

# Maine Real Estate Commission

## The Sales Agent Course

### Outline

Approved: 8/15/2013 Effective 1/1/2014  
This outline replaces the outline approved January 2006

#### Requirement Overview:

This course, at a minimum, must be 55 hours in length, include 3 quizzes and a final exam and meet other standards established in the Minimum Guidelines for the Sales Agent Course approved January 24, 2013, attached and made part of this outline.

#### Course Objective:

This course is designed to introduce students to the elements of real estate brokerage. The order of topics may be arranged to fit the instructor's teaching style. Some topics lend themselves to coverage by straight lecture; exercises are appropriate for other topics. Course percentages are based on course instruction and do not include quiz or exam time.

#### ► Introduction (1%)

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

#### ► Industry Overview/Organization (1%)

**Objectives:** Upon completion of this section, students will recognize how the industry is organized, who the players are, and where they fit. They will also recognize 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.

##### ❖ Identify the players

- Real Estate Commission
  - ✓ Powers of the Real Estate Commission
    - Enforce license law
    - Discipline brokers
    - Oversight of education
    - Issuing licenses
      - Types of license
      - Agency umbrella
- Agencies
  - ✓ REALTORS®
  - ✓ Franchises
- Appraisers
- Lenders
- Title Companies
- Inspectors

##### ❖ Identify a transaction flow chart for buyers

##### ❖ Identify a transaction flow chart for sellers

#### ► Maine Real Estate Commission (13%)

**Objectives:** Upon completion of this section, students will recognize the role of the Real Estate Commission, its authority and its impact on the daily practice of real estate. Students will identify Real Estate license laws and the minimum standards of practice required by the Real Estate Commission and demonstrate the ability to properly complete a property disclosure form.

- ❖ **Provide an overview of the Maine Real Estate Commission**
  - Mission and powers of the Real Estate Commission
    - ✓ Composition
    - ✓ Investigations
    - ✓ Hearings
    - ✓ Disciplinary sanctions
  - Differentiate between Commission rules, REALTOR® ethics, office policies & Multiple Listing Service (“MLS”) requirements.
  
- ❖ **Explain Maine license law & rules governing licensees**
  - What constitutes the practice of real estate brokerage. (32 MRSA §§13001-13003)
  - The different license categories (32 MRSA §§13198-13200)
  - Requirements of license law and rules governing brokerage contracts. (32 MRSA §13177-A and Chapter 410)
  - Causes for disciplinary action. (32 MRSA §13067-A, Title 10 §8003 5A)
    - ✓ The complaint process
    - ✓ Disciplinary sanctions
  - Chapter 400 with particular attention to:
    - ✓ Designated Broker supervisory duties
      - 90-day rule
    - ✓ Trust Accounts – definition & records
      - 5-business day rule on deposits
      - Undisputed and disputed deposits
    - ✓ Record retention
  - Chapter 410 (*minimum* standards of practice)
    - ✓ Advertising
    - ✓ Acting in Self-interest
    - ✓ Market Value (“nobody role”)
    - ✓ Net Listing Prohibited
    - ✓ Duty to Furnish Documents
    - ✓ Disclosure of Compensation Policy
    - ✓ Disclosed Dual Agency
    - ✓ Appointed Agent Procedures and Disclosure
    - ✓ Real Estate Brokerage Relationships Procedures
    - ✓ Solicitation of Brokerage Agency Contracts
    - ✓ Inducements
    - ✓ Confidentiality of Contract Terms
    - ✓ Licensee’s Duty to the Designated Broker
      - Domain names and Websites
    - ✓ Licensee’s Duty to Obtain and Provide Disclosure Information on Private Water Supply, Heating, Waste Disposal System, Known Hazardous Materials, Potential Flood Risks and Access to Property
    - ✓ Referral Fees
  
- ❖ **Explain other property conditions and disclosures**
  - Environmental issues and hazards:
    - ✓ Federal lead-based paint disclosure
    - ✓ Arsenic (wood and water pamphlets)
    - ✓ Asbestos
    - ✓ Radon
    - ✓ Mold
    - ✓ Endangered and protected species
    - ✓ Wetlands and flood plains
    - ✓ Farmland Adjacency (7MRSA §51-59)

- ✓ Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)
- ✓ Water quality of bodies of water
- ✓ Hazardous waste sites
- Material Defects
  - ✓ Leaking roof
  - ✓ Rotted sills
  - ✓ Water in the basement
  - ✓ Etc.
- Liability Considerations
  - ✓ Potential liability related to information-gathering skills
    - Sources of reliable information
  - ✓ When to suggest the client seek expert advice
  - ✓ Differentiate between the three types of misrepresentation
  - ✓ Innocent
  - ✓ Negligent
  - ✓ Fraudulent

- ❖ **Distinguish between material facts and material defects**
- ❖ **Explain components of and complete property disclosures**

## ► **Agency Relationships (13%)**

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

- ❖ **Explain the Law of Agency/Brokerage, Presumption of Transaction Brokerage (32 MRSA § 13271, 13272, 13273, 13274, 13275, 13278, 13282 & 13283)**
  - Vicarious liability
  - Imputed knowledge
  - Fiduciary duties
  - Potential consequences of vicarious liability, imputed knowledge & breach of fiduciary duty
  - Termination of agency relationship and obligations after termination
  - Requirement of a written brokerage agreement with a client to create an agency relationship (32 MRSA 13177-A)
  - Components of a Brokerage agreement with a client
  - Appropriate use of and proper practice regarding the Real Estate Brokerage Relationships Form (32 MRSA §13279 & Chapter 410 Section 9)
  - Role of a company's written policy on agency relationships

## ► **Product Knowledge (28%)**

**Objectives:** *Upon completion of this section, students will recognize property characteristics and interests, public and private limitations on property rights, the recording system, and how rights and real estate are conveyed.*

- ❖ **Explain Real Property Characteristics**
  - The difference between real & personal property
  - Real property descriptions
    - ✓ Metes & bounds
    - ✓ Reference to a lot on a plan
    - ✓ Rectangular survey system
    - ✓ Mortgage loan inspections vs. boundary survey
    - ✓ Other
  - Estates & real property:
    - ✓ Fee simple
      - Absolute
      - Condition subsequent

- Determinable
- ✓ Life estate
  - Estate pur autre vie
  - Remainder
  - Reversion
- Rights of property owners under each estate
- Bundle of rights
  - ✓ Right to occupy
  - ✓ Right to sell
  - ✓ Riparian rights
  - ✓ Mineral rights
  - ✓ Right to do nothing at all
  - ✓ Right to lease
  - ✓ Right to encumber
  - ✓ Other
- Interests in real estate
  - ✓ Adverse possession
  - ✓ Easements
    - Types
    - Creation
    - Termination
  - ✓ Profit
  - ✓ License
  - ✓ Leasehold interests
  - ✓ Liens
    - Internal Revenue Service (“IRS”)
    - Property tax
    - Utility
    - Lis pendans
    - Mechanic’s
    - Materialmen’s
    - Estate tax
  - ✓ Mortgages
    - Foreclosure
    - Short Sale

❖ **Explain Leasehold Estates**

- Creation and termination of various types of leasehold arrangements
  - ✓ Estate for years
  - ✓ Estate from year to year/periodic estate
  - ✓ Tenancy at will
  - ✓ Tenancy at sufferance
  - ✓ Holdover tenant
  - ✓ Effect of lease on sale and foreclosure
- Types of leases
  - ✓ Gross
  - ✓ Net
  - ✓ Index
  - ✓ Percentage
  - ✓ Ground
  - ✓ Graduated
- Maine Landlord-Tenant Act (14 MRSA §§6001 – 6050)
  - ✓ Landlord rights and responsibilities
    - Warranty of habitability
    - Right of access

- Discuss security deposits
  - Amount
  - Security Deposit Escrow Account
  - Return
  - Purpose
- Late fees
- Eviction
  - Forcible entry & detainer
  - Constructive
- Abandoned property
- Lead based paint
- Other
- ✓ Tenant rights and responsibilities
- ✓ Terms of lease clauses
  - Maintain property
  - Pay rent on time
  - Assignment/Subletting
  - Pets
  - Other
- Obligations of the property manager to the property owner

❖ **Provide an overview of land use controls and restrictions:**

- Private land use controls
  - ✓ Deed restrictions/restrictive covenants
  - ✓ Association rules
    - Condominium rules and regulations
    - Neighborhood associations
  - ✓ Condition subsequent/determinable
- Public police powers of government
  - ✓ Zoning
    - Maps
    - Ordinances
    - Enforcement
    - Nonconforming use
    - Building permits
    - Variances
    - Building codes
    - Spot zoning
- Maine Land Use Laws
  - ✓ Subdivision (30-A MRSA §§4401-4408)
  - ✓ Shoreland zoning (38 MRSA §§435-449)
  - ✓ Transfer of shoreland property [shoreland & coastal shoreland] (30-A §4216)
  - ✓ Site location and development (38 MRSA §§481-490)
  - ✓ Underground storage tanks (38 MRSA §§561-570M)
  - ✓ Natural Resources Protection Act (38 MRSA §§480A – 480-HH)
  - ✓ Minimum lot size (12 MRSA §§4807 – 4807G)
  - ✓ Land Use Planning Commission (“LUPC”) (12 MRSA §§681-689)
  - ✓ Department of Environmental Protection (“DEP”) (38 MRSA §§341-A – 358)
  - ✓ Conversion of seasonal dwellings (30-A MRSA §4215 and DHHS Chapter 242)
  - ✓ Protection of endangered/protected species (12 MRSA §§12801-2810)
  - ✓ Other
- Property taxation and exemptions
  - ✓ Homestead
  - ✓ Tree growth (36 MRSA §§571-584-A)
  - ✓ Open space/Farmland tax law (36 MRSA §§1101-1121)
  - ✓ Legally Blind

- ✓ Veterans

❖ **Explain Property Ownership & Transfer**

- Various types of property ownership that apply in Maine
  - ✓ Sole ownership (severalty)
  - ✓ Tenants in common
  - ✓ Joint tenancy
  - ✓ Partnership
  - ✓ Corporate
  - ✓ Estate
  - ✓ Condominium
    - Public offering statement
    - Resale documents
    - Restrictions
    - Unit boundaries
    - Association management issues
  - ✓ Timeshare
  - ✓ Cooperative
  - ✓ Trusts
  - ✓ PUD
- Additional forms of property ownership
- Tenancy by the entirety
  - ✓ Community property
  - ✓ Dower & Curtesy
- Methods of transfer
  - ✓ Voluntary alienation
    - Deeds
    - Will
    - Heirs at law
  - ✓ Involuntary alienation
    - Adverse possession
    - Eminent domain
    - Escheat
    - Foreclosure
    - Petition for partition
- Race, race-notice and notice recording systems

❖ **Explain Transfer of Title**

- Types of deeds
  - ✓ Warranty (general warranty)
    - Covenant of seisin
    - Covenant of right to convey
    - Covenant against encumbrances
    - Covenant of quiet enjoyment
    - Covenant of warranty
    - Covenant of further assurances
  - ✓ Quit claim
  - ✓ Quit claim with covenant
  - ✓ Personal representative
  - ✓ Trustees
  - ✓ Corporate
  - ✓ Other
- Assorted title defects
  - ✓ Interest of a missing heir
  - ✓ Fraudulent conveyance

- ✓ Incompetent grantor
- ✓ Undischarged mortgage or liens
- ✓ Boundary lines
- ✓ Encroachments
- ✓ Etc.

❖ **Explain Sources of property information for property disclosures and data sheets**

- Registry of Deeds
  - ✓ Current owner's deed
    - Book and page
    - Easements
    - Restrictions
    - Recorded plot plan
    - Property description
- Local governing authority
  - ✓ Taxes
  - ✓ Tax card
  - ✓ Tax assessments
  - ✓ Tax exemptions
  - ✓ Zoning
  - ✓ Code compliance
- Other sources as appropriate:
  - ✓ Service Providers
  - ✓ Department of Environmental Protection ("DEP")
  - ✓ Land Use Planning Commission ("LUPC")
  - ✓ Department of Transportation ("DOT")

❖ **Explain basic house styles and construction terminology**

- House styles
  - ✓ Ranch
  - ✓ Cape
  - ✓ Split level
  - ✓ Split entry
  - ✓ Garrison
  - ✓ Manufactured
  - ✓ Modular
  - ✓ Contemporary
  - ✓ Gambrel
  - ✓ Etc.
- Building components
  - ✓ Rafters
  - ✓ Sheathing
  - ✓ Joists
  - ✓ Sills
  - ✓ Studs
  - ✓ Foundation
  - ✓ Flashing
  - ✓ Etc.

▶ **Property Valuation and the Appraisal Process (9%)**

**Objectives:** *Upon completion of this section students will be able to recognize different types of value, recognize principles of value, and calculate value using the three different approaches.*

❖ **Explain types of value**

- Market value

- Assessed value
- Insurance value
- Condemnation value
- Liquidation value
- ❖ **Explain principles of value**
  - Location
  - Condition
  - Contribution
  - Supply & demand
  - Substitution
  - Highest & best use
  - Competition
  - Depreciation
    - ✓ Physical
    - ✓ Economic/External
    - ✓ Functional
- ❖ **Calculate estimates of property value and investment analysis**
  - Market data approach
  - Income approach
    - ✓ Cap rate
    - ✓ Gross Rent Multiplier (“GRM”)
    - ✓ Gross Income Multiplier (“GIM”)
  - Cost approach
- ❖ **Explain appraisal law as it relates to sales agents (32 MRSA §14004 [2])**

## ► **Financing the Transaction (9%)**

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

- ❖ **Identify sources of financing**
- ❖ **Differentiate between primary and secondary market**
- ❖ **Explain various mortgage terms**
  - Points
  - Package (real and personal property)
  - Blanket
  - Junior/senior
  - Wraps
- ❖ **Explain the mortgage qualification process**
  - Explain the role of credit scores
  - Explain the role of front end and back-end ratios
- ❖ **Explain various types of financing instruments**
  - Mortgage note
  - Mortgage deed
    - ✓ Acceleration clause
    - ✓ Defeasance clause
  - Bond for deed/contract for deed/installment land sale
  - Deed of trust

- ❖ **Differentiate between different types of financing programs**
  - Federal Housing Administration (“FHA”)
  - Veterans Administration (“VA”)
  - Conventional insured
  - Conventional
  - Nonconventional
  - Maine Housing Authority
  - Construction
  - Rural Development (Direct and Guaranteed)
  - Seller financing
  
- ❖ **Contrast types of repayment**
  - Amortizing
  - Balloon
  - Term
  - Adjustable-Rate Mortgage (ARM)
  - Biweekly
  
- ❖ **Explain lender requirements and obligations**
  - Insurance
  - Escrow
  - Title insurance – lenders/owners policy
  - Mortgage inspection survey
  - Appraisal
  - Title search
  - Job history
  - Collateral
  - Credit rating
  - Property condition
  - Down payment/closing costs
  
- ❖ **Explain Predatory lending/mortgage fraud**
  - Title 33, Subsection 506 “Undocumented Mortgage Agreements”
  - Lenders changing rates & terms

## ▶ **Contracts (14%)**

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

- ❖ **Define types of contracts**
  - Valid
  - Void
  - Voidable
  - Bilateral
  - Unilateral
  - Executory
  - Executed
  - Enforceable
  
- ❖ **Explain the elements and creation of a valid contract**
  - Competent parties
    - ✓ Legal age
    - ✓ Mental capacity

- ✓ Duress
- ✓ Undue influence
- Legal purpose
- Offer (including Maine Real Estate Commission offer & counteroffer guidelines)
  - ✓ Verbal/written
  - ✓ Valid until or unless:
    - Revocation
    - Expiration of time
    - Counteroffer
    - Death of offeror
    - Death of offeree
    - Communicated acceptance
    - Rejection
- Acceptance
  - ✓ Mutual assent/meeting of the minds
  - ✓ All parties and interests
- Consideration
  - ✓ Exchange of value
- Communication of acceptance creates a valid contract
- Identify effective date of contract

❖ **Explain the Statute of Frauds**

❖ **Discuss termination of Contracts**

- Complete performance
- Expiration of time
- Default/Breach
- Death
- Unmet contingencies

❖ **Types of contracts involved in real estate:**

- Brokerage agreements
  - ✓ Seller client agreements (must be in writing per license law)
    - Exclusive right to sell
    - Exclusive agency
    - Open (nonexclusive)
  - ✓ Buyer client agreements (must be in writing per license law)
    - Exclusive right to buy
    - Exclusive agency
    - Open (nonexclusive)
  - ✓ Content of a brokerage agreement with a client (32 MRSA §13177-A)
  - ✓ Transaction broker agreements
    - Written
    - Verbal
- Other real estate agreements
  - ✓ Purchase & sale agreements
  - ✓ Leases
  - ✓ Options
  - ✓ Right of first refusal
  - ✓ Installment sale contract

❖ **Properly complete industry agreements**

- Brokerage agreements
  - ✓ Seller
  - ✓ Buyer
  - ✓ Disclosed dual agency form

- ✓ Appointed agent consent form
- Purchase and sale agreements
  - ✓ Contingencies for buyer
  - ✓ Contingencies for seller
- Discuss unauthorized practice of law
  - ✓ Changing pre-printed forms
  - ✓ Writing contingencies

## ► Closings (8%)

**Objectives:** *Upon completion of this section students will be able to recognize settlement documents, State and Federal requirements and calculate closing costs.*

- ❖ **Explain and calculate closing costs and identify the responsible party**
  - Transfer tax (Title 36, §4641-A)
  - Prorations
  - Escrows
  - Recording fees
  - Points
  - Non-resident withholding
  - Title exam
  - Title Insurance
  - Commission
- ❖ **Calculate buyer cost and seller proceed sheet**
- ❖ **Recognize settlement documents**
  - Settlement statement
  - Declaration of value form
  - Deed
  - Mortgage documents
  - Residency affidavit
- ❖ **Prepare the buyer and/or seller for closing as appropriate**
  - Walk-through
  - Occupancy
  - Cashier's check
  - Keys
  - Transfer utilities
  - Insurance binder/policy
  - Garage door openers
  - Proration of fuel (oil, propane, wood)
  - Date, time and location
  - Review settlement statement before closing
  - Cancellation of services
- ❖ **Explain Real Estate Settlement Procedures Act ("RESPA")**
  - Transactions covered
  - TILA-RESPA Integrated Disclosure rule
    - ✓ Loan Estimate
    - ✓ Closing Disclosure
  - Booklet on settlement costs
- ❖ **Relate items on buyer cost and seller proceed sheet to TILA-RESPA Integrated Disclosure - Closing Disclosure**

## ► **Miscellaneous Federal/State laws governing Real Estate Activities (4%)**

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

- ❖ **Explain the tax ramifications of residential real estate ownership**
  - Deductibility of interest and real estate taxes
  - \$250,000/\$500,000 capital gains exemption
  
- ❖ **Explain the Foreign Investment in Real Property Tax Act (“FIRPTA”)**
- ❖ **Explain Civil Rights Acts/Fair Housing Acts for sales and rentals**
  - Provisions
  - Violations
  - Enforcement/penalties
  - Exceptions
  - Advertising
  - Required poster
  
- ❖ **Explain Americans with Disabilities Act (ADA)**
  - Define Americans with disabilities
  - Identify the properties to which the law applies
  
- ❖ **Explain anti-trust laws**
  - Describe conspiratorial behavior
  - Explain price fixing
  - Explain boycotting
  - Explain tying arrangements
  - Allocations
  
- ❖ **Explain Truth in Lending Act (TILA)**
  - List triggering terms used in advertising
  - List required financing disclosures
  
- ❖ **Equal Credit Opportunity Act (ECOA)**
- ❖ **Equal Employment Opportunity Commission (EEOC)**
- ❖ **Identify marketing controls**
  - Do not call lists
  - Faxing restrictions
  - E-mail restrictions

## ► **Conclusion**

- ❖ **What happens next?**
  - Documented Field Experience Form

**Maine Real Estate Commission  
Minimum Guidelines for Qualifying Education  
The Sales Agent Course**

**Approved by Commission January 24, 2013  
Live Delivery Guidelines - Effective August 1, 2013  
Distance Education Guidelines - Effective January 24, 2013**

**These guidelines replace the January 2006 guidelines.**

The course must comply with the provisions of Chapter 360 Section 3 of the Commission's rules and:

- Course length 55 hours
- Passing Grade 75%
- Time allotted for quizzes/final exam shall not exceed 10% of course length
- Quizzes – 3 consisting of a minimum of 60 questions total; question format to be objective with definitive answer; quizzes to be administered at appropriate intervals to assess student's understanding of material covered to date; quiz and exam questions should not be repetitive and upon completion of quiz provide students with explanation of why wrong answers are wrong and sufficient information for students to understand which answer is correct.
- Final exam – minimum of 80 questions weighted according to the percentage assigned to the topic in the course outline: question format to be objective with definitive answer and final exam to be administered at the end of the course.
- Students must receive the following at the beginning of the course:
  - ✓ Course outline
  - ✓ Maine Real Estate Commission Course Guidelines
  - ✓ Instructors contact information
  - ✓ Technology requirements to complete the course
  - ✓ Policy of cheating or misrepresenting student identity
  - ✓ Learning objectives
  - ✓ Course completion deadline

Additional guidelines for Live Delivery Courses:

- Required attendance 90%
- Quizzes and Final Exam - no open book or take home and scored by instructor.
- Course grade weighting – final exam 50%; quizzes 30%; the remaining 20% may include case studies, open book/take home exercises, participation etc.

Additional guidelines for Distance Education Courses: Course shall be certified by the Association of Real Estate License Law Officials (ARELLO) or meet the following guidelines:

- Delivery formats limited to CD-ROM-based training; Internet/web-based or webinar-type courses and paper correspondence.
- Include a minimum of two case studies as part of the course content.