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SECTION ONE: INTRODUCTION AND HAWAIIAN HISTORY

A. INTRODUCTION TO REAL ESTATE

B. THE REAL ESTATE PROFESSION

1) The real estate business.
   a. Identify real estate career opportunities.
   b. Identify, discuss and provide a list of professional real estate organizations.
   c. Real estate regulatory agencies.
      i. Impose mandatory requirements
   d. Professional trade.
      i. Voluntary trade groups
      ii. Developing, maintaining and establishing standards
      iii. Promotes professionalism
   e. Sources of information.
      i. County agencies
      ii. State agencies
      iii. Federal agencies
      iv. Other
         1. Professional organizations.
         2. The internet (e.g. instructors may provide a list of relevant website resources).

C. THE REAL ESTATE PROFESSION IN HAWAI'I

1) Discuss composition of the real estate profession in Hawai'i.
2) Provide an overview of the economic impact of various elements of the real estate profession in Hawai'i.

D. THE REAL ESTATE MARKET IN HAWAI'I

1) Discuss the interaction of supply and demand.
2) Review fluctuations in market segments over time (i.e. how timing affects the market).
3) Explain the impact of location on the market.
4) Real estate economics.
   a. Discuss implications of real estate regarding an economy that is based on tourism.
   b. Identify the factors that affect the supply and demand of real estate.
   c. Define economic value and market value.
   d. Explain the characteristics of the real estate market.
e. Explain the real estate cycle in Hawai‘i and determine the current local real estate market in this cycle.

f. Note that the real estate market in Hawai‘i is different on each island.

**E. BRIEF HISTORY OF HAWAIIAN REAL ESTATE**

1) Discuss the role of land in the kingdom.
2) Discuss the evolution of the Land Commission (1845-1855).
3) Discuss the implications of Hawaiian history on the present use of land.
   a. Before the Great Māhele:
      i. Describe land divisions
         1. Mokupuni
         2. Moku
         3. Ahupua’a
         4. 'Ili
         5. Lele
         6. Mo'o'āina (Mo'o)
         7. Kuleana
   b. The Great Māhele -- In 1848, the lands went from the control of Kamehameha to being divided as follows:
      i. Government lands (public)
      ii. Crown lands (king)
      iii. Konohiki lands (chiefs)
      iv. Kuleana lands (commoners)
   c. Distribution of land (kuleanas) in 1850 to commoners.
      i. Note some kuleanas exist today
4) Explain the historical evolution of the feudal and allodial systems leading to private ownership.
5) Provide a brief timeline of events from 1850 to present.
6) Note the history and timing of events that helped mold the real estate profession and recording systems in Hawai‘i.
SECTION TWO: LAWS, LAND USE AND CONTROLS

A. BRIEF HISTORY OF LAW

1) Old English law.
   a. Common law (court decisions).
   b. Courts of appeal.

2) Roman law.
   a. Codification and statutes.
   b. Rules and regulations.

3) Spanish law.
   a. Laws of community property.
   b. Currently in thirteen states.

4) Explain how our law stems from a combination of primarily Old English and Roman.

5) Hawai‘i is a statutory state, but some areas remain based primarily upon common law. If there is no statutory law regarding a specific subject, common law applies.
   a. Real estate agency law.
   b. Condominium law.

6) A ruling in the Ninth Circuit could have an impact on real estate transactions in Hawai‘i.

B. LAND USE CONTROLS AND LAWS

1) Explain Hawai‘i’s land use classification system and the role of the state and the county governments.
   a. Discuss role of State Land Use Commission and Department of Land and Natural Resources (DLNR).
      i. Land Use Districts
         1. Conservation
         2. Rural
         3. Agricultural
         4. Urban
   b. Discuss role of County:
      i. Department of Planning and Permitting
      ii. Others
      iii. Discuss various county issues of which licensees must be aware
2) Identify land use controls utilized in Hawai'i.
   a. Police power:
      i. Planning (state and county)
         1. Purposes
            a. Development
            b. Implementation
      ii. Zoning
         1. Purpose and definition
         2. Legal processes (include implication of state classifications)
         3. Special conditions
            a. Variance
            b. Special use permit
            c. Existing use permits
            d. Zoning changes
            e. Non-conforming use
            f. Spot zoning
            g. ‘Ohana dwelling laws
            h. Additional Dwelling Units (e.g. Accessory Dwelling Units - ADU)

   b. Subdivision regulations.
      i. Requirements for planning
      ii. Uniform Land Sales Practices Act
         1. Explain licensee’s responsibilities

   c. Master plan.

   d. Building regulation and building codes.
      i. Building permits
      ii. Final inspections
      iii. Certificate of occupancy
      iv. Code enforcement
      v. Setbacks
      vi. Variance

   e. Regulation of special land types.
      i. Flood zones
      ii. Wetlands

   f. Eminent domain.
      i. Condemnation
      ii. Land Reform Act of 1967
      iii. Process of urban renewal

   g. Taxation.
   h. Escheat.
3) Define private land use controls through:
   a. Deed restrictions.
   b. Subdivision regulations.
   c. Covenants, conditions and restrictions (CC&R's).
   d. Dedications.
   e. Leases.

4) Define direct public ownership of land.

5) Land use initiatives.

C. ENVIRONMENTAL ISSUES

1) Regulation of environmental hazards.
   a. Types of hazards.
   b. Abatement and mitigation.
   c. Restrictions on contaminated property.

2) Explain Federal and State environmental regulations.
   a. Federal Water Pollution Control Act (Wetlands).
   d. Superfund Amendments and Reauthorization Act (SARA) of 1986.
   e. Discuss impact of Special Management Area (SMA); SMA permits; SMA rezoning.
      i. Shoreline certification
         1. Approval by DLNR
         2. Valid for 12 months
   g. Asbestos.
   h. Lead based paint.
      i. Severity of environmental issues requires due diligence by purchaser.

3) Discuss Environmental Impact Statements (EIS).

4) Discuss Environmental Site Assessments: Level I, II, III and general content and severity.

5) Discuss global warming (e.g. rising sea levels and sea walls).

6) Discuss pandemics (e.g. COVID-19).
SECTION THREE: HAWAI'I LICENSING LAWS

A. REASONS FOR LICENSING REAL ESTATE PROFESSIONALS

1) Discuss consumer protection.
2) Discuss professionalism and ethics.
   a. Hawai'i Revised Statutes (HRS) and Hawai'i Administrative Rules (HAR) require ethical conduct.
   b. Ethical standards are in addition to legal standards.

B. PROVIDE PERTINENT PROVISIONS OF STATUTES AND ADMINISTRATIVE RULES TO STUDENTS

1) HRS 436B — Uniform Professional and Vocational Licensing Act.
   a. Covers all professionals licensed by State under DCCA.
   b. HRS 436B-19 — Grounds for suspension, termination or revocation of license.

2) HRS 467 — Real Estate Brokers and Salespersons.
   a. Key definitions:
      i. Custodian or caretaker
      ii. Real estate
      iii. Real estate broker
      iv. Real estate salesperson
   b. Explain general license requirements for:
      i. Salespersons/Brokers
         1. License eligibility requirements
            a. High school education or equivalent
            b. Citizen or permanent resident
            c. 18 years of age
         2. License certification requirements
            a. School examination
            b. State examination
            c. Character and reputation
            d. Certificate of experience (to upgrade to a broker’s license)
         3. Out-of-state licensee requirements
            a. Equivalency
            b. Hawai'i state portion of state examination
         4. Explain penalty for acting as broker or salesperson without a license
            ii. Real estate schools
            iii. Instructors
            iv. Condominium Hotel Operators (CHO)
   c. Determine activities that require and don't require a real estate license.
d. Explain the powers and duties of the Real Estate Commission.
e. Explain license application and procedures.
f. Define place of business.
g. Analyze HRS 467-14 — Revocation and Suspension of License.
   i. Misrepresentation
   ii. Improper dual representation
   iii. Violating rules and regulations
   iv. Commingling
   v. Failing to ascertain and disclose material facts
   vi. Duration of revocation or suspension
   vii. Unauthorized practice of the law
h. Explain general ethical considerations and professional standards.
i. Discuss standards of care in the real estate professions.
j. Explain procedures for disciplinary actions and discuss the role of the
   Regulated Industries Complaints Office (RICO).
k. Explain the real estate recovery fund.

3) Hawai'i Administrative Rules, Title 16, Department of Commerce and Consumer
   Affairs, Chapter 99, Real Estate Brokers and Salespersons (HAR 16-99).
a. Key definitions:
   i. Branch office
   ii. Brokerage firm
   iii. Broker-in-charge (BIC)
   iv. Broker-salesperson
   v. Commingling
   vi. Inactive
   vii. Licensee
   viii. Place of business
b. Analyze major provisions in HAR 16-99-3 — Conduct. Provide case
   examples of how some major conduct provisions are violated.
c. Discuss agency disclosure rules.
d. Review trust accounts and handling of clients' funds.
e. Explain technical rules dealing with the license.
f. Explain advertising rules.
g. Explain direct management and supervision of real estate activities.

C. OFFICE/AGENCIES

1) Real Estate Commission.
2) Regulated Industries Complaints Office (RICO).
3) Department of Commerce and Consumer Affairs (DCCA).
4) Professional & Vocational Licensing Division, Real Estate Branch (PVL-REB).
5) Explain responsibilities and authority of each of these entities.
D. LICENSEE AND RESPONSIBILITIES

1) Employee.
2) Independent contractor.
3) Due diligence for real estate transactions.
   a. Licensees.
   b. Unlicensed personnel.
4) Office policies and procedures.

E. REAL ESTATE ETHICS

1) National Association of Realtors® (NAR) developed a code of ethics (Code of Ethics).
   a. Provide students with a link to Code of Ethics.
   b. Review Preamble and Articles.
2) Identify areas in HRS and HAR where ethical conduct is required.
   a. Unethical conduct which may result in disciplinary sanction of licensee such as fines, suspension, termination and/or revocation.
   b. While Code of Ethics is not law, the law and rules requires ethical conduct.
3) Note that licensee must keep constant awareness of events and situations which may lead to ethical misconduct.
   a. Ethical conduct is required regardless if the licensee receives compensation.
   b. Provide examples:
      i. Death on a property
      ii. Adverse material fact one week before closing
      iii. Self-dealing disclosure and conflicts
4) Standards of practice and best practices.
   a. Ethical standards are a minimum standard.
   b. Best practices often require that a professional exceed the minimum ethical standard regarding professional practice.
   c. Ethical compromise must be rigorously avoided.
   d. The appearance of ethical misconduct may compromise ethical standards.
   e. Misconduct of a licensee reflects poorly on the profession.
5) Discuss the importance of personal standards and self-regulation of the real estate profession.
   a. Explain what a licensee should do when they encounter another licensee’s misconduct.
   b. Principal Broker (PB).
      i. Define
      ii. Role
   c. Role of the BIC.
   d. Responsibility of the licensee.
F. MULTIPLE LISTING SERVICE (MLS)

1) The role of the MLS.
2) Promotes ethics through their standards.
3) Can create a subagency.
4) Commission splitting.
SECTION FOUR: AGENCY

A. GENERAL AGENCY CONCEPTS

1) Define agency and fiduciary relationships.
   a. Explain the responsibility of brokers for actions of associated licensees even if the licensees are acting as independent contractors.
   b. Define who a principal is. Note the difference between a client and a customer.
   c. Explain the different classifications of agency relationships:
      i. Universal
      ii. General
      iii. Special

B. HAWAI'I AGENCY PRACTICES AND LAW

1) Statutory vs common law.
   a. Hawai'i agency is presently common law.
2) Reference sections of HRS that deal with agency in real estate.

C. FORMS OF AGENCY

1) Define agency.
2) Explain that agency can be created to carry out functions such as:
   a. Sales.
   b. Leasing.
   c. Management.
3) Real estate conduct rules (HAR 16-99-3).
4) Explain the creation of an agency and non-agency relationship.
   a. Subagency.
   b. Single agency:
      i. Seller agency
      ii. Buyer (selling) agency
   c. Dual agency:
      i. Specific term not defined but implied under HRS 467-14(4)
         1. Separate written agreement required
         2. Discuss informed consent
   d. Implied agency.
      i. Meets agency requirements but not in writing
      ii. Not allowed regarding dual agency
   e. Forms of agency/non-agency used in other states:
      i. Designated agency
      ii. Transactional agency
      iii. Facilitator
5) Discuss agency disclosure requirements under HRS 467-14(1) and HAR 16-99-3.1.
   a. Written disclosures:
      i. Disclosure letters to buyers and sellers
      ii. Agency disclosure
      iii. Must be in sales contract
   b. Understand common agency disclosure situations.
   c. Handling in-house sale.
6) Agency duties and responsibilities of a licensee.
   a. Explain the difference between Seller as principal and Buyer as principal.
   b. Explain the licensee's duties to third persons.
7) Explain the fiduciary obligations of a licensee.
   a. A relationship of trust and responsibility to others.
   b. Agent:
      i. Good faith
      ii. Obedience
      iii. Loyalty
      iv. Disclosure
      v. Confidentiality
         1. Continues even after agency relationship terminates
      vi. Accounting
         1. Continues even after agency relationship terminates
      vii. Reasonable skill and care
         1. Includes duties to ascertain and disclose material facts
      viii. Honesty
      ix. Integrity
   c. Principal:
      i. Give opportunity to perform
      ii. Do not capriciously terminate employment
      iii. Compensation
      iv. Cannot give illegal instructions
8) Consequences due to a licensee's breach of duties.

D. POWER OF ATTORNEY

1) Types:
   a. General.
   b. Special.
   c. Durable.
2) Termination:
   a. Death.
   b. Date.
   c. Revocation.
   d. Transaction is complete.
SECTION FIVE: PROPERTY RIGHTS

A. PROPERTY DESCRIPTION AND CHARACTERISTICS

1) Explain land, real estate, real property and personal property.
2) Distinguish among land, real estate, real property or personal property.
3) Explain the physical, economic and use characteristics of real estate.
4) Explain air rights, surface rights and subsurface rights as well as various elements such as gas, oil, mineral, geothermal, trees and crops.
5) Explain and distinguish between a residential and trade fixture.
   a. Identify the criteria established for determining if an object is a residential fixture.
6) Explain water rights, including riparian rights and littoral rights.
7) Explain the legal right (bundle of rights) that attach to the ownership of real property.
8) Explain private property rights versus public and private controls.
9) Differentiate between the methods of describing real property and a legal description of real property used in Hawai'i.
   a. Tax Map Key (TMK):
      i. Division
         1. Honolulu (O'ahu)
         2. Maui
            a. Moloka'i
            b. Lāna'i
         3. Hawai'i (Big Island)
         4. Kauai
      ii. Zone
      iii. Section
      iv. Plat
      v. Parcel
      vi. Condominium Property Regime (CPR), if applicable
   b. Street address.
10) Discuss boundary line problems in special situations such as ocean boundaries, Hawaiian fish ponds and kuleanas.
11) Explain survey, staking and encroachments.
   a. Discuss reasons for the de minimis encroachment law.
   b. Discuss the necessity and importance of having an encroachment agreement.
12) Explain how condominiums are described in deeds versus declarations.
13) Explain how the Uniform Commercial Code (UCC) allows a lender to have a security interest in personal property in a sale of a business.
14) Discuss sales of business opportunities in the following areas:
   a. Residential.
   b. Commercial.
c. Industrial.
d. Agricultural.
e. Special purposes.
f. Public.
g. Conservation lands.
   i. Preservation districts

B. REAL PROPERTY INTERESTS

1) Explain government limitation on ownership of real estate.
2) Explain the two major classifications of estates in land:
   a. Freehold.
   b. Leasehold.
3) Define freehold estates:
   a. Fee simple.
   b. Fee simple determinable.
   c. Fee simple subject to a condition subsequent.
   d. Life estate.
4) Explain:
   a. Curtesy.
   b. Dower.
   c. Homestead.
   d. Community property.
5) Explain the difference between a remainder and a reversionary interest.
6) Define adverse property rights:
   a. Adverse possession.
   b. Prescriptive easement.
   c. Forfeiture.
   d. Right of election.
7) Define and explain leasehold estates in Hawai‘i:
   a. Lessors/lessees.
   b. Rent renegotiations.
   c. Surrender clause.
   d. Other important terms.
   e. Disclosure requirements.
      i. Single family home
      ii. Non-applicability to condominiums and co-ops
      iii. Leasehold conversion
      iv. Hawai‘i Supreme Court Decision (1984)
   g. Discuss leasehold conversion and the impact of city and county law
      (e.g. leasehold conversion in the county of O‘ahu).
C. PERSONAL PROPERTY INTERESTS

1) Removable.
2) Also called chattel or personalty.
3) If included with sale of real property, it must be stated in contract.
4) Examples (e.g. emblements).

D. FINANCING PERSONAL PROPERTY

1) Security agreement.
2) Financing statement.
SECTION SIX: TRANSFERRING REAL PROPERTY INTEREST

A. TITLE

1) Define title.
2) Define the methods of transferring title.
3) Identify ways in which title to real property may involuntarily pass.
4) Explain the chain of title.
   a. Title search.
5) Title vs deed.
6) Evidence of title (ownership).
   a. Deed (fee simple).
   b. Assignment of lease (leasehold).
7) Explain title examination procedures.
8) Information used to determine title status.
   a. Preliminary title report.
   b. Abstract of title.
9) Potential title problems and resolution.

B. TITLE INSURANCE

1) Explain the purpose for title insurance.
2) Describe the different types of title policies:
   a. Mortgagor’s and mortgagee’s policies.
   b. Standard policy.
   c. Extended coverage (ALTA) policy.
   d. Other extended coverage policies.
3) Marketable vs insurable title.

C. DEEDS AND OTHER MEANS OF ACQUIRING PROPERTY

1) List and explain the essential requirements of a valid conveyance.
2) Identify and describe types of deeds:
   a. General Warranty:
      i. Covenant of seisin
      ii. Covenant of right to convey
      iii. Covenant against encumbrances
      iv. Covenant of quiet enjoyment
      v. Covenant of further assurance
      vi. Warranty forever
   b. Special Warranty:
      i. Covenant of right to convey
      ii. Covenant against encumbrances
c. Quitclaim:
   i. No warranties
   ii. Gift
   iii. Release of dower
   iv. Removing/adding tenants
d. Personal Representative's.
e. Commissioner's Foreclosure.
f. Commissioner's Partition.
g. Administrator's.
h. Guardian's.
i. Trustee's.
j. Transfer on Death.

3) Explain the elements of a deed:
   a. Written instrument.
   b. Legal capacity of grantor.
   c. Grantor's signature.
   d. Grantee.
   e. Legal description of property.
   f. Reservations and exceptions.
   g. Delivery and acceptance.

4) Other elements in a deed, though not required:
   a. Date.
   b. Recital of consideration.
   c. Words of conveyance.
   d. Habendum clause.
   e. Covenants and warranties.
   f. Acknowledgement.
   g. Recordation (constructive notice):
      i. Bureau of Conveyances (Regular System)
      ii. Assistant Registrar of the Bureau of Conveyances (Land Court)
      iii. Double System (consolidation of properties)

5) Explain assignment of leases.

6) Explain why covenants and conditions in a deed cannot be discriminatory.

D. CONSTRUCTIVE (PUBLIC) NOTICE

1) Recrdation of documents.
2) Legal notices.
E. RECORDING PRIORITY

1) First in time, first in line.
   a. Exceptions:
      i. Subordination agreement
      ii. Statutory liens (e.g. real property tax liens)

F. BONA FIDE PURCHASER

1) No notice (of any kind) of prior conveyances.
2) Provides value (money).
3) First to record.

G. HAWAI'I RECORDING SYSTEMS

1) Discuss the history and process of Regular System (Abstract) and Land Court (Torrens).
2) Indicate where title records can be found.

H. TYPES OF LEGAL DESCRIPTIONS

1) Regular System.
   a. Metes and bounds (also used in the original 13 states).
   b. Plat and Parcel/Lot and Block.
2) Land Court.
   a. Transfer Certificate of Title (TCT).
3) Public Land Survey System.
   a. Continental U.S. except for the original 13 states and Hawai'i.

I. HOME OR CONSTRUCTION WARRANTY PROGRAMS

1) Purpose.
2) Scope.
SECTION SEVEN: ENCUMBRANCES

A. AFFECTING TITLE TO THE PROPERTY (LIENS)

1) Define lien.
2) Explain the following liens:
   a. Voluntary.
   b. Involuntary.
   c. Statutory.
   d. Equitable.
   e. General.
   f. Specific.
3) Enforcement of lien.
4) Define foreclosure:
   a. Mortgages.
      i. Judicial
      ii. Non-judicial (Power of Sale)
   b. Agreement of Sale (aka land contract, installment sales contract, contract for deed).
   c. Redemption:
      i. Equity of redemption
      ii. Right of redemption (statutory redemption)
5) Explain the effects of a lien as an encumbrance on title to real property:
   a. Mortgage.
   b. Mechanic's.
   c. Property tax and assessments.
   d. Judgment.
   e. Association.
   f. Tax:
      i. Real property
      ii. IRS
      iii. Hawai'i
      iv. Estate
6) Explain the priority of liens.
7) Define deed restrictions (e.g. view easements and CC&Rs).

B. AFFECTING PHYSICAL USE OF THE PROPERTY

1) Define an easement:
   a. Permanent (continues with each transfer).
   b. Non-revocable.
   c. Assignable.
2) Types of easements:
   a. Appurtenant.
   b. In gross.
3) Explain how easements may be created:
   a. Mutual agreement.
   b. Necessity.
   c. Prescription.
   d. Condemnation.
   e. Implication.
4) Explain how easements may be terminated.
5) Define a license:
   a. Temporary.
   b. Revocable.
   c. Non-assignable.
6) Define encroachment:
   a. De Minimis law, allowable tolerance:
      i. Commercial (0.25 feet)
      ii. Residential (0.5 feet)
      iii. Agricultural and rural (0.75 feet)
      iv. Conservation (1.5 feet)
   b. Exceptions:
      i. No de minimis for oceanfront
      ii. No de minimis for government-owned property
7) Explain rights to beach access and other entry rights:
   a. HRS and the Hawai‘i Constitution protects the customary and
      traditional rights of Hawaiians regarding real property access.
   b. Discuss Hawaiian access rights including Public Access to Shorelines
      (PASH) in Hawai‘i and its potential impact on undeveloped or raw
      land.
      i. Right to gather
A. CONTRACT LAW

1) Define the essential elements of a contract:
   a. Competent parties.
   b. Offer and acceptance (mutual agreement).
      i. When an offer becomes binding
   c. Consideration.
   d. Contractual ability.
   e. Legal purpose.
   f. Description of property.
   g. Closing date.
2) Examples of sales and listing contracts.
3) Explain the difference between:
   a. An express (written) and an implied contract.
   b. A bilateral and an unilateral contract.
   c. An executory and executed contract.
4) Define the legal status of contracts:
   a. Valid.
   b. Void.
   c. Voidable.
   d. Unenforceable.
5) Explain the manner in which a contract can be terminated.
6) Explain the remedies when a breach of contract occurs.
7) Define Statute of Frauds.
   a. Signature required for:
      i. Sales contract
      ii. Listing contract
      iii. Buyer’s representation agreement
      iv. Contract for more than one year
8) Antitrust (Sherman) laws.
   a. Antitrust laws and purpose.
   b. Antitrust violations in real estate.
9) Explain how antitrust laws affect the licensees.
   a. Price fixing.
   b. Group boycotting (collusion).
10) Use of technology.
    a. Requirements for confidential information.
    b. Do-Not-Call list.
    c. Cyber security.
    d. Social media.
    e. Paperless transactions.
B. LISTING CONTRACTS

1) Define and explain the purpose of a listing contract.
   a. Explain the types and key elements of listing contracts:
      i. Net
      ii. Open
      iii. Exclusive agency
      iv. Exclusive right-to-sell
   b. Explain common provisions in a listing contract.
   c. Explain the brokerage firm’s entitlement to commission.

2) Seller’s brokerage firm receives commission.
   a. After splitting commission with Buyer’s brokerage firm (if any), Seller’s brokerage firm will split remaining commission with its procuring licensee.

3) Buyer’s brokerage firm splits commission with its licensee (if any).

4) Commission earned when licensee finds a “ready, willing and able” buyer.
   a. No set real estate commission since it is negotiable.
      i. Provide examples regarding termination of a listing contract
      ii. Explain the remedies for breach of a listing contract
      iii. Indicate pitfalls in listing preparation
         1. Disclosures
         2. Licensee’s liabilities
         3. Property conditions
         4. Survey indicates encroachment(s)
         5. Whether Seller is subject to HARPTA and/or FIRPTA

C. SALES CONTRACTS

1) Define and explain the purpose of the sales contract.
   a. Explain the key provisions:
      i. Termite inspection
      ii. Default
      iii. Occupancy date
      iv. Time is of the essence
      v. Potential conflict of interest
      vi. Risk of loss
      vii. "As Is" clause
      viii. Complete agreement
   b. Provide examples regarding termination of a sales contract.
   c. Explain the remedies for breach of a sales contract.
   d. Discuss key items to be executed.

2) Discuss the significance of contingencies.
3) Define lease agreements.
4) Discuss the matter of unauthorized practice of law.
5) Discuss presenting multiple offers to a seller.
6) Electronic signatures (non-recordable documents).
7) Commercial sales contract is a different contract than a residential sales contract.

D. OTHER CONTRACTS

1) Buyer's Representation Agreement.
   a. Explain key elements of Buyer brokerage/tenant representation contracts.
2) Option Agreement.
3) Agreement of Sale.
4) Right of First Refusal.
SECTION NINE: CLOSING/SETTLEMENT

A. ESCROW

1) Explain the role of escrow.
   a. Responsibilities of escrow agent.
   b. Prorated items.
   c. Estimating closing costs.
   d. Property and income taxes.
   e. Not used in all jurisdictions.
      i. Hawai‘i uses escrow, though not required
   f. Buyer provides tenancy statement.

2) Duties and responsibilities of escrow and interplead rights of escrow agent.

B. CLOSING/SETTLEMENT PROCEDURES

1) Closing occurs when all contracts conditions are satisfied.
2) Describe process generally.
3) Review Closing Disclosure.
   a. Seller’s transaction.
   b. Borrower’s transaction.
4) Explain how the UCC affects a real estate transfer.
5) Define title transfer:
   a. Regular System (delivery).
   b. Land Court (registration).
6) Considerations at closing and settlement:
   a. Closing costs.
   b. Prorations and computation of prorations.
   c. Satisfaction of contingency or waiver.
   d. Special provisions.
   e. Time is of the essence vs extension.
   f. Funds held in escrow after closing by agreement of parties.
      i. Estimates
      ii. Release
SECTION TEN: DISCLOSURES

A. FEDERAL DISCLOSURES

1) Understand basic lending regulations and laws.
   a. Truth-In-Lending Act (Regulation Z).
      i. Explain the required disclosures
   b. Real Estate Settlement Procedures Act (RESPA).
      i. Explain the required disclosures and prohibited practices
   c. Dodd Frank Act.
      i. Consumer Financial Protection Bureau (CFPB)
      ii. Truth-In-Lending RESPA Integrated Disclosure (TRID)
      iii. Rules on financing
      iv. Risky loan features
   d. Federal Flood Insurance Program.

2) Lead based paint (1978).

B. SELLER'S REAL PROPERTY DISCLOSURE

1) Define material facts.
2) HRS 508D — Mandatory seller disclosures in real estate transactions.
3) Seller’s disclosure statement.
4) Condominium, cooperative and community association disclosure.
5) Other required disclosure forms.
6) When disclosures are not required.
7) Exemptions.

C. PROPERTY CONDITION

1) Property condition that may warrant inspections and surveys.
2) Proposed uses or changes in uses that should trigger inquiry about public or private land use controls.
3) Explain livable, rentable and usable areas.

D. DISCLOSURES REQUIRED WHEN APPLICABLE

1) Environmental issues.
   a. Hazardous waste.
   b. Toxic substance.
2) Mold.
3) Asbestos.
4) Radon.
5) Flood zones.
SECTION ELEVEN: VALUATION AND MARKET ANALYSIS

A. REAL ESTATE VALUATION

1) Define value.
2) Describe different concepts of value.
3) Explain the difference among:
   a. Market value.
   b. Market price.
   c. Cost.
4) Explain the basic principles of value.
5) Explain the concept of highest and best use.
6) Estimating value.
   a. Explain the effect of economic principles and property characteristics.

B. COMPETITIVE/COMPARATIVE MARKET ANALYSIS

1) Analysis and interpretation of market information by licensee to provide to Seller in order for Seller to determine a listing price.
2) Selecting comparables.
3) Adjusting comparables.

C. APPRAISALS

1) Define appraisal and other basic terminology.
2) Discuss that a real estate license is not required for an appraiser.
3) Purpose and use of appraisals for valuation.
4) Situations requiring appraisal by certified appraiser.
5) General steps in appraisal process.
6) Explain why appraisal values will have a tendency to "lag" the market.
7) Define the basic concepts of depreciation.
   a. Wear and tear.
   b. Functional obsolescence.
   c. Economic (external or environmental) obsolescence.
8) Explain the federal and state license laws that regulate appraisers.
   a. Know that Hawai'i complies with the requirements of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) which mandates state licensing and certification of appraisers.
   b. Explain the difference between:
      i. State licensed appraisers
      ii. State certified appraisers
c. Appraisal licensing law:
   i. Allows licensees to give opinions of value aka Broker Price Opinion (BPO)
   ii. Licensee may charge a fee
   iii. Licensee must state the BPO is not an appraisal
d. Know that licensed and certified appraisers must comply with the Uniform Standards of Professional Appraisal Practice (USPAP).

9) Professional Appraisal Organizations and designations.
   a. Appraisal Institute (AI).
      i. Primary organization
   b. American Society of Appraisers (ASA).
      i. Smaller, mostly rural and farm oriented
   c. Other.

10) Valuation of leaseholds.

11) Appraising leaseholds in Hawai‘i:
   a. Lessee value.
   b. Lessor value.
   c. Leased fee differential.
      i. Explain how it changes over time

D. APPRAISAL APPROACHES

1) Market data approach (aka market sales, market comparison).
   a. Mostly used for resale residential properties.
   b. Explain the concepts of contribution and substitution.

2) Cost approach (aka summation).
   a. Used for insurance purposes, new constructions and unique properties.
   b. Explain the difference between:
      i. reproduction cost
      ii. replacement cost
c. Examples:
   i. New construction
   ii. Unique property
d. Explain techniques for measuring structures.

3) Income approach (commercial, industrial and income-producing property).
   a. Capitalization.
   b. Gross rent/income multiplier.
SECTION TWELVE: FINANCING

A. MORTGAGE

1) Secures an interest in real property.

2) Define:
   a. Borrower (Mortgagor).
   b. Lender (Mortgagee).

3) Mortgage instruments:
   a. Assignment.
   b. Certificate of reduction of mortgage.
   c. Estoppel certificate/lease estoppel certificate.
   d. Extension.
   e. Mortgage consolidation agreement.
   f. Release (satisfaction).
   g. Subordination.

B. BASIC REAL ESTATE FINANCE TERMS AND CONCEPTS

1) Clauses:
   a. Acceleration.
   b. Alienation.
   c. Due on sale.
   d. Escalation.
   e. Prepayment penalty.

2) Terms:
   a. Amortization.
   b. Balloon payment.
   c. Beneficiary.
   d. Deficiency judgment.
   e. Distressed property.
   f. Interest rate.
   g. Late charge.
   h. Loan term.
   i. Loan-to-value (LTV) ratio.
   j. Mortgage Credit Certificate (MCC).
   k. Reinstatement.
   l. Reserves (ability to collect).
   m. Short sale.
   n. Usury.
3) Describe the difference between:
   a. Lien theory:
      i. Mortgage
      ii. Promissory Note
   b. Title theory:
      i. Deed of Trust (Trust Deed)
4) Seller financing:
   a. Agreement of Sale:
      i. Seller retains legal title until loan is paid off
   b. Purchase money mortgage:
      i. Purchased property is used as collateral for the loan
      ii. Applies to both first mortgage loans and seller financing
5) Assumption vs subject to existing mortgage loan.

C. REAL ESTATE FINANCING

1) Explain why points are charged and how to calculate the following:
   b. Private Mortgage Insurance (PMI).
   c. Discount points.
2) Understand how a buyer is prequalified by a lender.
3) Understand fixed rate mortgage loans.
4) Lending process application through closing.

D. QUALIFYING BORROWER FOR A MORTGAGE LOAN

1) Describe the concept of mortgage loan lending:
   a. Qualifying Buyer:
      i. Applicant information
      ii. Income and employment verification
      iii. Down payment information
      iv. Credit information
      v. Guidelines
         1. Fannie Mae
         2. Freddie Mac
   b. Qualifying the property:
      i. Single family homes
      ii. Condominiums
      iii. Fixer upper
         1. Rehab loans (e.g. FHA 203K)
   c. The loan application and escrow.
   d. Approval of the loan.
   e. Servicing the debt.
E. CONVENTIONAL MORTGAGE LOANS

1) Fixed rate mortgage.
2) Adjustable rate mortgage (ARM).
3) Graduated payment mortgage (GPM).
   a. Negative amortization.
4) Reverse annuity mortgage (RAM).
5) Growing equity mortgage (GEM).
6) Bridge.
7) Non-recourse loans (Hawai‘i is a recourse state).

F. GOVERNMENT BACKED (UNCONVENTIONAL) MORTGAGE LOANS

1) Federal:
   a. Veterans Administration (VA).
      i. Guaranteed
   b. Federal Housing Administration (FHA).
      i. Insured
   c. United States Department of Agriculture (USDA).
      i. Rural
      ii. Agricultural
2) Hawai‘i:
   a. Hula Mae.
   b. Employee Retirement System (ERS).

G. SECONDARY MORTGAGE LOAN MARKET

1) Federal National Mortgage Association or Fannie Mae (FNMA).
2) Federal Home Loan Mortgage Corp or Freddie Mac (FHLMC).
3) Government National Mortgage Association or Ginnie Mae (GNMA).

H. UNDERWRITING

1) Debt ratios.
2) Credit scoring.
3) Credit history.
A. PROPERTY MANAGEMENT

1) Licensing requirements:
   a. If more than one owner:
      i. A real estate license is required
   b. For single owner:
      i. A real estate license is not required
      ii. Considered a caretaker/custodian

2) Define the purpose of property management.

3) Differentiate among types of property management:
   a. Commercial, industrial, retail and office.
   b. Residential.
   c. Homeowner's Association.
   d. Association of Unit Owners (AOUO).

4) Explain the relationship between the:
   a. Property manager and owner.
   b. Property manager and tenant.

5) Explain the role and typical responsibilities of the property manager:
   a. Collection of rents.
   b. Maintenance of property.
   c. Handling of funds.

6) Marketing/merchandising property.
   a. Advertising.
   b. Market conditions.
   c. Negotiating lease on behalf of owner-client.
   d. Handling of concessions.

7) Accounting and handling of funds (HAR 16-99-3(e) and 16-99-4).
   a. Maintenance of detailed records.
   b. Periodic reports.
   c. Taxes and insurance.
   d. Separate trust account(s).
   e. Collections of rent.
   f. Collection of delinquencies.
   g. Security deposits.

8) Management agreement.
   a. Between owner and property manager.
   b. Terms of agreement.
   c. Compensation.
   d. Responsibilities.
B. LEASING

1) Define lease as both a conveyance and a contract.
2) Describe difference between short term and long term leases.
   a. Transient Vacation Rentals (TVR) license.
3) Identify and describe types of leases:
   a. Fixed.
   b. Graduated.
   c. Ground.
   d. Net.
   e. Percentage.
4) Explain the difference among:
   a. Assignment.
   b. Sublease.
   c. Novation.
5) Define implied covenant of quiet enjoyment.
6) Explain when a lease is required to be recorded.
7) Compare the types of short-term tenancies:
   a. Tenancy for years.
   b. Periodic tenancy.
   c. Tenancy at will.
   d. Tenancy at sufferance.
8) Explain that a lease is not terminated by a sale.
9) Explain ways in which a lease agreement may be terminated.
   a. Discuss actual vs constructive eviction.

C. RESIDENTIAL LANDLORD/TENANT CODE (HRS 521)

1) Understand how HRS 521 creates rights and obligations in residential leases.
   a. Define "tenant" and describe tenant's obligations.
   b. Define "landlord" and describe landlord's obligations.
2) Describe basic provisions in a residential rental agreement:
   a. Payment of rent.
   b. Notice of rent increase/decrease.
   c. Notice of termination.
   d. Repairs.
   e. Security deposits.
3) Tenant remedies.
4) Note that many areas are not covered by the Residential Landlord/Tenant Code (e.g. definition of agent).
5) Discuss role of Small Claims Court in landlord/tenant disputes and security deposit issues.
6) Required disclosures in residential rental properties.
7) Discuss Seller holdover.
8) Discuss when Landlord/Tenant Code doesn’t apply.
   a. Early occupancy by Buyer.
   b. Post occupancy by Seller.

9) Domestic violence (HRS 521-80).

10) Assistance animal (defined by the Hawaii’i Civil Rights Commission).
    a. Service animal.
    b. Therapy animal.
    c. Support animal.
    d. Comfort animal.
SECTION FOURTEEN: FORMS OF OWNERSHIP

A. CONDOMINIUMS

1) Explain HRS 514B — Condominiums.
   a. General provisions, definitions and applicability.
      i. Candidates should gain an overview of what a condominium is, how it is formed, and how it operates
   b. Creation, alteration and termination of a condominium.
   c. Registration, administration, notification of intention.
   d. Protection of purchasers.
   e. Condominium management and governance.
   f. Sale to owner-occupants.
   g. Arbitration and mediation.
   h. Rules and regulations and how they affect the administration of the law.

2) Provide an overview and explanation of the following:
   a. Know that the CPR is under HRS 514B.
   b. Explain the basic definitions in the law.
   c. Explain public report.
   d. Explain condominium disclosure requirements.
   e. Explain Buyer's right to cancel.
   f. Explain the role of an AOUO.
   g. Differentiate between an AOUO and a Community Association.
   h. Explain what documents must be maintained by an association.
   i. Understand the duties of officers and members of the Board of Directors.
   j. Describe the basic rules on condominium budgets and reserves.
   k. Explain the role and duties of managing agents.
   l. Mention the rules of sales to owner-occupants.
      i. Developer's requirement to offer half of new residential apartments to owner-occupant for first thirty days
   m. Describe the right of first refusal when a leased fee is offered for sale.
   n. Explain the arbitration and disputes procedure.
   o. Information regarding the Condominium Education Trust Fund can be obtained from the Real Estate Commission's condominium specialist.

3) Define and explain the importance of reviewing project documents (and amendments, if any) including the:
   a. Declaration.
   b. Bylaws.
   c. House rules.
   d. Title report.
   e. Minutes.
   f. Current budget.
g. Current financial statement.
   i. Audited
   ii. Unaudited

h. Insurance summary.
   i. Reserve study.

j. Condominium disclosure.
   i. Form RR105(c)

k. Areas of risk to prospective purchaser:
   i. Inadequate reserves
   ii. Building age
   iii. Deferred maintenance
   iv. Pending litigation
   v. Adequacy of insurance
   vi. Contentious board
   vii. Zoning (research for existing use)
   viii. Use

4) The licensee is not a condominium specialist but should perform a cursory
   examination for red flags and completeness. The client should be advised to
   consult an attorney for further information.

B. COOPERATIVES (CO-OP)

1) Ownership of shares in a corporation.
2) Proprietary lease.
   a. Expiration date.
   b. No expiration date.
3) Usually requires Board approval.
4) Co-op vs condominium.

C. TIME SHARE (514E)

1) Define:
   a. Time share.
   b. Acquisition agent.
      i. Individual (Outside Public Contact as defined in HAR, Title 16,
         DCCA, Chapter 106, Time Sharing)
      ii. Company
   c. Sales agent.
2) Time share interest.
   a. Ownership interests.
   b. Right to use.
3) Regulated by registration.
   a. Registration required:
      i. Developer
      ii. Acquisition agent
      iii. Plan manager
      iv. Exchange agent
   b. Registration of a time share project is separate from a CPR registration.

4) Condominium public report is not required.

5) Sales disclosure requirements.
   a. 7-day mutual right of rescission.

6) Sales voidable by Buyer if time share law is violated.

7) Penalty for violation.

D. PLANNED UNIT DEVELOPMENT (PLANNED HOUSING DEVELOPMENT)

1) Define and discuss reasons for planned unit development.

2) Role:
   a. State.
   b. Housing Finance Development Corporation.
   c. Developer.

E. PLANNED COMMUNITY ASSOCIATION (HRS 421J)

1) Define:
   a. Planned community.
   b. Planned community association.

2) Common interest community.

3) Provide examples.

F. FORMS OF OWNERSHIP/TENANCY

1) Define tenancies.
   a. Severalty.
   b. Common.
   c. Joint.
   d. Entirety/entireties.

2) Define other forms of co-ownership including:
   a. Community property.
   b. Elective right (Uniform Probate Code 7/1/77).
3) Define business or group ownership.
   a. Corporation.
   b. Cooperative.
   c. Condominium.
   d. Joint venture.
   e. Limited Liability Company (LLC).
   f. Partnership.
   g. Real Estate Investment Trust (REIT).
   h. Syndications (hui).
   i. Fractional ownership.

4) Note that there are different types of ownership and tenancy. Consult an attorney for legal issues and CPA for tax issues.

G. TRANSFER OF OWNERSHIP

1) Explain property transfer by:
   a. Land sale (during lifetime).
   b. Public grant.
   c. Private grant.
   d. Authority by law (e.g. intestate succession).
   e. Wills/trusts.
   f. Elective share (Uniform Probate Code).
   g. Involuntary transfer of ownership:
      i. Lien enforcement
      ii. Adverse possession
      iii. Eminent domain/condemnation
      iv. Bankruptcy
      v. Forfeiture
         1. Illegal activity (e.g. drug)
         2. Federal
         3. Hawai‘i
SECTION FIFTEEN: DISCRIMINATION

A. DEFINITIONS AND EXAMPLES

1) Define:
   a. Discrimination.
      i. Does not require intent
   b. Blockbusting.
   c. Steering.
   d. Redlining.

2) Provide examples:
   a. Verbiage.
      i. Advertising
      ii. Cover letters
      iii. Client/customer dialogue
   b. Actions.
   c. Photos.

B. FEDERAL DISCRIMINATION ACTS AND ORDERS

1) Civil Rights Act of 1866.
2) Executive Order No. 11063.
4) Fair Housing Act of 1968.
5) Housing and Community Development Act of 1974.
6) Fair Housing Act Amendment of 1988.

C. FEDERAL LAW

1) Real estate transactions.
   a. Residential only.
2) Protective classes.
3) Exemptions.
4) Enforcement.
5) Penalty.
D. HAWAI’I LAW (HRS 515: DISCRIMINATION IN REAL PROPERTY TRANSACTIONS)

1) All real estate transactions.
2) Protective classes.
3) Exemptions.
4) Enforcement.
   a. Hawai’i Civil Rights Commission.
5) Penalty.
6) Service animal (public accommodations) vs assistance animal (private accommodations).
7) Cannabis.

E. OTHER FEDERAL RELATED LAWS

1) Americans with Disabilities Act.
   a. Prohibits discrimination based on disability.
   b. Public accommodations.
2) Equal Credit Opportunity Act.
   a. Lenders cannot discriminate.
SECTION SIXTEEN: TAXES

A. FEDERAL TAXES

1) Foreign Investment in Real Property Tax Act (FIRPTA).
2) Explain the Taxpayer's Relief Act of 1997.
   a. Sale of primary residence.
3) Tax deferral methods:
   a. IRC §1031 tax-deferred exchange.
4) Estate (inheritance) taxes.
   a. States may have their own estate tax.
   b. The need for estate planning.
5) Depreciation.
6) Permitted deductions for different classes of property.
7) Consult an attorney or CPA.

B. STATE AND LOCAL TAXES

1) Hawai'i Real Property Tax Act (HARPTA).
2) General Excise Tax (GET).
3) Transient Accommodations Tax (TAT).
4) Conveyance tax.
5) Special assessment.
6) Explain local property taxes.
   a. Assessment on land and/or improvements (varies by county).
   b. Exemptions.
   c. Dedications.
      i. Agricultural
      ii. Residential
   d. Calculation of taxes.

C. FEDERAL REPORTING REQUIREMENTS

1) Explain that federal reporting requirements could impact foreign buyers and sellers.
   a. The International Investment and Trade in Services Survey.

D. INVESTMENTS IN REAL ESTATE

1) Home ownership vs investment.
SECTION SEVENTEEN: HAWAI'I FORMS

A. EXAMPLES OF COMMONLY USED HAWAI'I FORMS

1) Licensees need general familiarity with the following Hawai'i Association of REALTORS® forms:
   a. Cooperating Brokerage Firm’s Separate Contract.
   b. Counter Offer:
      i. Understand what to do if there is a rejection (HAR 16-99-3(J))
      ii. Rejection must be communicated in writing
   c. Exclusive Right-to-Sell Listing Contract:
      i. Common practices
      ii. Protection period
      iii. Special terms
      iv. All owners of record must sign to be enforceable
      v. Discuss MLS data input
         1. Note that data input is part of listing contract
   d. Purchase Contract:
      i. Cancellation provisions
         1. Explain how funds, including deposits, will be handled in the event of default or cancellation
      ii. Disclosures and inspections
      iii. Explain what to do when there is an acceptance, rejection or counteroffer
      iv. Specific contingencies
      v. Addendums
         1. "As Is"
         2. Distressed property
         3. Residential leasehold property
         4. Short sale
   e. Rental Agreement:
      i. Written tenancy (month-to-month)
      ii. Lease (fixed length)
   f. Seller’s Real Property Disclosure Statement:
      i. Single family residential
      ii. Condominium
      iii. Vacant land
      iv. Note that commercial properties have a due diligence process rather than a disclosure form

2) Understand the necessity to remain familiar with standard forms which may change periodically.
SECTION EIGHTEEN: MATHEMATICS

A. GENERAL MATHEMATICAL COMPUTATIONS

1) Basic math concepts.
   a. Loan-to-value ratios.
   b. Discount points.
   c. Equity.
   d. Down payment/amount to be financed.

2) Calculations for transactions.
   a. Property tax calculations.
   b. Prorations.
   c. Commission and commission splits.
   d. Seller’s proceeds of sale (gross/net).
   e. Buyer funds needed at closing.
   f. Transfer fee/conveyance tax/revenue stamps.
   g. Principal, Interest, Taxes and Insurance (PITI) payments.
## SALESPERSONS’ PRELICENSING CURRICULUM CONTENT OUTLINE

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**TOTAL ESTIMATED MINIMUM:** 60 HOURS