be secured by the taxpayer's main home or second home (known as a qualified residence), not exceed the cost of the home and meet other requirements.
 - Example: A married couple obtains a mortgage loan of \$750,000 today. Later this year, they decide to obtain a \$100,000 home equity loan to build an addition and replace their roof. They may only deduct the interest on their total debt up to \$750,000.
- **Points paid** to acquire or improve a primary residence are deductible in the year they are paid. If seller pays points, they are deductible by the **seller**.
- **Capital improvements** (new roof, landscaping, siding, windows, etc.) reduce the realized capital gain upon sale.

Individual Retirement Accounts (IRA)

For 2022, the limit on contributions to an IRA is \$6,000, the same as in 2021. IRA contribution limits are adjusted to keep pace with the cost of living, but they only increase in \$500 increments, so they don't necessarily increase every year when there's inflation.

The catch-up contribution allowed for individuals age 50 and older is still \$1,000, for a total possible maximum of \$7,000 contributed to an IRA for the 2022 tax year.

A couple of important notes:

- Traditional IRA contributions are a PRE-TAX event and income is deferred. You are taxed on the withdrawals after age 59½.
- ROTH IRA contributions are a POST-TAX event. You pay no taxes on the withdrawals after age 59½.
- The IRA contribution limit is a per-person limit, not a per-account one. In other words, if you have more than one IRA, your total contributions to all of your accounts cannot exceed the limit.
- IRA contributions can be made anytime during the calendar year, or in the following calendar year up to the regular tax deadline. In other words, 2022 IRA contributions can be made anytime between January 1, 2022 and April 15, 2023.

2022 IRA Contribution Limits

IRA contribution limit	\$6,000
"Catch Up" contributions if 50 or over	\$1,000
TRADITIONAL IRA	
Income Limits (single filers on employer plan)	Phase out starts at \$68,000; ineligible at \$78,000
Income Limits (joint filers on employer plan)	Phase out starts at \$109,000; ineligible at \$129,000
Income Limits (joint filers NOT on employer plan)	Phase out starts at \$204,000; ineligible at \$214,000
ROTH IRA	
Income Limits (single and head of household)	Phase out starts at \$129,000; ineligible at \$144,000
Income Limits (joint filers)	Phase out starts at \$204,000; ineligible at \$214,000
Contribution Deadline	4/15/2023

401(k)

For 2022, the limit for elective 401(k) contributions is increasing by \$1,000 from its 2021 level to \$20,500.

For older workers 50 and up, additional catch-up contributions are permitted. Catch up contributions are additional elective contributions older workers can make on top of the \$20,500 every eligible worker can invest. In 2021, older workers were allowed to make catch-up contributions of \$6,500. This amount stayed the same in 2022 at \$6,500, so workers 50 and over will be allowed to contribute a maximum of \$27,000 in elective contributions in 2022, compared with \$26,000 in 2021.

Matching contributions from employers, non-elective contributions, and allocations of forfeitures are not counted in the \$20,500 or in the \$27,000 maximum elective contributions. However, there is a total limit for all contributions from all sources. This limit increased \$3,000 in 2022 compared with 2021. The new maximum contribution from all sources is \$61,000 for workers under 50, and \$67,500 for workers 50 and over.

Contribution Type	2021 Limit	2022 Limit	Change
Elective contributions for all workers	\$19,500	\$20,500	\$1,000
"Catch Up" contributions if 50 or over	\$6,500	\$6,500	\$0
Defined contribution maximum from all sources if under 50	\$58,000	\$61,000	\$3,000
Defined contribution maximum from all sources if over 50	\$64,500	\$67,500	\$3,000
Contribution Deadline	4/15/2022	4/15/2023	

SEP-IRA

The SEP IRA (Simplified Employee Pension Individual Retirement Arrangement) is a retirement plan that can be set up by the self-employed individual, as an employer and employee of their own business, they can contribute up to 25% of their income, up to \$61,000 in 2022.

- Only the employer (or self-employed person) contributes to the account, and there are generally no filing requirements for the employer. (Employees may also contribute to their own IRAs separately.)
- Contributions are made on a pre-tax basis, lowering the employees' taxable income for the year of the contribution.
- The employee is always 100% vested in the accounts, meaning that the contributions made immediately belong to him or her.

The employer's contribution rate must be the same for all eligible employees.

Capital gains taxes

Short-term capital gains are still taxed as ordinary income. Since the tax brackets applied to ordinary income have changed over the years, your short-term gains may be taxed at a different rate than they formerly were.

Also, under the new tax law, the three capital gains income thresholds don't match up perfectly with the tax brackets. Under previous tax law, a 0% long-term capital gains tax rate applied to individuals in the two lowest marginal tax brackets, a 15% rate applied to the next four, and a 20% capital gains tax rate applied to the top tax bracket.

Instead of this type of structure, the long-term capital gains tax rate income thresholds are similar to where they would have been under the old tax law. They are applied to maximum taxable income levels as follows:

Long-Term Capital Gains Tax Rate	Single Filers (taxable income)	Married Filing Jointly	Heads of Household	Married Filing Separately
0%	\$0-\$40,400	\$0-\$80,800	\$0-\$54,100	\$0-\$40,400
15%	\$40,401-\$445,850	\$80,801-\$501,600	\$54,101-\$473,750	\$40,401-\$250,800
20%	Over \$445,851	Over \$501,601	Over \$473,751	Over \$250,801

The applicable capital gains tax for most tax payers is 15%.

Capital Gain Tax Exemption on Primary Residence

- Married couple up to **\$500,000** or a single person up to **\$250,000**.
 - Must own and occupy for a least **2 of the 5** years prior to the sale.
 - Use is unlimited.
 - Both spouses must **occupy**, but only one spouse must **own**.
- May only apply exclusion once every two years.

Non-exempt Gains on the Sale of a Primary Residence

- Any gain over \$500,000 for married and \$250,000 for single is subject to taxation.
 - As ordinary income when owned less than one year.
 - May be eligible for deductions.
 - As a capital gain when owned one year but less than two.
 - May be eligible for 1031 tax exchange if converted to investment and purchasing investment.

Capital Losses

- Are not deductible on property held for personal use.

Unit 2 Review Exam

- 1. The TILA-RESPA Rule requires a Loan Estimate to be delivered or placed in the mail no later than the third business day:**
 - A) before receiving the consumer's application.
 - B) after consummation of the loan.
 - C) after receiving the consumer's application.
 - D) before consummation of the transaction.
- 2. A Closing Disclosure must be provided to the consumer at least three business days:**
 - A) prior to consummation.
 - B) prior to final approval.
 - C) after receiving the consumer's application
 - D) after loan consummation.
- 3. The capital gain tax exemption on primary residence for a married couple is:**
 - A) \$250,000
 - B) \$500,000
 - C) \$750,000
 - D) \$0, the exemption has been eliminated
- 4. A loan originator or lender is restricted from imposing fees on a consumer before the consumer has indicated an intent to proceed with the transaction after receiving the:**
 - A) good faith estimate.
 - B) HUD-1 settlement statement.
 - C) Closing Disclosure.
 - D) Loan Estimate.
- 5. Whether or not a Loan Estimate was made in good faith is determined by calculating the difference between the estimated charges originally provided in the _____ and the actual charges paid by or imposed on the consumer in the _____.**
 - A) Loan Estimate; Closing Disclosure.
 - B) Good Faith Estimate; HUD-1.
 - C) Purchase and Sale Contract; Loan Estimate.
 - D) Special Information Booklet; Closing Disclosure.
- 6. If the actual terms or costs of the transaction change prior to consummation, the creditor must provide a corrected:**
 - A) Loan Application.
 - B) Lender's Affidavit.
 - C) Closing Disclosure and provide the consumer with an additional three-business-day waiting period prior to consummation.
 - D) Special Information Booklet.

7. To exclude from their income all or part of any gain from the sale of their principal residence, a home seller must meet which of the following ownership and use tests during the 5-year period ending on the date of the sale?

- A) Own and occupy for all 5 years
- B) Own and occupy as the principal residence for at least 4 years
- C) Own for at least 2 years and occupy as the principal residence for at least 2 years.
- D) Own for all 5 years and live in the home as the principal residence for at least 5 years.

8. Deductions for gifts to business customers and clients are limited to:

- A) \$250 per person
- B) \$50 per client
- C) there is no limit
- D) \$25 per person

9. What is the form called that explains to a borrower all of the estimated settlement costs they will pay when applying for a loan?

- A) Listing Agreement
- B) Certificate of Eligibility
- C) Prepayment Estimate
- D) Loan Estimate

Unit 2 Review Exam Key

1. C) A **Loan Estimate** that must be delivered or placed in the mail no later than the **third business day** after receiving the consumer's application.
2. A) A **Closing Disclosure** must be provided to the consumer at least three **business days** prior to **consummation**.
3. B) The capital gain tax exemption on primary residence for a married couple is **\$500,000**, and **\$250,000** for a single filer.
4. D) Lender restrictions: Imposing fees on a consumer before the consumer has received the **Loan Estimate** and indicated an **intent to proceed** with the transaction.
5. A) Whether or not a **Loan Estimate** was made in **good faith** is determined by calculating the difference between the estimated charges originally provided in the **Loan Estimate** and the actual charges paid by or imposed on the consumer in the **Closing Disclosure**.
6. C) **If the actual terms or costs of the transaction change prior to consummation**, the creditor must provide a corrected disclosure and provide the consumer with an additional **three-business-day waiting period** prior to consummation.
7. C) To claim the exclusion, the homeseller must meet the ownership and use tests. During the 5-year period ending on the date of the sale, the seller must have:
 - Owned the home for at least two years (the ownership test); and
 - Lived in the home as the principal residence for at least two years (the use test)
8. D) Deductions for gifts to business customers and clients are limited to **\$25 per person**.
9. D) Mortgage lenders and brokers must provide borrowers with a standard **Loan Estimate** to clearly answer the key questions they have about settlement costs when applying for a mortgage loan

Unit 3

REAL ESTATE ETHICS

Key topics in this unit

- Personal and Professional Ethics
- Relationship of Laws and Ethics
- Is Obedience to the Law Good Enough?
- Business Ethics Pyramid
- Business Ethics Case Study
- Business Ethics: Individuals PLUS Industry Practices
- 12 Ethical Principles for Real Estate Agents
- Other Real Estate Ethics Issues
- Ethical Action Self-Test: Is the Action I am Considering Ethical?
- REALTOR® Code of Ethics

Unit 3: Real Estate Ethics

A. Personal and Professional Ethics

Each real estate licensee faces a myriad of decisions every day. From managing things on the home front to prospecting, marketing, showing and closing. There are four sources of “information” when it comes to making each of these decisions:

1. Individual moral values
2. Company policies
3. Industry laws and rules
4. Industry ethics

1. **Individual moral values** - You

These are YOUR rules applied to business and profit

Individual moral values are YOUR personal standards of right and wrong. When applied to business and profit, individual morality provides the basis of decisions and judgments: honesty, loyalty, good faith, being responsible, and accountable. Going against moral values usually produces guilt.

2. **Company policies** – Broker

These are BROKER rules tied to their business and profit

Brokers are required to adequately supervise the activities of sales associates and broker associates registered to the broker. Broker policies and procedures establish the rules of conduct within the organization, outlining the responsibilities of employees, sales associates and the broker. A policy and procedures manual defines company objectives and business philosophies, including, but not limited to:

- the company’s function
- the company’s objectives
- the company policies related to discrimination, sexual harassment, resolution of controversies, and more

3. **Industry laws and rules**

These are SOCIETY rules codifying what is right and wrong

Every industry has laws and rules that identify what society deems to be right and wrong practices. Florida Real Estate Professional Practices Act and Florida Administrative Code are legislative and regulatory standards for practice in real estate. In short, they codify what is right and wrong in the industry and specify penalties for violations. The stated purpose of Chapter 475 is found Section 475.001: "The Legislature deems it necessary in the interest of the public welfare to regulate real estate brokers, sales associates, and schools in this state."

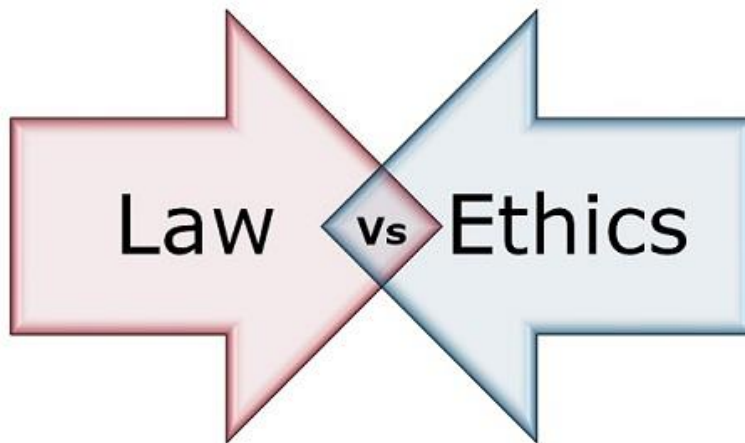
4. **Industry Code of Ethics – Peers**

These are PEER rules to "do the right thing"

Most industries and types of businesses have one or more trade associations. Also known as an industry trade group, business association, sector association, or industry body, it is an organization founded and funded by businesses that operate in a specific industry. An industry trade association participates in public relations activities such as advertising, education, political donations, lobbying, and publishing, but its focus is collaboration between companies. Associations may offer other services, such as producing conferences, networking or charitable events, or offering classes or educational materials.

Many associations adopt its own Code of Ethics intended to serve as a guide to the everyday professional conduct of its members. A code of ethics document may outline the mission and values of the organization, how professionals are supposed to approach problems, the ethical principles based on the organization's core values and the standards to which the professional is held.

The REALTOR® Code of Ethics has been the standard for real estate for over 100 years. True, only member REALTORS® are obligated to abide by the Code. However, courts have historically looked to the Code for direction in determining ethical performance by members and non-members alike.

B. Relationship of Laws and Ethics**1. Laws are created by the government**

The law is described as the universally accepted, recognized and enforced set of rules and regulations created by the government. It is used to govern the action and behavior of the participant and can be enforced by imposing penalties. It is created with the purpose of maintaining social order, peace, justice in the society and to provide protection to the public and safeguard their interests. Every applicable person is bound to follow the law or face punishment.

2. Ethics are the code of conduct agreed to and adopted by peers

Ethics are the code of conduct agreed and adopted by the people to set a standard of how a person should live and interact with others. They are the principles that guide a person, whether a company or individual, to determine what is good or bad, right or wrong, in each situation. Ethics guide a person's behavior and help an individual to apply moral rules and guidelines to make better choices for ourselves.

3. Laws and Ethics do not dovetail in every respect

Laws can be learned, mandated, and enforced, but no one has ever been able to legislate ethical behavior. In many cases, ethics go beyond the limitations of the law. The law draws a firm black-and-white line between right and wrong, while ethics tend to come in multiple shades of gray.

The law is unique and distinct from business ethics. Some acts are legal but unethical. When Broker purposely advertises and otherwise represents inaccurate information about a listed property it is an obvious case of right versus wrong. It is a violation of law. But it is less obvious when Broker makes disparaging statements about a competitor or former partner, especially if they are true.

4. Laws do not require acts of common decency and personal integrity

For example, does the Fair Housing Act promote equal opportunity in housing when, in fact, individual property owners are exempt from the law? Compliance with the "Golden Rule" may be a highly worthy goal from an ethical point of view but it is not something society would want to enforce legally.

5. The position that the ethical responsibility of businesses ends with obedience to the law can invite abuses that will in turn generate more legal regulation

The failure of personal ethics at Enron and WorldCom can be thanked for the Sarbanes-Oxley Act in 2002. Our Case Study ethics failures prompted the Dodd-Frank Act of 2010 that spans 2,300 pages and directed federal regulators to burden job creators and the economy with more than 400 new rules and mandates. And the widespread practice of dual agency by Florida real estate licensees generated the "Brokerage Relationship Disclosure Act."

To say that all an individual or business must do is obey the law suggests that laws are clear-cut and can be easily applied. If that were the case, there would not be much of a role for lawyers, courts or real estate commissions.

Laws are not Clear-Cut

A recent real estate student asked a seemingly simple question: Am I required to disclose to a buyer all pertinent facts about a property? The answer, I explained, is not simple. Chapter 475 in six separate places requires "Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer." Nowhere does it require disclosing all pertinent facts about a property. However, it DOES require "Dealing honestly and fairly" and "Using skill, care, and diligence in the transaction." It would be left to a judge or arbitrator to determine whether failure to disclose all pertinent facts was an example of dealing dishonestly, unfairly, or in a negligent manner.

Because the law is ambiguous and sometimes not clear, real estate licensees often face decisions that rely on their ethical judgment. We are committed to obeying the law but we are confronted with fundamental ethical questions: What should I do? How should I respond?

6. In general, regulators and the courts don't care if you make nasty comments about your competitor or former partner.

Both law and ethics serve to channel our behavior. Law accomplishes this primarily through the threat of sanctions if we disobey legal rules. Ethics also involve incentives: unethical behavior may result in disapproval and guilt, and ethical behavior may result in virtuous feelings and praise. Because of the binding nature of the law, general morality is not legislated. So making nasty comments about a competitor or coworker is not likely to result in a criminal charge.

However, a REALTOR® is bound by the REALTOR® Code of Ethics. Article 15 states: "REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices." Anyone could bring a complaint to the local REALTOR® Association and, if found guilty of violating the Code, the perpetrator of the false or misleading statements could be subject to penalties including a fine of up to \$15,000.

In addition, there is always the potential for a lawsuit and award of damages in a civil action on the grounds of unethical behavior. In real estate, adherence to ethical standards is taking the high road for ALL LICENSEES, not just REALTORS® bound to the Code of Ethics.

Law Versus Ethics Comparison Chart

BASIS FOR COMPARISON	LAW	ETHICS
Meaning	A systematic body of rules that governs the whole society and the actions of its individual members.	A branch of moral philosophy that guides people about the basic human conduct.
What is it?	Set of rules and regulations	Set of guidelines
Governed By	Government	Individual, professional norms and trade associations
Expression	Expressed and published in writing.	Abstract unless codified.
Violation	Violation is not permissible and may result in punishment like imprisonment or fine or both.	There is no punishment for violation unless pledged to abide by a code.
Objective	Created with an intent to maintain social order and peace in the society and provide protection to all the citizens.	Help people to decide what is right or wrong and how to act.
Binding	Legally binding.	Not binding unless pledged to abide by a code.

Real Estate Law Versus Ethics Versus Common Law

VIOLATION OF REAL ESTATE LAW	VIOLATION OF ETHICS	COMMON LAW
<ul style="list-style-type: none"> • Notice of noncompliance • Citation • Denial • Suspension • Revocation • First or second-degree misdemeanor or felony of the third degree • Fine up to \$5,000 	<ul style="list-style-type: none"> • Disapproval and guilt • If REALTOR® <ul style="list-style-type: none"> • Letter of reprimand • Education • Probation up to one year • Suspension of up to one year • Expulsion from membership for up to three years • Suspension or termination of MLS privileges • Fine up to \$15,000 	<ul style="list-style-type: none"> • May be based on Statute, Code of Ethics (whether a member or not), or Common Law • Judge/jury decide damages • Unlimited financial liability

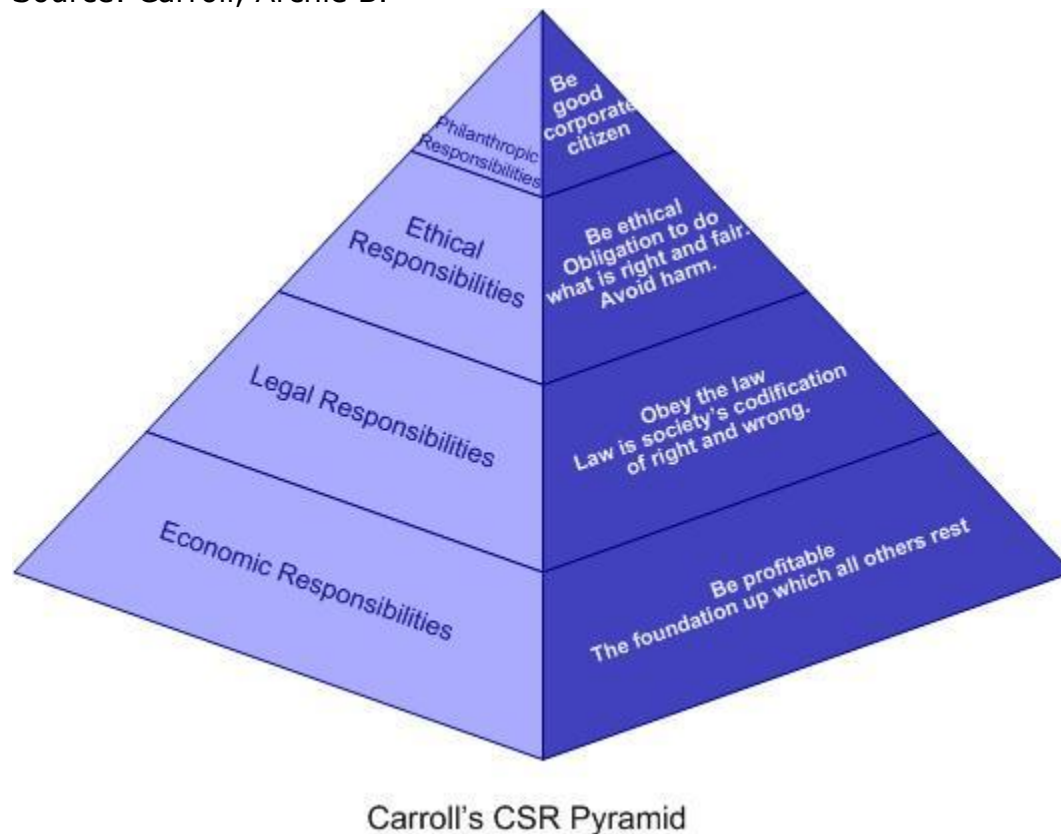
C. Is Obedience to the Law Good Enough?

Although economic and legal responsibilities embody ethical norms about fairness and justice, ethical responsibilities embrace those activities and practices that are *expected* or *prohibited* by societal members even though they are not codified into law. Ethical responsibilities embody those standards, norms, or expectations that reflect a concern for what consumers, employees, shareholders, and the community regard as fair, just, or in keeping with the respect or protection of individual rights.

Changing ethics or values often become the driving force behind the very creation of laws or regulations. For example, wholesale fraud and misrepresentation in the real estate industry eventually drove licensing legislation across the United States. Legislatures across the country also enacted standards of conduct using the REALTOR® Code of Ethics as a guideline. The environmental, civil rights, and consumer movements have driven later legislation.

D. Business Ethics Pyramid

Source: Carroll, Archie B.



1. Economic responsibilities

Primary economic responsibility of any business organization is to be profitable

Historically the principal role of a business organization was to produce goods and services that consumers needed and wanted and to make an acceptable profit in the process. At some point the idea of the profit motive got transformed into a notion of maximum profits, and this has been an enduring value ever since.

This theory tells us that business managers have one overriding responsibility: to maximize the profits of business owners. Under this theory, managers' actions in fulfilling its responsibility are limited only by the obligation to obey the law and avoid fraud and coercion. All other business responsibilities are predicated upon the economic responsibility of the firm, because without it the others become moot considerations.

2. Legal responsibilities

Industry laws and rules

- **Legal Responsibilities to the Broker**
- **Legal Responsibilities to consumers**
- **DADSOCOLD**

Legal Responsibilities to the Broker

A real estate sales associate is expected to operate profitably within the framework of legal responsibilities to the employing broker and industry laws and rules. While the majority of sales associates operate as independent contractors rather than employees, they are considered to be agents of the employing broker. Florida Statutes Chapter 475 and Chapter 61J2 Florida Administrative Code represent the real estate industry's "codified ethics." They specify responsibilities to the broker as the employing principal and to the consumer as a customer of the broker's services.

Legal Responsibilities to consumers

- **Dealing honestly and fairly**
- **Accounting**
- **Disclosing all known facts that materially affect the value of residential real property and are not readily observable to the buyer**
- **Skill, care, and diligence**
- **Offers and counteroffers presented in a timely manner, unless a party has previously directed the licensee otherwise in writing**
- **Confidentiality (limited if transaction broker)**

Common law sales associate agency responsibilities to the employing broker principal include

- **Dealing honestly and fairly**
- **Accounting**
- **Skill, care, and diligence**
- **Confidentiality (full confidentiality)**
- **Obedience**
- **Loyalty**
- **Disclosure of all material facts**

Business Economic and Legal Responsibilities Chart

Economic Responsibilities	Legal Responsibilities
1. Maximize earnings per share	1. Comply with governmental expectations
2. Commit to being as profitable as possible	2. Comply with various laws and regulations
3. Maintain a strong competitive position	3. Be a law-abiding corporate citizen
4. Maintain a high level of operating efficiency	4. Define a successful firm as one that fulfills its legal obligations
5. Define a successful firm as one that is consistently profitable	5. Provide goods and services that at least meet minimal legal requirements

3. Ethical responsibilities

Ethics in real estate

- **Individual ethical standards**
- **Corporate ethical standards**
- **REALTOR® Code of Ethics – Peers**

Ethical Responsibilities to the Consumer

The principles of ethics that help us solve ethical dilemmas in everyday life are the same principles that provide guidance in business, health care, law, and education:

- Do no harm
- Make things better
- Respect others
- Be fair
- Care

4. Philanthropic responsibilities

Be a Good Corporate Citizen

Philanthropy encompasses those corporate actions that are in response to society's expectation that businesses be good corporate citizens. This includes actively engaging in acts or programs to promote human welfare or goodwill. Examples of philanthropy include business contributions to financial resources or executive time, such as contributions to the arts, education, or the community. A loaned-executive program that provides leadership for a community's United Way campaign is one illustration of philanthropy.

The distinguishing feature between philanthropy and ethical responsibilities is that the former are not expected in an ethical or moral sense. Communities desire firms to contribute their money, facilities, and employee time to humanitarian programs or purposes, but they do not regard the firms as unethical if they do not provide the desired level. Therefore, philanthropy is more discretionary or voluntary on the part of businesses even though there is always the societal expectation that businesses provide it.

E. Business Ethics: Individuals PLUS Industry Practices

Business ethics involves not only issues of decision making at the individual, personal level but also issues of the industry social institutions, structures and practices

Unethical and shady business practices in such major financial firms as Countrywide Financial, Lehman Brothers, AIG and Fannie Mae all played roles in the financial collapse. Fraud, deception, conflicts of interest and sheer greed characterized the standard practices of the financial industry. And along with the major financial players were innumerable individual real estate practitioners, title insurance companies, mortgage loan originators, and appraisers who were more than willing to get in on the easy money.

The January 2011 Federal Crisis Inquiry Commission report on the causes of the economic crisis that began in 2007 states:

"the crisis was the result of human action and inaction, not of Mother Nature or computer models gone haywire. The captains of finance and public stewards of our financial system ignored warnings and failed to question, understand, and manage evolving risks within a system essential to the well-being of the American public."

The commission cited:

- Dramatic failures of corporate governance and risk management
- Excessive borrowing
- Risky investments
- Lack of transparency
- Ill-prepared government
- Failures of credit rating agencies, and
- **A systemic breakdown in accountability and ethics.**

Consider the range of people harmed by the business misconduct that brought about the economic meltdown:

- Those (and their families) who were found guilty of crimes and unethical behavior
- Employees of firms lost jobs, income, health care insurance, retirement
- Investors lost billions due to fraud and corruptions
- Investor confidence in financial markets
- Millions lost homes and remain deeply in debt due to the collapse of the housing bubble that was created by unethical financial practices
- US and global economies have been slow to recover

The best analysis of the most serious economic crisis since the Great Depression of the 1930's cites BOTH:

- Personal failures of individuals, and
- Shortcomings within the economic, social, and political context in which the individuals acted.

F. 12 Ethical Principles for Real Estate Agents

According to the Josephson Institute, whose mission is to improve the ethical quality of society by changing personal and organizational decision making and behavior, the key ethical principle is to make the right decision – to do the right thing. That may be difficult because the wrong thing may be an easier decision. Josephson consultants point out that ethical business practices are not necessarily the most profitable methods in the short term, but they are essential for long-term organizational survival.

Josephson reports that ethical principles should guide our personal and professional lives. For direction, they offer the following 12 ethical principles that we relate to real estate agents.

1. HONESTY

Ethical agents are honest and truthful in all their dealings and they do not deliberately mislead or deceive others by misrepresentations, overstatements, partial truths, selective omissions, or any other means.

2. INTEGRITY

Ethical agents demonstrate personal integrity and the courage of their convictions by doing what they think is right even when there is great pressure to do otherwise; they are principled, honorable and upright; they will fight for their beliefs. They will not sacrifice principle for expediency, be hypocritical, or unscrupulous.

3. PROMISE KEEPING & TRUSTWORTHINESS

Ethical agents are worthy of trust. They are candid and forthcoming in supplying relevant information and correcting misapprehensions of fact, and they make every reasonable effort to fulfill the letter and spirit of their promises and commitments. They do not interpret agreements in an unreasonably technical or legalistic manner in order to rationalize non-compliance or create justifications for escaping their commitments.

4. LOYALTY

Ethical agents are worthy of trust, demonstrate fidelity and loyalty to persons and institutions by friendship in adversity, support, and devotion to duty; they do not use or disclose information learned in confidence for personal advantage. They safeguard the ability to make independent professional judgments by scrupulously avoiding undue influences and conflicts of interest. They are loyal to their companies and colleagues and if they decide to accept other employment, they provide reasonable notice, respect the proprietary information of their former employer, and refuse to engage in any activities that take undue advantage of their previous positions.

5. FAIRNESS

Ethical agents are fair and just in all dealings; they do not exercise power arbitrarily, and do not use overreaching nor indecent means to gain or maintain any advantage nor take undue advantage of another's mistakes or difficulties. Fair persons manifest a commitment to justice, the equal treatment of individuals, tolerance for and acceptance of diversity, they are open-minded; they are willing to admit they are wrong and, where appropriate, change their positions and beliefs.

6. CONCERN FOR OTHERS

Ethical agents are caring, compassionate, benevolent and kind; they like the Golden Rule, help those in need, and seek to accomplish their business objectives in a manner that causes the least harm and the greatest positive good.

7. RESPECT FOR OTHERS

Ethical agents demonstrate respect for the human dignity, autonomy, privacy, rights, and interests of all those who have a stake in their decisions; they are courteous and treat all people with equal respect and dignity regardless of sex, race, or national origin.

8. LAW ABIDING

Ethical agents abide by laws, rules, and regulations relating to their business activities.

9. COMMITMENT TO EXCELLENCE

Ethical agents pursue excellence in performing their duties, are well informed and prepared, and constantly endeavor to increase their proficiency in all areas of responsibility.

10. LEADERSHIP

Ethical agents are conscious of the responsibilities and opportunities of their position of leadership and seek to be positive ethical role models by their own conduct and by helping to create an environment in which principled reasoning and ethical decision making are highly prized.

11. REPUTATION AND MORALE

Ethical agents seek to protect and build the company's good reputation and the morale of its employees by engaging in no conduct that might undermine respect and by taking whatever actions are necessary to correct or prevent inappropriate conduct of others.

12. ACCOUNTABILITY

Ethical agents acknowledge and accept personal accountability for the ethical quality of their decisions and omissions to themselves, their colleagues, their companies, and their communities.

G. Other Real Estate Ethics Issues

1. Bias against protected classes

REALTOR® Policy Statement 29 applies the Code of Ethics to non-real estate-related activities

~~While REALTORS® are encouraged to follow the principles of the Code of Ethics in all of their activities, a~~ **A REALTOR® shall be subject to disciplinary action under the Code of Ethics only with respect to all of their activities.** ~~and transactions involving the REALTOR®.~~

Article 10 REALTOR CODE OF ETHICS

- REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. 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, sexual orientation, or gender identity. (Amended 1/14)
- 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, sexual orientation, or gender identity. (Amended 1/14)

Standard of Practice 10-5:

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Rationale: This Standard of Practice directly flows from the requirement to not deny equal professional services or be parties to a plan to discriminate. Specifically, bias against protected classes revealed through the public posting of hate speech could result in REALTORS® not taking clients from certain protected classes or not treating them equally, which would lead to violations of the Fair Housing Act due to overt discrimination or disparate impact.

2. “Did your Seller even see my Buyer’s offer?”

**Duties to Clients and Customers – Article 1
Standard of Practice 1-7**

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.”

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 Standard of Practice 1-7 effective 1/1/2019

Upon the request of a cooperating broker who submits an offer to the listing broker, the listing broker shall provide a **written affirmation** to the cooperating broker stating that the **offer has been submitted** to the seller, or a written notification that the **seller has waived the obligation** to have the offer presented.

3. “Coming Soon” properties and social media

Many Brokers are using social media to broadcast news that a property is “coming soon” to the marketplace. Typically, the announcement is accompanied by a photo of the property, the address and other identifying information.

One caution is that such information would likely be considered “advertising” and would need to comply with 61J2-10.025 F.A.C. which states in part “When advertising on a site on the Internet, the brokerage firm name...shall be placed adjacent to or immediately above or below the point of contact information.” Also, if the listing Broker participates in MLS there may be rules related to misrepresentation of availability. There may also be rules related to allowing showings prior to actually coming on the market.

- **“Is there an ethical or legal obligation to share information with other Brokers?”**
- **“Is the answer different if the listing Broker participates in MLS?”**
- **“If the listing Broker is a member of MLS, is it ethical for the listing sales associate and other associates from Broker’s firm to show the property during the “coming soon” period?”**

4. “Highest and best offers”

A recent trend has been for listing agents to request an offeror to submit a “highest and best offer”. This technique to get the highest possible price evolved from bank REOs. Rather than dealing with counteroffers, banks customarily request a “highest and best offer” that they either accept or reject.

A common strategy in today’s resale market is to list a property slightly lower than market value to get quick attention and multiple offers. The seller then will go back to the strongest prospects and tell them that there is a bidding war and they should submit their “highest and best offer,” potentially causing the property to be sold above the original listing price.

What are your thoughts on this practice?

The licensee’s primary ethical obligation is to be forthright and honest when dealing with others. When taking listings, explain to sellers that receiving multiple, competing offers is a possibility and explain the choices.

5. Multiple offer escalation clause

In some markets the list price is like an opening bid. Agents are suggesting that buyers offer “\$3,000 over the highest bid.” Complications can arise, such as another buyer offering \$3,000 over the highest bid. One way to be clear is to place a maximum on the escalation clause. Under that circumstance, could there be ethical issues if there are no competing offers and the seller is presented an offer of, say, \$600,000 with an escalation cap of \$610,000? Would it be unethical for the seller to counter at \$610,000?

6. Shopping the contract

An associate has a hot listing that has attracted two offers, one from a cooperating agent and one from the listing associate’s office. The listing associate contacts the sales associate from her office and says, “Your offer is \$2,000 below another offer. Bring in a better offer by tonight or you’ll lose out.” The selling sales associate writes a better offer at a price higher than the other one and gets the property.

Is shopping the contract in this way unethical?

Not according to NAR if the seller has granted permission to disclose terms of other offers.

H. Ethical Action Self-Test: Is the Action I am Considering Ethical?

Every day we are faced with a myriad of decisions. The answers to the following four questions can serve as a guide to ethical decision-making:

1. Is the conduct I’m considering consistent with my obligations to be trustworthy?

- Am I prepared to be truthful, sincere, and candid?
- Is it consistent with what I believe and what I say?
- Have I made any promises I will have to break?
- Am I being disloyal to anyone?

2. Will I be treating everyone with appropriate respect?

- Is my conduct courteous and civil?
- Am I respecting the autonomy, dignity and privacy of others?
- Can anything I am doing be reasonably construed as an act of prejudice or intolerance?

3. Is the conduct I am considering consistent with my responsibilities?

- Am I being accountable for what I am doing or not doing?
- Am I really pursuing excellence?
- Am I exercising appropriate self-restraint?

4. Is what I am considering doing fair to all concerned?

- Is anyone being taken advantage of?
- Is the conduct consistent with principles of equity, equality, impartiality and openness?
- Does the conduct I am considering show concern for the well-being of others?
- Am I unnecessarily harming anyone?
- Can I be kinder or more considerate?
- Am I doing what I ought to do as a good citizen?
- Am I breaking any laws or rules?
- Am I doing my share for the community?

I. REALTOR® Code of Ethics

Professional Standards for Conduct

A. Not Established Professional Standards for Conduct

1. First ethical code for business after medicine, engineering, and law
2. Focused on service to the public and commitment to professionalism
3. Unique and distinct from business ethics
 - a. Cheat a vendor, deal drugs, armed robbery –not ethics violation
 - b. Cheat a customer or another REALTOR® – ethics violation
4. Adherence to the Code is taking the high road for ALL LICENSEES

B. Principles of the Code

The **Golden Rule** is at the heart of the Code of Ethics:

"Do unto others as you would have them do unto you."

1. "Widely allocated ownership" and "widest distribution of land ownership"
2. Maintain and improve the standards of our industry
3. Share a common responsibility for the integrity and honor of the real estate profession
4. Strive to become and remain informed on issues affecting real estate
5. Willingly share the fruit of your experience and study with others
6. Identify and take steps to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession
7. Do not attempt to gain any unfair advantage over competitors
8. Refrain from making unsolicited comments about other practitioners
9. If an opinion is sought about a competitor (or the REALTOR® believes comment is necessary), the opinion should be offered in an objective, professional manner
10. The term REALTOR® stands for competency, fairness, high integrity, moral conduct in business relations
11. No inducement of profit and no instruction from clients can justify departure from these ideals

Structure of the Code

A. Three Sections

1. Duties to Clients and Customers
2. Duties to the Public
3. Duties to REALTORS®

B. 17 Articles

1. Articles which are broad statements of ethical principles
2. Only Articles of the Code may be violated

C. Standards of Practice

1. Each Standard of Practice supports, interprets, and amplifies an Article
2. May not be charged, but may be cited in support of an alleged violation

Enforcement Complaints and Discipline

A. Two NAR-Mandated Functions at the Local Board Level

1. Grievance Committee is like a Grand Jury, which filters both complaints against agents and brokers, and arbitration requests
2. The Professional Standards Committee, commonly called the Hearing Panel, conducts full “due process” hearing and decides which party is entitled to the award, based on a *preponderance of the evidence*
 - a. Decides whether there was a violation of the Code proven by *clear, strong and convincing proof*
 - b. Panel determines the discipline to be imposed from a list established by the National Association of REALTORS®.

B. Authorized Discipline

1. Letter of warning
2. Letter of reprimand
3. Education
4. Fine, not to exceed \$15,000
5. Probation of one year or less
6. Suspension of not less than 30 days, nor more than one year
7. Expulsion from membership for one to three years
8. Suspension or termination of MLS privileges

C. Informal Dispute Resolution

1. Arbitration for procuring cause monetary disputes between REALTORS® (brokers) arising out of their relationship as REALTORS®
 - a. Filed within 180 days after closing or within 180 days after the facts could have been known, whichever is later
 - b. Payment of a \$500 fee by both parties, to be returned to the prevailing party
2. Procuring cause guidelines
 - a. No pre-determiners – considers the entire course of events
 - b. Writing an offer, making the first showing, or an agency relationship, in and of themselves, do not necessarily determine procuring cause or entitlement
 - c. *"The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object."*
 - Black's Law Dictionary, Fifth Edition
 - d. *"It is the squirrel that shakes the branch and not the squirrel that gathers the nut."*
 - Arkansas Supreme Court

Lawsuits

Litigation

A. Relationship of Ethics and Statutes

1. REALTORS® are subject to an additional layer of guidelines that serve to supplement those laid down by Florida Statutes 475 and 61J2
2. Where money is involved, most people don't bother with filing ethics complaints and go straight to attorneys
3. In a typical lawsuit, a licensee's conduct is measured against both Florida law and the Code of Ethics – even if unaffiliated
4. It is easy to connect a violation of Code to breach of one or more duties imposed upon a Transaction Broker
 - a. Dealing honestly and fairly
 - b. Using skill, care, and diligence in the transaction

B. Judgment for Damages

1. In law, a plaintiff may be awarded a judgment of compensatory damages, typically in the form of money, to be paid by a defendant as compensation for loss or injury.
2. Once recorded, the judgment becomes a general lien on the property of the defendant.

C. The Florida Real Estate Recovery Fund

1. Provides reimbursement to any person, partnership, or corporation adjudged by a court of competent civil jurisdiction in this state to have **suffered monetary damages** by reason of **any act committed, as a part of any real estate brokerage transaction involving real property** in this state, by any broker or sales associate who:
 - a. Was, at the time the act was committed, an active real estate licensee;
 - b. Was not a party to the transaction; and
 - c. Was acting solely in the capacity of a real estate licensee in the transaction;

2. Eligibility for recovery
 - a. Final judgment against an individual broker or sales associate
 - b. A writ of execution and an affidavit showing that no personal or real property can be found or that the amount realized on the sale of the judgment debtor's property was insufficient to satisfy the judgment
 - c. Any amounts recovered from the licensee have been applied to the damages
3. Payment from the Recovery Fund
 - a. Apply to the commission for the unsatisfied portion of the judgment (actual or compensatory damages) or \$50,000, whichever is less
 - b. Payments are limited, in the aggregate, to \$50,000 per transaction regardless of the number of claimants or parcels involved in the transaction
 - c. Payments against any one licensee may not exceed, in the aggregate, \$150,000
4. Penalties against the licensee
 - a. Suspension of license
 - b. Must repay the entire amount plus interest

D. Most Common Florida Real Estate Lawsuits and Ethics Complaints

1. Failed to disclose latent defects or hidden facts about the property
2. Failed to present an offer
3. Made false statements about a property or a party to a transaction
4. Created false advertising
5. Was unfair and dishonest (broker malpractice)
6. Was negligent (not diligent or careful)
7. Breached a statutory, professional, or contractually-created duty
8. Provided property opinions outside area of professional expertise
9. Accepted undisclosed kickbacks, commissions, or finder's fees
10. Did not use skill or care in the course of the transaction
11. Failed to disclose a private relationship with buyer or seller
12. Conspired with mortgage broker, closing agent, or appraiser to defraud lender
13. Failed to account and deliver funds
14. Forged a signature on a sales contract or other legal document
15. Shared in illicit proceeds
- 16.** Did (or did not) earn the commission (aka procuring cause)

REALTOR® Code of Ethics

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.”

Case Studies

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.”

Case Studies

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."

Case Studies

- Standard of Practice 3-2

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. After a REALTOR® has submitted an offer to purchase or lease property, the listing broker may not attempt to unilaterally modify the offered compensation with respect to that cooperative transaction. (*Amended 1/14*)

- 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*)

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*)

Case Studies

- 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

Article 15: "REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices."

Unit 3 Review Exam

1. **The government creates which of the following?**
 - A) Laws
 - B) Ethics
 - C) Morals
 - D) Values
2. **Ethics are the code of conduct agreed to and adopted by:**
 - A) DBPR
 - B) Government
 - C) Peers
 - D) HOAs
3. **At the heart of the REALTOR® Code of Ethics is the:**
 - A) Purple Rule
 - B) Green Rule
 - C) Golden Rule
 - D) Yellow Rule.
4. **YOUR rules applied to business and profit are:**
 - A) company policies
 - B) individual moral values
 - C) industry laws and rules
 - D) REALTOR® Code of Ethics
5. **SOCIETY rules codifying what is right and wrong are:**
 - A) REALTOR® Code of Ethics
 - B) individual moral values
 - C) company policies
 - D) industry laws and rules
6. **BROKER rules tied to their business and profit are:**
 - A) company policies
 - B) industry laws and rules
 - C) individual moral values
 - D) REALTOR® Code of Ethics

Unit 3 Review Exam Key

1. A) Laws are created by the government
2. C) Ethics are the code of conduct agreed to and adopted by peers
3. C) The Golden Rule is at the heart of the Code of Ethics:
"Do unto others as you would have them do unto you."
4. B) *YOUR* rules applied to business and profit are individual moral values
5. D) *SOCIETY* rules codifying what is right and wrong are industry laws and rules
6. A) *BROKER* rules tied to their business and profit are company policies

Unit 4

SAFETY, SECURITY AND CUSTOMER DATA PROTECTION

Key topics in this unit:

- Agent safety in the news
- Safety with customers
- Video, surveillance and privacy laws
- Safety and security at the office
- Customer data protection
- Online safety and identity theft
- Disaster preparedness

Introduction – Agent Safety in the News

In the 2019 National Association of REALTORS® annual report, 21% of men and 40% of women said they had experienced a situation that made them fear for their personal safety or the safety of their personal information. About forty percent (35% of men, 49% of women) said they carry weapons; the most common were pepper spray, carried by 18% of agents, followed by guns, which 14% carried. Others toted pocket knives and stun guns.

Every year, agents around the country are threatened, robbed, or physically or sexually assaulted while fulfilling the everyday requirements of their jobs. Some even lose their lives. Through the sharing of real-world examples and the discussion of safety tips and strategies, real estate agents will hopefully develop situational awareness and lessen the chances of harm.

San Francisco, CA – March 2018

A 55-year-old real estate agent was hosting an open house March 10, on the 200 block of Pelican Cove, a privately-owned street in the Bayview Heights neighborhood when just before 2:30 p.m., as the agent stood in the kitchen, she heard someone enter the home and assumed it was potential buyers.

Instead, the agent was confronted by three suspects, one of whom was armed with a gun. The suspects took the agent's cash and began rummaging through her purse until the sound of a doorbell startled them. The robbers then fled the home and drove away.

Milwaukee, WI – May 2016

Real estate agent Jim Olsen thought it was a simple showing. Instead his prospective rental tenant lured him into an ambush. Once inside the property, two masked men appeared. They pushed Olsen to the ground and hit him in the back of the head with a gun. The attackers fled with his cash, phone and wedding ring.

San Antonio, TX – December 2010

It was a few days before Christmas 2010. San Antonio real estate agent Janice Tisdale had arranged to meet her client Emilio Maldonado and his banker at a \$750,000 house in a remote subdivision.

"As soon as I pulled up I said, 'Where's your banker?' And he goes, 'Oh, he couldn't come today,'" Tisdale, 68, told ABC News' "20/20." "And I thought, 'Oh, this is weird.' You know? It just didn't feel right."

Tisdale took some precautions in the moments before meeting Maldonado. She removed her diamond jewelry and opened the doors of the house so she would

have an escape route. Even though she'd shown him several homes in the recent months, she felt inexplicably uneasy around him.

As Tisdale and Maldonado toured the vacant house, Tisdale said her instincts were telling her to bolt.

"The hair on the back of my neck was standing up, and I just was feeling really uncomfortable," Tisdale recalled. "And finally I said, we really need to go. So, we started out the door, and I reached down to pick up the lock box. That's when he struck me over the head."

Maldonado had pulled a tire thumper -- used by long haul truckers to check tire pressure -- from his cowboy boot and smacked Tisdale over the head, causing her to fall forward and hit her forehead on a stone wall.

Instead of passing out, Tisdale managed to jump up and give Maldonado a piece of her mind.

"I said, why did you hit me over the head?" Tisdale recalled. "And he just looked at me, and he said, 'I need four thousand dollars.'"

As blood gushed from the back of Tisdale's head, Maldonado held the then-64-year-old grandmother hostage for 45 minutes. As a former flight attendant, Janice was trained to keep calm and keep talking.

"I just kept telling him, 'You just need to go to your car,'" Tisdale said. "'You need to get a piece of paper. I'll write that you did not attack me ... and my husband will totally believe me, because he calls me such a klutz!'"

Tisdale's cleverness paid off. When Maldonado stepped toward his car to retrieve some paper, Tisdale ran. Maldonado chased her and tried to grab her.

In the distance, Tisdale spotted some teenagers driving a Honda Civic. "And here come those kids, and that car, and their window was down, so I just screamed, 'Help me, help me. He's trying to kill me.' And they slammed on their brakes, and five teenagers bounded out of this car."

Maldonado was arrested soon after and is currently serving 60 years in prison for aggravated robbery. Tisdale said she still sells houses, but she never goes to a property alone and always carries a hand gun. She speaks once a month to new agents at the San Antonio Board of Realtors, telling her story and giving safety tips.

And as for the teens who came to her rescue? Tisdale credits Blair Engel, Sean Reyes, Stephen Mery, Esteban Rodriguez, and Taylor Freiermuth with saving her life and expanding her family.

"I have five more children now. So instead of four, I have nine," Tisdale laughed. "What more could a mother want?"

Whitehouse, TX – February 2018

Danny Shane Lafait, 44, is charged with third-degree stalking.

The sheriff's office took a report from the REALTOR on Feb. 2. She said Lafait had come to her office as she was leaving and asked about real estate. The REALTOR said she had a bad feeling, but gave him her card to contact her later.

Lafait went into the office on Dec. 19 and was trying to see the REALTOR and became violent when they would not let him see her. Lafait hit one of her co-workers with a disk tray when he was told he could not speak with her. He was later issued a criminal trespass warning.

The REALTOR said soon after that incident she was contacted by someone with a different name who inquired about real estate. He later started sending pornographic images and began making sexual advances toward her through email.

Tampa, FL – August 2017

Reginald Bernard Nelsonm 48, was charged with one count of felony cyberstalking a 73-year-old woman.

Nelson has been linked to about 21 cases that were reported to several local police departments.

The victims in these related cases were also real estate agents who were receiving similar text messages. Deputies said Nelson admitted that he intentionally would find local female REALTORS in local advertisement papers and contact them with inappropriate images and or texts.

Deputies said they began their investigation June 17 after receiving information that Nelson, who was unknown at the time, had sent text messages to the woman. When she replied to the initial message, she received a photograph of an explicit image followed by sexual messages. Nelson sent her multiple explicit messages.

Washington DC – December 2018

A number of Realtors received an email with the subject line "Help Support Diana Recovery." The email appeared to come from the Realtor® Party asking for donations to fund medical expenses for a young girl.

However, the request for aid is not from the Realtor Party or the National Association of Realtors (NAR), which says it "never solicits donations for personal or individual charities."

Phoenix, AZ – March 2018

Jill Comfort, a Phoenix-area real estate agent, had a good feeling about the cream-colored stucco house she planned to show her client, a young man relocating to the city from California. It was in his budget, in the right location and had a huge pool and back yard that would allow him to entertain.

It also had multiple surveillance cameras that recorded everything that went on as prospective buyers walked through.

"When we were walking out of the hallway, we could see they were following us," Comfort said. Both agent and client felt "awkward," she added.

"I can understand where some sellers are leery of strangers walking through their house, but that's what happens when you put your house on the market," Comfort said. Her client, she said, was "creeped out."

Madison, CT – June 2018

Betsy Anderson was leading a married couple with two children and their real estate agent through a tour of her listing when she received a startling text from the seller.

Anderson, a sales associate with William Pitt Sotheby's International Realty in Madison, Conn., had been holding the back door open to keep an eye on the kids, who had gone outside to view the in-ground pool while their parents continued looking through the home.

At that moment, Anderson's client, who was not present at the property during the showing, messaged her to ask why she was letting the cool air in the house escape through the open door.

Anderson was stunned and perplexed as to how the seller was able to see what was happening inside the home. She knew of a couple of external security cameras on the front side of the \$600,000 property, which were visible. It was then she learned that the seller had installed a hidden camera inside the home and was watching her every move.

"I just thought the seller's text was very telling," Anderson says. "Clearly, there were things going on that I didn't know about."

Safety with Customers

Real estate sales and rental agents routinely find themselves in situations where they are alone with customers about whom they have very little information. The very nature of showing real estate to prospective buyers and tenants who are virtual strangers can make agents, both men and women, susceptible to becoming victims of violent crimes. (source: *North Carolina Real Estate Commission* ncrec.gov)

It is recommended that you think about your personal safety in a two-Phase system:

- **Phase 1** is the **Planning Phase** where you take time in advance of a customer interaction to determine how you will handle certain situations.
- **Phase 2** is the **Execution Phase** where you are actively working in the field and must put the Planning Phase into motion.

Phase 1: Planning Phase

1. Don't make personal marketing too personal

Giving out too much of the wrong information can make you a target. Concentrate on your professional proficiency rather than personal information in advertisements, resumes, business cards and websites.

- Your marketing materials should be polished and professional.
- Limit the amount of personal information you share.
- Use your office number and have your calls forwarded to your phone.
- Use your office address rather than your home address.

Keep your personal life and your professional life separate. "Getting to know your customer" does not need to include personal information about your children, or where or with whom you live.

2. Dress for safety

- Dress professionally for your market
- Don't wear expensive or excessive jewelry
- Only carry the cash or credit cards you need
- Carry yourself with confidence
- Don't wear shoes that hamper your ability to move quickly, if necessary.

3. New customer plan – know who you are dealing with

- **Meet them at your office**
- Take their picture
- Photocopy their driver's license
- Get their car description and/or license plate number or
- Take a picture of their car and/or license plate
- If at the property, email/text the information to a coworker
- Verify their identity
- Conduct a Google and social media search

Verify Their Identity

Run a Google search and check social media sites. Consider calling references, their place of employment, and verifying their current address.

Meet Them in Your Office First

Ask the prospective customer **to meet at your office** before going to a property. This provides a safe, neutral first meeting place where you can openly collect and file identifying information. This may discourage an assailant.

If you can't get them to come into the office first and you still want to work with them, ask an associate to accompany you. At a minimum, let someone in your office know with whom you are meeting, where and when. When the customer arrives at the property, note the make, model, color and license number of their vehicle or take a picture of it. Email or text this information to your office before you proceed.

Copy or Scan Their Driver's License

Legitimate customers do not mind you copying their driver's license or photo identification, and they also shouldn't mind if you take a picture on your phone for your file. Be sure to email or text it to your office, a friend, or your family. It is reasonable to expect identification from a prospective client before we show a home worth hundreds of thousands of dollars.

4. Have a buddy

Know in advance who you are going to call when:

- Your instincts tell you to get help
- You're just a little nervous
- You need help at an open house

5. Have a prearranged distress code

You may be in a situation where you think you might need help; you can use the phone, but the person you are with can overhear the conversation and you do not want to alert him or her. This is where a prearranged distress code can help.

When a situation arises that makes you feel uncomfortable, call, text or email your buddy or someone else you have shared the code with previously. Give them the prearranged distress code (a phrase or a keyword) alerting them to have someone meet you so you will not be alone.

You can make up your own distress code — one that would sound reasonable to a prospective customer; however, it may be advisable to have a single distress code that is used by the entire office.

Phase 2: Execution Phase

1. Tell someone

- a. Who you are with
- b. Where are you going
- c. When you will be back

Make sure you tell someone where you are going, who you are going with and when you will be back. Whenever possible, make sure the customer knows you have shared this information with someone.

You are less likely to be attacked if the criminal knows you will be missed and he or she can be identified. Even leaving behind a note on your desk could help the authorities find you in an emergency.

Remember, victims of crimes can be missing for days before co-workers begin to worry, unless they are told when to expect you back.

2. Danger is not always easy to identity

- a. Gut feelings
- b. Hesitation
- c. Unexplained fear
- d. Apprehension

These are signals that something isn't right!

Safety experts agree that it is best to assume that your instincts are right and to take the necessary precautions. Do not be so anxious for a sale that you ignore your own intuition in the heat of the moment. Use these same instincts before you give out your phone number or address, and especially before getting in the car with a new customer.

3. Keep a phone in hand

- Keep your phone fully charged and have a battery reserve.
- ***Carry your phone in your hand at all times.*** Your greatest source of help is your phone. If you keep your phone in a purse, a laptop bag or briefcase, it may not be available when you need it most.
- It's a good idea to keep a phone charging adaptor in your car for emergency situations and to carry a fully charged battery reserve.
- Contact someone once an hour to let people know where you are. Anytime you feel uncomfortable about a customer, make a plan with a friend, colleague, or family member to contact you if they haven't heard from you at the appointed time.
- If you have an emergency situation and call 911, stay on the line and do not hang up, even if you can't talk.
- Rehearse in your own mind how you would react to an emergency situation such as a mugging or physical attack. Know when you will fight back, when you will run and when you will have an opportunity to call 911 for assistance.

4. Conduct a safe open house

- Don't advertise a listing as vacant
- Establish escape routes from each level of the house
- Call the office or a buddy hourly
- Keep your keys and phone with you
- Park where you can get out quickly
- Never conduct an open house alone, especially at a multi-level property

Arrive early and survey exits to **establish escape routes** from each level. Depending upon the location of the property, make sure all deadbolt locks are unlocked to facilitate a faster escape. Position your work station at the most visible point for viewing arriving guests. Double check the backyard to make sure you can get past the fence if necessary. When leaving the property, secure the house and check all windows and doors.

If possible, **provide an electronic registration sheet** on a tablet or phone and transmit it each time someone registers. At a minimum, have a paper registration and a pen. Place one of your business cards, with the date and time on the back, in a kitchen cupboard.

Notify neighbors in advance or, if time permits, introduce yourself to the neighbors and let them know when you will be showing a house. They will be more alert to unusual sounds and you will have somewhere to run to if you need help.

Make sellers aware of the safety risks associated with open houses. Remind sellers to put valuables and prescription drugs in a safe, secure place. Do not leave your briefcase, purse or laptop, tablet or mobile device sitting on the counter.

Never conduct an open house alone, especially in a multi-level house where observing guests is even more difficult. Always enlist the help of a teammate, lender, builder, spouse, assistant, friend, etc. Thieves often work in teams. While one is keeping you occupied, the other is stealing whatever they can.

5. Let customers lead the way

- Let the customer **walk in front of you** as you move through the property
- Be aware of possible escape routes
- Leave doors open
- Be wary in attics and small rooms

6. Practice vehicle safety

- When you are alone, the first thing you should do when you get into your vehicle is lock the doors.
- Be observant when approaching your vehicle, looking underneath and in the back seat before you get in.
- When working with a customer, take **separate vehicles** whenever possible.
- As you park your vehicle, take in your surroundings and ask yourself: In an emergency, am I going to be able to run to my vehicle and drive away? You won't be able to if you are blocked in.
- Park on the street whenever possible to avoid **being blocked in** a driveway.
- If you are in an unfamiliar area, make mental notes of landmarks, points of interest and intersections. And always know the exact address of where you are going.
- If you must take one vehicle, **you drive!**

7. Fight or flight

- Yell "fire" to get attention
- Select a response that fits the situation
- Run and call 911 when you can
- Take a self-defense training course
- If you strike, mean it

Remember that the primary goal in any incident is to escape from the danger and call for help.

If an attack does occur, trust yourself and stay as calm as possible. Think rationally and evaluate your options. There is no one right way to respond to a confrontation, because each situation is different. The response depends on the circumstances: location of the attack, your personal resources, the characteristics of the assailant and the presence of weapons.

Possible Responses to an Attack

No matter which response you choose, be decisive and act accordingly to your situation. No two situations are alike, nor should they be treated as such.

- **Flight**

Immediately try to distance yourself from the situation. This is the preferred response. Once you are safely away, you can reevaluate the situation and contact the authorities.

- **Passive resistance**

Appear to cooperate with your attacker until such time as you can change the situation. If it is a matter of just giving up your property, do it! Your life is worth more than a possession. If the attacker has a weapon, you may need to cooperate until you can make a plan for a different response.

Keep talking and make it personal. It is much harder for an attacker to hurt someone they see as a real person. If the opportunity to escape arises, take it.

- **Verbal assertiveness**

If someone is coming toward you, hold out your hands in front of you and yell, "Stop" or "Stay Back!" Several criminals interviewed said they'd leave a woman alone if she yelled or showed that she was not afraid to fight back.

- **Fight**

Escape, if possible, should always be your first priority. However, in some situations you may need to fight your way into a position to escape. Remember that there is no such thing as a fair fight; use whatever weapon is available to you (e.g., ink pen, car keys, pepper spray, etc.).

If you fight your attacker, try to hit vulnerable areas such as the eyes, nose, face, shins, feet, or groin. These areas are more likely to cause distracting pain to the attacker, which could allow you to escape.

BONUS: Safety for Landlords

1. Implement and follow a fair and thorough screening process for prospective tenants, vendors and employees. Don't make any exceptions.
2. Communicate with your tenants and avoid giving them unpleasant surprises.
3. Use a PO box, drop box, or electronic deposit to receive rent checks; don't make your home address known.
4. Meet with potential renters in a public place and have them fill out a contact or interest form before showing them your rental. Show rentals during the day.
5. Learn how you can de-escalate a conflict. You will inevitably be dealing with an irate tenant at some point. Skills to help you listen, stay calm and communicate will help you.

Video, Surveillance and Privacy Laws

Florida Constitution Article I, SECTION 12 – Searches and Seizures

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, and against the unreasonable interception of private communications by any means, shall not be violated..."

Florida Constitution Article I, SECTION 23 - Right of Privacy

"Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law."

The Florida Constitution explicitly recognizes a right to individual privacy. However, this law has been interpreted to protect a person only from invasions of privacy into their personal affairs by the State, rather than by other private parties. The law is mostly referenced in cases centered on alleged warrantless searches, which is probably not relevant to us in the real estate related industries.

So, we will look at the following Florida privacy statutes as our guide to rights of privacy:

- **Section 934.50 F.S. – Freedom from Unwarranted Surveillance Act**
- **Section 934.03 F.S. – Interception and disclosure of wire, oral, or electronic communications prohibited**
- **Section 810.145 F.S. – Video voyeurism**

Section 934.50 F.S.– Freedom from Unwarranted Surveillance Act

Use of Drones 934.50 (3)(b):

A person may not use a drone equipped with an imaging device to record an image of privately owned real property or of the owner, tenant, occupant, invitee, or licensee of such property ...to conduct surveillance on the individual or property captured in the image in violation of such person's reasonable expectation of privacy without his or her written consent.

"Reasonable expectation of privacy" means:

He or she is not observable by persons located at ground level in a place where they have a legal right to be, regardless of whether he or she is observable from the air with the use of a drone.

"Surveillance" means:

With respect to an owner, tenant, occupant, invitee, or licensee of privately owned real property, the observation of such persons with sufficient visual clarity to be able to obtain information about their identity, habits, conduct, movements, or whereabouts; or

With respect to privately owned real property, the observation of such property's physical improvements with sufficient visual clarity to be able to determine unique identifying features or its occupancy by one or more persons.

Exceptions:

This section does not prohibit the use of a drone by a person or an entity engaged in a business or profession licensed by the state, or by an agent, employee, or contractor thereof, if the drone is used only to perform reasonable tasks within the scope of practice or activities permitted under such person's or entity's license.

However, this exception does not apply to a profession in which the licensee's authorized scope of practice includes obtaining information about the identity, habits, conduct, movements, whereabouts, affiliations, associations, transactions, reputation, or character of any society, person, or group of persons.

Remedies for Violation of Paragraph (3)(b)

The owner, tenant, occupant, invitee, or licensee of privately-owned real property may initiate a civil action for compensatory damages for violations and may seek injunctive relief to prevent future violations. The court may also issue punitive damages.

Section 934.03 -Interception and disclosure of wire, oral, or electronic communications prohibited

Do Not Record Voices Without Consent

While it's generally legal to videotape someone in Florida, you are not permitted to record a conversation unless all parties have given consent to be taped. Florida law makes an exception for in-person communications when the parties do not have a reasonable expectation of privacy in the conversation, such as when they are engaged in conversation in a public place where they might reasonably be overheard.

It is probably best to install image-only recording devices. It could be a violation of privacy law if the video picks up a private conversation without the parties' consent.

Florida Section 810.145 Video voyeurism

Video voyeurism is a second-or third-degree felony in Florida punishable by a fine up to \$10,000 and 10 years in prison for repeat offenders. Perpetrators also face the possibility of a civil lawsuit leading to massive damages for invasion of privacy.

Video voyeurism is the act of secretly recording someone in a place where they have a "**reasonable expectation of privacy**"...(meaning) a place and time when a reasonable person would believe that he or she could fully disrobe in privacy, without being concerned that the person's undressing was being viewed, recorded, or broadcasted by another, including, but not limited to, the interior of a residential dwelling, bathroom..."

"A person commits the offense of video voyeurism if that person for his or her amusement, entertainment...or profit intentionally uses or installs an imaging device to secretly view, broadcast, or record a person, without that person's knowledge and consent..."

"This section does not apply to any..."

- security system when a written notice is conspicuously posted on the premises stating that a video surveillance system has been installed for the purpose of security for the premises (or)
- video surveillance device that is installed in such a manner that the presence of the device is clearly and immediately obvious..."

Conspicuous Notice

This section recognizes that people have the right to know when they're being filmed inside a residential dwelling, including personal residences, leased properties and short-term rentals such as VRBO or Airbnb. Accordingly, in all cases cameras should be placed where they can "**clearly and obviously**" be seen by anyone who enters the property.

If the cameras are hidden or not obvious, a sign must be used that clearly states that the property is under video surveillance. The sign itself must be clear and obvious to anyone who enters the dwelling.

Installed by a Licensed Contractor

There are many security systems available online that can be self-installed and self-monitored. However, if a security company will be monitoring or servicing the system, it must be installed by a licensed contractor. Additionally, Florida law requires that any security system used to monitor a business must be installed by a licensed contractor.

The safest bet is to always have the system installed and configured by a licensed security system professional.

Exterior Home Security Cameras

Many Florida residents install video recording equipment outside their homes to deter burglars and monitor suspicious activity on the street. This type of video recording is perfectly legal as a crime prevention tool if there is **not** a violation of Florida law. It is generally recommended that the cameras be placed in a visible location and pointed at an area where people don't expect to have privacy.

There are special limitations for those living in a condominium or HOA. Before considering a home security camera system, consult with the local association to ensure security cameras are allowed. Even if allowed, there may be problems with the video voyeurism law for placing cameras on the exterior to record activity in common areas, or that have a view of a neighbor's patio or balcony.

There may also be problems for community associations and community association managers who use drones to inspect patios, balconies, lanais and other jointly owned but privately used portions of the property. The easiest solution is to obtain written consent from unit or parcel owners.

Surveillance in the Workplace

Florida employers may record their employees in the workplace for legitimate, work-related purposes such as preventing theft. Since video voyeurism laws also apply to workplaces, business owners must take care not to place cameras in areas where staff have a reasonable expectation of privacy – it's an absolute no-no to place cameras in the bathroom.

Employers may not record videos, images or sound recordings of employees for purposes of amusement under Florida law. They may not broadcast such recordings or images, which means posting them on the Internet, emailing them or otherwise sending them to any other person for the purpose of entertainment. Likewise, employers may not share recordings or images for the purpose of embarrassing or harming the subject.

Basic guidelines:

1. Employees are entitled to have reasonable expectations for privacy
2. Monitoring only for a specific, work-related purpose
- 3, No unfair discrimination
4. Notification that there is surveillance

Safety and Security at the Office

The following tips and strategies are recommended by the National Association of REALTORS®.

General Security Measures

- Know staff in other nearby businesses and be aware of their schedules.
- Ensure all doors other than the main entrance are secured.
- Make certain windows are not obscured so that passersby can see in.
- Make sure there is a clear exit route from the service desk to the door.
- Never allow visitors to wander freely about the business. Have the person whom they want to see come to the front office area and escort the individual to the meeting area.
- Have a visitor log book and policy on issuing visitor tags that limit access to certain areas and hours of the day.
- If you encounter an individual while working late or alone, indicate to that person that you are not alone. Say something like, "My supervisor will be right with you and should be able to assist you."
- Keep personal information private. Avoid discussing where you live, after-work or vacation plans in front of customers, new coworkers or anyone in general with whom you are not comfortable.
- Install a landline phone in the storage room.
- Install an alarm, (preferably both audible and monitored). Have alarm buttons in strategic spots; i.e. panic buttons at the reception area.
- Install surveillance cameras that will monitor the front entrance, the reception area, and other areas that are accessible to the public.

Workplace Security Plan

It would be remiss to not state that the most effective way to deal with a workplace violence incident is to avoid it in the first place. Every organization should have a safe hiring process in place that emphasizes pre-employment screening and background checks, as well as a visitor policy that has at the heart of it a “zero-incident” approach to workplace violence prevention.

A zero-incident approach addresses prevention by focusing on identifying at-risk behaviors of employees and visitors, as well as by conducting risk assessments of the work environment, physical facilities, and by putting contingency plans in place for anticipating threats.

- 1. Identify tools you might use to secure your workplace.**

Include physical barriers such as fences and gates, access control systems, door locks, security guards, and video surveillance.

- 2. Create a facility map that marks all doors, exits, security cameras and stairwells.**

- 3. Devise a plan for access control.**

Consider using keys that cannot be replicated or cipher locks that require a code. Electronic access cards are another good option. They allow you to disable a terminated employee's card without having to issue new codes to everyone. This system also enables management to limit access to certain areas.

- 4. Ensure security cameras are positioned where you need them.**

- 5. Address how to secure particularly vulnerable areas.**

These include locations where visitors can enter freely or with little scrutiny. This might be the waiting area in a doctor's office, the lobby of a law firm or the loading dock of a trucking company.

- 6. Conduct a periodic review of security measures.**

The review should ensure that doors are closed or locked as needed, and that locks are functional. Security cameras are positioned correctly and working.

- 7. Devise a plan for communicating with employees in the event of a security emergency.**

If a visitor turns violent, or a fired employee returns to retaliate, what doors will you lock? How will you warn employees to seek cover? Where can they go to not only avoid harm but to escape?

8. **Create a system for tracking security issues.**

If an employee reports that her ex-husband is stalking her in or around the facility, do you have a process for communicating that information to your front desk so they can watch for him? If an employee finds a door open when it shouldn't be, does she just close it? Or does she report it so that you can investigate whether this happens a lot and adjust your security measures? The system for recording security issues doesn't have to be complex. Purchase a simple logbook from an office supply store or record your data in a spreadsheet. Your security plan should detail where this log will be kept and who will be responsible for updating and reviewing it.

9. **Designate a spokesperson to issue communications in the event of an incident.**

The spokesperson should be able to speak intelligently to the media, the public and employees' relatives. Choose a person who would be able to impart the facts about an incident and convey concern for victims and their relatives. In more complicated situations, a public relations professional can help you craft a message for the media.

5 Strategies for Dealing with Upset Customers

No one in this room got into the real estate industry to be yelled at, harassed or assaulted. But it does happen even with our best efforts and intentions. Here are some tips and strategies for dealing with these difficult situations.

1. Approach stressful situations with a Zen mind and compassion

Our brain perceives an angry customer as a threat and enters into a stress and defense mode - fight or flight. This is exactly when we have to take control of our minds. Throwing a punch at the customer would not make things better for anyone.

It is not the actual event that causes the threat. The angry customer is simply a catalyst. It is your reaction to the customer that causes the stress. It is the fear of not being able to solve the problem or not being able to calm the customer that causes the stress.

You have to let go of the idea that you have to fix a situation. This is not the same as not caring. It is simply a realization that you can only do your best and it might or might not solve the problem.

You do not have to hold yourself responsible for the situation. Let go of the fear of the outcome and focus on the execution.

A simple 'I understand this must be frustrating for you' goes a long in pacifying the customer when they are at their worst.

2. Calm them down by asking questions

Our standard response to anger is defense. It is a natural tendency to argue with the customer and call their beliefs unfounded. The customer is under stress and any argument will make them feel that they are not taken seriously.

What's better: ask questions. Like we discussed in the previous point, tell them that you understand why they are angry and move straight to asking questions about the problem they're facing.

Remember to not cast any judgment at this stage. All you have to do is understand the details of the problem. It is a good way to handle the customer before you can actually move to rational resolution.

Being listened to will make the customer feel that you take them seriously. The act of talking and explaining the problem brings their minds to a rational state. They will be calmer than they were when they initially called.

This is also a good time to thank them for pointing you to the issue. A bit of ego-boosting will open doors to a rational conversation.

3. Apologize for the situation

More often than not, the customer would be angry about something that was never under your control. The human tendency is to shrug shoulders off the blame.

A company might respond to an infuriated customer saying it was not their fault. All this does is shake the faith the customer has in your company.

Tendering an apology is not a weakness. It is, in fact, a sign of compassion.

An apology will help diffuse the situation quickly and open doors for the resolution. An apology tells your customer that you regret them having to interrupt their day to make that call.

4. Reinstate trust and resolve the problem

Once you have managed to calm your customer down to a reasonable extent, only then should you start working on the resolution.

Your customer wants to know that you are willing to work on the problem and aren't going to run for the door. Start with a positive statement such as '**We're going to solve this together**'. It will help them feel reassured about the resolution process.

The first question you should ask them is '**What would you consider a fair and reasonable solution?**'. Asking a customer what they would consider a fair deal is very important to set the expectations right at the get-go.

At the same time, you have to watch out for patronizing phrases such as 'How can I help you' or 'How can I make you happy.'

Instances when you need to reach out to someone in order to solve the customer's problem, most reps have a tendency to give out vague responses such as 'I will get back to you as soon as I can.' This is again a bad idea as it would leave your customer wondering whether you have a solution.

Instead, tell them exactly what you'll do, and indicate how much time will that take. A great response to such situations is:

I will have to reach out to the listing agent about this. Allow me to call you in 2 hours.

If you do not have a solution within the next two hours, call them anyway and tell them that you are working on it. A small reassurance is a must every time you talk to them.

5. Follow up, and express gratitude

The goal of every support interaction needs to be more than just solving the problem at hand. The actual measure of success is whether you have been able to preserve the investment you've made in the customer.

Ask your customer a very straightforward question: ***Are you satisfied with the solution?*** It goes a long way in showing that you care.

A very common parting note is 'Is there something else I can do for you?'. You do not have to sound like you're doing the customer a favor by solving their problem!

It's a great idea to express a little gratitude at the end of the interaction and saying '***thank you***'.

Office Intruders and Active Shooters

Many brokerages have policies in place outlining responses to different types of crises, such as a hurricane evacuation. But what about an office intruder plan? How can you plan for a violent intruder like an **active shooter in the workplace**? (source: guardiandefenseplan.com)

4 Strategies for Surviving an Active Shooter

1. Non-Emergency Lockdown Procedures (Incident Close to Facility)

A non-emergency lockdown is necessary when there is a known **THREAT OFF-SITE, BUT CLOSE** to the facility. An example of a non-emergency lockdown would be when police establish a perimeter close to the facility and search for a suspect.

Think “**CREATE LAYERS OF RESISTANCE**”

- **Create LAYERS OF RESISTANCE** to block a potential intruder from entering the site. “Layers of Resistance” include locked doors, possibly heavy furniture pushed up against doors, shades pulled down over windows.
- **SECURE** all exterior doors and fencing to keep the problem out.
- Operate as usual on the inside. **DO NOT PERMIT** entrance into the facility.
- Ensure to secure the facility from the outside
- Call the police to gain information and **INFORM OPERATOR** that the facility is on a non-emergency lockdown (also known as “lockout” or “standard lockdown”).
- **REQUEST NOTIFICATION** when threat is clear and once law enforcement says that the location is safe, operations will go back to normal.

Being in a non-emergency lockdown for a potential threat off-site, puts the workplace at an advantage in the event the facility moves to an emergency lockdown.

2. Emergency Lockdown Procedures (Incident within Facility)

An emergency lockdown is necessary when an unwanted intruder is **ON SITE** or **WITHIN the FACILITY**.

Think "**REPORT and COMMUNICATE**"

- **REPORT** the incident to law enforcement as quickly as possible.
- **COMMUNICATE** with coworkers and staff through an intercom system, group text or other means to reach everyone.
- Activating an emergency lockdown could discourage the threat from executing their plan.
- **CARRY OUT** your plan while waiting for police to arrive.
- **WEAPONS:** Keep in mind the threat may be concealing his/her weapon.

Most of all, a disgruntled customer or former employee should be taken seriously because the intention is unknown.

3. Run. Hide. Fight. (During an Active Threat)

The **Run. Hide. Fight.** model was developed by the Department of Homeland Security.

a. **RUN: Where You Should Run and When You Should Go**

Think "**EVADE and EVACUATE**"

- If the decision is to "Run", the response is to **EVADE** or **EVACUATE**. The action shall not be to blindly "Run" from the threat.
- **EVADE** (MOVE) when the threat's location is not close to you.
- **MAINTAIN COVER** or **CONCEALMENT** if possible. Then, **EVACUATE** to safety.
- If there are no auditory sounds of a threat, it is possible that evading to a secure area, rather than evacuate, is your best choice.
- **BE AWARE** of any avenue of escape or exits.
- Take time for internal "field trips" of your work space.

Under stress people resort back to training or previous experiences. Simply learning the layout of the facility can assist employees to recognize the avenues of escape.

b. HIDE: How You Should Hide and Where You Should Go**Think “ISOLATE and SECURE”**

- Unfortunately, evacuation may not be feasible for all employees and they may need to **ISOLATE** and **SECURE** themselves from the threat.
- In choosing to “Hide,” there should be a clear understanding of the location to hide and the material that is chosen to hide behind.
- When selecting a location to isolate, it would be most beneficial to access areas less known or regularly travelled.
- Adjoining rooms that bring one deeper into the facility and further away from the threat is a good option for isolation.
- Once the location has been chosen, secure the area by creating layers of resistance.
- **Simply securing the door** allows staff time to react to the situation.
- It should be noted that a locked door is sometimes all that is needed to win an active killer incident. The threat is aware of limited time to locate victims and it would be a “waste of time” to attempt to force their way into a room that may have nobody inside.
- If the threat decides to force their way through the locked door, build a barricade (the second layer of resistance). The barricade could be built from desks, tables, chairs, or cabinets.
- If you cannot secure in an enclosed area, then shielding oneself behind the proper material for “**cover**” is imperative.
- **Cover** is something that can stop bullets from penetrating through it.

An example of cover is concrete block or potentially a filing cabinet filled with papers.

- If cover cannot be located, then **concealment** would be the next option. Concealment only affords the benefit of stealth and it should be noted that bullets will penetrate through said material.

Examples of concealment are dry wall, most doors, desks, tables, and closets.

- If concealment is the only option available, then locate a closet or material that conceals all the way around the body.

c. **FIGHT: When You Should Fight and How You Should Do It**

Think "**DEFEND**"

- "FIGHT" may come first, last, or not at all.
- The need to **DEFEND** oneself is dependent upon the location and nature of the threat.
- If you fight, you must **COMMIT** 100% to winning that battle.
- If possible, **PROCURE a WEAPON**.

A weapon of choice could be a sharp object, like scissors, or a blunt object, like a heavy trophy or bat.

- Position yourself in a low, aggressive stance.
- Aim for the **HEAD**, rather than attempting to disarm the attacker.

4. Frequent Staff Training

- Train Frequently
- Practice an Emergency Lockdown
- Practice through tabletop exercises or actual drills

Customer Data Protection

Protect Customer Information

Most real estate businesses — brokerages, associations, and MLSs — keep sensitive, personal information in their files. Brokers and agents collect personal information for a variety of reasons, including:

- Social Security numbers in order to perform credit checks on renters;
- Bank account information and Social Security numbers contained in mortgage documents and closing statements;
- Personal checks given as earnest money;
- Credit card information to make various payments for inspections or appraisals;
- Drivers' license numbers as a safety precaution when agents leave the office with a new customer for the first time

Federal Laws

Federal and state laws govern how personal information should be disposed of. Specifically, the Federal Trade Commission (FTC) oversees the ***Disposal of Consumer Report Information and Records Rule***.

The rule requires businesses that maintain or possess consumer information for a business purpose (typically credit providing businesses), properly dispose of such information by taking ***reasonable measures*** to protect against unauthorized use of or access to the information.

Examples of "Reasonable Measures"

- **Paper Records**

Implementing and monitoring compliance with policies and procedures that require the ***burning, pulverizing, or shredding*** of papers containing consumer information so that the information cannot practicably be read or reconstructed.

- **Electronic Records**

Implementing and monitoring compliance with policies and procedures that require the ***destruction or erasure of electronic media*** containing consumer information so that the information cannot practicably be read or reconstructed.

- **Disposal Company**

Entering into and monitoring compliance with a contract with another party ***engaged in the business of record destruction*** to dispose of consumer information.

Florida Laws

In Florida, Statute 501.171 *Security of Confidential Personal Information* states:

Each **covered entity** or third-party agent shall take all **reasonable measures** to dispose of customer records containing **personal information**. Such disposal shall involve shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

“Covered entity” means a sole proprietorship, partnership, corporation, trust, estate, cooperative, association, or other commercial entity that acquires, maintains, stores, or uses personal information.

“Personal information” means either of the following:

1. An individual’s first name or first initial and last name in combination with any one or more of the following data elements for that individual:
 - a. A social security number;
 - b. A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
 - c. A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account;
2. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

Notice of Data Breach Requirement

The Florida Department of Legal Affairs requires that notice must be provided to each individual in Florida whose personal information was accessed or believed to be accessed as a result of the data breach.

- Notice must be within 30 days of the breach
- Must be in writing and sent by mail or email
- Must include the date or estimated date of the breach
- A description of the personal information that was accessed
- Contact information for the business where the breach occurred

Breaches affecting 500 or more individuals in Florida must be communicated to the Department of Legal Affairs within 30 days of the breach. The written notice must include:

- A synopsis of the events surrounding the breach at the time notice is provided.
- The number of individuals in this state who were or potentially have been affected by the breach.
- Any services related to the breach being offered or scheduled to be offered, without charge, by the covered entity to individuals, and instructions as to how to use such services.
- A copy of the notice the company provided to the individuals affected by the breach.
- The name, address, telephone number, and e-mail address of the employee or agent of the covered entity from whom additional information may be obtained about the breach.

Additionally, the business may be asked by the department to provide the following:

- A police report, incident report or computer forensics report
- A copy of the company's data breach policy
- Steps that have been taken to rectify the breach

Enforcement

Failure to provide notice of a breach to the individuals affected, as well as notifying the Department of Legal Affairs will result in a violation of 507.171 and shall be treated as an unfair or deceptive trade practice. Violators are subject to:

- Civil penalty of \$1,000 per day up to the first 30 days following any breach violation and \$50,000 for each subsequent 30-day period
- If the violation continues for more than 180 days, in an amount not to exceed \$500,000.

5 Principles of a Sound Data Security Plan

1. **Take Stock**
Know what personal information you have in your files and on your computers. Effective data security starts with assessing what information you have and who has access to it. Understanding how personal information moves into, through, and out of your business and who has—or could have—access to it is essential to assessing security vulnerabilities.
2. **Scale Down**
Keep only what you need. If you don't have a legitimate business need for sensitive identifying information, don't keep it. In fact, don't even collect it. If you have a legitimate business need for the information, keep it only as long as it's necessary. If only one or two employees need access to personal information, make sure access is limited to only those employees.
3. **Lock It**
Protect the information that you keep. The most effective data security plans include physical security, electronic security, employee training, and the security practices of contractors and service providers.
4. **Pitch It**
Properly dispose of what you no longer need to ensure that it cannot be read or reconstructed. Be sure you are in compliance with the *Disposal of Consumer Report Information and Records Rule*.
5. **Plan Ahead**
Have a plan in place to respond if there is a security breach. Designate a senior member of your staff to coordinate and implement the response plan.

Key Elements of a Data or Security Breach Response Plan:

1. **Choose a representative:** Ensure a communications representative is part of your core incident response team and is included in legal and forensics discussions
2. **Map out your process:** Document a detailed process for developing and approving internal and external communications that includes a well-defined approval hierarchy
3. **Cover all audiences:** Ensure your plan accounts for communicating to your employees, customers, regulators and business partners
4. **Prepare templated materials in advance:** Prepare draft communications materials with content placeholders including holding statements for a variety of incident types, a public Q&A document to address questions from customers, investors and media, a letter to customers from company leadership and an internal memo to employees

Data or Security Breach Response Plan Example:

1. **Record the moment of discovery**
Also mark the date and time your response efforts begin, i.e. when someone on the response team is alerted to the breach
2. **Alert and activate everyone**
Include everyone on the response team, including external resources, to begin executing your preparedness plan
3. **Secure the premises**
Ensure the area where the data breach occurred, and surrounding areas are secure to help preserve evidence
4. **Stop additional data loss**
Take affected machines offline
5. **Document everything**
Record who discovered the breach, who reported it, to whom was it reported, who else knows about it, what type of breach occurred, etc
6. **Interview involved parties**
Speak to those involved with discovering the breach and anyone else who may know about it – then document the results
7. **Review notification protocol**
Review those that touch on disseminating information about the breach for everyone involved in this early stage
8. **Assess priorities and risks**
Include those based on what you know about the breach. Bring in your forensics firm to begin an in-depth investigation
9. **Notify law enforcement**
Do this if merited, after consulting with legal counsel

Online Safety and Identity Theft

Even though apps loom larger in most people's daily online interactions than traditional websites do, that does not mean that the basic Internet safety rules have changed. Hackers are still on the lookout for personal information they can use to access your credit card and bank information.

Online Safety

Here are the Top 10 Internet safety rules to follow to help you avoid getting into trouble online (and offline).

1. Keep Personal Information Professional and Limited

Potential employers or customers don't need to know your personal relationship status or your home address. They do need to know about your expertise and professional background, and how to get in touch with you. You wouldn't hand purely personal information out to strangers individually—don't hand it out to millions of people online.

2. Keep Your Privacy Settings On

Marketers love to know all about you, and so do hackers. Both can learn a lot from your browsing and social media usage. But you can take charge of your information. Web browsers and mobile operating systems have settings available to protect your privacy online. Major websites like Facebook also have privacy-enhancing settings available.

These settings are sometimes (deliberately) hard to find because companies want your personal information for its marketing value. Make sure you have enabled these privacy safeguards and keep them enabled.

3. Practice Safe Browsing

You wouldn't choose to walk through a dangerous neighborhood—don't visit dangerous neighborhoods online. Cybercriminals use lurid content as bait. They know people are sometimes tempted by dubious content and may let their guard down when searching for it. The Internet is filled with hard-to-see pitfalls, where one careless click could expose personal data or infect your device with malware. By resisting the urge, you don't even give the hackers a chance.

4. Avoid Public Wi-Fi While You Shop Online

Public Wi-Fi is generally insecure, and hackers find it the most convenient platform to steal your credit card information. Hence, you should go for a trusted connection whenever you make any online transaction.

5. Say No to Untrusted Email Attachments

Email attachments are one of the biggest sources of virus attack; so it is advisable that you do not click on suspicious emails. The best way to prevent your PC from becoming a victim is to judge the subject line or the sender's email id before opening the attachment. You can also scan attachments with your antivirus program to minimize any kind of possible risk.

6. Be Careful What You Download

A top goal of cybercriminals is to trick you into downloading malware—programs or apps that carry malware or try to steal information. This malware can be disguised as an app: anything from a popular game to something that checks traffic or the weather. Don't download apps that look suspicious or come from a site you don't trust.

7. Choose Strong Passwords and Consider a Password Manager

Passwords are one of the biggest weak spots in the whole Internet security structure, but there's currently no way around them. And the problem with passwords is that people tend to choose easy ones to remember (such as "password" and "123456"), which are also easy for cyber thieves to guess.

A strong password is one that is unique and complex—at least 15 characters long, mixing letters, numbers and special characters. Remembering such strong passwords is nearly impossible without resorting to some sort of trick. The ideal trick is a password manager that generates secure, random passwords for you and remembers them so you don't have to.

8. Make Online Purchases from Secure Sites

Any time you make a purchase online, you need to provide credit card or bank account information—just what cybercriminals are most eager to get their hands on. Only supply this information to sites that provide secure, encrypted connections. You can identify secure sites by looking for an address that starts with *https:* (the S stands for *secure*) rather than simply *http:* They may also be marked by a padlock icon next to the address bar.

9. Use Smartphone Lock

Your smartphone contains highly sensitive information about you such as banking credentials, pictures, etc. It is, therefore, a good idea to set authentication for unlocking the phone. Use smartphone lock, either in the form of pattern or PIN, so that your information is safe whenever your phone is idle for a while.

10. Keep Your Antivirus Program Up To Date

Internet security software cannot protect against every threat, but it will detect and remove most malware—though you should make sure it's to date. Be sure to stay current with your operating system's updates and updates to applications you use. They provide a vital layer of security.

Identity Theft

Identity theft refers to fraud that involves pretending to be someone else in order to steal money or get other benefits. The term is actually a misnomer, since it is not inherently possible to steal an identity, only to use it.

1. Identity theft is divided into four categories:
 - a. Financial identity theft: using another's identity to obtain goods and services
 - b. Criminal identity theft: posing as another when apprehended for a crime
 - c. Identity cloning: using another's information to assume his or her identity in daily life
 - d. Business/commercial identity theft: using another's business name to obtain credit
2. Identity theft may be used to facilitate crimes including illegal immigration, terrorism, and espionage. Identity theft may also be a means of blackmail. There are also cases of identity cloning to attack payment systems, including online credit card processing and medical insurance.
3. Some individuals may impersonate others for non-financial reasons. Some do it to receive praise or attention for the victim's achievements. This is sometimes referred to as identity theft in the media.

Techniques for Obtaining Personal Information

1. **Dumpster Diving** - When someone goes through trash looking for personal information that can be used for identity theft purposes. Identity thieves look for credit card bills, bank statements, medical bills and insurance, and old financial forms such as old tax forms.
2. **Phishing** - A scam in which the identity thief sends an email falsely claiming to be from a legitimate organization, government agency or bank, to lure the victim into surrendering personal information such as a bank account number, credit card number or passwords.
3. **Skimming** - When thieves use a data storage device to capture the information from the magnetic stripe of credit, debit or ATM card at an ATM or during an actual purchase.
4. **Imposter** - Some identity thieves will obtain a copy of your credit report by posing as your employer or rental agent. This will give them access to your credit history including your credit cards numbers and loan information.
5. **Shoulder Surfing** - Eavesdropping on public transactions to obtain personal data.
6. **Unsecured Websites** - Whenever you shop or make a transaction online, there's a chance an identity thief could intercept your personal information. Before you make your next online purchase, make sure the website is secure. If the URL starts with "https," then you should be safe.
7. **Hacking** - When a corporation's protected and confidential information is copied, viewed or stolen by someone who is unauthorized to obtain the information. The information can be personal or financial including names, addresses, telephone numbers, social security numbers, personal health information, banking information, credit history, and more.
8. **Sim Swapping** - At its most basic level, a SIM swap is when someone convinces your carrier to switch your phone number over to a SIM card they own. By diverting your incoming messages, scammers can easily complete the text-based two-factor authentication checks that protect your most sensitive accounts. Or, if you don't have two-factor set up in the first place, they can use your phone number to trick services into coughing up your passwords.

How Identity Theft Victim's Information is Misused:

Tax fraud	32.7%
New credit card accounts	25.6%
Other identity theft	16.0%
Phone or utilities fraud	13.1%
Bank fraud (checking, savings, debit cards, electronic fund transfers)	11.8%
Loan or lease fraud	6.8%
Government documents or benefits fraud	6.6%

*Percentages total to more than 100 because some victims reported experiencing more than one type of identity theft.

4 Ways to Protect Against Identity Theft

1. **Set Up Fraud Alerts** – establish fraud alerts with the three major reporting agencies (Equifax, Experian and TransUnion). This will alert you if someone tries to apply for credit in your name.
2. **Consider Credit Freezes** - A credit freeze will lock your credit files so that only companies you already do business with will have access to them.
3. **Check Your Credit Report** – Credit reports will include any suspicious activity on your financial accounts. As a result, check your credit report regularly for any discrepancies.
4. **Credit Monitoring** - All Americans are entitled to one free credit report every year from all three major reporting agencies, accessible at annualcreditreport.com. Experts advise spreading these out over the year, checking in about once every four months.

Disaster Preparedness

Natural disasters such as floods, fires, hurricanes, and mudslides pose threats to more communities than ever before, and the real estate community is keeping an eye on how this affects housing. The costs associated with natural disasters in the U.S. reached a record high of \$306 billion in 2017.

After a disaster strikes a community, real estate professionals often find themselves in the role of advisers in helping their current or former customers navigate the process of either repairing their home, selling it, or finding temporary accommodation.

Essential Disaster Preparedness for Florida Residents (source: [ready.gov](https://www.ready.gov))

1. Basic Disaster Supplies Kit

To assemble your kit, store items in airtight plastic bags and put your entire disaster supplies kit in one or two easy-to-carry containers such as plastic bins or a duffel bag.

Recommended items for a basic disaster supply kit:

- Water - one gallon of water per person per day for at least four days; one gallon for cooking per day for at least four days
- Food - at least a four-day supply of non-perishable food
- Battery-powered or hand crank radio and a NOAA Weather Radio with tone alert
- Flashlight
- First aid kit
- Extra batteries
- Whistle to signal for help
- Dust mask to help filter contaminated air and plastic sheeting and duct tape to shelter-in-place
- Moist towelettes, garbage bags and plastic ties for personal sanitation
- Wrench or pliers to turn on and off utilities
- Manual can opener for food
- Local maps
- Phone with chargers and a backup battery

2. **Hurricane Preparedness** (source: [noaa.gov](https://www.noaa.gov))

- Download a phone app that can notify people where you are, and if you need help or are safe. The Red Cross has a Hurricane App available in the Apple App Store and the Google Play Store, as well as a shelter -finder app.
- Use hurricane shutters or board up windows and doors with 5/8-inch plywood.
- Bring outside items in if they could be picked up by the wind.
- Clear gutters of debris.
- Reinforce the garage door.
- Turn the refrigerator to its coldest setting in case power goes off. Use a cooler instead of opening freezer or refrigerator doors.
- Fill a bathtub with water.
- Get a full tank of gas in one car.
- Go over your evacuation plan with your family and learn alternate routes to safety.
- Learn the location of the nearest shelter or nearest pet-friendly shelter.
- Put an ax in your attic in case of severe flooding.
- Evacuate if ordered and stick to marked evacuation routes, if possible.
- Store important documents – passports, Social Security cards, birth certificates, deeds – in a watertight container.
- Leave a note to say where you are going.
- Unplug small appliances you leave.
- If possible, turn off the electricity, gas and water for the residence.

3. **Generator Safety Tips** (source: [Florida Power & Light](https://www.floridapower.com))

- Set it up outside, away from all open windows, including neighbors' windows, to prevent deadly exhaust from entering a home or business.
- Use a heavy-duty extension cord rated for outdoor use to keep the generator safely outdoors. If the appliance has a three-prong plug, always use a three-prong extension cord.
- Consider using a battery-operated carbon monoxide alarm to be alerted if carbon monoxide levels become dangerous.

- Connect appliances directly to it. Do not wire your generator directly to your breaker or fuse box.
- Turn off all connected appliances before starting your generator. Turn connected appliances on one at a time, never exceeding the generator's rated wattage.
- Don't touch a generator if you are wet or are standing in water or on damp ground.
- Never refuel a hot generator or one that is running – hot engine parts or exhaust can ignite gasoline.
- Ensure you have plenty of gas for operation stored safely in gas containers.
- Don't leave a running generator unattended; turn it off at night and when away from home.

7 Hurricane Preparedness Tips

1. Copy or scan all important documents
2. Compile all information on every listing or current transaction you have.
3. Take down all for sale and marketing signs prior to the storm.
4. Put all lockboxes in a safe place
5. Bring all keys with you when you evacuate
6. Get alternative contact information from all current customers.
7. Consult with your broker on your office's disaster contingency plan. If there is not one in place, talk to them about creating one.

After the Disaster

- **Services that require a state license**
 - Roof repairs
 - New or replacement roof
 - Installing new windows
 - Plumbing repairs
 - Electrical repairs or rewiring

- **Services that do not require a state license**

- Trimming or removing a fallen tree
- Removing debris
- Placing a tarp on a roof
- Installing storm shutters

- **Be cautious of individuals who...**

- Advertise without a license number
- Request cash only
- Use high-pressure sales tactics
- Lack a written contract
- Demand a full payment up front
- Solicit door to door

Report unlicensed activity to **866.532.1440** or ULA@myfloridalicense.com

- **Transaction Guidance**

When disaster strikes a property during a pending real estate transaction, there are many important issues that must be addressed. The health and safety of everyone involved is of the utmost concern.

Be aware of these five issues so you can help your customers navigate their way through this difficult time.

- 1. Customers**

- Speak with your customers as soon as possible. Keep everyone advised as much as possible, both as to what is known and what is not known.
- Don't panic, be patient, and try to encourage customers to do the same. Many people are involved in this difficult situation, and you'll all need to work together to figure it out.

2. Contracts and Law

The short inventory below provides an overview of key provisions in the Florida Realtors/Florida Bar "AS IS" Residential Contract for Sale and Purchase revised in April of 2017, along with one reference to the casualty provision contained in the Florida Residential Landlord and Tenant Act.

- **Section 18(G) Force Majeure**

This is an automatic extension that comes into play when a dramatic event prevents a party's performance or closing from happening. It takes an unusual and unplanned event to trigger this "Force Majeure" clause, as you can see from a few of the examples given, such as, hurricanes, acts of God and acts of terrorism.

Once the clause is triggered, though, certain time periods (including the closing date, if applicable) will be extended for a reasonable time up to 7 days after the force majeure no longer prevents performance. Parties should pay attention to the time in relation to the closing date, though, since either party may terminate the contract by delivering a written notice if force majeure continues to prevent performance more than 30 days beyond the closing date.

- **Section 18(L) Access to Property to Conduct Appraisals, Inspections, and Walk-Through**

After a hurricane passes over a property, a buyer often wants to take another look at the property, regardless of whether the buyer is still in the inspection period. This clause generally favors the buyer's request, as it provides that "Seller shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections, including a walk-through (or follow-up walk-through if necessary) prior to Closing."

- **Section 18(M) Risk of Loss**

If the buyer or seller discover casualty damage from the hurricane, this clause describes the rights and obligations of each party. If the cost to restore the property does not exceed 1.5 percent of the purchase price (this cost includes the cost of pruning or removing damaged trees), then the cost is a seller obligation. If the restoration isn't complete prior to closing, the seller will escrow a sum equal to 125 percent of the estimated cost to complete the restoration.

If the cost of restoration exceeds 1.5 percent of the purchase price, then the buyer has the option to either take the property along with 1.5 percent of the purchase price, or receive a refund of the deposit, releasing buyer and seller from all further obligations under the contract.

- **Section 83.63, Florida Statutes (Casualty Damage)**

This brief section simply provides that if rented residential premises are damaged or destroyed "so that the enjoyment of the premises is substantially impaired, the tenant may terminate the rental agreement and immediately vacate the premises." This section continues to present a second scenario whereby a tenant may "vacate the part of the premises rendered unusable by the casualty, in which case the tenant's liability for rent shall be reduced by the fair rental value of that part of the premises damaged or destroyed."

3. Homeowner's Insurance and Flood Insurance

- Advise your customer to file a homeowner's insurance claim, or at least notify the carrier of the claim, as soon as possible.
- Document and inventory all damages in writing, photos, and video.
- Keep records of everything you spend on repairs and replacements.
- Passed 2018: CS/CS/HB 1011: Homeowner's insurance policy disclosures

This notice is required in homeowner's property insurance policies after January 1, 2019:

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF

HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

4. Lending

- Buyers should check with the lenders to determine how they will handle re-inspections or re-appraisals that may be required.
- Sellers should notify their lender and inquire about fee waivers and deferment options.
- Both parties should ask lenders about additional costs and or timeframes caused by the disaster, even if the property is not in a designated FEMA disaster area.

4 Tips for Getting your Real Estate Business back up and Running

1. Be sensitive

If you are in the middle of a deal when disaster strikes your area, you have to be sensitive to what your buyers or sellers are feeling.

It's not just about closing the deal but also being supportive and creative to keep everything in check.

Whether a blizzard, earthquake, hurricane or wildfire, it will take some time and effort to get things back on track, but all is not lost. This is a test to see who is built to handle these unpredictable high-pressure situations.

2. Customer communication is key

Building lifelong relationships is a key differentiator in the real estate industry. Reach out to customers before and after the storm.

Customers and prospects need reassurance that their investment is safe both before and after. This can seal the deal for future referrals and transactions.

Also, after the storm, it is critical to re-engage with buyers and sellers and reiterate why we have chosen to live in the communities we love.

3. Manage the fears and reactions of your customers

They are going to panic, but it is in your best interest to help keep them calm. For example, since Hurricane Andrew, homes in Florida are built to handle strong hurricanes. It is essential to educate out-of-state buyers on this. Newer homes held up very well against the strong winds of Hurricane Irma.

Combined with master generators, impact glass and hurricane shutters, homes went virtually unscathed.

4. Add value to the experience

Roll up your sleeves and get involved. Take the time to ask customers if they need help:

- putting up or taking down shutters
- cleaning yard debris
- getting groceries or food delivered
- buying gas for their car or generator
- delivering ice for their cooler

Unit 4 Review Exam

- 1. When conducting a showing with a customer, how should you proceed through the property?**
 - A) You should be the first person to walk into a room
 - B) Allow the customer to walk in front of you as you move through the property
 - C) Let the customer do a self-guided tour while you stay in one spot
 - D) Ask the customer how they would like to view the property
- 2. Which of the following is NOT recommended for vehicle safety when working with customers?**
 - A) Take separate vehicles if possible
 - B) You shouldn't drive your vehicle to a showing because you should let your customer drive
 - C) Somewhere where you won't be blocked in, such as at the curb
 - D) If you must take one vehicle, you drive!
- 3. What is the best location to meet a new customer?**
 - A) At the property you're showing
 - B) At the customer's home
 - C) At your office
 - D) At your home
- 4. When it comes to agent safety planning and preparation, what is a "distress code"?**
 - A) An app on your phone
 - B) A word you say to a threatening person to make them stop
 - C) A security code or pin you use to lock your phone from unwanted users
 - D) A phrase or keyword that you can use via phone call, text or email to alert a buddy or coworker that you need assistance
- 5. In a leased property or short-term rental, cameras should be:**
 - A) placed where they can clearly and obviously be seen
 - B) hidden in a vent
 - C) switched to "voice-only" mode
 - D) anywhere the owner wants them to be
- 6. When conducting a showing with a customer, you should make sure:**
 - A) you are the first person to walk into a room.
 - B) you ignore any gut feelings or unexplained fear.
 - C) you have your charged phone in hand at all times.
 - D) to ask the customer how they would like to view the property.
- 7. Which of the following IS recommended for vehicle safety when working with customers?**
 - A) Always ride with the customer in their vehicle.
 - B) Take the bus.
 - C) Park somewhere where you will be blocked in.
 - D) If you must take one vehicle, you drive.

Unit 4 Review Exam Key

1. B) When conducting a showing you should always let the customer walk in front of you as you move through the property.
2. B) You should never ride in a vehicle driven by your customer. It is recommended that you drive separately or if it's necessary to take one vehicle, you should drive. When parking at the showing, you should park in a spot where you will not be blocked in, such as on the street or at the curb.
3. C) it is best to meet a new customer at your office. This provides a safe, neutral first meeting place where you can openly collect and file identifying information. This may discourage an assailant.
4. D) When a situation arises that makes you feel uncomfortable, call, text or email your prearranged distress code (a keyword or phrase) to your buddy or someone else you have shared the code with previously
5. A) people have the right to know when they're being filmed inside a residential dwelling, including personal residences, leased properties and short-term rentals such as VRBO or Airbnb. Accordingly, in all cases cameras should be placed where they can "clearly and obviously" be seen by anyone who enters the property.
6. C) Keep your phone fully charged and have a battery reserve. Carry your phone in your hand at all times. Your greatest source of help is your phone. If you keep your phone in a purse, a laptop bag or briefcase, it may not be available when you need it most.
7. D) When working with a customer, take separate vehicles whenever possible. Park on the street whenever possible to avoid being blocked in a driveway. If you are in an unfamiliar area, make mental notes of landmarks, points of interest and intersections. And always know the exact address of where you are going. If you must take one vehicle, you drive!