

Maine Real Estate Commission Sales Agent Course Guidelines

Approved – January 2006 (includes statutes and rules effective July 1, 2006)
Course Requirements: 55 hours of classroom time
Minimum 3 quizzes plus a final exam

Course Outline:

Section I – Course Introduction

Maine Real Estate Commission expectations, bathrooms, parking, attendance, snow days, grades

Section II - Industry overview/organization (1%)

Section objective: Upon completion of this section, students will understand how the industry is organized, who the players are, and where they fit. They will also learn that each real estate transaction is considered to have two sides, a listing side and a sales side and will be introduced to the job descriptions of a listing licensee and a selling licensee.

- A. Identify the players
 - I. Real Estate Commission
 - a. Powers of the Real Estate Commission
 - i. Enforce license law
 - ii. Discipline brokers
 - iii. Oversight of education
 - iv. Issuing licenses
 - 1. types of license
 - 2. agency umbrella
 - II. Agencies
 - a. REALTORS®
 - b. Franchises
 - III. Appraisers
 - IV. Lenders
 - V. Title Companies
 - VI. Inspectors
- B. Identify a flow chart for buyers
- C. Identify a flow chart for sellers

Section III - Maine Real Estate Commission (13%)

Upon completion of this section, students will understand the role of the Real Estate Commission, its authority and its impact on the daily practice of real estate. Students will also know and conform to Real Estate license laws and the minimum standards of practice required by the Real Estate Commission.

- 1. Maine Real Estate Commission
 - A. Explain the mission and powers of the Real Estate Commission
 - I. Composition
 - II. Investigations
 - III. Hearings
 - IV. Disciplinary sanctions
 - B. Differentiate between Commission rules, REALTOR® ethics, office policies & Multiple Listing Service (“MLS”) requirements.
- 2. Maine license law & rules governing licensees
 - A. Identify what constitutes the practice of real estate brokerage. (32 MRSA §§13001-13003)
 - B. Compare the different license categories (32 MRSA §§13198-13200).
 - C. Explain the requirements of license law and rules governing brokerage contracts. (32 MRSA §13177-A and Chapter 410 Commission Rules)
 - D. Identify and apply causes for disciplinary action. (32 MRSA §13067)
 - I. Describe the complaint process.
 - II. List disciplinary sanctions.
 - E. Explain the rules of Chapter 400 with particular attention to:

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- I. Designated Broker supervisory duties
 - II. 90 day rule
 - III. Trust Accounts – definition & records
 - IV. 5-day rule on deposits
 - V. Undisputed and disputed deposits
 - VI. Record retention
 - F. Explain and conform your conduct to the rules of Chapter 410
 - I. Advertising
 - II. Acting in Self-interest
 - III. Market Value
 - IV. Net Listing Prohibited
 - V. Duty to Furnish Documents
 - VI. Disclosure of Compensation Policy
 - VII. Disclosed Dual Agency
 - VIII. Appointed Agent Procedures and Disclosure
 - IX. Real Estate Brokerage Relationships Procedures
 - X. Solicitation of Brokerage Agency Contracts
 - XI. Inducements
 - XII. Confidentiality of Contract Terms
 - XIII. Licensee's Duty to the Designated Broker
 - XIV. Licensee's Duty to Obtain and Provide Disclosure Information on Private Water Supply, Heating, Waste Disposal System and Known Hazardous Materials
 - XV. Referral Fees
3. Other Property Conditions and Disclosures
- A. Recognize and explain the following environmental issues and hazards:
 - I. Federal and State lead based paint disclosures
 - II. Endangered and protected species
 - III. Water quality of bodies of water
 - IV. Hazardous waste sites
 - B. Material Defects
 - I. Leaking roof
 - II. Rotted sills
 - III. Water in the basement
 - IV. Etc.
 - C. Liability Considerations
 - I. Discuss potential liability related to information-gathering skills
 - a. Recognize sources of reliable information
 - b. Determine when to suggest the client seek expert advice
 - II. Demonstrate the ability to properly complete a property disclosure form
 - III. Differentiate between the three types of misrepresentation
 - a. Innocent
 - b. Negligent
 - c. Fraudulent
 - IV. Distinguish who can be told material facts and material defects.

Section IV – Agency Relationships (13%)

Upon completion of this section, students will be able to discuss the importance of agency and non-agency relationships in the practice of real estate, how they are formed and how they are documented.

1. Law of Agency/Brokerage
 - A. Identify and describe types of agency and the transaction brokerage relationship. (32 MRSA §§§§13273, 13274, 13275 & 13278)
 - B. Describe when a brokerage agreement with a client is required and how the relationship is created.
 - C. Explain appropriate use of agency relationship forms.
 - D. Identify, explain and give examples of duties and obligations of all types of agents to a client.
 - I. Seller agent
 - II. Buyer agent

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- III. Subagent
- IV. Disclosed dual agent
- V. Appointed agent
- E. Identify the role of the transaction broker.
- F. List the components of a brokerage agreement with a client.
- G. Identify, explain and give examples of duties and prohibited acts of a transaction broker.
- H. Identify duties of seller agent to buyer.
- I. Identify duties of buyer agent to seller.
- J. Discuss the termination of agency relationship and obligations after termination.
- K. Demonstrate proper practice regarding agency relationships disclosures.
- L. Summarize potential consequences for breach of fiduciary duty.
- M. Explain the role of a company's written policy on agency relationships.

Section V - Product Knowledge (33%)

Every competent licensee needs to understand the product. Upon completion of this section, students will understand and be able to discuss property characteristics and interests, public and private limitations on property rights, the recording system, and how rights and real estate are conveyed.

- 1. Real Property Characteristics
 - A. Define and differentiate between real & personal property.
 - B. Recognize proper real property descriptions.
 - I. Metes & bounds
 - II. Reference to a lot on a plan
 - III. Rectangular survey system
 - C. Define and give examples of the following estates & real property:
 - I. Fee simple
 - a. Absolute
 - b. Condition subsequent
 - c. Determinable
 - II. Life estate
 - a. Estate pur autre vie
 - b. Remainder
 - c. Reversion
 - D. Identify the rights of property owners under each estate
 - E. Discuss and identify the bundle of rights
 - I. Right to occupy
 - II. Right to sell
 - III. Riparian rights
 - IV. Mineral rights
 - V. Right to do nothing at all
 - VI. Right to lease
 - VII. Right to encumber
 - VIII. Other
 - F. Define and identify the following interests in real estate
 - I. Adverse possession
 - II. Easements
 - a. Types
 - b. Creation
 - c. Termination
 - III. Profit
 - IV. License
 - V. Leasehold interests
 - VI. Liens
 - a. Internal Revenue Service ("IRS")
 - b. Property tax
 - c. Utility
 - d. Lis pendans
 - e. Mechanic's

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- f. Materialmen's
 - g. Estate tax
 - VII. Mortgages
 - 2. Leasehold Estates
 - A. Describe creation and termination of various types of leasehold arrangements
 - I. Estate for years
 - II. Estate from year to year/periodic estate
 - III. Tenancy at will
 - IV. Tenancy at sufferance
 - V. Holdover tenant
 - B. Identify types of leases
 - I. Gross
 - II. Net
 - III. Index
 - IV. Percentage
 - V. Ground
 - VI. Graduated
 - C. Maine Landlord-Tenant Act (14 MRSA §§6001 – 6050)
 - I. List and define landlord rights and responsibilities
 - a. Warranty of habitability
 - b. Right of access
 - c. Discuss security deposits
 - i. Amount
 - ii. Return
 - iii. Purpose
 - d. Late fees
 - e. Eviction
 - i. Forcible entry & detainer
 - ii. Constructive
 - f. abandoned property
 - II. List and define tenant rights and responsibilities
 - III. Abide by terms of lease clauses
 - a. Maintain property
 - b. Pay rent on time
 - c. Assignment
 - d. Subletting
 - e. Pets
 - f. Waterbeds
 - g. Other
 - D. Describe obligations of the property manager to the property owner.
3. Land Use Controls and restrictions:
 - A. Explain private land use controls
 - I. Deed restrictions/restrictive covenants
 - II. Association rules
 - a. Condominium rules and regulations
 - b. Neighborhood associations
 - III. Condition subsequent/determinable
 - B. Explain public police powers of government
 - I. Zoning
 - a. Maps
 - b. Ordinances
 - c. Enforcement
 - d. Nonconforming use
 - e. Building permits
 - f. Variances
 - g. Building codes
 - h. Spot zoning
 - C. Maine Land Use Laws –
 - I. Define/explain the following:

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- a. Subdivision (30-A MRSA §§4401-4407)
 - b. Shoreland zoning (38 MRSA §§435-449)
 - c. Shoreland transfer act (30-A §4216)
 - d. Site location and development (38 MRSA §§481-490)
 - e. Underground storage tanks (38 MRSA §§561-570M)
 - f. Natural Resources Protection Act (38 MRSA §§480A – 480-Z)
 - g. Minimum lot size (12 MRSA §§4807 – 4807G)
 - Land Use Regulation Commission (“LURC”) (12 MRSA §§681-689) and Department of Environmental Protection (“DEP”) (38 MRSA §§341-A – 358)
 - h. Conversion of seasonal dwellings (38 MRSA §§435-438-A)
 - i. Protection of endangered/protected species (12 MRSA §§12801-2809)
 - j. Other
- D. Property taxation and exemptions
- I. Homestead
 - II. Tree growth (36 MRSA §§571-584-A)
 - III. Open space tax law (36 MRSA §§1101-1121)
 - IV. Farmland
 - V. Blind
 - VI. Veterans
4. Property Ownership & Transfer
- A. Discuss various types of property ownership that apply in Maine.
- I. Sole ownership (severalty)
 - II. Tenants in common
 - III. Partnership
 - IV. Joint tenancy
 - V. Corporate
 - VI. Estate
 - VII. Condominium
 - a. Public offering statement
 - b. Resale documents
 - c. Restrictions
 - d. Unit boundaries
 - e. Association management issues
 - VIII. Timeshare
 - IX. Cooperative
 - X. Trusts
 - XI. PUD
- B. Identify additional forms of property ownership
- I. Tenancy by the entirety
 - II. Community property
 - III. Curtesy & Dower
- C. Explain different methods of transfer
- I. Voluntary alienation
 - a. Deeds
 - b. Will
 - c. Heirs at law
 - II. involuntary alienation
 - a. Adverse possession
 - b. Eminent domain
 - c. Escheat
 - d. Foreclosure
 - e. Petition for partition
- D. Compare race, race-notice and notice recording systems
5. Transfer of Title
- A. Differentiate between types of deeds
- I. Warranty (general warranty)
 - a. Covenant of seisen
 - b. Covenant of quiet enjoyment
 - c. Covenant of warranty

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- d. Covenant of further assurances
 - II. Quit claim
 - a. with covenant (special warranty deed)
 - b. Quit claim (release)
 - III. Personal representative
 - IV. Trustees
 - V. Corporate
 - VI. Other
 - B. Identify assorted title defects
 - I. Interest of a missing heir
 - II. Fraudulent conveyance
 - III. Incompetent grantor
 - IV. Undischarged mortgage or liens
 - V. Boundary lines
 - VI. Encroachments
 - VII. Etc.
- 6. Sources of property information
 - A. Recognize information available at the Registry of Deeds
 - I. Current owner's deed
 - a. Book and page
 - b. Easements
 - c. Restrictions
 - d. Recorded plot plan
 - e. Property description
 - B. Recognize information available from local governing authority
 - I. Taxes
 - II. Tax card
 - III. Tax exemptions
 - IV. Zoning
 - V. Code compliance
 - C. Recognize sources of information for
 - I. Required property disclosures
 - II. Data sheet
 - D. Recognize information available from other sources as appropriate:
 - I. Service Providers
 - II. Department of Environmental Protection ("DEP")
 - III. Land Use Regulation Commission ("LURC")
 - IV. Department of Transportation ("DOT")
- 7. Recognize basic house styles and construction terminology
 - A. House styles
 - I. Ranch
 - II. Cape
 - III. Split level
 - IV. Split entry
 - V. Garrison
 - VI. Manufactured
 - VII. Modular
 - VIII. Contemporary
 - IX. Gambrel
 - X. Etc.
 - B. Building components
 - I. Rafters
 - II. Sheathing
 - III. Joists
 - IV. Sills
 - V. Studs
 - VI. Foundation
 - VII. Flashing
 - VIII. Etc.

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Section VI - Property Valuation and the Appraisal Process (7%)

Upon completion of this section students will be able to explain different types of value, principles of value, calculate value using the three different approaches.

1. Differentiate types of value
 - A. Market value
 - B. Assessed value
 - C. Insurance value
 - D. Condemnation value
 - E. Liquidation value
2. Identify principles of value
 - A. Location
 - B. Condition
 - C. Contribution
 - D. Supply & demand
 - E. Substitution
 - F. Highest & best use
 - G. Competition
 - H. Depreciation
 - I. Physical
 - II. Economic/External
 - III. Functional
3. Calculate estimates of property value and investment analysis
 - A. Market data approach
 - B. Income approach
 - I. Cap rate
 - II. Gross Rent Multiplier ("GRM")
 - III. Gross Income Multiplier ("GIM")
 - C. Cost approach
4. Explain appraisal law as it relates to sales agents. (32 MRSA §14004 [2])

Section VII - Financing the Transaction (7%)

Upon completion of this section students will be able to identify various financing options, explain various financing terms and recognize lender requirements to obtain a loan.

1. Identify sources of financing
2. Differentiate between primary and secondary market
3. Explain various mortgage terms
4. Explain the mortgage qualification process
 - A. Explain the role of credit scores
 - B. Explain the role of front end and back end ratios
 - C. Explain the tax ramifications of residential real estate ownership
 - I. Deductibility of interest and real estate taxes
 - II. \$250,000/\$500,000 capital gains exemption
5. Explain various types of financing instruments
 - A. Mortgage note
 - B. Mortgage deed
 - C. Bond for deed/contract for deed/installment land sale
 - D. Deed of trust
6. Differentiate between different types of loans
 - A. Federal Housing Administration ("FHA")
 - B. Veterans Administration ("VA")
 - C. Conventional insured
 - D. Conventional
 - E. Nonconventional
 - F. Maine State Housing Authority ("MSHA")
 - G. Package

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- H. Blanket
 - I. Junior/senior
 - J. Seller financing
 - K. Wraps
7. Contrast types of repayment
- A. Amortizing
 - B. Balloon
 - C. Term
 - D. Adjustable
 - E. Biweekly
8. Recognize lender requirements and obligations
- A. Insurance
 - B. Escrow
 - C. Title insurance – lenders/owners policy
 - D. Mortgage inspection survey
 - E. Appraisal
 - F. Title search
 - G. Job history
 - H. Collateral
 - I. Credit rating
 - J. Property condition
 - K. Downpayment/closing costs
9. Recognize Predatory lending/mortgage fraud
- A. Title 33, Subsection 506 “Undocumented Mortgage Agreements”
 - B. Illegal flipping
 - C. Lenders changing rates & terms

Section VIII – Contracts (16%)

Upon completion of this section students will be able to explain types, elements, creation and termination of contracts and be able to accurately complete brokerage and purchase and sale agreements.

1. Define types of contracts
- A. Valid
 - B. Void
 - C. Voidable
 - D. Bilateral
 - E. Unilateral
 - F. Executory
 - G. Executed
 - H. Enforceable
2. Define the elements and creation of a valid contract
- A. Competent parties
 - I. Legal age
 - II. Mental capacity
 - B. Legal purpose
 - C. Offer (including Maine Real Estate Commission offer & counter offer guidelines)
 - I. Verbal/written
 - II. Valid until or unless:
 - a. Revocation
 - b. Expiration of time
 - c. Counter offer
 - d. Death of offeror
 - e. Death of offeree
 - f. Communicated acceptance
 - g. Rejection
 - D. Consideration
 - I. Exchange of value
 - E. Acceptance

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- I. Mutual assent/meeting of the minds
- F. Communication of acceptance creates a valid contract
- G. Identify effective date of contract
3. Explain the Statute of Frauds
4. Discuss termination of Contracts
 - A. Complete performance
 - B. Expiration of time
 - C. Default/Breach
 - D. Death
 - E. Unmet contingencies
5. List types of contracts involved in real estate:
 - A. Brokerage agreements
 - I. Seller client agreements (must be in writing per license law)
 - a. Exclusive right to sell
 - b. Exclusive agency
 - c. Open (nonexclusive)
 - II. Buyer client agreements (must be in writing per license law)
 - a. Exclusive right to buy
 - b. Exclusive agency
 - c. Open (nonexclusive)
 - III. Content of a brokerage agreement with a client (32 MRSA §13177-A)
 - IV. Transaction broker agreements
 - a. Written
 - b. Verbal
 - B. Other real estate agreements
 - I. Purchase & sale agreements
 - II. Leases
 - III. Options
 - IV. Right of first refusal
 - V. Installment sale contract
6. Properly complete common industry agreements
 - I. Brokerage agreements
 - I. Seller
 - II. Buyer
 - III. Disclosed dual agency form
 - IV. Appointed agent consent form
 - B. Purchase and sale agreements
 - I. Contingencies for buyer
 - II. Contingencies for seller
 - C. Discuss unauthorized practice of law
 - I. Changing pre-printed forms
 - II. Writing contingencies

Section IX – Closings (6%)

Upon completion of this section students will be able to prepare their customers and clients for closing, including reading and understanding a closing statement, calculating closing costs, and State and Federal requirements.

1. Explain and/or calculate closing costs and identify the responsible party
 - A. Transfer tax
 - B. Prorations
 - C. Escrows
 - D. Recording fees
 - E. Points
 - F. Non-resident withholding
 - G. Residency affidavit
 - H. Title exam
 - I. Title Insurance
 - J. Commission

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2. Recognize settlement documents
 - A. Closing statement
 - B. Declaration of value form
 - C. Deed
 - D. Mortgage documents
 - E. other
3. Prepare the buyer and/or seller for closing as appropriate
 - A. Walk-through
 - B. Occupancy
 - C. Cashier's check
 - D. Keys
 - E. Transfer utilities
 - F. Insurance binder/policy
 - G. Garage door openers
 - H. Proration of fuel (oil, propane, wood)
 - I. Date, time and location
 - J. Review closing statement before closing
 - K. Cancellation of services
 - L. Other
4. Explain Real Estate Settlement Procedures Act ("RESPA")
 - A. Good faith estimate
 - B. Housing and Urban Development ("HUD") form
 - C. Booklet on settlement costs
5. Complete buyer cost and seller proceed sheet
6. Relate items on buyer cost and seller proceed sheet to HUD-1

Section X - Miscellaneous Federal and State laws governing Real Estate Activities (4%)

Upon completion of this section students will be able to explain the applicability of the following miscellaneous laws to their practice of real estate.

1. Explain the Foreign Investment in Real Property Tax Act ("FIRPTA")
2. Explain various federal, state and local fair housing laws.
 - A. Identify the protected classes
 - B. Describe prohibited activities
 - C. Discuss exceptions
3. Explain Americans with Disabilities Act
 - A. Define Americans with disabilities
 - B. Identify the properties to which the law applies
4. Explain anti-trust laws
 - A. Describe conspiratorial behavior
 - B. Explain price fixing
 - C. Explain boycotting
 - D. Explain tying arrangements
 - E. Allocations
 - F. Other
5. Explain Truth In Lending Act
 - A. List triggering terms used in advertising
 - B. List required financing disclosures
6. Identify marketing controls
 - A. Do not call lists
 - B. Faxing restrictions
 - C. E-mail restrictions

Section XI – CONCLUSION

1. Review buyer and seller flow charts
2. What happens next?