

Ch. 16 - SHORT-ANSWER QUESTIONS**Homebuilder Exemption**

1. A corporation which builds structures on land it _____ may sell the _____ and _____ together without _____.
2. This provision is contingent upon the sales being made by _____ and _____ employees.
3. Will a draw or advance against future commissions meet the requirement of being a regularly salaried employee? _____
4. List the requirements that do meet the criteria of being regularly salaried employees.
 - a. _____;
 - b. _____;
 - c. _____;
 - d. _____.
5. Does payment of a commission eliminate this exemption. (yes/no) _____.
State the rule involved: _____.

Commission Position on Earned Fees

6. A licensee may pay a _____ fee to someone without a license IF that unlicensed referrer is not actively involved in the transaction beyond merely giving to a licensee the _____ of a prospective buyer, seller or tenant. The Commission will NOT consider it to be a violation of the license law, IF
 - a. the payment is simply for the referral of a name to a licensee, with no further activity on the part of the referrer, AND
 - b. the referrer is not a provider of a _____ service.
7. A broker cannot receive _____ (payment) for referring a settlement service (i.e., title company). A title company is not allowed to pay another company (real estate broker) or its employees for the referral of settlement business, nor are they allowed to pay a broker to generate _____ (referrals of potential borrowers) for them.
8. RESPA and Commission Rule 6.21 prohibit a broker from paying or receiving referral fees or kickbacks which tend to unnecessarily increase the costs of

settlement services. That means that a broker cannot receive compensation from a _____ or _____ company for the referral of a settlement service.

9. RESPA, however, does permit:
- a. A payment to an _____ for services actually rendered
 - b. A payment by a _____ company to its duly appointed agent (title insurance issuer) for services actually performed in the issuance of a title insurance policy;
 - c. A payment by a _____ to its duly appointed agent or contractor (i.e., mortgage broker or loan officer) for services actually performed in the origination, processing, or funding of a loan;
 - d. A lender paying a true _____ (to employees) or compensation for goods or facilities actually furnished (i.e., rent) or for services actually performed;
 - e. A payment pursuant to _____ brokerage and referral arrangements or agreements between real estate brokers (all parties must be acting in a real estate brokerage capacity).
 - f. Normal _____ and _____ activities that are not conditioned on the referral of business and that do not involve the defraying of expenses that otherwise would be incurred by persons in a position to refer settlement services or business incident thereto. *This means a lender can pay a broker to teach classes to educate brokers or title companies, or title companies may hold classes to educate brokers or lenders; or*
 - g. An employer's payment to its own _____ for any referral activities.
10. Real estate brokers may charge _____ for any referral activities, fees, either for services performed by the broker or the real estate brokerage, in addition to the broker's _____. RESPA prohibits the splitting of fees if the charges are divided between two or more persons. However, dividing or splitting fees amongst a single settlement service provider is allowed. The Commission considers a real estate agent and his or her licensed broker-employer (or brokerage) to be a _____ provider of settlement services and fees may be split amongst them.

Rule 6.15 ("Sign Crossing")

11. Brokers cannot negotiate a _____ with a consumer if they know there is already a(n) _____ listing Contract with another broker.

12. However, they may negotiate a _____ listing that becomes effective when the current listing _____.
13. The purpose of Rule 6.15 is to:
 a. _____;
 b. _____.
14. Sellers can always _____ a listing if they become dissatisfied, but brokers should never _____ the seller of the potential legal consequences of doing so. All they should do is advise the seller to seek _____ counsel.

Interest Bearing Accounts

15. May a broker place entrusted money in an interest-bearing account?
 _____.
16. In the absence of a contract signed by the proper parties to the contrary, any interest accumulating on a trust account (does / does not) _____ belong to the broker who is acting as escrow agent.
17. Contracts calling for large earnest money _____ should contain a provision specifying which party is entitled to _____ earned. In the absence of such a provision, this normally belongs to the _____ if the contract is consummated or if _____ has been successfully declared. However, if the contract fails, the entrusted money normally belongs to the _____.
18. In the case of property management of _____ homes, interest earned on _____ deposits may be retained by the landlord of the park as _____ for administering the _____.

Advance Rentals

19. Tenant Security Deposits and Advance Rentals must be placed in a(n) _____ account. Broker may not deliver this to the _____ until notice is given to the tenant, so they know who is holding their deposit. Broker should never _____ owner's identity, if tenant properly makes demand for return of the deposit. Delivery of the security deposit to anyone without proper _____ to the tenant is considered a _____ of license law.

20. Broker has no claim on or right to use _____ deposits which are subject to _____ by a tenant.

Earnest Money Deposits

21. Rule 6.22.A: If the _____ fails, refuses, or is unable to complete the sale, the Brokerage firm has _____ right to any part of the earnest money deposit.

22. The Broker holds the earnest money on behalf of _____ buyer and seller. If there is no _____, the broker should disburse to the _____ party immediately.

23. Releases from both parties are _____ required, if one party has already authorized _____ of the deposit to the other.

24. The Commission has approved the use of the optional “_____” form. But it is *not* a form required in all cases.

25. When there is a _____ the broker may hold the deposit and await any court proceeding. They may also deposit the earnest money with the court until a lawsuit resolution, which is called _____. Finally, the broker may provide _____ to the parties that unless broker receives a copy of the lawsuit documents within _____ days, broker will be authorized to return the earnest money to the _____.

Closing Costs

26. Although under no obligation to do so, if a licensee does prepare documents as part of a real estate transaction, he or the agent (may / may not) _____ charge a separate fee for the preparation. If the broker charges for the cost of closing, not related to the preparation of _____, the broker must _____ the _____ and obtain the _____ consent of the parties to be charged.

27. List the five basic rules that the Commission has laid down concerning closing costs:

- a. _____;
- b. _____;
- c. _____;
- d. _____;

- e. _____.
28. The broker should make clear in the _____ contract that he or she has no obligation to prepare legal documents.
29. In the absence of such an agreement, there is a danger the parties may _____ the broker to be responsible for the cost of doc prep.

Assignment of Contracts and Escrowed Funds

30. _____ of contracts and escrowed funds usually occur when one real estate company is taken over by another. All parties and beneficiaries must be _____. _____ contracts may not be assigned by the listing broker to another broker without the _____ of the seller.
31. The right of _____ of a broker to a commission is assignable. Earnest money is money belonging to _____, and is therefore not transferable to any party other than the _____ agent.

Record keeping by Brokers

32. Duplicates of all original documents from a real estate transaction must be kept in the broker's file, except: _____, _____ and _____ or _____ prepared for the benefit of third-party lenders.
33. Cooperating brokers have the same requirements for retention of copies, except they need not retain a copy of the _____ or the _____ settlement statement.
34. Brokers are not required to obtain and retain copies of existing _____ records, _____ commitments, loan _____, or _____ and _____ required by lenders or closing entities.

Compensation Agreements Between Brokers, Assignments of Broker's right to Commission

35. A broker's failure to pay an employee (does / does not) _____ warrant _____ action by the Real Estate Commission.
36. The only person from whom an employed broker may accept compensation is the _____.

37. Although it is _____ for an employed (Associate) Broker to accept a commission from anyone other than their _____ Broker, that employed broker may _____ their legal _____ to a commission to anyone.

Rebating a Portion of an Earned Commission

38. License law _____ a broker from paying _____ for performing a brokerage function to an unlicensed person. Thus " _____ " or _____ are prohibited.

39. Nevertheless, since the broker is a _____ party to the listing contract, the broker may, in addition to the basic consideration for the contract, (i.e. brokerage services,) add payment of money to the property owner in order to secure the listing.

40. Also, in a particular real estate transaction, the broker may pay some of the _____ to the _____ seller. This is merely a _____ in the amount of the earned commission. Both the actions in Questions 38 & 39, above, _____ constitute a violation of the rule against paying a fee to an _____ person.

41. Payment to an unlicensed purchaser is called _____. Gratuitous gifts to the _____ after the closing and not promised as an _____ to buy, like rebating, are not a violation of the license law.

Single Party Listings

42. List the provisions that should be placed in the space provided in the contract for additional provisions if a broker is using an exclusive right to sell or an exclusive agency listing contract involving a one-party listing.

a. _____;

b. _____;

c. _____.

Sale of Modular Homes by Licensee

43. If a licensee sells land and a modular home to be _____ to the land in a concurrent or _____ transaction, the broker must comply with all laws and rules of the Real Estate Commission. In short, he or she will be acting as a Real Estate Broker.

44. On the other hand, the sale of a modular home where there is no _____ agreement between the broker and the owners of the land, the broker is not acting as a real estate broker.

Sale of Items Other Than Real Estate

45. If remodeling, installation or sale of an item or appliance is performed in _____ with a specific _____ contract for sale, an employed licensee must _____ any fee received from the vendor or contractor through the _____ broker.

46. On the other hand, if the sale is made without reference to a specific _____ of _____, the employed licensee may receive compensation _____ from the vendor or contractor.

47. _____ must be made to both the buyer and seller.

48. However, _____ must still be made to _____ and _____ if the items sold to the buyer occurs during the agency agreement with the purchaser. This is true even if there is no reference to a specific contract.

Access to Properties Offered for Sale

49. Information about _____ to the listed property is the responsibility of the _____ broker, who will be liable for damages arising out of failure to _____ that information.

Payments to Wholly-owned Employees Corporations

50. An _____ broker's payment of commission to a wholly-owned corporation of an employed licensee is not a violation of license law.

51. Nevertheless, a contract between the employing broker and the corporation does not:

- a. _____;
- b. _____.

Short Term Occupancy Agreements

52. A short term occupancy is distinguished from a _____ in that it is a license to use, and is in the nature of a _____ reservation.

53. License law requires a licensee to account for, or remit monies that come into the licensee's _____ which belong to others. This is true whether or not the licensee is acting as a real estate _____ or _____.

54. Consequently, it is the Commission's position that brokers engaging in _____ occupancy agreements must _____ and _____ for funds coming into their possession that belong to others.

Statement on Personal Assistants

55. The license law prohibits unlicensed persons, including unlicensed _____, from practicing real estate brokerage, which includes _____, exchange or lease of real property on behalf of another person. An unlicensed assistant should promptly _____ to brokers, other industry professionals (*i.e.* loan originators, lenders, appraisers, property inspectors, etc.) and consumers that he or she is not a broker, and disclose the name of the broker for whom the assistant works.

56. List the 9 functions given in the manual that unlicensed assistants may legally perform:

- c. _____;
- d. _____;
- e. _____;
- f. _____;
- g. _____;
- h. _____;
- i. _____;
- j. _____;
- k. _____.

Office Policy Manuals

57. The Real Estate Commission recommends the adoption of office policy manuals to help the broker comply with rules regarding _____. This should include procedures for:

- a. Real Estate _____
- b. Assumptions and owner _____
- c. Guaranteed _____
- d. _____ purchases
- e. Identifying to the public the forms of brokerage _____

- f. _____ broker procedures
- g. _____ information
- h. Protecting _____ information
- i. Disposal of _____
- j. _____ breaches
- k. Purchase/Sale by firm's own _____
- l. License _____
- m. _____ of Authority
- n. Property _____ (if applicable to that firm)
- o. _____ procedures
- p. Licensee _____
- q. Personal _____
- r. Proper and legal _____ Housing marketing
- s. Participation in and Maintenance of _____
- t. Performance of and _____ for related activities

Handling of Confidential Information in Real Estate Brokerage

58. It used to be common for brokers to discuss their clients' _____ within the office. However, the Colorado law of _____ Brokerage now requires that agents keep their clients' confidences private—even among their fellow agents.
59. Office _____ should be developed regarding confidential information, such as _____ files or not including such information in the files at all.
60. A broker designated to a particular transaction may be allowed to share confidential information with their _____ broker without expanding the brokerage relationship and also making the supervisor a designated broker. The Broker may want to consult an _____ about whether it is necessary to obtain their client's authorization prior to disclosing the confidential information to the supervisor.

Position on Use of "Licensee Buyout Addendum"

61. Rule F-11 requires the use of the Buyout Addendum under the following circumstances:
- a. _____;
 - b. _____;
 - c. _____.

Preparation of Market Analyses and Real Estate Evaluations Used for Loan Purposes

62. A licensee may prepare an " _____ of _____", which is not represented as an _____ and not used to obtain _____.

Commission Position on Recording Contracts

63. May a licensee file a lien or *lis pendens* against a principal to ensure she gets paid her commission while the parties settle their disputes? (yes/no) _____.

Licensee's Role in Auctioning Properties

64. May a real estate broker hire an unlicensed person to auction real estate for the broker? _____.

65. In this case, the auction was to be conducted by the _____.

66. The monies are to be handled by the _____.

67. In the case, the auctioneer status was that of a _____.

68. Under these circumstances, did the auctioneer have to be licensed as a real estate broker? _____.

69. Was the real estate broker guilty of paying a commission to an unlicensed person? _____.

70. The _____ of the auction must remain strictly with the _____ or the _____. If not, the _____ will be violating the _____.

Performance of Residential Leasing and Property Management Functions

71. _____ and _____ of real estate for compensation are activities requiring a license. Employing Brokers involved in these activities should include provisions for their orderly conduct in the Office _____ Manual. These activities must be done only in the name of the _____ Broker. Vitally important in the conduct of these activities is the knowledge of the law regarding _____ Deposits – Wrongful Withholding.

Showing Properties

72. Listing brokers should advise their clients about the use of _____ listing services and possible limitations on the _____ of the seller's property. Selling (buyer) brokers should advise their clients their ability to access the property may be limited, such as _____ boxes and showings by _____ only.

Megan's Law

73. According to what is commonly referred to as " _____ Law", _____ sex offenders are required to _____ with local law enforcement officials. It contains no disclosure requirements for real estate licensees when working with the _____.

74. The Colorado Bureau of Investigation is authorized to post on the Internet, identifying information, including a picture, of each sex offender:
Sentenced: _____;
or Convicted: _____.

Seller Assisted Down Payments

75. "Seller Assisted Down Payments" are important because they change the "bottom line" sales price and may make the use of that sales information inaccurate in the Multiple Listing Service reporting. Besides contributing to buyer's purchase funds (down payment), other things that can affect the ultimate sales price include _____, _____ and other items of _____ included in the sale.

76. A broker should report any seller-paid _____ or concessions in transaction _____, in the MLS " _____" report, advise the parties to consult legal and tax _____, and cooperate with the _____ when asked sales questions.

77. Appraisers should conduct proper _____ and make appropriate _____ to ensure the most accurate reflection of the sales prices of the comparables.

Acting as a Transaction Broker or Agent in Particular Types of Transactions.

78. An agent is an advocate with _____ duties, but a Transaction Broker should not _____. Sometimes it is inappropriate for a

licensee to act as a Transaction Broker, because it would be difficult to remain _____ . Such circumstances include: Selling or buying on one's _____ account, for a _____ member, for a _____, or for a _____ client.

Brokerage Disclosures

79. When you begin to discuss finding a potential buyer a property to buy or lease, they may not want to execute a formal Agency Listing Agreement – indicating that you will represent them exclusively and commit them to a specific contractual time period. However, to protect both you and the potential buyer, you should suggest that you both sign either (depending on your situation): BC-60, Exclusive _____ to _____ Contract; or LC-57, Exclusive Right-to-Lease Listing Contract; or ETC-59, Exclusive Tenant Contract. And then, rather than checking the “Agency” box at the top, you should check the box for _____. Later, should the potential buyer hire you under a formal Listing arrangement, you can prepare a new Contract and check the _____ box.

Settlement Service Provider Selection, Closing Instructions and Earnest Money Deposits

80. Brokers acting in their licensed capacities are required to advise their clients to obtain expert advice as to material matters about which the broker knows but the specifics of which are beyond the expertise of the broker.

This includes where and how to obtain a mortgage _____ (lender), performing _____ searches and issuing title _____ (title company), appraising real property, surveying and issuing improvement location certificates, performing property inspections and other due diligence (including environmental) and practicing law. Not mentioned in the new article is the decision of what company will perform the closing (title or closing company).

A common standard of practice amongst brokers is to – whenever possible – provide the names of three settlement services providers in a specific area of practice and allow the consumer to choose.

Closing Instructions

The purpose of closing instructions is for the buyer and seller to engage the company that will be responsible for ultimately _____ the sales transaction. In most transactions, this is the title company.

If a title company is engaged to perform the closing services, the Division of Insurance requires that a title entity provide closing and settlement services only when there are written _____ from all necessary parties.

If a title company is engaged to provide the closing services, it is the “Closing Company” and it is the responsibility of the _____ company to complete the closing instructions as required by the Division of Insurance.

Earnest Money Deposits

Commission Rule E-1(o) requires the selling broker to deliver the contract and the _____ money to the listing broker, unless the parties have otherwise agreed in writing. The listing broker is required to deposit the money in the broker’s escrow or trust account in a recognized depository no later than the _____ business day following the day on which the broker receives notice of contract acceptance AND complete the Earnest Money Receipt form.

If the buyer and seller have agreed in writing (CLOSING INSTRUCTIONS) that a third party or entity (TITLE/CLOSING COMPANY) will hold the earnest money, the listing broker must deliver the earnest money to the third party or entity, and get a dated and signed Earnest Money _____ form on delivery of the earnest money

Brokers as Principals

81. The R/E Commission has gotten complaints that brokers who are principals in transactions have failed to disclose an adverse _____; has failed to disclose _____ (when acting as more than a principal); has failed to ensure that the contract documents and/or settlement statements accurately reflect the _____ of the transaction; has filed a document that unlawfully _____ the title to the property; has failed to disclose the broker’s licensed _____; has mismanaged _____ belonging to others; and/or has falsified information used for the purpose of obtaining _____.

This means that the Commission may investigate and discipline a license if a licensee is acting in the capacity of a principal in a real estate transaction and violations of the license law occur. In particular, review Rule E-25, regarding conflicts of _____ and license status _____.

Bottom line is that you can buy or sell your own property, but you must disclose that you are a licensee and follow all Commission Rules and the License Laws – even if you are not acting in your official capacity as a Broker in that transaction.

Minimum Service Requirements

82. What is the *least* that a broker can do and still be following the laws and Commission Rules? If you're an *agent*, then you must:

- a. Perform the terms of the written _____;
- b. Exercise reasonable skill and _____;
- c. Be _____ to the principal's interests, including:
 - i. Seeking a _____ and terms acceptable to the seller;
 - ii. Presenting all _____ in a timely manner;
 - iii. Disclosing adverse _____ facts actually known by the broker;
 - iv. Counseling material benefits or risks actually known by the broker;
 - v. Advising _____ advice for things beyond broker's expertise;
 - vi. _____ in a timely manner for all money and property received;
 - vii. Informing seller they shall not be vicariously _____ for broker's acts that seller didn't expressly direct;
- d. Comply with Commission Rules;
- e. Comply with all Laws;

If you're a transaction-broker, then you must:

- a. perform the terms of the written listing;
- b. exercise reasonable skill and care, including:
 - viii. Presenting all offers in a timely manner;
 - ix. Advising legal advice for things beyond broker's expertise;
 - x. Accounting in a timely manner for all money and property received;
 - xi. Keeping parties fully informed regarding the transaction;
 - xii. Assisting the parties in complying with the contract including closing;
 - xiii. Disclosing to buyer adverse material facts actually known by the broker;
 - xiv. Disclosing to seller adverse material facts actually known by the broker; and
 - xv. Informing seller they shall not be vicariously liable for any of broker's acts;
- c. Comply with Commission Rules;
- d. Comply with all Laws;
- e. Additional duties may also include:
 - xvi. holding open _____,

- xvii. property showings,
 - xviii. providing a lockbox,
 - xix. use of multiple listing services or other information exchanges, etc.
- f. These additional services must be documented in _____.

A broker may not solely perform “additional” services requiring a license without providing the minimum duties required by single _____ or transaction brokerage. (In other words, if you don’t have a listing agreement with someone, but still perform one of these “side” services – you will be held to the same Rules, Laws and Standards of Care as if you did. Also, if something goes wrong, the Commission can still penalize you, even if you didn’t have a Listing with the complaining party.)

Finally, the Commission does not regulate the fees or _____ charged by brokers for minimum or additional services.

Survey and Lease Objections to The Sales Contract

83. Buyer has a right to _____ the Contract due to objections with any Existing or Current _____, or to any _____. Seller has no right to cure any objection to the Survey or Lease. (True if objection is based on Contract §7, 8 or 10.)

Disclosure of Affiliated Business Arrangements And Conflicts Of Interest

84. Essentially, an “affiliated business arrangement” is defined as a situation where one _____ provider has a (business) “affiliate” relationship with or an ownership interest in another settlement services provider.

Examples might be where one umbrella company owns both a real estate brokerage and a mortgage lender, or a brokerage has a fee-sharing arrangement to send all their title searches and closings to a certain title company.

The R/E Commission and Colorado law requires brokers to disclose at the earliest possible time an affiliated business arrangement, and _____ requires disclosures of ABAs before or at the time a lender makes a referral to a closing company (provider of settlement services). The disclosure should be made in _____.

This article gives you many examples of possible affiliated business arrangements, so you should plan on referring to it in the future if you have any questions about whether and when disclosures should be made to your clients.

Lease Options, Lease Purchase Agreements and Installment Land Contracts

85. The Commission advises brokers to use a Colorado attorney when the parties want to use creative (“alternative”) funding methods, such as lease _____, lease _____ agreements and _____ land contracts. [As always, for definitions see the Glossary at the end of the Instructions booklet, as well as Chapters 1, 5 and 10.]

This is because in all of these transactions, the seller retains legal _____ to the property until the buyer has finished paying for it! This could be such a long time, that many things could prevent the seller from transferring title. The deals are so complex and Rule F prohibits a broker from drafting a contract that exceeds their level of _____ or could be construed as unauthorized practice of _____.

Teams

86. Real estate brokers operating as teams need to ensure that they comply with Commission rules about advertising and name usage: Do not _____ in a manner that misleads the public as to the identity of the brokers’ licensed brokerage.

Supervision: Employing brokers are responsible for ensuring that the Designated Broker for a transaction maintains records, follows _____ policy manual procedures, supervises new recruits (Rule E-32) as well as _____ brokers (Rule E-31), prevents violations of statutes, rules and office policies – in all offices whether the manager is licensed or unlicensed.

Also, employing brokers are responsible for the actions of _____ persons who perform functions within the broker team – especially that they do not engage in practices requiring a license, and that they do not get paid in the form of a _____.

Competency

87. It is a violation of the license law if a licensee demonstrates _____ or _____ to act as a real estate broker by conducting business in such a manner as to endanger the interest of the public.

A Broker should always first determine whether s/he possesses the knowledge, experience, and/or training necessary to perform the terms of the transaction and maintain compliance with the applicable federal, state or local laws, rules, regulations, or ordinances. If the broker does not have this knowledge or

expertise, s/he should either _____ to provide the brokerage services or seek the _____ of another real estate broker who does have the necessary experience, training, and/or knowledge. (Examples might be an expert in Short Sales or Foreclosures, when appropriate.)

Apartment Building or Complex Management

88. Owners of apartment buildings or complexes will engage the services of real estate brokerages or unlicensed, on-site managers, or both.

A regularly salaried employee of the owner of an apartment building or complex is permitted to perform customary duties for his or her employer without a real estate broker’s license. They must either report directly to the owner or to the real estate broker who heads the Management Company.

What 10 duties can someone perform while managing a property, without being required to have a license?

- a. _____;
 - b. _____;
 - c. _____;
 - d. _____;
 - e. _____;
 - f. _____;
 - g. _____;
 - h. _____;
 - i. _____;
 - j. _____;
- and _____.

Property Inspection Resolutions

89. Brokers must be careful to properly disclose property _____ and advise buyers regarding inspection objections and negotiating repair, payment or seller _____. If the conditions are too much for the buyer, they have the option of _____ the contract, or if they choose to go through with it, then

- a. Seller may _____;
- b. Seller may agree to _____ a concession;
- c. Buyer can make the repairs after _____;
- d. Seller and Buyer may _____ the total sales price;
- e. At closing, Seller can _____ funds or pay a contractor.

90. Repairs (or lack thereof, prior to closing) can affect buyer's _____, so broker should advise their buyer to ask the _____ if the above choices could have a detrimental impact on the loan, may cause loan processing delays, or whether lender will require further inspections or repairs.

91. Once repair items are identified, broker should use the Inspection _____ form. Upon successful resolution, Broker should use either the Inspection _____ form or the Agreement to _____ the Contract.

“Coming Soon” Listings

92. “Coming Soon” listings are often a way to broker both seller and buyer sides of the transaction – receiving the entire _____ – before ever listing the property on the MLS. This may impact the seller and other potential buyers by limiting the time and effectiveness of MLS. As always, full _____ to the seller is advised, and broker should avoid “double-ending” the deal solely to exclude competition, because it is violating their duty of exercising reasonable skill and _____.

Broker Disclosure of Adverse Material Facts

93. “Material” is defined as when a _____ person would attach actual significance to the information, such as title, physical condition, environmental _____. One case says information is “material” if the buyer’s decision might have been _____ had the truth been disclosed. both

94. Regardless of who they represent, Broker must consider whether the item is adverse to either buyer and seller. If adverse even to the party broker doesn’t represent, they must still _____ it to all parties. Examples of “adverse material facts” include whether it is a health risk, it affects title or occupancy (i.e., an undisclosed tenant), zoning violations, water damage, insects, expansive soils, or a lien affecting title.

95. A broker need not conduct _____ investigations, but must disclose if they have _____ knowledge of the defect, either through observation or being informed.

96. Brokers must (always/never) _____ disclose circumstances that may psychologically impact or _____ real property, such as a previous occupant had HIV or if the property was the site of a homicide, _____, or suicide.

Ch. 16 - QUIZ

1. The Homebuilders exemption allows homebuilders to be exempt from licensing in certain cases. Which of the following rules must be followed to meet this exemption?
 - a. Sales may be made by corporate officers and regularly salaried employees
 - b. Major shareholders of the corporation also fit under this rule
 - c. Regularly salaried employees may also receive a commission
 - d. Both a. and c.

2. A real estate broker may pay compensation to which of the following parties?
 - a. To brokers or salespeople employed by the broker
 - b. To licensed employees of a cooperating broker
 - c. To anyone who refers a buyer, as long as it is a "finder's fee"
 - d. All of the above

3. If a broker is approached by an owner of real property which is listed with another broker under an exclusive right to sell or exclusive agency contract, the 2nd broker may:
 - a. freely advise owner as to the possible consequences of canceling listing contract
 - b. draw up a listing contract to accommodate the unhappy owner
 - c. negotiate the terms of a possible future listing
 - d. All of the above

4. To whom does the interest on escrow accounts belong?
 - a. The broker
 - b. The buyer if the contract is consummated
 - c. The seller if the contract is consummated
 - d. None of the above

5. If advance rental money is held by the broker, but is subject to recall by the tenant:
 - a. it must be escrowed until it is earned
 - b. it must be turned over to the seller upon demand
 - c. it may be transferred to the broker's account in case of a dispute between the parties
 - d. None of the above

6. A broker may do which of the following concerning closing costs?
 - a. Charge a principal for preparation of legal documents
 - b. Delegate the preparation of closing documents to a title company & pay the costs
 - c. Hire his own attorney, charge as if the attorney prepared the documents on behalf of a client
 - d. None of the above

7. A broker may do which of the following in relation to assignment of contracts and escrow funds?
- Assign listing contracts to another broker
 - Refuse to allow the assignment of a sales contract
 - Assign the earnest money deposit to another broker
 - None of the above
8. A real estate broker may:
- pay consideration to the seller in order to obtain the listing
 - rebate a portion of the commission to the purchaser
 - Neither a. nor b.
 - Both a. and b.
9. In respect to the sale of items or services other than real estate, an employed licensee must process fees through the employing broker in which of these cases?
- In all cases
 - Never
 - When the items or services are unconnected with real estate sales
 - None of the above
10. Which of the following activities may not be performed by an unlicensed personal assistant?
- Inform clients that she is a licensed agent;
 - Collect information for a listing;
 - Provide authorized access to a property;
 - Collect earnest money deposits
11. Which of the following methods would be appropriate for a broker wishing to protect her commission?
- File a mechanic's lien
 - File a civil action
 - File a lis pendens
 - Record the Contract
12. Licensees preparing estimates of value, must
- represent themselves as an appraiser
 - at all times appear biased
 - prepare an estimate of value beyond their level of competency
 - give notice, according to the Rules of the Board of Real Estate Appraisers
13. According to Commission Rule 6.14, a real estate broker may prepare which of the following documents for anyone?
- Sales Contract

- b. Deeds
- c. Both of the above
- d. Neither "a" nor "b"

14. Which of the following circumstances is necessary in order to enable a broker to prepare legal documents in connection with a real estate transaction?

- a. The broker's office must be connected with the transaction in the capacity of a broker
- b. The broker can charge no more than a nominal fee for the preparation
- c. If a broker wishes to prepare real estate forms as a business courtesy in a transaction where he or she is not the broker, the broker may do so as long as there is no charge
- d. All of the above

15. Reasonable Cause for a broker to pay an unlicensed party a referral fee, does not include?

- a. Making an introduction of business;
- b. Negotiating the price and other terms of the contract with the clients;
- c. According to the terms of a contractual referral fee relationship;
- d. For the referral of a name to a licensee.

16. In respect to the payment of closing costs by a real estate licensee, all of the following are true, except:

- a. The broker is responsible for all costs of closing
- b. The broker is responsible for costs of preparing legal documents, when the broker is preparing such documents for their clients
- c. Anybody may pay closing costs other than document costs
- d. If a broker delegates the function of preparing legal documents in a closing to an agent, the broker must pay the costs

17. If a real estate broker is handling a real estate auction and hires an auctioneer who is unlicensed,

- a. the broker is in violation of the license law;
- b. the auctioneer is in violation of the license law;
- c. Both of the above;
- d. Neither a nor b.

18. When a real estate broker negotiates the acquisition of an interest in real estate for his own use,

- a. the broker is always in violation of the license law;
- b. the broker is in violation only if he or she actually acquires the property;
- c. the broker cannot be in violation, because he is acting for himself and not as a real estate broker;

d. The Real Estate Commission can suspend or revoke the broker's license if they violate the licensing statutes or commission rules.

19. Regarding competency to perform a transaction, which of the following should a broker never do?

- a. Decline the client if the circumstances of the transaction are too complicated for the broker;
- b. Seek assistance from a more knowledgeable broker;
- c. Obtain training for the transaction prior to taking the listing;
- d. Don't tell anyone, hope the Commission, buyer, seller & Brokerage don't notice.

20. Which of the following activities requires a license for an employee of a property management company?

- a. Fill in predetermined lease information on a standard form;
- b. Negotiate the terms of the lease – including amount of rent;
- c. Collect rents and security deposits;
- d. Sign leases on behalf of the owner, pursuant to the terms of a Power of Attorney.

21. Single party listings:

- a. no holdover provision
- b. no special disclosure is necessary
- c. no contract to perform is necessary
- d. not applicable to the Statute of Frauds

22. Which of the following is not an appropriate topic for inclusion in Real Estate Office Policy Manual?

- a. Settling a dispute between associates regarding earned commissions
- b. Associate Brokers' purchase or sale of their own property
- c. Use of personal assistants
- d. Brokerage participation in the MLS

23. Broker A is the firm's designated broker for the buyer in the purchase of a property. When is it appropriate for Broker A to share buyer's motivating factors for the purchase?

- a. In an office sales meeting
- b. In a meeting with only the designated broker's supervising broker
- c. In a document in the cloud, shared with all office associate brokers
- d. In a handwritten phone message about buyer's loan application, that Broker A gave to her own assistant to file