

Introduction to the Curriculum Content Outline

The South Carolina Real Estate Broker Prelicensing Curriculum, commonly known as “Unit III,” is comprised of the following Sections; each receives greater detail in this Outline.

Also, selected Sections end with suggested activities and assignments to help reinforce the terms, concepts, and processes identified. You should apply your own expertise to create similar reinforcements that actively involve broker candidates.

The intention of the Curriculum is to provide a reasonably comprehensive guide to the subject matter, laws, processes, activities, and responsibilities that are part of the real estate profession.

It is NOT intended to restrict itself to only those facts and details that may appear on the licensing test. However, you should review the vendor’s test outline to ensure all terms and concepts are adequately defined and discussed in the most appropriate Section below.

Additionally, instructors need to stress ***at all times*** the legal responsibilities—and liabilities, both civil and criminal—inherent in virtually every decision a BIC makes.

Proper instruction will ensure that the broker candidate will be prepared for assuming positions of primary leadership, supervision, and responsibility within the complex practice of the real estate profession in South Carolina, and should therefore be able to pass the licensing exam.

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Note: The Hour-ranges provided above specifically allow the flexibility to incorporate necessary Review and Discussion time into the required 30 course hours.

Unit III-B (Exam Prep) Section Title	Instructional Hours	Page
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Note: The Hour-ranges provided above specifically allow the flexibility to incorporate necessary Review and Exam time into the required 30 course hours for Unit III-B.

Further note: The emphasis and time required to develop the topics identified in Section 8, Ethics, may be worked into appropriate topics in other areas, such as ethics and elements of Fair Housing and ADA, ethical dimensions of agency, contract preparation, and adherence to contractual and legal obligations

This document was prepared 9/16 for the South Carolina Real Estate Commission; intended for use in the preparation of Class Materials for Broker Prelicensing Courses.

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Management (Unit III-A)

1. Short and Long Range Planning

-- 10-14 instructional hours --

- I. ESTABLISHING WRITTEN BUSINESS GOALS AND PHILOSOPHIES
 - A. Scope of services
 - 1. Residential, commercial, property management, timeshare, or rental
 - 2. Single or dual agency
 - B. Type of firm
 - 1. Sole proprietorship
 - 2. Partnership, corporation, LLC
 - C. Franchise or not
 - D. Board and MLS affiliation?
 - E. Selection of geographic market (in-house determination)
 - F. Selection of name and logo
 - G. Staffing requirements, one person and up – plan accordingly
 - 1. Management
 - 2. Support
 - 3. Line (sales)
 - H. Marketing strategies
 - I. Initial advertising and publicity campaign
 - J. Long-range advertising and marketing strategies
- II. FINANCIAL PLANNING
 - A. Forecasting in six-month, one-year, and two-year increments. Adjust monthly.
 - 1. Projecting start-up costs
 - 2. Sales projections
 - 3. Income projections
 - 4. Cost projections
 - 5. Cash flow to carry business six-months to one year
 - B. Selection of accounting firm, accounting software, attorney, and trust account compliance
 - C. Establishing banking relationship
 - D. Balance Sheets and Profit and Loss Statements
- III. WORKING ENVIRONMENT
 - A. Office location
 - 1. Home vs. commercial location
 - 1. Visibility
 - 2. Rent or purchase
 - 3. Expansion capability
 - B. Office size and layout
 - C. Communications

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1. Internal
 2. E-mail
 3. Text
 4. Voice mail
 - D. Evaluation and selection of information services
 - E. Computers and software
 1. Hire consultants
 2. Lease vs. purchase
 - F. Office furniture and décor
 - G. Stationery, business cards, and marketing materials
- IV. RESPONSIBILITIES INVOLVED WITH OPENING AND OPERATING A REAL ESTATE BROKERAGE
- A. Written Policy Manual (required by state law) *The manual should contain but not be limited to following topics:*
1. All topics required in 40-57-137 (B)
 2. Record keeping
 3. Contract forms
 4. Anti-trust
 5. Sexual harassment
 6. Risk reduction
 - (a) Personal assistants
 - (b) Teams
 - (c) Commission policy
 7. Termination (ownership of listings and buyer's agency agreements)
 8. Consumer information – collection, maintenance, use, and privacy policy
 9. Social media policies for office and licensees – professional and personal use
 10. Implied contracts
 11. Policy on property disclosure
- B. Sales management
1. Sales meetings
 2. Agenda
 3. Scheduling
 - (a) Day of the week
 - (b) Time
 4. Additional meetings
 5. Roundtables
 6. Professional development (ongoing)
 7. Holding a successful Open House
 8. Training resources (where to find)
 - (a) Books
 - (b) Videos/DVDs

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- (c) Audios
- (d) Real estate magazines
- (e) Online
- 9. Incentive programs
 - (a) Define
 - i. Pros
 - ii. Cons
 - (b) Team vs. individual
 - i. Pros
 - ii. Cons
- 10. Floor time
 - (a) Mandatory or optional
 - (b) Scheduling
 - i. Requirements
 - ii. Logistics (plan)
 - iii. Office hours
 - a) Receptionist
 - b) Agent
- 11. Sharing information
 - (a) Attending professional functions
 - (b) Designation programs
 - (c) Sources of information
 - i. Professional publications
 - ii. E-mail
 - iii. Legislative call to attention
 - iv. Updates/advisories
 - v. Internet/HUD/Home page
- 12. Personnel selection process
 - (a) Recruiting
 - i. Career night
 - ii. New agent programs
 - a) Orientation program
 - i.) Office policies
 - ii.) Staff duties
 - b) Mentoring
 - c) Sharing with an experienced agent
 - d) Limited function
 - e) Payment options
 - (b) Assistant
 - i. Limited function
 - a) License status
 - b) Duties

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- c) Payment options
- (c) Advertising
 - i. Mail-outs
 - a) Regular mailings
 - b) E-mails – anti-spam laws
 - ii. Newspapers
 - iii. Magazines
 - iv. Internet
 - a) Websites
 - b) Blogs
 - c) Social media
 - v. Incentive programs for existing agents
- (d) Evaluating resumes (qualifications)
 - i. Consistency
 - ii. Background (education, experience, customer relations)
- (e) Training and skills
 - i. References/Recommendations
- (f) Interviewing/Anticipated questions from sales associates
 - i. Training, support, reputation
 - ii. Advertising and office supplies
 - iii. Accessibility to people and property
- (g) Questions to ask at initial interview
 - i. Past job experiences
 - ii. Accomplishments
- (h) Personal issues to consider/Motivation
- (i) Evaluation of prospects/Validity of testing
- (j) Subsequent interviews
 - i. Setting priorities
 - ii. Solving conflicts
- (k) Expectations and goals of both parties
- (l) Broker/Agent agreement
 - i. Employee
 - a) Advantages
 - b) Disadvantages
 - ii. Qualified agent (statutory independent contractor)
 - a) Advantages
 - b) Disadvantages
 - c) Section 3508 Internal Revenue Code
 - iii. Written understanding/acceptance of office policy
 - iv. Negotiating compensation
 - a) Salary
 - b) Commission splits

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- c) Bonuses
 - d) Causes for reductions/deductions
 - v. Incentives – sales and marketing tools
 - a) Broker furnished
 - b) Agent pays
 - vi. Termination procedures
 - a) Policies on representation agreements
 - b) Commission
 - c) Exit interview
 - (m) Education – Voluntary continuing education
 - i. Broker
 - ii. Agents
 - (n) Time management
- V. INSURANCE
 - A. Errors and omissions insurance
 - 1. Covered items
 - 2. Non-covered items
 - 3. Deductibles
 - 4. Cost
 - 5. Optional coverage
 - (a) Employment practice liability insurance
 - (b) Inadvertent discrimination
 - B. Automobile Insurance (When to change from personal to commercial)
 - 1. Brokerage Company as additional insured
 - 2. Mandatory coverage for associated licensees
 - 3. Hired and Non-Owned vehicle liability coverage
 - C. Building Insurance
 - 1. Fire
 - 2. Theft
 - 3. Liability
 - 4. Riders
 - (a) Business interruption
 - (b) Signage and glass
 - 5. Agent's personal property
 - D. Homeowners' Insurance
 - 1. HO1 Fire Policy
 - 2. HO2 Fire Plus
 - 3. HO3 Most Common Broad Spectrum
 - 4. HO4 Renters' Policy
 - 5. HO6 Condominium Policy
 - 6. Landlord Policy

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7. Vacant Home Policy
 8. Related coverage and additional endorsements
 - (a) Earthquake insurance
 - (b) Flood insurance
 - (c) Back up of sewer or drain endorsement
 9. Replacement vs. depreciated value
 10. Policy exclusions
 11. Comprehensive Loss Underwriting Exchange (CLUE)
- VI. SAFETY AND SECURITY CONSIDERATIONS
- A. Property showing
 - B. Open houses
 - C. Office considerations
 - D. Apparel, equipment, and precautions
 - E. Internet contact information for agents and agent-initiated postings
 - F. Agent information, i.e., keeping records of emergency contacts, car identification information, agent phone numbers, etc.

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2. Employment Laws

-- 2 to 4 instructional hours --

- I. NUMBER OF EMPLOYEES
- II. ENFORCEMENT
 - A. EEOC (Equal Employment Opportunity Commission)
 - B. DOJ (Department of Justice)
 - C. Other Federal and State Agencies
- III. TITLE VII OF THE CIVIL RIGHTS ACT OF 1968
 - A. PDA (Pregnancy Discrimination Act)
- IV. FAMILY AND MEDICAL LEAVE ACTS (FMLA)
- V. AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)
- VI. AMERICANS WITH DISABILITIES ACT (ADA), TITLE I
 - A. Amendments 2008
- VII. FAIR CREDIT REPORTING ACT (FCRA)
 - A. Background Checks
 - 1. Criminal: disparate impact
 - 2. Credit
- VIII. UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)
- IX. IMMIGRATION REFORM AND CONTROL ACT (IRCA)
- X. FAIR LABOR STANDARDS ACT (FLSA)
 - A. EQUAL PAY ACT (EPA)
 - B. SC Payment of Wages Act—see SC Code of Laws, Title 41 Ch. 10
- XI. ELECTRONIC COMMUNICATIONS PRIVACY ACT (ECPA)
- XII. OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATION (OSHA)
 - A. Workers' compensation—see SC Code of Laws, Title 42
 - B. Alternative dispute resolution
 - 1. Arbitration
 - 2. Mediation

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3. Liability of Broker for Torts of Agents

-- 3 to 5 instructional hours --

- I. DEFINITIONS
 - A. Tort
 - B. Deceit
 - C. Misrepresentation
 - D. Fraudulent misrepresentation
 - E. Negligent misrepresentation
 - F. Innocent misrepresentation
 - G. Fact
 - H. Material fact
 - I. Negligence
 - J. Types of liability
 - 1. Strict
 - 2. Vicarious
 - 3. Personal
 - 4. Joint and several

- II. HISTORY- EARLY 1970s
 - A. Most brokers treated associates as common law independent contractors
 - B. Real estate associates were beginning to be considered as agents of the company
 - 1. Were they employee agents?
 - 2. Were they independent contractor agents?
 - C. Internal Revenue Service got aggressive in early 1970s and said they were employees
 - D. In '75, NAR got Congress to declare a moratorium on these IRS actions until further study to see how real estate associates could be common law independent contractors
 - E. Further study did not help and 1982 tax reform created IRC §3508
 - 1. Broker will not be treated as employer and salesperson not treated as employee if salesperson is a “*qualified agent*” (later, NAR coined term “statutory independent contractor”)
 - 2. Three rules must be met to be “qualified agent”
 - (a) Must be licensed
 - (b) Must be paid based on production—not hours worked, etc.
 - (c) Must have written contract containing clause “individual will not be treated as an employee with respect to such services for Federal tax purposes.”
(SC also recognizes this)
 - F. Now brokers are free from employer-employee withholding if compliant with §3508
 - G. Since §42-1-360, in 1990, SC licensed real estate salespersons are not employees but independent contractors for Worker’s Compensation Law if there is signed independent contractor agreement

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H. For tort law purposes, the sales agent is an employee. We still have no law exempting broker from torts of employee agent

III. EMPLOYER - EMPLOYEE

A. Common law

1. Misrepresentations
2. Physical harm

IV. CLIENT -- NON-EMPLOYEE INDEPENDENT CONTRACTOR

A. Occurs between seller/buyer and broker (company)

1. Seller/buyer (as a client) is responsible to third-parties for misrepresentations of broker and all associated licensees of broker
2. Seller/buyer (as a client) is not responsible to third-parties for physical damage caused by negligence of broker (company) and all associated licensees of broker

B. Occurs between one company and cooperating (subagent) company

1. Both seller (as a client) and listing broker are responsible to buyer for misrepresentations of (subagent) selling broker and all associated licensees of (subagent) selling broker
2. Neither seller (as a client) nor listing broker are responsible to buyer for physical damage caused by negligence of (subagent) selling broker and all associated licensees of (subagent) selling broker

SUGGESTED CLASSROOM PRACTICAL APPLICATION EXERCISES

1. Provide and discuss case histories from actual court decisions regarding topics above
2. Provide and discuss South Carolina Real Estate Commission disciplinary actions for licensee infractions

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4. Trust Accounting

-- 4 to 6 instructional hours --

- I. PURPOSE AND DEFINITION OF TRUST FUNDS
 - A. To protect consumer funds
 - B. Fiduciary duty to account for funds/valuables received by a licensee in the course of performing any real estate activity
- II. HOW TRUST FUNDS/TRUST ACCOUNTS DIFFER FROM ORDINARY ACCOUNTS
 - A. Someone else's money
 - 1. Separate it from business operating or personal accounts
 - B. Held for the benefit of another
 - C. BIC/PMIC is a trustee for others' money
 - D. Separate bank account into which only trust funds are deposited
 - E. Must provide for withdrawal of funds
- III. TYPES OF TRUST FUNDS
 - A. Earnest money
 - B. Rents
 - C. Security deposits
 - D. Down payments
 - E. Advanced rental deposits
 - F. Other, e.g. pet, cleaning, etc.
- IV. HOW MANY TRUST ACCOUNTS ARE REQUIRED
 - A. At least one, if the BIC/PMIC holds trust funds
 - B. May have as many as the BIC/PMIC wants
 - C. Two are best if involved in both sales and property management
 - 1. One for earnest money and sales transaction funds
 - 2. One for rental activity and security deposits
- V. BASIC TRUST ACCOUNT REQUIREMENTS AND COMPLIANCE ISSUES
 - A. Establish a demand deposit account with an insured financial institution authorized to conduct business in South Carolina
 - B. The term "trust" or "escrow" account must be in the name
 - C. Must record all information required by SC Real Estate License Law
 - D. Entries must identify exact amount in the account
 - E. Must identify ownership of funds in the account by amount
 - F. Must provide a consistent and logical record of account activity
 - G. Must maintain required records for a minimum of five years
 - H. Must make all required records available for inspection on request to a representative of the SC Real Estate Commission

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VI. DEFINITIONS

- A. Trust account definitions
 - 1. Commingling
 - 2. Conversion
 - 3. Depositable trust items
 - 4. Earnest money
 - 5. Security deposit
 - 6. Trust account
 - 7. Trust funds
 - 8. Trustee
 - 9. Trustor
- B. Bookkeeping definitions
 - 1. General ledger (journal)
 - 2. Subsidiary ledger (also called sub-account ledger, or sub-ledger)
 - 3. Owner's ledger
 - 4. Tenant's ledger
 - 5. Folio number
 - 6. Reconciliation of trust account

VII. ROLE OF THE TRUSTEE

- A. BIC/PMIC responsibility not transferred if accounting is delegated to others
- B. Selected duties as detailed in Section 40-57-135 (review that Section closely)
 - 1. Adequate supervision - maintain real estate trust accounts when required
 - 2. Instruct employees and associated licensees on the proper handling of trust funds
 - 3. Ensure that accurate and complete records are maintained for real estate trust accounts
 - 4. Ensure that backup copies are maintained for computerized real estate trust accounts
 - 5. Centralized single account may be used for multiple offices

VIII. BOOKKEEPING REQUIREMENTS

- A. Real estate sales
 - 1. Date of receipt
 - 2. Name of party from whom the money was received
 - 3. Name of the principal
 - 4. Identification of property
 - 5. Date of deposit and depository
 - 6. Payee
 - 7. Check number(s)
 - 8. Dates
 - 9. Amounts

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- 10. Running balance for entries of deposits and disbursements
 - 11. Method of reconciliation of account(s)
 - 12. Offsite backup copies of computerized records
 - 13. Other details per Section 40-57-136 (A) and (B)
 - B. Property management
 - 1. All of the same information as real estate sales, plus
 - (a) Separate record for each tenant that includes identification of
 - i. The unit
 - ii. The unit owner
 - iii. Rental amount
 - iv. Rental due date
 - v. Unit security deposit
 - vi. All receipts with dates
 - (b) Owner's ledger
 - i. Receipts and disbursements for each owner's property(ies)
- IX. DEPOSIT REQUIREMENTS
- A. Timing of deposits
 - 1. Cash or certified funds must be deposited within 48 hours of receipt, excluding Saturdays, Sundays, and bank holidays
 - 2. Checks must be deposited within 48 hours, excluding Saturdays, Sundays, and bank holidays, after acceptance of an offer by the parties to the transaction
 - B. Licensee delivery of funds to BIC/PMIC
 - C. No commingling, though a clearly identified amount of BIC/PMIC money may be kept in the trust fund to cover bank fees and avoid zero-balance closure
 - D. No conversion of funds from trust to other business or personal use
 - E. Interest-bearing accounts are acceptable (Must provide for withdrawal on demand)
 - 1. Interest may be kept by BIC/PMIC only if the fund owner(s) agree to it in writing
 - 2. If such agreement is part of a preprinted form, the language must be conspicuous
 - F. Once in a trust account, transaction funds must remain there until consummation or termination of the transaction
 - G. Rent monies must be placed in a Trust account unless the following exemption applies. See SC Code of Laws 40-57-136 (C)(1)(b) Rent received by a licensee who is directly employed by the owner of rental property may be deposited in an operating or other similar account, but otherwise must be properly accounted for. However, an advance rental deposit is a trust fund and must be treated as such.
- X. DISBURSEMENT OF FUNDS
- A. Regular transaction – per contract or mutual agreement
 - B. Disputed funds – per mutual agreement, interpleader action, court order, or voluntary mediation

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- C. Rental funds – must be disbursed in accordance with the contract; security deposits must remain in the trust account until termination of the lease
 - D. Checks drawn on the account that are returned for insufficient funds or closed account may be grounds for disciplinary action
- XI. ACCOUNTING FOR TRUST FUNDS
- A. Headings in general ledger or journal
 1. Date of transaction
 2. Deposit or check number
 3. Payor (buyer or seller for sales, landlord or tenant for property management)
 4. Principal (client)
 5. Property address
 6. Payee
 7. Folio number
 8. Check amount
 9. Deposit amount
 10. Balance in account
 11. Remarks
 - B. Other records
 1. Subsidiary account ledgers
 2. checkbook
 3. bank statement
 4. Sales contracts and/or leases
 5. Receipts and deposit slips
 - C. Electronic Records
 1. Must comply with 40-57-135(D)(2)
 3. Paper trail
 4. Backups
- XII. PROPERTY MANAGEMENT ACCOUNTING SYSTEM
- A. Same basic records are required as for sales transactions
 - B. Additional sub-accounts include tenant’s ledger and owner’s ledger headings that identify the
 1. Unit or property (address)
 2. Unit or property owner (tenant and owner)
 3. Amount of each rent payment
 4. Due date of rent
 5. Amount of security deposit held
 - C. Tenant’s ledger also should include entries of date and amount of each receipt for or on behalf of the tenant
 - D. Owner’s ledger should also include entries for:
 1. Any and all receipts applicable to the property

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2. Disbursements for expenses on the property
3. Disbursements for rental proceeds to the owner and compensation to the BIC/PMIC

SUGGESTED CLASSROOM PRACTICAL APPLICATION EXERCISES

1. Prepare and explain trust account monitoring system(s)
2. Discuss common accounting mistakes
3. Develop sample transactions details and have students prepare ledger entries and review each other's sample ledgers for accuracy
4. Develop a method for BIC/PMIC supervision of trust account manager's records
5. Match record keeping requirements to License Law, especially regarding Trust Accounts

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5. Due Diligence in Completing Forms

-- 1 to 2 instructional hours --

- I. DUE DILIGENCE
 - A. Broker approval
 - B. Filling in all blanks
 - C. Legibility
 - D. Correct name and address
 - E. Everything in writing
 - F. Addenda clarification
 - G. Contingencies listed
 - H. Problems specific to:
 - 1. Commercial sales
 - 2. Residential sales
 - 3. Property management
 - (a) Residential
 - (b) Commercial
 - 4. Brokerage agreements
 - (a) Listing agreements
 - (b) Buyer-agency agreements
 - (c) Transaction brokerage agreements
- II. BUILDER AND NEW CONSTRUCTION FORMS
- III. OTHER FORMS
 - A. Provided by MLS
 - B. Proprietary
 - C. Provided by the Real Estate Commission
- IV. SOFTWARE
 - A. Liability
 - B. Legality
- VII. USE OF BILL OF SALE
- VI. LEGALITY
 - A. Faxes
 - B. Phone conversations
 - C. Electronic, especially under Electronic Signatures in Global and National Commerce Act (E-SIGN) and SC Uniform Electronic Transactions Act (UETA) laws

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Management (Unit III-A)

6. Ethics

-- 2 to 4 instructional hours --

- I. DEFINITIONS
 - A. Ethics vs. legal
 - B. Golden rule
 - C. Realtor Code of Ethics

- II. RESPONSIBILITIES TO PRINCIPAL/CLIENT
 - A. Fiduciary duties under law of agency
 - B. Agency disclosure
 - C. Diligence
 - 1. Cooperation with other agents
 - 2. Former prospects with former agent
 - 3. Overpricing listings
 - 4. Estimating value
 - D. Duty of full disclosure
 - E. Protecting principal's interest
 - F. Avoiding conflicts of interest
 - 1. Purchasing listing for self and reselling
 - 2. Listing with option to buy
 - (a) First right of refusal
 - 3. Disclosure of relatives, close business/personal relationships
 - 4. After termination: protection of prospects safety clause
 - G. Fee structures
 - 1. Adjustable (variable, in-house)
 - 2. Cooperative sales (higher commission)

- III. TRANSACTION BROKER'S RESPONSIBILITIES TO CUSTOMER/THIRD-PARTY
 - A. Qualifying properly (finding suitable property)
 - B. Limited confidentiality, unless waived
 - 1. Buyer's motivation or willingness to pay more
 - 2. Seller's motivation or willingness to accept less
 - 3. Seller or buyer willingness to agree different financing terms than offered
 - 4. Information requested by a party to remain confidential, except information required by law to be disclosed
 - C. Lead generation and information gathering
 - D. Full disclosure
 - 1. Ads (point out small print)
 - 2. Bylaws in subdivisions, associations
 - 3. Leases on property
 - 4. Stigmatized property

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- (a) Deaths
 - (b) Other crimes
 - (c) Ghosts
 - E. Understanding what is being signed
 - F. Unethical behavior
 - 1. Discrimination
 - 2. High pressure sales tactics
 - 3. Unwillingness to admit lack of expertise
 - 4. "Tie-in" agreements with sale/lease or sale/resale
 - 5. Delaying sale for commission
 - 6. Creating false urgency
 - 7. Showing listed property to uninterested buyers
- IV. RESPONSIBILITIES TO PUBLIC
- A. Community planning
 - B. Land use
 - C. Growth awareness
 - D. Rent control
 - E. Ads
 - 1. Bait and switch
 - 2. Present a true and accurate representation.
- V. RESPONSIBILITIES TO OTHER LICENSEES
- A. No public criticism
 - B. Courtesy
 - C. Delays in presenting contracts
 - D. Delays in input of listings
 - E. Interference with another client
 - F. Caution with procuring cause
 - G. Interference and competition with other licensees, in-house and other
- VI. RESPONSIBILITIES OF BROKER-IN-CHARGE (BIC)
- A. Not procuring new agents with misinformation
 - B. Adequately supervising
 - C. Having fair and consistent policies
 - D. Clear and fair commission standards
 - E. Reprimanding and not tolerating unethical behavior

This ends the Sections included in the Brokerage Management portion of this Outline.

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

1. Real Property

-- 4 to 5 instructional hours --

- I. ELEMENTS OF REAL PROPERTY
 - A. Define and explain
 - 1. Real property
 - 2. Real estate (realty)
 - 3. Land
 - 4. Personal property (personalty)
 - 5. Improvements
 - 6. Appurtenances
 - 7. Fixtures
 - a. Legal tests, i.e., intention, method of attachment, adaptation, relationship/understanding of parties
 - 8. Trade fixtures
 - B. Real property rights
 - 1. Mineral rights
 - 2. Water rights
 - a. Littoral
 - b. Riparian
 - c. Terms of addition, e.g., accession, accretion, alluvion, reliction
 - d. Terms of reduction, e.g., erosion, avulsion
 - 3. Air rights
 - C. Bundle of rights
 - 1. Control
 - 2. Possession/use
 - 3. Disposition
 - 4. Quiet enjoyment
 - D. Legal description
 - 1. Metes and bounds
 - 2. Reference to plat, etc. (lot & block)
 - 3. Government rectangular system (information only – not applicable in SC)
- II. ESTATES AND TENANCIES
 - A. Define and explain
 - 1. Estate
 - 2. Tenancy
 - 3. Interest
 - 4. Fee
 - 5. Title

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- B. Types of estates
 - 1. Freehold
 - a. Inheritable fee simple
 - b. Life estates
 - 1) Own life (ordinary)
 - 2) For life or another (pur autre vie)
 - c. Future estates
 - 1) Reversion
 - 2) Remainder
 - 2. Nonfreehold
 - a. Created by lease agreement
 - b. Leaseholds and tenancies
 - 1) Tenancy for years
 - 2) Tenancy for term
 - 3) Periodic tenancy
 - 4) Tenancy at will
 - 5) Tenancy by sufferance
- III. FORMS OF OWNERSHIP
 - A. Tenancy in severalty
 - 1. By a person
 - 2. By legal entities
 - B. Tenancy in common
 - 1. Concurrent with two or more owners
 - 2. No special wording to create
 - 3. No right of survivorship (upon death title passes to heirs or assigns)
 - 4. Each owner owns a part which is undivided (not specified)
 - 5. Each may own with separate deeds
 - 6. Only unity of possession is required
 - 7. Right to partition
 - 8. Transfer of interest
 - C. Joint tenancy
 - 1. Concurrent with two or more owners
 - 2. Special wording to create
 - 3. Each owns all--each owns an undivided interest
 - 4. Right of survivorship (upon death title remains with surviving tenants)
 - 5. Four unities--possession, interest, time, title
 - 6. Right to partition
 - 7. Transfer of interest
 - D. Marital ownership (*informational only; not applicable in South Carolina*)
 - 1. Marital property states; general guidelines
 - 2. Tenancy by the entirety

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- E. Statutory ownership, or common interest ownership
 - 1. Condominiums
 - a. Fee simple ownership
 - b. Common elements; limited common elements
 - c. Owners' association and bylaws
 - d. In-state contracts and disclosures
 - 1) Certificate of assessment
 - 2. Cooperatives
 - a. Corporation ownership in severalty
 - b. Proprietary lease
 - c. Owners' association
 - d. Differences in condos and co-ops
 - C. Ownership is in stock, not real estate
 - 1. Timeshares, or interval ownership
 - 2. Townhouses
 - 3. Planned Unit Developments (PUDs)
 - F. Business entities
 - 1. General partnership
 - 2. Limited partnership, e.g., Limited Liability Corporations (LLCs)
 - 3. Corporation
 - 4. REITS
- IV. LAND USE CONTROLS
- A. Public/Governmental
 - 1. Police power
 - a. Restrictive powers
 - b. Zoning laws
 - 1) Master plan
 - 2) Ordinances
 - 3) Variances
 - 4) Non-conforming use
 - 5) Spot zoning (rezoning)
 - c. Building codes
 - d. Subdivision regulations
 - e. Health and sanitation laws
 - D. Environmental protection laws
 - 1. Terminology and concepts, e.g., hazards, contamination, Superfund, abatement, mitigation, responsible parties and liabilities
 - 2. Eminent domain
 - a. Purpose of 'taking'
 - b. Condemnation and "just compensation"
 - c. Delegation of power

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

3. Taxation of real estate
 - a. Direct
 - 1) State government
 2. County and municipal governments
 - a) Reassessment at time of sale; “point of sale”
 - b. Real property taxes
 - 1) Assessment overview
 - 2) Ad valorem
 - 3) Millage, or mill, rate
 - 4) General and special assessments
 4. Escheat
- B. Private
1. Deed restrictions
 2. Covenants, conditions, and restrictions (CC&Rs)
 3. Homeowners Associations (HOAs)
- C. Encumbrances
1. Liens (voluntary and involuntary)
 - a. Specific liens
 - 1) Mortgage lien
 - 2) Tax lien
 - 3) Mechanic's lien
 - 4) Special assessments
 - b. General liens
 - c. Priority of liens
 2. Lis pendens
 3. Non-possessory interests
 - a. License
 - b. Profit
 - c. Easement
 4. Easements
 - a. In gross
 - b. Tenements
 - c. Appurtenant
 - 1) Creation by mutual agreement
 - 2) Creation by other means
 - a) Necessity
 - b) Prescription
 - c) Condemnation
 - d) Dedication
 - e) Implication
 - d. Termination of easements
 5. Encroachments

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- V. TRANSFER/ALIENATION OF REAL PROPERTY
 - A. How estates are created
 - 1. Original entry (public grant)
 - 2. Involuntary transfer
 - a. Judicial sale
 - b. Tax sale
 - c. Adverse possession
 - d. Accretion/avulsion
 - e. Eminent domain
 - f. Escheat
 - 3. Voluntary transfer (grant)
 - a. Sale
 - b. Gift
 - c. Probate; conveyances after death
 - 1) Testate (with a will)
 - 2) Intestate (without a will – may be deemed an involuntary transfer depending on the decedent’s known preferences)
 - 3) Other terms, e.g., executor, administrator, personal representative, types of wills
 - d. Dedication
 - B. Equitable title and legal title
 - C. Marketable title
 - D. Deeds—purpose, types, common covenants and warranties
 - 1. General warranty deed covenants
 - a. Seizen
 - b. Against encumbrances
 - c. Further assurance
 - d. Quiet enjoyment
 - e. Warranty forever
 - f. Right to convey
 - 2. Special warranty deed
 - 3. Quitclaim deed
 - E. Characteristics and elements of deeds of conveyance
 - 1. Major sections
 - a. Premises
 - 1) Names of grantor and grantee
 - 2) Explanatory facts
 - 3) Granting clause
 - 4) Consideration
 - 5) Adequate description
 - b. Habendum (to have and hold)

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- 1) Estate to be taken
 - 2) Conditions affecting the grant
 - 3) Covenants of title, when required
 - c. Testimonium
 - 1) Date
 - 2) Competent grantor's signature
 - 3) Witnesses
 - d. Acknowledgment
 2. Delivery and acceptance
 3. Recordation (constructive notice vs. actual notice)
 - a. Process
 - b. Importance
 4. Unrecorded deeds
 - a. Grantor to grantee (valid)
 - b. Subsequent purchasers or creditors (invalid)
- F. Title issues
1. Title search
 - a. Chain of title/title abstract
 - b. Cloud on title
 - c. Suit to quiet title
 2. Assurances of title (title insurance)
 - a. Mortgagee's policy
 - b. Owner's policy

Suggested classroom activities:

Invite an attorney to speak on problems with titles

Search a title

Look up records online

Invite a speaker from a tax office

Tax math problems

Do your own property's title search

Discuss riparian and water rights, including terms applicable within your region, e.g., lakefront, rivers, streams, ownership boundaries, navigable/nonnavigable distinctions, etc.

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

2. Governmental Controls and Laws Affecting Real Estate

-- 4 to 6 instructional hours --

- I. REAL PROPERTY TAX LAWS
 - A. Homeowner tax breaks (primary residence & second home)
 - 1. Mortgage interest deductions
 - a. Acquisition debt
 - b. Equity debt
 - 1) Refinancing
 - 2) Second mortgage
 - 3) Equity line of credit
 - 2. Property tax deductions
 - 3. Homestead exemption (SC Code, not national)
 - a. Over age 65
 - b. Blind
 - c. 100% disabled
 - 4. Points
 - a. Acquisition debt
 - b. Refinancing
 - B. Capital gains on sale
 - 1. Personal residence (Tax Payer Relief Act of 1997)
 - 2. 1031 tax-deferred exchange (*more emphasis on broker level*)
 - C. Assessment rate in SC
 - 1. Primary Personal residence (4%)
 - 2. Other (6%)
 - 3. Agricultural (4%) (rollback)
 - D. Math
- II. FEDERAL FAIR HOUSING LAWS
 - A. Civil Rights Act of 1866
 - 1. Provisions
 - 2. Jones vs. Mayer
 - B. Fair Housing Act
 - 1. Types of property covered
 - 2. Prohibitions, esp. advertising
 - 3. Enforcement
 - 4. Time limits
 - 5. Penalties
 - 6. Specific violations
 - a. Blockbusting
 - b. Steering

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- c. Redlining
 - C. Consistency of policies
 - D. Protected classes
- III. AMERICANS WITH DISABILITIES ACT
 - A. Accommodation
 - B. Modifications/alterations
 - C. Differentiating FH vs. ADA
- IV. LEAD-BASED PAINT DISCLOSURE LAWS
 - A. Residential properties
 - B. Investors and renters
- V. FEDERAL ANTITRUST LAWS
 - A. Purpose
 - B. Governmental authority
 - C. Price fixing, tie-in agreements
 - D. Allocation of markets and customers
 - E. Penalties for violations
- VI. TRUTH IN ADVERTISING
 - A. Administered by the Federal Trade Commission (FTC)
 - B. Key provisions
- VII. TECHNOLOGY/ELECTRONIC TRANSACTIONS
 - A. Federal: Electronic Signatures in Global and National Commerce Act (ESIGN)
 - B. State: Uniform Electronic Transactions Act (2004 Act 279-SC Code Ann. Sec. 26-6-10 et. seq.)
 - 1. Applicability
 - 2. Exempted real estate transactions
- VIII. SOUTH CAROLINA REAL ESTATE LICENSE LAW
 - A. Regulatory issues and agencies
 - 1. Purpose
 - 2. Legislature/legal authority
 - 3. Police power
 - 4. Department of Labor Licensing and Regulation (LLR)
 - 5. Commission powers and duties
 - a. Standards for licensure (qualifications)
 - b. Promulgate regulations
 - c. Investigations

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- d. Hearings
 - e. Rulings
 - 1) Suspension, revocation and fines
 - 2) Cease and desist orders
 - 3) Other penalties
 - f. Appeals/Administrative Law Judge (ALJ)
- B. Real estate licenses
- 1. Activities requiring a license
 - 2. Exemptions from licensure
 - 3. Reapply for license after revocation
- C. Duties and requirements of licensees
- 1. BIC and PMIC
 - a. Supervision and maintenance of trust account
 - b. Review and approval of forms
 - c. Maintaining contact with associated licensees
 - d. Instructing licensees on handling of trust funds
 - e. Available to the public
 - f. Policy manual
 - g. Offices
 - 2. Associated licensees
 - a. Timing of delivery of trust funds
 - b. Notification of change of name, address, or brokerage firm
 - c. Advertising and identifying affiliated company
 - d. Disclosing name of franchise
 - e. Disclosing licensed status
 - f. Reducing offers, acceptances and changes to writing
 - g. Closing documents and reducing delays
 - h. Teams
- D. Regulated activities
- 1. Advertising
 - 2. Compensation
 - a. Unlicensed persons
 - b. Cooperating brokers
- E. Disclosures
- 1. Undisclosed principals
 - 2. Agency representation
 - 3. Seller/property
 - 4. Stigmatized properties
- F. Trust accounting
- 1. Definitions
 - a. Commingling
 - b. Conversion

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- c. Folio number or electronic indexing
 - d. Ledger/subledger
 - e. Reconciliation
 - 2. Receipt and deposit of earnest money
 - a. Cash/certified funds
 - b. Checks/other monies
 - 3. Account information
 - a. Location
 - b. Designation
 - 4. Property management
 - a. Security or advance rental deposits
 - b. Rents
 - 5. Option funds
 - a. What they are and how they are handled
 - 6. Disbursements
 - a. Disputed funds
 - b. Undisputed
 - 7. Real Estate Commission audits
 - a. Paper trail
 - b. Personal funds
- G. License types, qualifications, and procedures
 - 1. Salesman qualifications
 - 2. Broker qualifications
 - 3. In-Charge qualifications
 - 4. Licensing procedures
 - 5. Property Manager
- H. License maintenance and statuses
 - 1. Renewal and maintenance
 - a. Renewal period
 - b. Licensee responsibility for renewal
 - c. Reporting changes in employer/BIC
 - 2. Statuses
 - a. Active
 - b. Inactive
 - c. Other, e.g., current, lapsed, expired, cancelled, revoked, suspended
- I. Current continuing education requirements
- J. Agency and non-agency representation agreements
 - 1. Essential provisions
 - 2. Signatures of all parties
 - 3. Transaction brokerage
 - 4. Additional listing provisions
- K. Offers and counteroffers to purchase

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- L. Recordkeeping
 - M. Violations (Refer to Section 40-57-710a for a complete list of violations.)
 - 1. Guaranteeing profits
 - 2. Criminal convictions
 - 3. Dual contracts
 - 4. Choice of attorney, etc.
- IX. ADDITIONAL STATE LAWS
- A. South Carolina Consumer Protection Code
 - 1. No maximum rate of interest
 - 2. Lender may not select attorney (borrower's choice), etc.
 - 3. Loan transfer/transfer fees
 - 4. Conditions of prepayment without penalty
 - B. South Carolina Residential Landlord and Tenant Act
 - 1. Landlord obligations
 - 2. Tenant remedies for landlord's noncompliance
 - 3. Retaliation
 - 4. Tenant obligations
 - 5. Landlord remedies for tenant's noncompliance
 - 6. Abandonment
 - 7. Constructive eviction
 - C. South Carolina Vacation Time Sharing Plans Act
 - 1. Enforcement agency
 - 2. Ownership and lease plans
 - 3. Unit week
 - 4. Right of rescission
 - 5. Penalties
 - D. Megan's Law
 - 1. Define and explain
 - 2. Disclosure do's and don'ts
 - 3. Enforcement authority
 - E. South Carolina Coastal Zone Management Act
 - 1. Oversight by South Carolina Department of Health and Environmental Control (DHEC), Ocean & Coastal Resource Management (OCRM)
 - 2. Definitions
 - 3. Protected areas, including wetlands
 - 4. Regional applicability; disclosures
 - F. Other state laws and issues
 - 1. Smoke detectors
 - 2. 7% non-resident tax
 - 3. S. C. Human Affairs Commission
 - 4. Predatory lending

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

5. S. C. Residential Property Condition Disclosure Statement
6. Effect of foreclosure on leases and evictions

Suggested Classroom Activities:

Figure taxes and capital gains

Role playing with testers on Fair Housing

Trust account exercises expanding extensively on the entries in the *Guidelines* booklet.

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

3. Pricing of Real Properties

-- 2 to 3 instructional hours --

- I. VALUATION AND APPRAISAL
 - A. Definitions
 - 1. Appraisal
 - 2. Purpose of an appraisal
 - 3. Function of an appraisal
 - 4. Market value
 - 5. Value
 - 7. Price
 - 8. Comparative (competitive) market analysis (CMA)
 - B. Essential elements/characteristics of value
 - 1. Demand
 - 2. Utility
 - 3. Scarcity
 - 4. Transferability
 - C. Principles of value
 - 1. Supply and demand
 - 2. Highest and best use
 - 3. Substitution
 - 4. Contribution
 - 5. Change
 - 6. Conformity
 - a. Progression
 - b. Regression
 - 7. Anticipation
 - 8. Competition
 - D. Influences on value
 - 1. Economic
 - 2. Social
 - 3. Political
 - 4. Physical
 - E. Approaches to value
 - 1. Definitions
 - a. Sales comparison approach
 - b. Income approach
 - d. Cost approach
 - 2. Sales comparison approach
 - a. Types of properties
 - b. Market comparison

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- 1) Recent sales data
 - 2) Compare with subject
 - 3) Verify data
 - 4) Make adjustments
 - c. Adjustments
 - 1) Time of sale
 - 2) Location
 - 3) Physical characteristics
 - 4) Sale concessions
 3. Income approach
 - a. Types of properties
 - b. Capitalization
 - 1) The formula
 - 2) Determining NOI
 - 3) Capitalization rate
 - c. Gross rent multiplier
 - d. Gross income multiplier (*informational only, no math*)
 4. Cost approach
 - a. Types of properties
 - b. The concept
 - c. The formula (five steps)
 - d. Replacement and reproduction differentiated
 - e. Depreciation
 - 1) Physical deterioration
 - 2) Functional obsolescence
 - 3) External (economic) obsolescence
 - 4) Curable and incurable
 - f. Methods to estimate cost
 - 1) Square footage comparison
 - 2) Other methods and terms, e.g., quantity survey, unit in place, comparative
- F. Comparative (competitive) Market Analysis (CMA)
 1. Purpose, common uses, limitations
 2. Relationship to formal appraisal
 3. Method(s) of gathering and processing data, e.g., acceptable number of comps, time period for recent sales, acceptable distance from subject property
 4. Similar analysis, terms, and use: Broker Price Opinion (BPO)/Broker Opinion of Value (BOV)

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- II. THE APPRAISAL PROCESS
 - A. Define the problem
 - B. Preliminary survey and appraisal plan
 - C. Collect data
 - D. Analyze and process data
 - E. Application of three approaches to value
 - F. Correlation of final estimate (Reconciliation)

- III. MATH

Suggested classroom activities:

Practicum for Comparative Market Analysis

Discuss the effect on pricing of property specifics using common examples, such as:
Site particulars—location, soil types, availability of water and public utilities, proximity to probable enhancements (parks, hospitals, schools, etc.) and possible detractors (busy streets, noisy businesses, airports, etc.)

Improvement details, including construction types, building materials, age of structure(s), renovation considerations and costs, etc.

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

4. Real Estate Finance

-- 3 to 4 instructional hours --

- I. FINANCING SOURCES
 - A. Primary mortgage lenders
 - 1. Defined
 - 2. Classifications
 - a. Institutional lenders
 - b. Non-institutional lenders
 - 1) Mortgage companies
 - 2) Mortgage brokers
 - 3) Private investors
 - 4) Seller financing
 - B. Secondary mortgage market
 - 1. Description
 - 2. Purpose
 - 3. Secondary institutions
 - a. Fannie Mae
 - b. Ginnie Mae
 - c. Freddie Mac
 - C. Down payment assistance programs
 - 1. General overview and history
 - 2. Local availability, sources, changes
- II. INSTRUMENTS
 - A. Promissory note (evidence of the debt)
 - B. Mortgages (pledge)
 - C. Deed of trust
 - D. Line theory and title theory
- III. ELEMENTS/PROVISIONS OF MORTGAGES
 - A. All elements of a contract
 - B. Subject to Statute of Frauds
 - C. Parties to a mortgage
 - D. Does not convey title
 - E. Hypothecation
 - F. Assignment
 - G. Satisfaction/release of mortgage
 - H. Priority of mortgages
 - I. Subordination clause (“junior mortgage”)
 - J. Non-recourse (default by borrower)

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- K. Mortgagor covenants
 - 1. Pay taxes
 - 2. Keep property insured
 - 3. Protect against removal
 - 4. Keep property in good repair
 - 5. Allow mortgagee right of re-entry
 - L. Prepayment penalty
 - M. Defeasance clause
 - N. Acceleration clause
 - 1. Default
 - 2. Due-on-sale (alienation clause)
- IV. TYPES OF LOANS
- A. Common loans and repayment methods
 - 1. Straight term mortgage (interest only)
 - 2. Fully amortized mortgage
 - 4. Partially amortized mortgage (balloon)
 - 5. Adjustable rate mortgage (ARM)
 - 6. Open-end loan
 - 7. Construction loans
 - 8. Home equity loans
 - 9. Negative amortization
 - 10. Reverse annuity mortgage (RAM)
 - 11. Conforming and non-conforming loans
 - 12. Sub-prime loans
 - B. Interest
 - 1. Points
 - 2. Paid in arrears
 - 3. Fixed rate
 - 4. Adjustable
 - a. Convertibility
 - b. Assumability
 - c. Prepayment penalty
 - 5. Annual percentage rate (APR)
 - C. Property pledged
 - 1. Package mortgage
 - 2. Blanket mortgage
 - D. Alternative types of financing
 - 1. Contract for deed (land contract, installment contract)
 - 2. Purchase money mortgage
 - 3. Wrap arounds
 - 4. Sale lease-backs

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- 5. Assumptions/novation
- 6. Subject to
- V. GOVERNMENT BACKED OR CONVENTIONAL
 - A. FHA insured loans
 - B. VA-guaranteed
 - C. Conventional loans
 - 1. Uninsured
 - 2. Insured
 - 3. Mortgage Insurance requirements
 - a. Mortgage Insurance Premium (MIP)
 - b. Private Mortgage Insurance (PMI)
- VI. LOAN UNDERWRITING
 - A. Qualifying the property
 - B. Loan-to-value ratio
 - 1. Explanation
 - a. Down payment
 - b. Equity
 - 2. FHA
 - 3. VA
 - 4. Conventional
 - C. Qualifying the buyer
 - 1. Income
 - 2. Assets
 - 3. Credit history
 - a. Prime borrower
 - b. Sub-prime borrower
 - 4. VA eligibility
 - D. Qualifying the title
 - 1. Marketable title
 - 2. Liens
 - 3. Conditions, covenants, and restrictions (CC&Rs)
 - E. Mortgage costs
 - 1. Mortgage interest rates
 - 2. Equalizing the yield (discount points)
 - 3. Origination fee and other lender fees
 - 4. Required disclosures
 - 5. Predatory lending issues
 - a. Excessive interest; usury
 - b. Unexpected/under-explained costs

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- F. Foreclosure
 - 1. Redemption – concept and issues
 - 2. Title taken by lender
 - 3. Deficiency judgments
 - 4. Distribution of funds
 - G. Short sales
- VII. NATIONAL CONSUMER PROTECTION ACT (Truth in Lending)
- A. Known as "Regulation Z"
 - B. Disclosures for lenders
 - C. Real estate advertising
- VIII. EQUAL CREDIT OPPORTUNITY ACT
- A. Fair Credit Reporting Act
- IX. MATH

Suggested classroom activities:

- Seller net sheets**
- Buyer cost sheets**
- Good faith estimates**
- Loan comparison (FHA, VA, Conventional)**
- Case law**
- Familiarization with forms**

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

5. Settlement/Closing

-- 1 to 2 instructional hours --

- I. CLOSINGS
 - A. Common terms and elements
 - 1. Escrow, settlement, closing
 - 2. Escrow/trust/impound account
 - B. Purpose, procedures, and parties
 - 1. Settlement agent
 - 2. Licensee responsibilities
 - C. Contract and other documents, e.g., deed, bill(s) of sale, property reports, releases, liens, property warranty policies
 - D. Real Estate Settlement Procedures Act (RESPA)
 - 1. Purpose
 - 2. Application
 - 3. Requirements
 - 4. Prohibitions
 - E. Closing Disclosures (See classroom activities.)
 - 1. Purpose
 - 2. Expenses
 - a. Buyer
 - b. Seller
 - 3. Escrowed items
 - 4. Prorated items
 - 5. Possession/transfer
 - 6. HUD-1
 - a. Home Equity Line of Credit (HELOC)
 - b. Reverse annuity mortgage (RAM)
 - F. Cash transactions and non-regulated financing

Suggested classroom activities:

Prepare worksheets to show proration of prepaid and accrued interest and taxes, and other common prorations

Generate lists of common closing expenses and who pays; investigate and discuss availability, coverages, and costs of different home warranty policies in your area

Comparison of loan estimates with closing disclosure

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

6. Agency and other Brokerage Relationships

-- 4 to 5 instructional hours --

- I. THE LAW OF AGENCY and other Brokerage Relationships
 - A. Define and explain
 - 1. Common law
 - 2. Agency
 - 3. Principal
 - 4. Agent
 - 5. Subagent
 - 6. Single agency
 - 7. Client
 - 8. Customer
 - 9. Fiduciary
 - 10. Proxy
 - 11. Seller agency
 - 12. Buyer agency (buyer broker)
 - 13. Attorney-in-fact
 - 14. Power of attorney
 - 15. Dual agent
 - 16. Dual agency
 - 17. Designated agent
 - 18. Designated agency
 - 19. Transaction broker
 - 20. Transaction brokerage
 - 21. Ministerial Acts
 - B. General Concepts
 - 1. Contractual nature of relationship
 - a. Company and subagency
 - b. BIC and agent responsibility for actions of subordinates and principals
 - c. Representation agreements – licensees and company
 - d. Multiple listing services (MLS)
 - 2. Conflict of interest, including secret/undisclosed profits and self-dealing
 - a. Legal and ethical issues
 - C. Types of authority of agencies
 - 1. Express
 - 2. Implied
 - D. Types of agents
 - 1. General
 - 2. Special
 - 3. Universal

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- E. Types of principals
 - 1. Disclosed
 - 2. Undisclosed
 - 3. Partially disclosed

- A. AGENCY AND NON-AGENCY RELATIONSHIPS AND RESPONSIBILITIES
 - Characteristics
 - 1. Contractual and/or consensual
 - 2. Personal
 - 3. Fiduciary
 - 4. Confidential

- B. Obligations of parties
 - 1. Agent's duties to principal
 - a. Obedience to lawful instructions
 - b. Full disclosure or notice
 - c. Loyalty
 - d. Accountability
 - e. Care, knowledge, and skill
 - f. Confidentiality
 - g. Handling of offers, counteroffers, and multiple offers
 - 2. Principal's obligations to agent
 - a. Compensation
 - 1) Procuring cause
 - 2) Broker protection clause
 - b. Reimbursement
 - c. Opportunity
 - d. Good conduct
 - e. Indemnity
 - f. Good faith
 - 3. Transaction broker obligations to third parties
 - a. Honesty and fair dealing
 - b. Disclosure
 - 1) Seller disclosure, when applicable
 - 2) Agency relationship, when applicable
 - 3) Adverse material facts
 - c. Due care, knowledge and skill
 - d. Limitations of customer service
 - 4. Liabilities
 - a. Dual agency issues
 - b. Limits of expertise, recommending other professionals (legal, tax, accounting, etc.)
 - c. Types of liability, e.g., joint, several, vicarious

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

- C. Creation and termination of agency
 - D. Property disclosure
 - 1. Material defects, e.g., structural, site/soil, meeting code specifications
 - 2. Stigmatized properties
 - 3. Environmental
 - a. Asbestos
 - b. Underground storage tanks
 - c. Radon
 - d. EIFS (stucco)
 - e. Toxic mold
 - f. Other, e.g. pests, hazard zone, insurability
 - 4. Wetlands
 - 5. Licensee responsibility to verify disclosures and property representations
- II. SOUTH CAROLINA AGENCY DISCLOSURE FORM
- A. Timing of disclosure
 - B. Types of agency practiced by brokerage
 - C. Informed consent
- III. COMPANY POLICY
- A. Seller/buyer single agency representation
 - B. Disclosed dual agency
 - C. BIC/Licensee relationships, statutory and contractual
 - D. Independent contractor/employee status

Suggested classroom activities:

Changing hats

Filling out disclosure forms

Explaining disclosure form

South Carolina Prelicensing Curriculum Content Outline for Real Estate Broker: Brokerage Principles (Unit III-B)

7. Contracts

-- 3 to 4 instructional hours --

- I. TYPES/CHARACTERISTICS
 - A. Express
 - B. Implied
 - C. Bilateral
 - D. Unilateral
 - E. Executed
 - F. Executory
 - G. Void
 - H. Voidable
 - I. Enforceable/unenforceable
 - J. Valid/invalid

- II. ELEMENTS/REQUIREMENTS
 - A. Offer and acceptance
 - B. Legal consideration
 - C. Competent parties
 - D. Legal purpose
 - E. Legal form
 - F. Modifications/alterations/addenda
 - G. Signed originals
 - H. Reality of consent (versus duress)

- III. STATUTE OF FRAUDS

- IV. BROKERAGE AGREEMENTS
 - A. Purpose of Agency Agreements
 - 1. Creates agency relationship
 - 2. Employment contract
 - 3. Buyer or seller
 - 4. Disclosed dual agency
 - 5. Conflict of interest
 - B. Contents of Listing or Buyer Brokerage Agreement
 - 1. Property data/requirements
 - 2. Distinguish between realty, personalty, and fixtures
 - 3. Selling price/price range
 - 4. Commission/compensation
 - 5. Signatures of principal and agent
 - 6. Specific expiration date

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- C. Contents of Both Agreements
 1. Written agreement
 2. Description of services to be performed
 3. Compensation amount or method of calculating
 4. How and when agent earns compensation
 5. How compensation will be shared with any cooperating brokers
 6. Amount, if any, of retainer or other fees and explanation of what happens to the money
 7. Beginning and ending of agreement dates
 8. Signatures of all parties
- D. Additional Contents of Listings Only
 1. Price of the listed property
 2. No requirement to notify agent of intent to cancel after listing expires
 3. Type of listing and definition
 4. Exceptions and variations in commissions, if applicable
 5. Be given to owner at time of signing or directly following
- E. Rights, obligations, and liabilities of the parties
- F. Compensation
 1. When fee is earned
 2. When fee is paid
 3. Commission rates
 - a. Splits
 - b. Antitrust Laws
 4. Procuring cause
- G. Types of listing contracts
 1. Open listing
 2. Exclusive agency
 3. Exclusive right-to-sell
 4. Net listing
- H. Multiple listing agreements
- I. 1. Offer of Cooperation
- J. 2. Offer of Compensation
- K. Other cooperating sales agreements
- L. Termination of agency representation agreement
 1. Termination by acts of parties
 - a. Mutual agreement
 - b. Termination by client (revocation)
 - c. Termination by agent (renunciation)
 2. Termination by operation of law
 - a. Expiration
 - b. Completion/performance
 - c. Destruction of property/death of principal

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- d. Release of contract, standard form

V. PURCHASE AND SALE CONTRACT

- A. Purpose
- B. Principle terms and conditions
 1. Vendor/vendee
 2. Description of property
 3. Purchase price
 4. Closing costs, who pays
 5. Possession
 6. "Time is of the essence"
 7. Personal property/fixtures
 8. Financing provisions (amount, time, rate, points)
 9. Condition of property (See Agency II D)
 10. Restrictive covenants
 11. Risk of loss or damage
 12. Type of deed
 13. Marketable title
 14. Default provision
 15. Death of parties
 16. FHA or VA required provisions
 17. Earnest money receipt
 18. Signatures
 19. Contingencies; rescission/cancellation provisions

VI. OPTION TO BUY

- A. Optionor must sell
- B. Optionee acquires
 1. No interest in land
 2. Right to buy for specific period
- C. Requirements
 1. Terms of contract
 2. "Time is of the essence"
 3. Three dates (signing, exercising, and closing)
- D. Consideration essential
- E. When exercised
 1. Bilateral contract
 2. Optionee acquired equitable title

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VII. COMMUNICATING OFFERS, COUNTEROFFERS, AND MULTIPLE OFFERS

- A. Obligation to present all offers
- B. Electronic technology's effect on creating binding contracts: Electronic Signatures in Global and National Commerce Act (ESIGN) and SC Uniform Electronic Transactions Act (UETA)

VIII. MISREPRESENTATION AND FRAUD

- A. Definitions
- B. Examples
- C. Puffing
- D. Applicability of federal Truth in Advertising

IX. TERMINATION OF OFFERS

- A. Rejection
- B. Counteroffer
- C. Expiration
- D. Revocation
- E. Death
- F. Operation of law, e.g., bankruptcy and condemnation

X. MANAGEMENT CONTRACTS

- A. Purpose
- B. Contents
 - 1. Agency relationship
 - 2. Owner and manager
 - a. Obligations
 - b. Rights

XI. LEASES/RENTAL AGREEMENTS

- A. Rights and duties of lessor
- B. Rights and duties of lessee
- C. Leasehold terms
 - 1. Lessor
 - 2. Lessee
 - 3. Demise/demised property
 - 4. Abandonment
 - 5. Assignment
 - 6. Sublease
 - 7. Sufferance
 - 8. Holdover
 - 9. Repossess
 - 10. Dispossess

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- 11. Actual eviction
 - 12. Constructive eviction
 - 13. Ejectment
 - D. Types of leases
 - 1. Graduated lease
 - 2. Percentage lease
 - 3. Net lease
 - 4. Gross lease
 - 5. Index lease
 - E. Termination of leases
- XII. OTHER TYPES OF CONTRACTS
- A. Lot/land sales (acreage)
 - B. New homes
 - C. Building jobs
 - D. Commercial sales
 - E. Resales—residential
 - F. Leasing
 - G. Lease purchase/lease-to-own
 - H. Right of first refusal
- XIII. DISCHARGE OF CONTRACTS
- A. Performance
 - B. Release
 - C. Rescission and cancellation
 - D. Accord and satisfaction
 - E. Novation
 - F. Statute of Limitations
 - G. Assignment
 - H. Breach of contract and remedies
- XIV. MATH

Suggested classroom activities:

- Compare and contrast types of contracts**
- Identify common phrases and addenda**
- Role play with buyer and agent**
- Fill out sample contract**

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8. Ethics

-- 1 to 2 instructional hours --

- I. GOLDEN RULE
- X. RIGHT VS. WRONG
- XI. PERSONAL VALUES
- XII. ETHICAL DECISION MAKING
- XIII. COMPANY POLICIES AND CODE OF ETHICS

Suggested classroom activities:

Role-playing examples of any of the above

Professional conduct scenarios, such as

In-house listings and conflicts of interest

Other obvious conflicts of interest, e.g., self-dealing; representing family members, friends, associates

Determining where one's license authority or professional expertise ends and recommending another professional is prudent, even required

Comparison of ethics or ethical conflicts to laws and codes

This ends the Sections included in the Broker Exam Preparation portion of this Curriculum Guide.

This also ends the entire Real Estate Broker Prelicensing Curriculum Guide (“Unit III”).