

South Carolina Prelicensing Curriculum Content Outline for Real Estate Associates (Unit I)

Introduction to the Curriculum Content Outline

The South Carolina Real Estate Associate Prelicensing Curriculum, commonly known as "Unit I," 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 students.

The intention of the Curriculum is to provide a reasonably comprehensive guide to the subject matter, laws, processes, and activities 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 (available online in the Candidate Information Bulletin) to ensure all terms and concepts are adequately defined and discussed in the most appropriate Section below.

Proper instruction will ensure that the student will be prepared for entering the complex practice of the real estate profession in South Carolina, and should therefore be able to pass the licensing exam.

| Section Title | Instructional Hours | |
|--|---------------------|-----------|
| 1. Real Property | 8-10 | 1 |
| 2. Governmental Controls and Laws Affecting Real Estate | 8-12 | 7 |
| 3. Pricing of Real Properties | 4-6 | 13 |
| 4. Real Estate Finance | 6-8 | 16 |
| 5. Settlement/Closing | 2-4 | 20 |
| 6. Agency and other brokerage relationships | 8-10 | 21 |
| 7. Contracts | 6-8 | 24 |
| 8. Ethics | 2-3 | 29 |

Note: The Hour-ranges provided above specifically allow the flexibility to incorporate necessary Review and Exam time into the required 60 course hours.

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.

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1. Real Property

-- 8 to 10 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
 - 1) Own life (ordinary)
 - 2) For life or another (pur autre vie)
 - b. 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

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- D. Marital ownership (informational only; not applicable in South Carolina)
 - 1. Marital property states; general guidelines
 - 2. Tenancy by the entirety
 - 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
 - e. Ownership is in stock, not real estate
 - 3. Timeshares, or interval ownership
 - 4. Townhouses
 - 5. 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
 - f. Environmental protection laws

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- g. 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
 - 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

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- 2) Creation by other means
 - a) Necessity
 - b) Prescription
 - c) Condemnation
 - d) Dedication
 - e) Implication
 - d. Termination of easements
 - 5. Encroachments
- 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

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- 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)
 - 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 titles search

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

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2. Governmental Controls and Laws Affecting Real Estate

-- 8 to 12 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

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- 6. Specific violations
 - a. Blockbusting
 - b. Steering
 - 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

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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
 - 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

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- E. Disclosures
 - 1. Undisclosed principals
 - 2. Agency representation
 - 3. Seller/property
 - 4. Stigmatized properties
- F. Trust accounting
 - 1. Definitions
 - a. Commingling
 - b. Conversion
 - 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

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- 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
- J. Offers and counteroffers to purchase
- 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.
- X. 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
 - 5. Landlord obligations
 - 6. Tenant remedies for landlord's noncompliance
 - 7. Retaliation
 - 8. Tenant obligations
 - 9. Landlord remedies for tenant's noncompliance
 - 10. Abandonment
 - 11. 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)

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- 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
 - 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.

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3. Pricing of Real Properties

-- 4 to 6 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

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- 2. Sales comparison approach
 - a. Types of properties
 - b. Market comparison
 - 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
- N. 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)

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- 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.

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4. Real Estate Finance

-- 6 to 8 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. Lien 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")

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- J. Non-recourse (default by borrower)
 - 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

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3. Wrap arounds
 4. Sale lease-backs
 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

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- a. Excessive interest; usury
 - b. Unexpected/under-explained costs
 - 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**

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5. Settlement/Closing

-- 2 to 4 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 Disclosure (CD) (See in class room 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
- II. MATH, especially South Carolina deed recording fee
 - A. Prorate prepaid interest and taxes
 - B. Prorate accrued interest and taxes
 - C. Other common proration

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 figures

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6. Agency and other Brokerage Relationships

-- 8 to 10 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
 - E. Types of principals

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1. Disclosed
2. Undisclosed
3. Partially disclosed

II. AGENCY AND NON-AGENCY RELATIONSHIPS AND RESPONSIBILITIES

A. 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

C. Creation and termination of agency

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- 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
- III. SOUTH CAROLINA AGENCY DISCLOSURE FORM
 - A. Timing of disclosure
 - B. Types of agency practiced by brokerage
 - C. Informed consent
- IV. COMPANY POLICY
 - A. Seller/buyer single agency representation
 - B. Disclosed dual agency
 - C. BIC/Licensee relationships, statutory and contractual
 - D. Independent contractor/employee status

Suggest classroom activities:

Changing hats

Filling out disclosure forms

Explaining disclosure forms

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7. Contracts

-- 6 to 8 instructional flours --

- 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
 - 1. Offer of Cooperation
 - 2. Offer of Compensation
- I. Other cooperating sales agreements
- J. 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
 - d. Release of contract, standard form

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- 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

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- 10. Dispossess
 - 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

-- 2 to 3 instructional hours --

- I. GOLDEN RULE
- X. RIGHT VS. WRONG
- XL 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 "Unit I" Curriculum Outline