

Maine Real Estate Commission

The Associate Broker Course

Outline

Approved: 8/15/2013 Effective: 3/1/2014
This outline replaces the outline approved March 2006

Requirement Overview:

This course, at a minimum, must be 60 hours in length; include 3 quizzes and a final exam; receipt of completed Documented Field Experience Form and meet other standards established in the Minimum Guidelines for The Associate Broker Course approved January 24, 2013, attached and made part of this outline.

Course Objectives:

This course is designed to help licensees develop a deeper understanding of the elements of real estate brokerage topics presented in The Sales Agent Course and to apply course material to everyday real estate brokerage activities. 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, facility information, attendance, snow days, grading, etc.

► Maine Real Estate Commission ("MREC") (9%)

Objectives: *At the conclusion of this section licensees will be able to:*

- *apply Maine license law and rules to various situations in real estate practice*
- *complete property disclosure.*

❖ Briefly review Structure of License Law and MREC Rules

- Procedure & disciplinary action (32 MRSA §13061, §13062, §13067-A, §13068
 - ✓ Policy (32 MRSA §13061)
 - ✓ Organization (32 MRSA §13062)
 - ✓ Disciplinary action (32 MRSA §13067-A & Title 10 §8003 5A)
 - ✓ Decisions(32 MRSA §13068)
- Continuing Education (32 MRSA 13197)
- Reporting to the Real Estate Commission (32 MRSA §13175 & §13195)

❖ Practice-related Issues

- Advertising (32 MRSA §13176 and Chapter 410 Section 1 & 13(3))
 - ✓ Inducements (Chapter 410 Section 11)
- Disclosure (Chapter 410 Section 14-18 and all material defects related to the physical condition of the property)
 - ✓ Forms
 - ✓ On-site/off-site issues
 - ✓ Outdated forms
 - ✓ Material facts vs. material defects
- Company policy on agency (Chapter 400 Section 1 & Chapter 410 Section 6(1))
- Licensee's duty to Designated Broker (Chapter 410 Section 13 (1) & (2))
- Earnest money deposits (32 MRSA §13178 and Chapter 400 Section 2)
- Designated Broker supervision (32 MRSA §13179 and Chapter 400 Section 1)
- Conflicts of Interest and exception to appraisal law (32 MRSA §14004)
- All other sections of Chapter 410

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► Agency and Non-Agency Relationships (12%)

Objectives: *At the conclusion of this section licensees will be able to conduct themselves appropriately as a buyer agent, seller agent or transaction broker in a variety of real estate transactions.*

❖ Review Agency Relationships; Fiduciary Duties and Transaction Broker

- Real Estate Brokerage Relationships Form (32 MRSA §13279 & Chapter 410 Section 9)
- Fiduciary Duties (32 MRSA §13272)
- Definitions (32 MRSA §13271)
- Transaction broker (32 MRSA §13282-13283)
- Creation/termination of relationship (32 MRSA 13177(A), §13279, §13281)
- Duties of listing agent to buyer to customer & client (32 MRSA §13273)
- Duties of buyer agent to seller to customer & client (32 MRSA §13274)
- Subagency (32 MRSA §13271 (12))
- Appointed Agency (32 MRSA §13278 and Chapter 410 Section 8)
 - ✓ Vicarious Liability
 - ✓ Imputed Knowledge
- Disclosed Dual agency (32 MRSA §13275 & Chapter 410 Section 7)
 - ✓ Affirmative duties
- Who are you in this transaction
- Components of an agency client agreement (32 MRSA §13177(A))
- Companies with different policies

► Closings (13%)

Objectives: *At the conclusion of this section licensees will be able to:*

- *Identify various obligations of the licensee in relation to closings*
- *calculate closing costs*
- *review a TILA-RESPA Integrated Disclosure - Closing Disclosure to determine it accurately reflects the terms of the transaction*

❖ Identify potential problems and discuss solutions

- Title Insurance
 - ✓ Standard or enhanced policies
 - ✓ Lender & owner coverage
- Walk-through issues
 - ✓ Seller has not vacated
 - ✓ Property not broom clean
 - ✓ Missing fixtures
- Unmet contingencies
- Encroachment/boundary issues
 - ✓ Mortgage Loan Inspection (MLI)
 - ✓ Boundary Survey
- Re-signing the loan application at closing
- Change in loan requirements
- Closing date postponed
- Mortgage fraud
 - ✓ Undisclosed side agreements
 - ✓ Lost job
- Domino transactions
- Closing documents

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- ✓ TILA-RESPA Integrated Disclosure - Closing Disclosure
 - Prorations
 - Incorrect info (e.g. sale price, commission)
 - Non-resident withholding or waiver
 - Foreign Investment in Real Estate Property Tax Act (“FIRPTA”)
- ✓ Possible disclosures
 - Shoreland & Coastal Shoreland 30-A MRSA §4216
- Insurance binder
- Accounting for earnest money
- After closing escrow agreements

► Land Use (9%)

Objectives: *At the conclusion of this section licensees will be able to:*

- recognize a variety of land use laws
- predict the application of a variety of land use laws and how they affect buyers and sellers

❖ Review land use laws

- Zoning
- Subdivisions (30-A MRSA §4401-4408)
- Shoreland zoning (38 MRSA §435-449)
- Transfer of shoreland property (freshwater/coastal) (30-A MRSA §4216)
- Conversion of seasonal dwellings (30-A MRSA §4215 and DHHS Chapter 242)
- Easements
- Deed restrictions
- Restrictive covenants
- Home Owner Association (HOA) restrictions
- Condominium declarations, bylaws, rules
- Co-ops
- Natural Resource Protection Act
- Farmland Registration Act (aka Farmland Adjacency Act)(7 MRSA §§51-59)
- Vernal pools
- Significant Wildlife Habitat – shorebirds, waterfowl and wading birds
- Raw land with intent to build
 - ✓ Soil test
 - ✓ Minimum lot size
 - ✓ Building Permit
 - ✓ Curb cuts
 - ✓ Utilities
- Adverse possession
- Eminent domain
- Property Taxation and exemptions
 - ✓ Homestead
 - ✓ Tree growth (36 MRSA §§571-584-A)
 - ✓ Open space/Farmland tax law (36 MRSA §§1101-1121)
 - ✓ Legally blind
 - ✓ Veterans

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► Finance (8%)

Objective: *At the conclusion of this section licensees will be able to address a variety of financing circumstances for buyer and seller clients and customers.*

❖ Review:

- Various types of financing (FHA, VA, etc.)
- Cash transactions
 - ✓ Verification of funds
 - ✓ Honesty to seller
- Seller financing
- Bond for deed
- Take back a note for commission
- Real Estate Settlement Procedures Act (RESPA)
- Affiliated business relationships
- Buyer loses financing the day before closing
- Lender application form
- Foreclosures/Short Sales
- Alternative financing options
- Actions that affect credit score and impact on financing

► Value (9%)

Objectives: *At the conclusion of this section licensees will be able to:*

- estimate value for buyers and sellers using the three approaches below
- complete an estimate of value for each of the three approaches below

❖ Review:

- Cost Approach
- Income Approach
- Market Value Approach
- Comparable Market Data
- Any Opinion of Value for compensation
- Appraisal law exemption (32 MRSA §14004)
 - ✓ Conflict of interest (32 MRSA § 13251-A)

► Contracts for the Transfer of an Interest in Real Estate (10%)

Objectives: *At the conclusion of this section licensees will be able to:*

- recognize various types of contracts and applicable clauses
- resolve a variety of situations that arise
- complete a purchase and sale agreement

❖ Review:

- Elements of a contract
 - ✓ Legal purpose
 - ✓ Competent parties
 - ✓ Statute of Frauds
 - ✓ Offer
 - ✓ Acceptance
 - ✓ Consent
 - ✓ Communication

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- Types of contracts (Purchase and Sale Agreement, Lease Option, Right of 1st refusal)
- Unauthorized practice of law
- Contingencies
 - ✓ Unmet
 - ✓ Financing
 - ✓ Short Sale
 - ✓ Other
- Addenda and amendments
 - ✓ Leases/occupancy
 - ✓ Condo docs
 - ✓ Other
- Confidentiality
 - ✓ Licensee
 - ✓ Buyer/Seller
- MREC Real Estate Transactions Offers/Counter Offers – Agent – Client Guidelines
- Complete signatures/initials
- When an offer becomes a contract (imputed knowledge)
- Unsatisfactory Inspections
- Unfamiliar forms
- Items included on brochure/disclosure form not in contract
- Continue to show
- Delivery and timing of property disclosure; cancellation of contract (33 MRSA §174)
- Acting in self-interest (Chapter 410 Section 2)

► **Miscellaneous State and Federal Laws (4%)**

Objective: *At the conclusion of this section licensees will be able to apply the following miscellaneous federal and state laws in a variety of real estate transactions.*

❖ **Review:**

- Anti-trust
- Fair Housing
- Americans with Disabilities Act (“ADA”)
- Truth in Lending Act (“TILA”)
- Radon
- Smoke/carbon monoxide detectors
- Lead Paint (Sale and Rental)
 - ✓ Disclosure
 - Single family
 - Multi-family
 - ✓ Renovation, Repair and Painting Rule (“RRP”)
- Tax considerations
 - ✓ Capital gains
 - ✓ 1031 Tax Deferred Exchange
- Other that relate to the transaction

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► Job Description: Listing Licensee (10%)

Objectives: *At the conclusion of this section licensees will:*

- recognize the difference between client and customer level service
- execute their duties consistent with their agreements, the law, rules and company policy

❖ Review:

- Prelisting work
 - ✓ Gather required information from town hall, registry of deeds, LUPC, other appropriate authorities for:
 - Land
 - Income property
 - Condominium
 - Single family
 - Waterfront
 - ✓ Prepare listing packet
- First meeting with seller
 - ✓ Real Estate Brokerage Relationships Form
 - ✓ Gather information about the property
 - ✓ Gather information for the disclosure form
 - ✓ Prepare Comparable Market Analysis
- Second meeting with seller
 - ✓ Presentation of CMA
 - ✓ Types of Agreements
 - ✓ Line by line review of exclusive listing agreement
 - Cooperation and compensation with other companies
 - Procuring Cause
 - ✓ Presentation of marketing plan
 - ✓ Estimate Seller proceeds
 - ✓ Duty to furnish documents (Chapter 410 Section 5)
 - ✓ Home warranties/inspections
- From listing to under contract
 - ✓ Ongoing communication with the seller
 - ✓ Showings
 - ✓ Presentation of offers
 - ✓ Negotiation of contract
- Under contract to closing
- Closing
- Follow up after closing

► Job Description: Selling Licensee (10%)

Objectives: *At the conclusion of this section licensees will be able to:*

- recognize the difference between client and customer level service
- execute their duties consistent with their agreements, the law, rules and company policy

❖ Review:

- First meeting with buyer
 - ✓ Real Estate Brokerage Relationships Form
 - ✓ Buyer packet
 - ✓ Types of Agreements
 - ✓ Line by line review of exclusive brokerage agreement

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- Are terms and conditions accurate (price range, location, property type, etc.)
- Cooperation and compensation with other companies
- Procuring Cause
- Qualifying the buyer
 - ✓ Buyer counseling session
 - ✓ Wants and needs
 - ✓ Financially
 - ✓ Estimate Buyer Costs
- Showings
- Making the offer
 - ✓ Gather the information
 - Land
 - Income property
 - Condominium
 - Single family
 - Waterfront
 - ✓ Warranties
 - ✓ Inspections
 - ✓ Prepare Comparable Market Analysis for clients or provide Comparable Market Data to customers
 - ✓ Presentation of offers
 - ✓ Negotiation of contract
- Under contract to closing
- Closing
- Follow-up after closing

► Negotiations and Communications (5%)

Objectives: *At the conclusion of this section licensees will be able to:*
- employ negotiation techniques on behalf of clients

❖ Review:

- Negotiating techniques
 - ✓ Separate the people from the problem
 - ✓ Focus on interests, not positions
 - ✓ Invent options for mutual gain/overcome objections
 - ✓ Use objective criteria
 - ✓ Understand personalities
 - ✓ Understand cultural differences

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Maine Real Estate Commission Minimum Guidelines for Qualifying Education The Associate Broker 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 March 2006 guidelines.

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

- Course length - 60 hours (plus Documented Field Experience Form)
- 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 and quizzes to be administered at appropriate intervals to assess student's understanding of material covered to date.
- 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; final exam to be administered at the end of the course and proctored by course instructor or another appropriate proctor. (A proctor must be a disinterested third party who is not a relative or friend of the student, does not have a vested interest in the student's exam score, and is not a real estate licensee other than the course instructor or another instructor of a course approved by the Commission. Examples of an appropriate proctor include, but are not limited to, a librarian, teacher, school counselor, police officer, and military officer of higher rank than the student. Remote online proctoring may only be conducted by companies specializing in testing. Schools are encouraged to have written agreements with proctors regarding identifying the student taking the exam, security procedures to be implemented during the exam as well as collection and submission to the course instructor of any test materials.)
- Students must receive the following at the beginning of the course:
 - ✓ Course outline
 - ✓ Maine Real Estate Commission Course Guidelines
 - ✓ Instructor 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. No paper correspondence. Videotaped delivery of a live pre-licensing program is not acceptable.
- CD-ROM/Internet/Web-based delivery methods must provide student-instructor interactivity and student content interactivity in the form of hyperlinks to vocabulary words, quizzes, links to

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supplemental reference material, case studies and remediation exercises (i.e. when a question is answered incorrectly some indication of why the answer was incorrect and the appropriate answer).

- Evidence of time studies to ensure the average completion time of the course is consistent with the hours established for each course. Each hour of a distance education course is equivalent to one hour of live classroom instruction.
- Quiz and Final Exam questions to be drawn from a pool of questions.
- Students must achieve a passing grade (75%) on each quiz to move ahead.