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Final Exam: Principles of Real Estate in Texas I v18.0

QUESTION# 1

[QID: re_question_00147_1565.dita]

All are categories of the uses of real property *EXCEPT*

- **developmental.**
- residential.
- agricultural.
- industrial.

The answer is developmental. Real estate is generally grouped into five categories: residential, commercial, industrial, agricultural, and special purpose.

QUESTION# 2

[QID: re_question_00147_1566.dita]

Which of the following is *TRUE*?

- **Regulations passed by governmental agencies expand on the law and have the effect of law.**
- Regulations passed by governmental agencies expand on the law but do not have the effect of law.
- Regulations passed by governmental agencies are merely advisory but do not have the effect of law.
- None of these.

The answer is regulations passed by governmental agencies expand on the law and have the effect of law. Governmental agencies that enact rules and regulations range from the Federal Housing Administration to the Texas Real Estate Commission to local zoning boards. Regulations passed by these agencies are a means of implementing and enforcing legislative acts; they provide detailed information on legal and illegal actions and practices; they designate penalties and violations; and they expand on the law and have the effect of law.

QUESTION# 3

[QID: re_question_00147_1567.dita]

The primary purpose of the U.S. Constitution and the individual state constitutions is to establish the rights of citizens and delineate governmental authority's

- **limits.**
- rights.

- privileges.
- advantages.

The answer is limits. For example, the 14th Amendment to the U.S. Constitution provides civil rights protections that serve as the basis for federal fair housing legislation; and homestead and community property laws derive from the Texas Constitution.

QUESTION# 4

[QID: re_question_00147_1568.dita]

A homeowner's right to live in a newly purchased house is the right of

- **possession.**
- enjoyment.
- disposition.
- control.

The answer is possession. Possession is the right to occupy property.

QUESTION# 5

[QID: re_question_00147_1569.dita]

Naturally growing plants and trees that do *NOT* require cultivation are classified as which kind of property?

- **Real**
- Personal
- Fruits of industry
- Fruits of labor

The answer is real. Naturally growing vegetation is also called fructus naturales or fruits of nature.

QUESTION# 6

[QID: re_question_00147_1570.dita]

Which is considered personal property?

- **Trade fixture**
- Fixture
- Permanently attached bathtub
- None of these

The answer is trade fixture. A trade fixture is an article attached by a tenant to a building for use in conducting a trade or business. One example of a trade fixture is a neon sign. A trade fixture remains the personal property of the tenant and can be removed by the tenant on or before the termination of the lease. A fixture, such as a bathtub, when permanently attached to a building, becomes part of the real property and cannot be removed when the owner sells the property.

QUESTION# 7

[QID: re_question_00147_1571.dita]

When demand decreases, real estate prices

- **decrease.**
- remain stable.
- increase.
- none of these.

The answer is decrease. Demand and price move in the same direction. When demand increases, prices increase.

QUESTION# 8

[QID: re_question_00147_1572.dita]

The Texas Real Estate License Act was first passed in

- **1949.**
- 1919.
- 1939.
- 1947.

The answer is 1949. The first law to regulate real estate brokerage in Texas was the Texas Real Estate Dealers Act, passed in 1939. The law that currently regulates real estate in Texas is the Texas Real Estate License Act, passed in 1949.

QUESTION# 9

[QID: re_question_00147_1573.dita]

A period of renewed growth after a depression represents which stage of the business cycle?

- **Revival**
- Recession
- Depression
- Expansion

The answer is revival. The normal business cycle has a period of growth or expansion, followed by a peak and a slow down or recession, followed by a depression and trough (or low point), followed by a period of renewed growth or revival.

QUESTION# 10

[QID: re_question_00147_1574.dita]

Rules and regulations adopted by government agencies

- **are used to implement and enforce legislative acts.**
- may not prescribe penalties for violations.

- do not have the force and effect of legislative acts.
- are considered a precedent for future rules and regulations.

The answer is are used to implement and enforce legislative acts. Government agencies must be empowered to establish rules and regulations necessary to implement, administer, and enforce legislative acts. They designate penalties and violations, expand on the law, and have the full force and effect of law.

QUESTION# 11

[QID: re_question_00147_1575.dita]

Fixtures are

- **real property.**
- chattels.
- emblements.
- removable by a tenant before the expiration of the lease.

The answer is real property. Almost any item that has been added as a permanent part of a building is considered a fixture and is automatically included with the real property.

QUESTION# 12

[QID: re_question_00147_1576.dita]

Which (with its amendments) prohibits discrimination based on color, race, national origin, religion, gender, familial status (families with children), and people with mental and physical handicaps when selling or renting residential property?

- **Fair Housing Act of 1968**
- Civil Rights Act of 1866
- Civil Rights Act of 1964
- Americans with Disabilities Act of 1990

The answer is Fair Housing Act of 1968. The Civil Rights Act of 1866 prohibits racial discrimination in any real estate transaction. The Civil Rights Act of 1964 prohibits discrimination in housing that receives federal funding. The Americans with Disabilities Act of 1990 protects the employment and accessibility rights of people with disabilities.

QUESTION# 13

[QID: re_question_00147_1577.dita]

Under the federal Fair Housing Act, real estate organizations, such as multiple listing services, may *NOT* do which because someone is in a protected group?

- **Refuse membership or put conditions on participation**
- Discriminate in the listing or sale of commercial properties
- Ask the age of prospective clients
- All of these

The answer is refuse membership or put conditions on participation. For example, a multiple listing service that refused to accept listings from a certain ethnic group because it felt they were too hard to work with would be in violation of the Act.

QUESTION# 14

[QID: re_question_00147_1578.dita]

Which term refers to the surface of the earth; below to the center of the earth; above to infinity; natural things permanently attached; man-made things permanently attached; and legal interests, rights, and privileges?

- **Real property**
- Property
- Land
- Real estate

The answer is real property. Real property includes land and real estate and adds the legal rights of real estate ownership—the bundle of rights.

QUESTION# 15

[QID: re_question_00147_1579.dita]

An important characteristic of land is that it may be modified or improved at any given time. Depending on its type, an improvement may increase the value of real estate greatly. All of the following would be considered improvements to land *EXCEPT*

- **annual crops.**
- sewers.
- roads.
- utilities.

The answer is annual crops. An improvement applies to structures erected on the land, as well as other man-made permanent additions to the property. Annual planting of crops (*fructus industriales*, also known as emblements) are considered personal property.

QUESTION# 16

[QID: re_question_00147_1580.dita]

Which of the following is *TRUE*?

- **The Commission may suspend or revoke the license of a license holder who discriminates against an owner, potential buyer, landlord, or potential tenant.**
- The Texas Real Estate Commission may suspend, but not revoke, the license of a real estate license holder who discriminates against an owner, potential buyer, landlord, or potential tenant.
- The Commission may only place on probation the license of a license holder who discriminates against an owner, potential buyer, landlord, or potential tenant.
- The Commission may make a license holder pay punitive damages if the license holder discriminates against an owner, potential buyer, landlord, or potential tenant.

The answer is the Commission may suspend or revoke the license of a license holder who discriminates against an owner, potential buyer, landlord, or potential tenant. The Commission may suspend or revoke the license of a license holder who discriminates against an owner, potential buyer, landlord, or potential tenant on the basis of race, color, religion, sex, national origin, or ancestry, including directing a prospective homebuyer or tenant interested in equivalent properties to a different area based on the race, religion, sex, national origin, or ancestry of the potential owner or tenant (§ 1101.652(b)(32)).

QUESTION# 17

[QID: re_question_00147_1581.dita]

Of the 13 members of the Texas Real Estate Broker-Lawyer Committee, how many must be appointed by the Texas Real Estate Commission?

- **6**
- 8
- 10
- All

The answer is 6. The 13 members must include 6 members appointed by the Texas Real Estate Commission, 6 members of the State Bar of Texas appointed by the president of the State Bar of Texas, and 1 public member appointed by the governor, Sec. 1101.252(a). The members of the committee hold office for staggered terms of six years, with the terms of two commission appointees and two State Bar appointees expiring every two years, and the term of the public member expiring every six years.

QUESTION# 18

[QID: re_question_00147_1582.dita]

Which is co-ownership with right of survivorship?

- **Joint tenancy**
- Tenancy in common
- Community property
- All of these

The answer is joint tenancy. Right of survivorship means that when a cotenant dies, that person's share of the ownership goes to the surviving joint cotenants rather than to that person's spouse or heirs.

QUESTION# 19

[QID: re_question_00147_1583.dita]

The method used to describe real estate by distance and direction is

- **the metes-and-bounds method.**
- the lot-block-tract method.
- the rectangular survey method.
- the recorded subdivision plat method.

The answer is the metes-and-bounds method. Metes and bounds is the oldest method of developing legal descriptions and is used in approximately 20 states, including Texas. Metes refers to distance and direction and bounds refers to boundaries such as monuments or landmarks. Metes are not always in feet. Early descriptions used varas, rods, and links.

QUESTION# 20

[QID: re_question_00147_1584.dita]

How many acres would be contained in the following parcel of land: N $\frac{1}{2}$ of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 3?

- **20**
- 10
- 160
- 320

The answer is 20. The section contains 640 acres contain 40 acres ($160 \div 4$); and the north half of that parcel would have 20 acres ($40 \div 2$).

QUESTION# 21

[QID: re_question_00147_1585.dita]

All are tests for determining a fixture *EXCEPT*

- **size of the item.**
- intention of the parties.
- method and permanence of attachment of the item.
- adaptation of the item to the real estate.

The answer is size of the item. Absent a written agreement classifying a particular item as personal property or a fixture, the courts apply three tests. They include intention of the parties, the adaptation of the article to the property, and the mode and permanence of annexation. Size is typically not a factor.

QUESTION# 22

[QID: re_question_00147_1586.dita]

Which is generally *NOT* subject to ad valorem real estate taxes?

- **City park lands**
- Farms
- Banks
- Senior citizens

The answer is city park lands. The following types of property are generally not subject to ad valorem real estate taxes: property owned by local, state, and federal governments; municipal property (such as parks and schools); and most property owned by religious and charitable organizations, hospitals, and educational institutions.

QUESTION# 23

[QID: re_question_00147_1587.dita]

What is a net listing?

- **One that specifies the amount the seller is to receive from the sale of the property**
- One that specifies the amount of the commission to be paid to the broker
- One that specifies the total amount of the sale of the property and the commission to the broker
- None of these

The answer is one that specifies the amount the seller is to receive from the sale of the property. The broker's commission is any amount above the net amount to the seller. This creates the potential for fraud because brokers may use their knowledge to induce owners to sign net listings with low net amounts in order to earn high commissions. Net listings are legal; however, under a TREC Rule, a broker cannot take a net listing unless the principal requires it and appears to be familiar with current market values.

QUESTION# 24

[QID: re_question_00147_1588.dita]

Even if the owner sells the property without the help of the broker, the broker gets credit for the sale in

- **an exclusive right-to-sell listing.**
- a net listing.
- an open listing.
- an exclusive agency listing.

The answer is an exclusive right-to-sell listing. In this type of listing, the broker earns a commission no matter who sells the property.

QUESTION# 25

[QID: re_question_00147_1589.dita]

The economic term *demand* is defined as

- **the amount of goods people are willing and able to buy at a given price.**
- the pent-up consumer demand for specific goods in the marketplace.
- the amount of money people are willing to pay.
- the amount of money people are willing to borrow.

The answer is the amount of goods people are willing and able to buy at a given price. Demand can be defined as the amount of goods consumers are ready, willing, and able to buy at a given price during a given time period.

QUESTION# 26

[QID: re_question_00147_1590.dita]

The federal rules concerning lead-based paint require

- **disclosure.**
- abatement.
- testing.
- removal.

The answer is disclosure. The responsibility for disclosing lead-based paint on the property belongs to both the seller or landlord and the real estate agent. The real estate agent must retain proof for three years that the appropriate disclosures were made. The federal rules do not require testing, removal, or abatement of lead-based paint, just disclosure.

QUESTION# 27

[QID: re_question_00147_1591.dita]

All would affect supply *EXCEPT*

- **population.**
- construction costs.
- government controls.
- the labor force.

The answer is population. Some of the major factors affecting supply in the real estate market are the availability of a skilled labor force, construction costs, government controls, and financial policies. Population is a factor affecting the demand for real estate, not the supply of real estate.

QUESTION# 28

[QID: re_question_00147_1592.dita]

Which statement *BEST* describes the relationship of supply and demand in the real estate market?

- **Supply and price move in opposite directions.**
- Demand and price move in opposite directions.
- When supply goes up, price goes up.
- When both supply and demand increase, real estate prices rise.

The answer is supply and price move in opposite directions. Essentially, when supply goes up, prices drop as more sellers compete for buyers. When the supply goes down, the price goes up as buyers compete for fewer properties. Therefore, supply and price move in opposite directions; demand and price move in the same direction.

QUESTION# 29

[QID: re_question_00147_1593.dita]

Which is a physical characteristic of land?

- **Nonhomogeneity**
- Relative scarcity
- Permanence of investment
- Area preference

The answer is nonhomogeneity. Physical characteristics of land include immobility (the physical location never changes), indestructibility (improvements may deteriorate and be replaced, but not land), and nonhomogeneity (no two parcels are identical, also called heterogeneity).

QUESTION# 30

[QID: re_question_00147_1594.dita]

If a neighbor's child is hurt when a swing set breaks while she is playing with the owner's daughter in the backyard, which kind of insurance (owned by the property owner) will cover the neighbor's child if the property owner is at fault for not maintaining the equipment?

- **Liability**
- Property
- Personal property
- Homeowners' warranty

The answer is liability. Liability coverage provides protection against the claims from others for injury or property damage caused by the owner's negligence. Insurance policies protect the owner from liability claims, including the legal costs of defending the suit and any damages up to the limit of the policy.

QUESTION# 31

[QID: re_question_00147_1595.dita]

A broker representing a seller would be what kind of agent?

- **Special**
- General
- Informal
- Formal

The answer is special. A special agent is authorized to represent the principal in one specific act or business transaction, under detailed instructions.

QUESTION# 32

[QID: re_question_00147_1596.dita]

If a homeowner has a property insurance policy with a coinsurance clause, the homeowner must usually insure the property for at *LEAST* what percentage of replacement cost to collect for full replacement cost when damage occurs?

- **80**
- 50
- 75
- 100

The answer is 80. To receive full payment (minus the deductible) for a partial loss, a coinsurance clause in the policy requires that the property be insured for at least 80% of its replacement cost.

QUESTION# 33

[QID: re_question_00147_1597.dita]

Because of improving market conditions, the asking price for a property a broker has listed is now too low. Which duty requires the broker to inform the principal (the seller) so that the seller can decide whether to raise the price?

- **Disclosure**
- Accounting
- Obedience
- Loyalty

The answer is disclosure. The agent must keep the principal informed of all material facts relating to the transaction.

QUESTION# 34

[QID: re_question_00147_1598.dita]

Which action on the part of a real estate license holder does *NOT* violate antitrust laws?

- **Telling prospective clients that the commission rates charged by the broker are based on the services the broker offers to clients**
- Telling prospective clients that the broker's commission rate is in line with others in the community
- Agreeing with another broker to deny access to listings to measured-service brokers or discount brokers
- Arranging with another brokerage firm for each office to operate exclusively in specific areas of the city

The answer is telling prospective clients that the commission rates charged by the broker are based on the services the broker offers to clients. Antitrust laws prohibit monopolies and contracts, combinations, and conspiracies that unreasonably restrain trade. The most common antitrust violations in the real estate business are price-fixing, boycotting competitors, and allocating customers or markets.

QUESTION# 35

[QID: re_question_00147_1599.dita]

Which is a misleading or deceptive practice according to the DTPA?

- **All of these**
- Claiming that something is new when it is not
- Advertising a property with no intention of selling the property as advertised
- Claiming that repairs have been made when they have not

The answer is all of these. DTPA refers to the Texas Deceptive Trade Practices—Consumer Protection Act, which includes a "laundry list" of 27 false, misleading, or deceptive acts.

QUESTION# 36

[QID: re_question_00147_1600.dita]

Which of the following is *TRUE*?

- **A license holder who commits an act of housing discrimination is subject to potential civil action, and disciplinary action can be taken against the agent's real estate license.**
- A license holder who commits an act of housing discrimination is subject to potential civil action, but the status of the agent's real estate license is not affected.
- A license holder who commits an act of housing discrimination is not subject to potential civil action, and the status of the agent's real estate license is not affected.
- None of these.

The answer is a license holder who commits an act of housing discrimination is subject to potential civil action, and disciplinary action can be taken against the agent's real estate license. The Real Estate License Act (Subsection 1101.652(b)(32)) prohibits housing discrimination by a license holder. Violation of this statute subjects the license holder to potential civil action, as well as license suspension or revocation.

QUESTION# 37

[QID: re_question_00147_1601.dita]

The License Act is administered by

- **the Texas Real Estate Commission.**
- the Texas Bar Association.
- the Texas Legislature.
- the Texas Sunset Commission.

The answer is the Texas Real Estate Commission. The Texas Real Estate Commission adopts rules and regulations to assist in the administration of the licensing laws. The commission also collects fees, establishes standards of conduct, and conducts disciplinary hearings.

QUESTION# 38

[QID: re_question_00147_1602.dita]

The sum to be paid to an aggrieved party from the real estate recovery trust account is determined by

- **the court.**
- the Texas Real Estate Commission.
- the Broker-Lawyer Committee.
- the local association of REALTORS®.

The answer is the court. The court must make an order directed to the Commission requiring payment from the real estate recovery trust account of whatever sum it finds to be payable on the claim (Sec. 1101.606(a)).

QUESTION# 39

[QID: re_question_00147_1603.dita]

When a complaint against a license holder is received, an investigation is conducted by

- **the Texas Real Estate Commission (TREC).**
- the Texas Bar Association.
- the Texas Association of REALTORS®.
- the Texas attorney general.

The answer is Texas Real Estate Commission (TREC). Based on the results of an investigation by TREC (as provided in Sec. 101.204(a)), a formal hearing may be conducted by the State Office of Administrative Hearings (Sec. 1101.657(a)). A decision to suspend or revoke a license may result, or the Commission may take disciplinary action against the license holder.

QUESTION# 40

[QID: re_question_00147_1604.dita]

What kind of estate establishes complete ownership and may be inherited, given away, or sold by the owner?

- **Fee simple**
- Conventional life
- Legal life
- Defeasible fee estate

The answer is fee simple. This is the highest form of ownership interest recognized by law. The fee simple estate exists for an unlimited time and is complete ownership.

QUESTION# 41

[QID: re_question_00147_1605.dita]

A grant of land from an owner to a school "on the condition that" the property be used only for educational purposes is

- **a fee simple subject to a condition subsequent.**
- a determinable fee estate.
- an indeterminable fee estate.
- a fee simple subject to a condition precedent.

The answer is a fee simple subject to a condition subsequent. There are two types of defeasible fee estates: a determinable fee estate and a fee simple subject to a condition subsequent. The language used—the words "so long as," "while," or "during" or "if" or "on the condition that"—is the key to the creation of these estates. A grant of land from an owner to a church "so long as" the land is used only for religious purposes is a determinable fee estate. A grant from an owner to a school "on the condition that" the property be used only for educational purposes is a fee simple subject to a condition subsequent.

QUESTION# 42

[QID: re_question_00147_1606.dita]

Pur autre vie life estates are what kind of life estates?

- **For the life of another**
- Ordinary
- For the life of the person in possession
- For the life of the grantor

The answer is for the life of another. Pur autre vie means "for another's life." For example, Alicia gives a life estate to Betty for as long as Elizabeth is alive. Here, Betty is the life tenant "owner" of the property and the life estate will continue as long as Elizabeth is alive.

QUESTION# 43

[QID: re_question_00147_1607.dita]

A homestead may suffer forced sale for payment of mortgages where the loan proceeds were used to do which of the following?

- **All of these**
- Purchase the residence
- Refinance the residence
- Improve the residence

The answer is all of these. A homestead is exempt from forced sale by creditors for payment of debts, with nine exceptions: 1) taxes on the property; 2) purchase money mortgages; 3) an owelty lien, including a loan to settle property in case of divorce or death; 4) refinance of a lien against a homestead, including a federal tax lien; 5) mechanics' and materialmen's claims for the cost of improvements; 6) home equity loans for any purpose, up to 80% loan to value; 7) reverse-annuity mortgages for a person age 62 or older; 8) a homeowners association assessment lien, and 9) conversion and refinance of a personal property lien secured by a manufactured home to a lien on real property.

QUESTION# 44

[QID: re_question_00147_1608.dita]

An encroachment of long standing may result in an easement by

- **prescription.**
- implication.
- necessity.
- adverse possession.

The answer is prescription. Encroachment is an unauthorized physical intrusion of a building or other real property onto someone else's property. An example is a driveway that extends partly onto a neighbor's property. The prescriptive period in Texas is 10 years.

QUESTION# 45

[QID: re_question_00147_1609.dita]

If Bill and John own adjacent properties, and Bill gives John an easement to cross Bill's land to reach a main road, Bill's property is

- **the servient tenement.**
- the dominant tenement.
- the adjacent tenement.
- none of these.

The answer is the servient tenement. The servient tenement is the parcel of land over which the easement runs. The dominant tenement is the parcel of land that benefits from the easement. The servient tenement "serves" the other property. The dominant tenement "dominates" or uses the other property.

QUESTION# 46

[QID: re_question_00147_1610.dita]

Which is the same as sole ownership?

- **Ownership in severalty**
- Joint tenancy
- Tenancy in common
- Tenancy at sufferance

The answer is ownership in severalty. Although someone who holds ownership in severalty holds the property as a sole owner, joint signatures are required on a deed to release homestead rights. Also, partnerships, corporations, and limited liability companies usually hold title to property in severalty, with all real and personal property owned by the business.

QUESTION# 47

[QID: re_question_00147_1611.dita]

Under community property laws, property owned before marriage is considered

- **separate property.**
- community property.
- jointly owned.
- none of these.

The answer is separate property. It remains the property of the spouse who owned it before the marriage. Property remains separate, providing the owning party maintains the property as sole and separate. Maintenance of the property from a joint checking account creates a community right of reimbursement from the sole and separate owner.

QUESTION# 48

[QID: re_question_00147_1612.dita]

A limited partnership includes

- **both general and limited partners.**
- limited partners only.

- general partners only.
- special partners only.

The answer is both general and limited partners. General partners run the business; limited partners invest in the business and are liable only to the extent of their investments.

QUESTION# 49

[QID: re_question_00147_1613.dita]

In a cooperative, any taxes, maintenance expenses, and mortgage liens are placed against

- **the cooperative.**
- the building.
- the individual tenants.
- the individual units.

The answer is the cooperative. The tenants (shareholders) pay an assessment to cover these costs.

QUESTION# 50

[QID: re_question_00147_1614.dita]

Which shows only the location and dimensions of a parcel of land?

- **Survey sketch**
- Improvement survey
- Location survey
- Dimension survey

The answer is survey sketch. Surveys are required for most real estate transactions. A survey sketch is used to determine the location and dimensions of a parcel of land. An improvement survey also shows the location and size of improvements on the property.

QUESTION# 51

[QID: re_question_00147_1615.dita]

Real estate must be reappraised for tax purposes at *LEAST* every how many years in Texas?

- **Three**
- One
- Two
- Five

The answer is three. Assessed values are based on 100% of the fair market value, which is determined by reviewing the sales prices of similar homes.

QUESTION# 52

[QID: re_question_00147_1616.dita]

A mortgage lien is what kind of lien?

- **Specific, voluntary**
- General, voluntary
- Specific, involuntary
- General, involuntary

The answer is specific, voluntary. A mortgage lien is a lien against a certain property (specific) that is made with an owner's consent (voluntary).

QUESTION# 53

[QID: re_question_00147_1617.dita]

After a property is sold to satisfy a judgment lien, the debtor should receive

- **a release of judgment.**
- a deficiency judgment.
- a writ of execution.
- a writ of attachment.

The answer is a release of judgment. This release of judgment should be recorded to clear the judgment lien.

QUESTION# 54

[QID: re_question_00147_1618.dita]

A federal judgment lien is effective for how many years?

- **20**
- 10
- 12
- 15

The answer is 20. A federal judgment lien becomes a lien on all property of the judgment debtor upon the government's filing of a certified copy of the judgment or an abstract of the judgment for such debts as unpaid student loans and deficiencies on government-insured or guaranteed loans. The judgment is filed in the county in which a debtor owns real property. The lien is effective for 20 years and applies to all judgments entered on or after May 21, 1981.

QUESTION# 55

[QID: re_question_00147_1619.dita]

In what kind of contract do the parties show their intentions by words (either oral or written words)?

- **Express**
- Implied
- Bilateral
- Unilateral

The answer is express. Real estate listings and sales contracts are examples of express contracts.

QUESTION# 56

[QID: re_question_00147_1620.dita]

During the time between the signing of a real estate sales contract and the actual passing of the title, the contract is considered

- **an executory contract.**
- a voidable contract.
- an executed contract.
- an implied contract.

The answer is an executory contract. Although the contract has been signed, all the terms have not yet been met, making it an executory contract.

QUESTION# 57

[QID: re_question_00147_1621.dita]

The law of Texas allowing a specific time limit during which parties to a contract may bring legal suit to enforce their rights is

- **the statute of limitations.**
- the statute of frauds.
- the breach of contract right.
- the discharge of a contract right.

The answer is the statute of limitations. Any parties who do not take steps to enforce their rights within the statute of limitations may lose those rights. Under Texas law, any action for the specific performance of a contract for the conveyance of real property must be commenced within four years from the date of the breach. The statute of limitations for a DTPA violation is two years from the date a buyer could reasonably have discovered the deceptive act.

QUESTION# 58

[QID: re_question_00147_1622.dita]

Notifications between the parties after the effective date of the contract

- **must be in writing.**
- may be made orally.
- must be both of these.
- are none of these.

The answer is must be in writing. Notifications for such items as inspection and repair reports must be in writing and may be mailed, hand delivered, or transmitted by fax or electronically.

QUESTION# 59

[QID: re_question_00147_1623.dita]

For a consideration of a specified amount of money, a present owner agrees to give a prospective purchaser an irrevocable right to buy his real estate at a certain price within a limited period. This is called

- **an option contract.**
- an installment contract.
- an escrow contract.
- a land contract.

The answer is an option contract. An option is a contract by which an optionor gives an optionee the right to buy or lease the owner's property at a fixed price within a stated period. The optionee must pay the option fee for this option right but assumes no obligation to make any other payment until deciding, within the specified time, either to (1) exercise the option right (to buy or lease the property) or (2) allow the option right to expire.

QUESTION# 60

[QID: re_question_00147_1624.dita]

The term used for the process of developing an opinion of value for a parcel of real estate is

- **appraisal.**
- assessment.
- valuation.
- broker's opinion.

The answer is appraisal. Although brokers must have some understanding of valuation as part of their training, qualified appraisers are employed when property is financed or sold by court order and large sums of money are involved.

QUESTION# 61

[QID: re_question_00147_1625.dita]

The reason a real estate license applicant must possess certain stated personal and educational qualifications and pass an examination is to

- **prove adequate knowledge of the business.**
- be able to understand continuing education course material.
- qualify for license renewal.
- be able to follow certain prescribed standards of business conduct.

The answer is prove adequate knowledge of the business. In addition, to qualify for license renewal and continue in business, the license holder must follow certain prescribed standards of business conduct and meet continuing education requirements.

QUESTION# 62

[QID: re_question_00147_1626.dita]

When subsurface rights are sold separately from surface rights,

- **the mineral interest is considered dominant over the surface interest.**
- the surface interest is considered dominant over the mineral interest.
- the owner of mineral rights is not legally entitled to entry onto the property of the surface owner unless the mineral owner has paid the landowner for that right.
- the rights typically include substances such as iron ore, limestone, and gravel.

The answer is the mineral interest is considered dominant over the surface interest. In Texas, the owner of mineral rights is legally entitled, unless otherwise specified, to reasonable entry onto the property of the surface owner to extract the minerals for which the mineral rights owner holds subsurface rights. Typically, a general grant of mineral rights does not include any substance such as iron ore, strip-mined coal, limestone, or gravel, the removal of which would substantially spoil or deplete the surface lands. These substances would belong to the holder of the surface rights.

QUESTION# 63

[QID: re_question_00147_1627.dita]

A manufactured home is generally considered

- **personal property.**
- real property.
- real estate.
- a fixture.

The answer is personal property. A manufactured home is generally considered personal property because it is movable. In Texas, a manufactured home may be considered real estate only if the owner of the home has elected to treat the home as real property, a certified copy of the statement of ownership and location for the home has been filed by the owner in the real property records of the county in which the home is located, and both the Texas Department of Housing and Community Affairs and the county's chief tax appraiser have been notified of the filing. The home must be attached to land owned by the owner of the manufactured home or to land leased to the owner of the home under a long-term lease.

QUESTION# 64

[QID: re_question_00147_1628.dita]

The economic characteristic that refers to people's choices and preferences for a given area is

- **situs.**
- improvements.
- relative scarcity.
- permanence of investment.

The answer is situs. The economic characteristic called situs, or area preference, does not refer to a particular geographic location but rather to people's choices and preferences for a given area. The unique quality of personal preference results in different values for similar units. Area preference is the most important economic characteristic of land.

QUESTION# 65

[QID: re_question_00147_1629.dita]

Which term refers to the study and description of a population?

- **Demographics**
- Population review
- Situs
- Nonhomogeneity

The answer is demographics. Demographics is the study and description of a population. The characteristics of the population in a community are major factors in the quantity and type of housing in demand. Family size, the ratio of adults to children, the number of retirees, family income, lifestyle, and the growing number of single-parent and "empty nester" households are all demographic factors that contribute to the amount and type of housing needed.

QUESTION# 66

[QID: re_question_00147_1630.dita]

An owner of a cooperative unit owns

- **shares of stock in the cooperative.**
- the cooperative unit and a proportionate share of the undivided common areas.
- a proportionate share of the entire cooperative complex.
- the land under the cooperative unit.

The answer is shares of stock in the cooperative. A cooperative is similar to a condominium in that it involves units within a larger building with common walls and facilities. However, an owner of a cooperative unit owns not the unit itself but shares of stock in the cooperative (a type of corporation) that holds title to the building. In return for stock in the cooperative, the owner receives a proprietary lease, which entitles that unit owner to occupancy of a particular unit in the building.

QUESTION# 67

[QID: re_question_00147_1631.dita]

A subdivision that consists of common property and improvements owned and maintained by an owners association for the benefit and use of the individual housing units within the project, with automatic, nonseverable membership for each unit owner and mandatory assessments to maintain the common areas, is

- **a planned unit development (PUD).**
- a converted-use property.
- a retirement community.
- a mixed-use development.

The answer is a planned unit development (PUD). A planned unit development is a project or subdivision that consists of common property and improvements that are owned and maintained by an owners association for the benefit and use of the individual housing units within the project. For a project to qualify as a PUD, the owners association must require automatic, nonseverable membership for each unit owner and provide for mandatory assessments to maintain the common areas.

QUESTION# 68

[QID: re_question_00147_1632.dita]

Homes that are constructed with large factory-built wall and roof components are known as

- **modular homes.**
- manufactured homes.
- mobile homes.
- townhomes.

The answer is modular homes. Modular and prefab or kit homes are constructed with large wall and roof components that are built in factories. The pieces are trucked from a factory to a building site and lifted into place with a crane. Then workers finish the structure and install plumbing, wiring, and amenities.

QUESTION# 69

[QID: re_question_00147_1633.dita]

Loan discount points can be deducted in the year of the purchase if all of the following conditions are met *EXCEPT*

- **if the discount points are fees, not interest.**
- if the mortgage is secured by the taxpayer's principal residence.
- if the points are paid in cash at closing.
- if they are a charge for the use of money.

The answer is if the discount points are fees, not interest. For income tax purposes, homeowners are entitled to deduct all loan discount points from their gross income in the year of the purchase if the mortgage is secured by the taxpayer's principal residence, the points are paid in cash at closing, and they are a charge for the use of money (interest, not fees). Otherwise, they are prorated over the term of the loan.

QUESTION# 70

[QID: re_question_00147_1634.dita]

The profits realized from the sale or exchange of real property are

- **capital gains.**
- equity.
- investments.
- income tax deductions.

The answer is capital gains. Capital gains are the profits realized from the sale or exchange of an asset, including real property. To stimulate investment in the economy, Congress at various times has allowed part of a taxpayer's capital gains to be free from income tax.

QUESTION# 71

[QID: re_question_00147_1635.dita]

Which type of homeowners insurance policy provides the *MOST* extensive coverage?

- **HO-C**
- HO-B
- HO-A
- Approved alternative policies sold with the approval of the commissioner of insurance

The answer is HO-C. The basic types of policies sold in Texas include HO-A policies, providing limited actual cash value coverage of the home and its contents, and only the types of damage specifically listed in the policy are covered; HO-A amended policies that provide more extensive coverage than the base HO-A policy; HO-B policies, the most common homeowners policies, that provide replacement cost coverage for most types of damage to the real property, except claims specifically excluded in the policy, providing actual cash value coverage for personal property unless endorsed to provide replacement cost coverage; HO-C policies, which provide the most extensive coverage but are more expensive than other types of policies; and approved alternative policies, offering varying levels of coverage and sold only with the approval of the commissioner of insurance.

QUESTION# 72

[QID: re_question_00147_1636.dita]

Under the Texas Real Estate License Act, a broker who represents a party in a real estate transaction is

- **that party's agent.**
- a dual agent.
- a buyer's agent.
- a principal.

The answer is that party's agent. Section 1101.557 of the Texas Real Estate License Act provides that "a broker who represents a party in a real estate transaction or who lists real estate for sale under an exclusive agreement for a party is that party's agent."

QUESTION# 73

[QID: re_question_00147_1637.dita]

The relationship between a broker and the broker's sales agent (as an agent) is usually that of

- **a general agency relationship**
- a special agency relationship.
- a dual agency relationship.
- a single agency relationship.

The answer is a general agency relationship. The authorized activity of an agent is as simple or as complex as the principal dictates and the agent consents to. An agent may be classified as a general agent or a special agent, based on the authority delegated. The relationship between a broker (as a principal) and the broker's sales agent (as an agent) is usually a general agency relationship.

QUESTION# 74

[QID: re_question_00147_1638.dita]

An agent's responsibility is

- **to the principal, the customers, and third parties.**
- only to the principal.
- only to the principal and customers.
- only to principals and third parties.

The answer is to the principal, the customers, and third parties. Even though an agent's primary responsibility is to the principal, the agent also has duties to third parties, or customers: duties of reasonable care and skill, honest and fair dealing, and disclosure of known material facts about the property.

QUESTION# 75

[QID: re_question_00147_1639.dita]

A broker who intends to receive a commission from someone other than the broker's client must first obtain the consent of

- **the client.**
- the local association of REALTORS®.
- the Real Estate Commission.
- all parties to the transaction.

The answer is the client. The broker must first obtain the consent of the client if the broker intends to receive a commission, fee, or rebate from someone other than the broker's client.

QUESTION# 76

[QID: re_question_00147_1640.dita]

The three requirements for a selling broker to be entitled to a sales commission include all of the following *EXCEPT*

- **the person advertised the property for sale.**
- the person held a valid real estate broker's license.
- the agreement to pay was in writing and signed by the party to be charged.
- the broker or sales agent advised the buyer in writing before closing that the buyer should obtain or be furnished with a title insurance policy or have the abstract covering the subject property examined by an attorney of the buyer's choice.

The answer is the person advertised the property for sale. The Texas Real Estate License Act lists three requirements for compensation: the person held a valid real estate broker's license, the agreement to pay was in writing and signed by the party to be charged, and the broker or sales agent advised the buyer in writing before closing that the buyer should obtain or be furnished with a title insurance policy or have the abstract covering the subject property examined by an attorney of the buyer's choice.

QUESTION# 77

[QID: re_question_00147_1641.dita]

The laws that prohibit monopolies and contracts, combinations, and conspiracies that unreasonably restrain trade are known as

- **antitrust laws.**
- the Texas Deceptive Trade Practices laws.
- tort reform laws.
- compensation laws.

The answer is antitrust laws. The real estate industry is subject to federal and state antitrust laws. These laws prohibit monopolies and contracts, combinations, and conspiracies that unreasonably restrain trade. The most common antitrust violations that can occur in the real estate business are price-fixing, boycotting competitors, and allocating customers or markets.

QUESTION# 78

[QID: re_question_00147_1642.dita]

The Fair Housing Act provides for certain exemptions, but no exemptions apply

- **when a real estate license holder is involved in a transaction.**
- for the rental of a single-family home when the home is owned by an individual who does not own more than four such homes at one time.
- for the rental of rooms in an owner-occupied, one- to four-family dwelling.
- for club-owned lodgings that are rented to its members, as long as the lodgings are being operated commercially.

The answer is when a real estate license holder is involved in a transaction. The Fair Housing Act provides for certain exemptions. However, no exemptions involve race, and no exemptions apply when a real estate license holder is involved in a transaction. The sale or rental of a single-family home is exempted when the home is owned by an individual who does not own more than three such homes at one time and when the following conditions exist: a broker, sales agent, or agent is not used; discriminatory advertising is not used; the owner is not living in the dwelling at the time of the transaction or was not the most recent occupant; and no other such sale by an individual has been made in the previous 24 months. Also exempt are the rental of rooms or units in an owner-occupied, one-family to four-family dwelling; dwelling units owned by religious organizations restricted to people of the same religion if membership in the organization is not restricted on the basis of race, color, or national origin; and a private club that restricts the rental or occupancy of lodgings it owns to its members, as long as the lodgings are not operated commercially.

QUESTION# 79

[QID: re_question_00147_1643.dita]

When dwellings are designed specifically for persons with a handicap,

- **the law does not prohibit restricting occupancy exclusively to tenants who are handicapped.**
- the law prohibits restricting occupancy exclusively to tenants who are handicapped.
- landlords may deny permission for persons with a handicap to make reasonable modifications.
- persons with a drug addiction must be accepted as tenants.

The answer is the law does not prohibit restricting occupancy exclusively to tenants who are handicapped. The law does not prohibit restricting occupancy exclusively to persons with a handicap in dwellings that are designed specifically for their accommodation. New construction consisting of five or more units must be constructed to permit access and better usability by persons with a handicap. However, landlords must still make reasonable modifications to rules, policies, practices, or services and permit reasonable modifications to be made at the tenant's expense.

QUESTION# 80

[QID: re_question_00147_1644.dita]

The fair housing laws allow any aggrieved party to file an original complaint against discriminatory practices via any of the following avenues *EXCEPT*

- **the court of appeals.**
- administrative proceedings
- attorney general litigation.
- private litigation.

The answer is the court of appeals. The fair housing laws allow any aggrieved party to file an original complaint against discriminatory practices and to pursue enforcement through administrative proceedings, attorney general litigation, or private litigation. Lawsuits brought under the Civil Rights Act of 1866 must be taken directly to a federal court.

QUESTION# 81

[QID: re_question_00147_1645.dita]

The primary purpose of the license law is to do all of the following *EXCEPT*

- **to protect licensed brokers from competition.**
- to protect the public from dishonest or incompetent brokers or salespeople.
- to prescribe certain minimum standards and qualifications for licensing brokers and sales agents.
- to maintain high standards in the real estate profession.

The answer is to protect licensed brokers from competition. Although a fee is charged for real estate licenses, the primary purpose of the license law is not to raise revenue. The purposes of the law are to protect the public from dishonest or incompetent brokers or salespeople, prescribe certain minimum standards and qualifications for licensing brokers and sales agents, maintain high standards in the real estate profession, and protect licensed brokers and sales agents from unfair or improper competition.

QUESTION# 82

[QID: re_question_00147_1646.dita]

The periodic review of each state agency, commission, and board to evaluate its purpose, efficiency, and need is performed by a statutory agency known as

- **the Sunset Commission.**
- the Sunrise Commission.
- the Real Estate Commission.
- the Broker-Lawyer Commission.

The answer is the Sunset Commission. Texas law provides for a periodic review of each state agency, commission, and board to evaluate its purpose, efficiency, and need. This review is performed by a statutory agency known as the Sunset Commission, which recommends retaining or abolishing the state entity under review. The Real Estate Commission has been reviewed four times under the Sunset Act and has received approval for retention each time. Its last review was in 2007; the next one will be in 2019.

QUESTION# 83

[QID: re_question_00147_1647.dita]

Once an application for a real estate license is filed, the applicant must satisfy the examination requirement within

- **one year.**
- three months.
- 60 days.
- six months.

The answer is one year. Subchapter I sets out the provisions for determining the competency of the license applicant. The applicant must satisfy the examination requirement within one year from the date the application is filed.

QUESTION# 84

[QID: re_question_00147_1648.dita]

Which parties must inform the public of the availability of payment from the real estate recovery trust account?

- **All license and certificate holders**
- Only real estate brokers
- All mortgage lenders
- Only certified general appraisers

The answer is all license and certificate holders. Subchapter M provides for a real estate recovery trust account. This fund is to be used to reimburse members of the public who have been financially injured or damaged by the actions of a real estate broker or sales agent, a certificate holder, or an employee or agent of a license holder. All license and certificate holders must inform the public of the availability of payment from the real estate recovery trust account.

QUESTION# 85

[QID: re_question_00147_1649.dita]

A person who sells, buys, leases, or transfers an easement or right-of-way for another for compensation is called

- **a right-of-way agent.**
- a leasing agent.
- an intermediary agent.
- a transfer agent.

The answer is right-of-way agent. Subchapter K requires a right-of-way agent to register with the Texas Real Estate Commission, unless the person is licensed as a real estate broker or sales agent. A right-of-way agent is a person who sells, buys, leases, or transfers an easement or right-of-way for another for compensation.

QUESTION# 86

[QID: re_question_00147_1650.dita]

The requirement for a definite termination date in real estate contracts

- **does not apply to property management agreements.**
- does not apply to listings.
- applies to leases.
- applies to all real estate transactions.

The answer is does not apply to property management agreements. The requirement for a definite termination date for an agreement for which the license holder agrees to perform services for which a license is required in § 1101.652(b)(12) does not apply to property management agreements.

QUESTION# 87

[QID: re_question_00147_1651.dita]

Regarding police power, all of the following are true *EXCEPT*

- **police power originates at the federal level.**
- police power is vested in a state to establish legislation to preserve order.
- a state's police power is passed on to municipalities through legislation called enabling acts.
- the use and enjoyment of property is subject to restrictions, including environmental protection laws, authorized by enabling acts.

The answer is police power originates at the federal level. Police power is the power vested in a state to establish legislation to preserve order; to protect the public health, safety, and morals; and to promote the general welfare. There is no federal police power; it exists on a state level only. A state's police power is passed on to municipalities and counties through legislation called enabling acts. The use and enjoyment of property is subject to restrictions authorized by such legislation, including environmental protection laws and zoning and building ordinances that regulate the use, size, location, and construction of real estate.

QUESTION# 88

[QID: re_question_00147_1652.dita]

The highest type of interest in real estate recognized by law is

- **the fee simple estate.**
- the defeasible fee estate.
- the life estate.
- the reversionary estate.

The answer is the fee simple estate. In Texas, a transfer of title or an interest in real property conveys a fee simple estate unless otherwise expressed. A fee simple estate is one in which the holder is entitled to all rights incident to the property (complete ownership). There is no time limit on its existence; it is said to run forever. Because this estate is of unlimited duration, on the death of its owner, it passes to the heirs or as provided in the owner's will. The fee simple estate is subject, however, to governmental powers: police power, eminent domain, taxation, and escheat. The terms fee, fee simple, and fee simple absolute are basically the same. Such an estate can be freely devised (passed by a will) to a designated person known as the devisee.

QUESTION# 89

[QID: re_question_00147_1653.dita]

Which party can enjoy both possession and the ordinary use and profits arising from ownership, just as though the individual were a fee owner?

- **The life tenant**
- The license tenant
- The holder of a remainder interest
- The holder of a reversionary interest

The answer is the life tenant. A life tenant is entitled to the rights of ownership. The life tenant can enjoy both possession and the ordinary use and profits arising from ownership, just as though the individual were a fee owner. A life tenant's rights are not absolute, however. A life tenant can enjoy the rights of the land but cannot encroach on those of the remainderman, who will own a fee simple estate after the death of the life tenant.

QUESTION# 90

[QID: re_question_00147_1654.dita]

Which term is used to describe anything that affects the title to or use of the property?

- **Encumbrance**
- Lien
- Easement
- Encroachment

The answer is encumbrance. A claim, charge, or liability that attaches to and is binding on real estate is an encumbrance. It is a right or an interest held by a party who is not the fee owner of the property. An encumbrance is anything that affects the title to or use of the property. Encumbrances may be divided into two general classifications: liens (usually monetary), which affect the title; and encumbrances, which affect the use of the property, such as restrictions, easements, licenses, and encroachments.

QUESTION# 91

[QID: re_question_00147_1655.dita]

In Texas, after 1895, unless a riparian owner can prove otherwise, water in every river, stream, lake, canyon, ravine, and watershed is the property of

- **the State of Texas.**
- the fee estate owner.

- the remainderman.
- the municipality where it is located.

The answer is the State of Texas. The law in Texas after 1895 provided that water in every river, stream, lake, canyon, ravine, and watershed is the property of the State of Texas, unless a riparian owner can prove otherwise.

QUESTION# 92

[QID: re_question_00147_1656.dita]

The Texas open-beach laws

- **reserve for the public the perpetual right to use the public beaches.**
- permit a new home to be built within a public beach easement.
- deny the state the right to require removal of a structure located on a public beach.
- forbid the construction of a pier, boat ramp, or boathouse on individually owned property on the Texas Gulf Coast.

The answer is reserve for the public the perpetual right to use the public beaches. This right has been acquired by "prescription, dedication or presumption," as specified in Sections 61.016 and 61.017, Natural Resources Code. This easement extends from the line of mean low tide to the line of vegetation. The Natural Resources Code, as cited, requires that sellers provide to buyers a statutory notice relating to this easement. Failure to do so is, by statute, a violation of the Texas Deceptive Trade Practices Act. Other than a pier, boathouse, or similar appurtenance, a new structure cannot be built within a public beach easement. In addition, the state can force a property owner to remove a structure that has become located on a public beach as a result of coastal erosion or storm event.

QUESTION# 93

[QID: re_question_00147_1657.dita]

A property can be owned in severalty unless it is held by

- **a tenancy in common.**
- a sole proprietorship.
- a corporation.
- a limited liability company.

The answer is a tenancy in common. In Texas, a fee simple estate in land may be held by one owner or by two or more co-owners under one of three forms of ownership: in severalty, which means that title is held by one owner, including a partnership, a corporation, or a limited liability company; in co-ownership, where title is held by two or more persons or two or more legal entities, including a tenancy in common or joint tenancy; or in trust, where title is held by a third person for the benefit of another (or others), called the beneficiary (or beneficiaries).

QUESTION# 94

[QID: re_question_00147_1658.dita]

Joint tenancies may be destroyed by all of the following *EXCEPT*

- **marriage of one of the joint tenants.**
- bankruptcy.
- foreclosure sale proceedings.
- termination of one of the four essential unities.

The answer is marriage of one of the joint tenants. A joint tenancy is destroyed when any one of the four essential unities of joint tenancy is terminated. Thus, although joint tenants are free to convey their individual interest in the jointly held property, doing so will destroy the unity of interest and, in turn, the joint tenancy. Joint tenancies also may be terminated by operation of law, as in bankruptcy or foreclosure sale proceedings.

QUESTION# 95

[QID: re_question_00147_1659.dita]

A trust created to permit property owners to provide for their own financial care during their lifetimes and which permits subsequent changes is known as

- **a revocable living trust.**
- an irrevocable living trust.
- a testamentary trust.
- a land trust.

The answer is a revocable living trust. Property owners may provide for their own financial care and/ or that of their families by establishing a trust. Such trusts may be created by agreement during a property owner's lifetime (living or inter vivos) or established by will after the property owner's death (testamentary). A revocable living trust is basically a will substitute and can be changed or revoked at any time. Irrevocable living trusts cannot be amended or revoked once they are executed.

QUESTION# 96

[QID: re_question_00147_1660.dita]

Persons who operate a business as co-owners and share in the business's profits and losses form an association known as

- **a partnership.**
- a sole proprietorship.
- a franchise.
- a corporation.

The answer is a partnership. An association of two or more people who operate a business as co-owners and share in the business's profits and losses is a partnership.

QUESTION# 97

[QID: re_question_00147_1661.dita]

A syndicate is

- **the joining together of two or more people or firms to make and operate a real estate investment.**
- a hybrid business entity with the combined characteristics and benefits of both limited partnerships and S corporations.
- a legal entity in which individuals participate by purchasing stock.
- a legal entity in which individual participants are not liable for debts and obligations arising from actions of other participants.

The answer is the joining together of two or more people or firms to make and operate a real estate investment. Generally speaking, a syndicate is a joining together of two or more people or firms to make and operate a real estate investment. A syndicate is not in itself a legal entity; however, it may be organized into a number of ownership forms, including co-ownership (tenancy in common, joint tenancy), partnership, trust, or corporation.

QUESTION# 98

[QID: re_question_00147_1662.dita]

A variation of condominium ownership in which multiple purchasers buy undivided interests in the same piece of real estate with a right to use the facility for a fixed or variable time period is known as

- **time-sharing.**
- syndicating.
- cooperative ownership.
- community property ownership.

The answer is time-sharing. Time-sharing is a variation of condominium ownership that permits multiple purchasers to buy undivided interests in the same piece of real estate—usually a unit of a resort hotel or development—with a right to use the facility for a fixed or variable period. In most cases, the time-share interest is a fee simple title interest, but it can be merely a right to use (a license).

QUESTION# 99

[QID: re_question_00147_1663.dita]

The primary methods used to describe real estate in Texas are

- **metes and bounds and recorded subdivision plat.**
- metes and bounds and rectangular survey.
- rectangular survey and recorded subdivision plat.
- metes and bounds and reference to a previously recorded document.

The answer is metes and bounds and recorded subdivision plat. With the exception of "section" measurements, the rectangular survey system is not used in Texas. A fourth method—by reference to a previously recorded document—is usable under limited conditions.

QUESTION# 100

[QID: re_question_00147_1664.dita]

Each township in the rectangular survey system contains

- **36 sections.**
- 640 acres.
- 1 square mile.
- 6 sections.

The answer is 36 sections. Each township is 36 square miles, containing 36 square miles and 36 sections of land. Each section is 1 square mile, or 640 acres, with 43,560 square feet in each acre.

QUESTION# 101

[QID: re_question_00147_1665.dita]

In Texas, *MOST* sections are

- **larger than 640 acres.**
- smaller than 640 acres.
- exactly 640 acres.
- smaller than 1 square mile.

The answer is larger than 640 acres. Texas uses the "section" measurement in rural legal descriptions; otherwise, the rectangular survey system is not used in Texas. In reality, because most sections in Texas are not exactly 1 square mile, each section does not equal exactly 640 acres. Most sections are actually larger than 640 acres.

QUESTION# 102

[QID: re_question_00147_1666.dita]

A public sale, called a nonjudicial foreclosure sale, is

- **not conducted under the supervision of any court.**
- conducted under the supervision of a court.
- a legal action instituted by a sheriff.
- a legal action instituted by a prosecutor.

The answer is not conducted under the supervision of any court. The lien created by a deed of trust is enforced through the power-of-sale provisions in that document, which permit the trustee to sell the subject property for the benefit of the beneficiary. This is a public sale, called a nonjudicial foreclosure sale, not conducted under the supervision of any court. Otherwise, liens are enforced by court order. A creditor must institute a legal action for the court to sell the real estate in question for full or partial satisfaction of the debt.

QUESTION# 103

[QID: re_question_00147_1667.dita]

Which of the following takes priority over all other liens?

- **Real estate taxes and special assessments**
- Mechanics' liens

- IRS tax liens
- Mortgage liens

The answer is real estate taxes and special assessments. Real estate taxes and special assessments generally take priority over all other liens. If the property goes through a court sale to satisfy unpaid debts or obligations, outstanding real estate taxes and special assessments are the first to be paid from the proceeds. The remainder is used to pay other outstanding liens in the order of their priority, which (with the exception of mechanics' liens and TWC wage liens) are established from the date of their recording in public records of the county where the property is located. Finally, IRS tax liens do not have a specific priority; they are general liens but usually attach only to the taxpayer's equity interest in the property.

QUESTION# 104

[QID: re_question_00147_1668.dita]

Homeowners who are age 65 or older and who owe delinquent taxes on the home they live in

- **may defer the payment of taxes for as long as they own or live in the home.**
- have the tax liability canceled.
- continue to have penalties accrue on new taxes due after the tax deferral affidavit is filed.
- must pay all accumulated taxes and interest within 90 days of the sale of their home.

The answer is may defer the payment of taxes for as long as they own or live in the home.

Homeowners who are age 65 or older and who owe delinquent taxes on the home they live in may defer the payment of taxes for as long as they own or live in their home. A tax deferral only postpones the tax liability; it does not cancel it. Any existing tax, penalty, interest, or attorney fees at the time of the deferral are preserved and continue to accrue interest at a rate of 8% until paid off. Any new taxes that come due do not incur the penalty but do incur interest at the 8% rate. When the homeowner or the surviving spouse sells the home or moves from it, all accumulated taxes and interest must be paid within 181 days.

QUESTION# 105

[QID: re_question_00147_1669.dita]

A specific, involuntary lien that gives security to persons or companies that perform labor or furnish material to improve real property is known as

- **a mechanic's lien.**
- a judgment lien.
- a vendor's lien.
- a vendee's lien.

The answer is a mechanic's lien. It is based on the enhancement of value theory, and because the labor performed and material furnished enhanced the value, the property should be security for payment.

QUESTION# 106

[QID: re_question_00147_1670.dita]

Judgment liens do *NOT* attach to homestead property in Texas unless

- **a mechanic's lien has been perfected or an exemption from forced sale by creditors applies.**
- a child support lien is involved
- a lis pendens has been filed.
- homestead community property is owned in the sole name of the husband.

The answer is a mechanic's lien has been perfected or an exemption from forced sale by creditors applies. Judgment liens do not attach to homestead property in Texas unless a mechanic's lien has been perfected on the property in accordance with the law or unless another exemption from forced sale by creditors applies. If nonhomestead community property is owned in the sole name of the husband, the wife's community property interest can be made subject to a judgment lien against the wife; the reverse is also true.

QUESTION# 107

[QID: re_question_00147_1671.dita]

Debts of deceased persons are considered

- **general, statutory, involuntary liens.**
- general, statutory, voluntary liens.
- specific, equitable, involuntary liens
- specific, equitable, voluntary liens.

The answer is general, statutory, involuntary liens. Federal estate taxes and state inheritance taxes, as well as the debts of deceased persons, are general, statutory, involuntary liens that encumber a deceased person's real and personal property. These are normally paid or cleared in probate court proceedings.

QUESTION# 108

[QID: re_question_00147_1672.dita]

Which type of contract exists when something remains to be done by one or both parties?

- **Executory**
- Executed
- Bilateral
- Unilateral

The answer is executory. A contract may be classified as either executory or executed, depending on whether the agreement is partially or completely performed. An executory contract exists when something remains to be done by one or both parties; that is, the agreement is partially performed. When a real estate sales contract is negotiated and signed by both parties, it is an executory agreement. Once closing and funding have occurred, the real estate sales contract is an executed agreement—the purchase price is paid, the deed is delivered, and the purchaser has possession of the property.

QUESTION# 109

[QID: re_question_00147_1673.dita]

A contract that seems on the surface to be valid but may be disaffirmed by the party who might be injured if the contract were to be enforced is known as

- **a voidable contract.**
- a void contract.
- an unenforceable contract.
- a defaulted contract.

The answer is a voidable contract. A voidable contract seems on the surface to be valid but may be rescinded, or disaffirmed, by the party who might be injured if the contract were to be enforced.

QUESTION# 110

[QID: re_question_00147_1674.dita]

To be enforceable, the Texas statute of frauds requires that contracts for the sale of real estate contain which five essential elements?

- **Competent parties, offer and acceptance, consideration, legal object, and be in writing and signed by the party to be charged**
- Competent parties, offer and acceptance, consideration, legal object, and be signed by the broker representing the seller
- Competent parties, offer and acceptance, earnest money, legal object, and be signed by the party to be charged
- Competent parties, offer and acceptance, earnest money, legal object, and be signed by the broker representing the seller

The answer is competent parties, offer and acceptance, consideration, legal object, and be in writing and signed by the party to be charged. The Texas statute of frauds requires that contracts for the sale of real estate be in writing to be enforceable. To prevent fraudulent proof of a fictitious oral contract, the signature of the party to be charged is required; a spouse's signature must be included when necessary to release marital rights; an agent may sign for a principal if the agent has proper written authority; and when sellers are co-owners, all co-owners must sign. A real estate broker does not sign a real estate sales contract unless acting under a power of attorney or a property management agreement.

QUESTION# 111

[QID: re_question_00147_1675.dita]

A real estate broker is not a party to the contract *EXCEPT*

- **when the broker has been given a power of attorney or is acting in accordance with a property management agreement.**
- when the broker is employed under a special agency agreement.
- when the broker is also the escrow agent.
- when the broker is a Texas-licensed attorney.

The answer is when the broker has been given a power of attorney or is acting in accordance with a property management agreement. Although a real estate broker and an escrow agent may sign agreements on the contract form, they are not parties to the contract with one exception. A broker who has the authority to bind a party to a lease or sale under a power of attorney or property management agreement is a party to the contract.

QUESTION# 112

[QID: re_question_00147_1676.dita]

Once both the buyer and the seller have signed a sales contract, the buyer acquires an interest in the land known as

- **equitable title.**
- legal title.
- partial title.
- executory title.

The answer is equitable title. A buyer who signs a contract to purchase real estate does not receive fee title to the land; only a deed can convey fee title. However, after both the buyer and the seller have signed a sales contract, the buyer acquires an interest in the land known as equitable title.

QUESTION# 113

[QID: re_question_00147_1677.dita]

The entity that drafts and revises standard contract forms to be used by real estate license holders is

- **the Texas Real Estate Broker-Lawyer Committee.**
- the Texas Real Estate Contract Revision Committee.
- the Texas Real Estate Commission.
- the Texas Fair Housing Commission.

The answer is the Texas Real Estate Broker-Lawyer Committee. The Texas Real Estate License Act provides for the establishment of the Texas Real Estate Broker-Lawyer Committee. The purpose of this special committee is the drafting and revising of standard contract forms to be used by real estate license holders because most real estate transactions are basically similar in nature.

QUESTION# 114

[QID: re_question_00147_1678.dita]

The four forms of listing agreements generally used are

- **the exclusive right-to-sell listing, exclusive agency listing, open listing, and net listing.**
- the exclusive right-to-list listing, exclusive agency listing, open listing, and net listing.
- the exclusive representation listing, exclusive agency listing, open listing, and net listing.
- the exclusive right-to-list listing, exclusive representation listing, open listing, and net listing.

The answer is exclusive right-to-sell listing, exclusive agency listing, open listing, and net listing. The four forms of listing agreements, or employment contracts, generally used are an exclusive right-to-sell listing, an exclusive agency listing, an open listing, and a net listing. Because a listing contract creates a personal obligation for the broker, it is not assignable.

QUESTION# 115

[QID: re_question_00147_1679.dita]

The form that explains seller representation, subagency, buyer representation, and the intermediary position is known as

- **the Information About Brokerage Services form.**
- the Information About Agency form.
- the Information About Representation form.
- the Disclosure of Representation form.

The answer is the Information About Brokerage Services form. At the first substantive dialogue meeting or written communication with the seller, the broker or the sales agent must give the seller a written Information About Brokerage Services form that explains seller representation, subagency, buyer representation, and the intermediary position.

QUESTION# 116

[QID: re_question_00147_1680.dita]

How are ad valorem taxes paid?

- **In arrears**
- In advance monthly
- Monthly
- Quarterly

The answer is in arrears. Real estate taxes are paid at the end of the period for which they are levied, not in advance.

QUESTION# 117

[QID: re_question_00147_1681.dita]

When a seller and a broker sign a listing agreement, they create which of the following forms of agency?

- **Express agency**
- Qualified agency
- Agency by ratification
- Agency by estoppel

The answer is express agency. Express agency, which is also called agency by appointment, is created by an oral or written agreement.

QUESTION# 118

[QID: re_question_00147_1682.dita]

When paying off debt, a property owner increases

- **equity.**
- resale value.

- price.
- desire.

The answer is equity. Equity is the current market value of a property minus any loans.

QUESTION# 119

[QID: re_question_00147_1683.dita]

Which of the following classifications of property include cultivated annual crops?

- **Personal**
- Real
- Commercial
- Fixtures

The answer is personal. When crops are cultivated, they are considered fruits of industry, not fruits of nature. This makes the crops personal property.

QUESTION# 120

[QID: re_question_00147_1684.dita]

Which of the following terms refers to working with other parties to negotiate the sale, rental, or purchase of real estate?

- **Brokerage**
- Appraisal
- Consulting
- Development

The answer is brokerage. Real estate brokerage is defined as bringing together the buyer and the seller.

QUESTION# 121

[QID: re_question_00147_1685.dita]

The Texas Association of Real Estate Inspectors is primarily responsible for

- **enhancing the education and development of professional property inspectors.**
- teaching supervising brokers how to investigate contracts for fraud.
- teaching mortgage brokers how to investigate contracts for fraud.
- making sure real estate contracts comply with the Federal Consumer Financial Protection Bureau.

The answer is enhancing the education and development of professional property inspectors. Home inspections by qualified professionals can be an important tool in limiting liability of brokers and sales agents, as well as eliminating unwanted surprises for homebuyers.

QUESTION# 122

[QID: re_question_00147_1686.dita]

What is the classification of a warehouse property that has a number of unauthorized condominium unit conversions?

- **Industrial**
- Residential
- Mixed use
- Commercial

The answer is industrial. Illegal apartment and condominium units can be found in numerous properties and must be dealt with cautiously. Properties with residential units that are zoned differently must be listed as they are on official property records, and potential buyers must be warned of high-risk consequences.

QUESTION# 123

[QID: re_question_00147_1687.dita]

The Texas Real Estate License Act is administered by

- **the Texas Real Estate Commission.**
- the Texas Commission on Professional Business Licensure.
- the U.S. Department of Housing and Urban Development.
- the National Association of REALTORS®.

The correct answer is the Texas Real Estate Commission. The law was established in 1949. The Commission is composed of six licensed real estate brokers and three public members.

QUESTION# 124

[QID: re_question_00147_1688.dita]

The legal rights of a Texas property purchaser, called “the bundle of legal rights,” means that the owner is exempt from

- **demands by nonlegal authorities to come onto the property.**
- federal, state, and local laws.
- federal, state, and local laws, but must conform to neighborhood association bylaws.
- federal law, but must conform to Texas and local laws.

The answer is demands by nonlegal authorities to come on the property. Landowners must conduct themselves in a legal manner, but the right of control and exclusion allows them to bar nonlegal authorities.

QUESTION# 125

[QID: re_question_00147_1689.dita]

Why are subsurface rights considered dominant over surface rights?

- **Because owners of subsurface rights must have access to the surface of the property for the placement of such things as drilling or pumping rigs**
- Because subsurface rights involved minerals are typically more expensive to extract
- Because subsurface rights commonly are sold at multiples of other kinds of rights
- Because subsurface rights are not dominant under Texas law

The answer is because owners of subsurface rights must have access to the surface of the property for the placement of such things as drilling or pumping rigs. Owners of subsurface rights must have access to the surface of a property to be able to extract minerals such as oil and gas.

QUESTION# 126

[QID: re_question_00147_1690.dita]

Which of the following would likely be considered a fixture included in the sale?

- **Plush wall-to-wall carpeting in a living room**
- A large mirror hanging on a wall
- Matching Tiffany shades on light fixtures
- Persian rugs on hardwood floors

The answer is plush wall-to-wall carpeting in a living room. Wall-to-wall carpeting, regardless of price, is considered attached to the premises if tacked down (and potentially damaging the property if removed). However, sellers and their listing agents should make clear in the contract that expensive things such as fine wall hangings, lamp shades, and rugs are excluded (or included) in the sale so that there is no dispute.

QUESTION# 127

[QID: re_question_00147_1691.dita]

Properties in a community that is built out from city limit to city limit will likely see property values

- **rise, because no more buildable properties are available.**
- fall, because no more buildable properties are available.
- remain stable, because supply and demand are in equilibrium.
- fall, because interested consumers will be forced to look elsewhere for a home.

The answer is rise, because no more buildable properties are available. The law of supply and demand would dictate that if no more properties were available, prices on existing homes would go up.

QUESTION# 128

[QID: re_question_00147_1692.dita]

A swimming pool adds what kind of value to a property?

- **Subjective value**
- State-assigned value
- Neighborhood value
- No added value

The answer subjective value. Some buyers will be interested in a pool, but many will see it as a nuisance to keep up and a safety issue if they have small children.

QUESTION# 129

[QID: re_question_00147_1693.dita]

When there is a construction boom in the United States, driving down the supply of drywall so that builders must import it, what should real estate brokers and sales agents be aware of?

- **That the imported drywall may not meet local building codes, as well as national standards**
- That there is enough to cover a project without gaps
- That drywall prices will soon fall, making housing marginally less expensive
- That builders may try to increase home prices because more hardwoods, marble, and granite will be used as replacement material

The answer is that the imported drywall may not meet local building codes, as well as national standards. In the past, substandard drywall has entered the American market, triggering lawsuits and expensive replacement.

QUESTION# 130

[QID: re_question_00147_1694.dita]

What is the primary selling point of a modular home?

- **They are built in a factory under controlled conditions.**
- They usually come with swimming pools.
- They typically come furnished.
- They can be moved from place to place.

The answer is they are built in a factory under controlled conditions. Manufacturers maintain that because modular homes are built indoors, specifications can be maintained easier and things such as rain, snow or heat do not become factors in construction.

QUESTION# 131

[QID: re_question_00147_1695.dita]

If clients want to buy a specific home but fall short of the 25–28%/33–36% ratios, will they automatically be disqualified from the purchase?

- **No.**
- Yes, federal law will prohibit the purchase.
- Yes, FDIC bank rules will prohibit the purchase.
- Yes, Fannie Mae and Freddie Mac will bar the purchase.

The answer is no. Although banking practices have become more rigid over the years, lenders still can be flexible based on the character of the borrower, their credit, and their capacity to pay. Often a sales agent's relationship with a lender can be the difference in a marginal buyer securing the home they'd like.

QUESTION# 132

[QID: re_question_00147_1696.dita]

If flash flooding forces a property owner out of a residence for six months, who has otherwise lived in the home for a year and half out of the last five years, is the owner still entitled to the capital gain exclusion on the sale of the property?

- **Yes, the owner qualifies for the exclusion but may only claim $\frac{3}{4}$ of the whole exclusion because he only lived in the house for $\frac{3}{4}$ of the two-year period.**
- Yes, the owner may claim the full capital gains exclusion as if the homeowner had occupied the home for the two-year residence requirement period.
- No, properties that exist in known floodplains, of which the owner is aware, never are exempt from capital gains.
- The owner would only qualify for capital gains exclusion if the property was 50% destroyed and fully restored to its original condition.

The answer is yes, the owner qualifies for the exclusion but may only claim $\frac{3}{4}$ of the whole exclusion because he only lived in the house for $\frac{3}{4}$ of the two-year period. Brokers must always be mindful of rules changes enacted by Congress. The capital gains tax is a frequent target of legislation. The owner may only exclude \$187,500 on the sale of the property ($\frac{3}{4}$ of the \$250,000 exclusion for a single tax payer) as he occupied the property for only $\frac{3}{4}$ of the two-year period.

QUESTION# 133

[QID: re_question_00147_1697.dita]

If something happens to a borrower who has mortgage insurance, who gets paid?

- **The lending institution that has the mortgage**
- The borrower/owner of the property
- The Texas Real Estate Commission
- The real estate broker for the buyer

The answer is the lending institution that has the mortgage. The borrower pays the premium, but the lender is the one protected by the insurance.

QUESTION# 134

[QID: re_question_00147_1698.dita]

Flood insurance will cover damage to

- **only structures.**
- lawns, if there is an insured structure on the property, even if the structure itself is not damaged.
- livestock, if there is an insured structure on the property, even if the structure itself is not damaged.
- farm equipment in a field, if there is an insured structure on the property, even if the structure itself is not damaged.

The answer is only structures. Flood insurance will cover only insured structures that are damaged by flood events. Vehicles, lawns, and livestock are not covered, regardless of proximity to the structure.

QUESTION# 135

[QID: re_question_00147_1699.dita]

Sales agents who have mastered an understanding of agency relationships

- **realize their limitations in working with clients and customers.**
- may represent clients without the supervision of a broker.
- may act as an attorney for their clients in court cases.
- are exempt from lawsuits from other brokerages and those who are not their clients.

The answer is realize their limitations in working with clients and customers. Agency law defines relationships between professionals, and between professionals and their clients and customers, but carries no entitlement.

QUESTION# 136

[QID: re_question_00147_1700.dita]

Does the obligation to be “honest” with all parties extend to a sales agent, representing a seller, who is confronted by a potential buyer wanting to know why the seller is selling?

- **No, the sales representative should not lie but should not provide personal or financial information about a property that the seller does not want released.**
- Yes, if a property is on the market because of, for instance, financial hardship by the seller, the buyer is entitled to know.
- Yes, if the property is on the market because of, for instance, personal hardship such as a divorce, the buyer is entitled to know.
- No, the information may only be released to a licensed agent working with the buyer.

The answer is no, the sales representative should not lie but should not provide personal or financial information about a property that the seller does not want released. The sales agent can either explain that personal information will not be available or ask the seller for instructions on how to handle the questions.

QUESTION# 137

[QID: re_question_00147_1701.dita]

What form of agency is illegal in Texas?

- **Dual agency**
- Single agency
- Listing agency
- Buyer agency

The answer is dual agency. Dual agency has been replaced by intermediary agency in Texas. Undisclosed dual agency typically occurs when a broker or sales agent had a listing and agreed to help a buyer, without telling the buyer the agent was legally bound to represent the best interest of the seller. Brokers must disclose where their loyalty and fiduciary duty lie.

QUESTION# 138

[QID: re_question_00147_1702.dita]

A broker is clearly entitled to conduct performance reviews with employed sales agents. May a broker conduct performance reviews with independent contractors?

- **Yes, brokers may review all aspects of the work of independent contractors, including meeting sales goals, office conduct, clerical duties, and legal compliance.**
- No, independent contractors are free from reviews regarding sales, office presence, or clerical responsibilities.
- Independent contractors may only be reviewed on clerical duties (is paperwork complete, is paperwork in on time, are proper forms being submitted, have continuing education hours been met, etc.).
- Yes, brokers may review the sales performance of independent contractors but may not terminate independent contractors for failure to meet goals.

The answer is yes, brokers may review all aspects of the work of independent contractors, including meeting sales goals, office conduct, clerical duties, and legal compliance. Brokers are entitled to set performance goals for everyone in the brokerage and review those goals periodically.

QUESTION# 139

[QID: re_question_00147_1703.dita]

May a broker subtract desk expenses from an independent contractor's commission check?

- **Brokers and sales agents should operate under a negotiated work agreement, which may or may not allow the broker deductions.**
- Brokers always are entitled to recoup office expenses from an agent's commission check.
- No, brokers must pay independent contractors the full amount of the commission earned in transactions; office expenses are a separate item.
- Under current regulations, desk expenses are considered a cost of doing business and therefore come out of the broker's portion of the commission.

The answer is brokers and sales agents operate under a negotiated work agreement, which may or may not allow the broker deductions. Brokers and independent contractors should make sure their work agreement specifies any commission reductions.

QUESTION# 140

[QID: re_question_00147_1704.dita]

Real estate fees and commission are set by

- **individual companies.**
- the Texas Real Estate Commission.
- the Texas Association of REALTORS®.
- the local board of REALTORS® in conjunction with the state association of REALTORS®.

The answer is individual companies. There is no official board or institution that decides how much real estate brokers may charge.

QUESTION# 141

[QID: re_question_00147_1705.dita]

If a listing agent advertises a property as “the cutest house on the street” or “the most attractive house on the street,” do those claims have to be backed up?

- **The claims are examples of puffery and are generally acceptable in advertising real estate and most other industries.**
- The claims do not have to be proven, but agents should be prepared to offer some measurement on which the claims are based.
- The claims must be based on an unbiased measurement that should be offered to the potential buyer as part of full disclosure.
- The claims, once popular, have now been outlawed by the federal Consumer Financial Protection Bureau.

The answer is the claims are examples of puffery and are generally acceptable in advertising real estate and most other industries. Puffery is not considered fact-based.

QUESTION# 142

[QID: re_question_00147_1706.dita]

Which act extended full citizenship and civil rights to African Americans?

- **The 14th Amendment**
- The Emancipation Proclamation
- The Dred-Scott decision
- The Glass-Steagall Act

The answer is the 14th Amendment. The amendment also guaranteed all persons due process and equal protection under the law.

QUESTION# 143

[QID: re_question_00147_1707.dita]

Could a motorcycle rider and member of an outlaw motorcycle gang claim discrimination if a real estate agent refused to show her properties in a quiet neighborhood?

- **No, motorcycle riders are not a protected class.**
- Yes, motorcycle riders are entitled to equal protection.
- Yes, a motorcycle rider could claim she was discriminated against on the basis of a club membership.
- Yes, a motorcycle rider could claim to be discriminated against on the basis of unproven allegations of bringing the “wrong kind of people” into a neighborhood.

The answer is no, motorcycle riders are not a protected class. Sales agents, however, would be advised to tread lightly when shunning anybody on the basis of a club or organization membership. A conversation with legal counsel would be appropriate.

QUESTION# 144

[QID: re_question_00147_1708.dita]

If a family does not financially qualify to buy a home in a specific neighborhood, must the real estate agent still show them that home?

- **No, the agent is not obligated to show the property to anyone who is not financially qualified to buy it.**
- Yes, federal law says it isn't up to the real estate agent to decide what homes will be shown.
- Yes, if the family insists on seeing the home, the sales agent would be obligated to show it.
- Yes, buyers are allowed to browse through homes as long as they are up for sale.

The answer is no, the agent is not obligated to show the property to anyone who is not financially qualified to buy it. Real estate is not a tourist business. Sales agents are not obligated to waste their work time showing homes that buyers cannot buy.

QUESTION# 145

[QID: re_question_00147_1709.dita]

Must a buyer's agent show a very small house to a family with many children who all live together?

- **No, if local occupancy standards are prohibitive, the house need not be shown.**
- Yes, the familial status section of fair housing law requires that families be given the option to buy.
- Yes, it is not the real estate agent's decision to make regarding how many people should live in one house.
- The buyer's agent should determine the number bedrooms and their size, and calculate whether the family would fit in the house.

The answer is no, if local occupancy standards are prohibitive, the house need not be shown. Occupancy standards are an exemption to the familial status clause in the Fair Housing Act.

QUESTION# 146

[QID: re_question_00147_1710.dita]

Advertising apartments for rent must be done carefully to avoid suggestion that any class of individual is more welcome than others. Which of the following advertisements would be a violation of fair housing law?

- **"Kids OK."**
- "Close to schools."
- "Park, trees, and playgrounds across the street."
- "Recreation center within walking distance."

The answer is "Kids OK." Words such as "kids OK" appear to suggest a preference for families, which could be viewed as a discriminatory toward childless couples and possibly seniors. Words like "close to schools" and "recreation center within walking distance" are fact-based statements.

QUESTION# 147

[QID: re_question_00147_1711.dita]

How has fair housing law impacted the brokerage community?

- **It has brought in more buyers to compete for properties, boosting prices through competition.**
- It has driven down the value of real estate because more low-income people are allowed to buy property.
- It has hurt the brokerage community because commissions are down.
- It has had no impact.

The answer is it has brought in more buyers to compete for properties, boosting prices through competition. Fair housing is good business for real estate professionals because there are no artificial constraints on where buyers may buy, which has opened the entire real estate market.

QUESTION# 148

[QID: re_question_00147_1712.dita]

The basic premise of the Community Reinvestment Act is

- **a holistic approach to community revitalization is better than random, single-project efforts.**
- banks can charge higher interest rates if they invest locally.
- lenders can enhance their reputations in their communities if they appear to be friendlier.
- the government will appear to be taking seriously the issues of low-income neighborhoods.

The answer is a holistic approach to community revitalization is better than random, single-project efforts. History has taught that simply upgrading housing does not improve neighborhoods while improving the entire financial core—retail, office space, employment opportunities, and housing—will provide better results.

QUESTION# 149

[QID: re_question_00147_1713.dita]

Must newspapers comply with fair housing advertising laws?

- **Yes, newspapers must make sure real estate advertisements comply with fair housing law.**
- No, under the First Amendment to the Constitution, newspapers are free to print whatever they'd like.
- No, only newspapers that are run by the federal government, such as the Federal Registry, are required to follow government practices.
- Only newspapers that carry real estate advertising every day, rather just weekend real estate sections, must comply with federal rules.

The answer is yes, newspapers must make sure real estate advertisements comply with fair housing law. However, the rule applies only to real estate advertisements while exempting news stories about real estate.

QUESTION# 150

[QID: re_question_00147_1714.dita]

Why does TREC insist that brokerages provide and display information about brokerage services offered in Texas, even if a specific brokerage does *NOT* offer all those services?

- **TREC believes consumers should understand the basics of agency law and fair housing requirements and understand that license holders will not abrogate those principles.**
- Because brokerage services is a list of fees, TREC feels consumers should understand what they are being billed for.
- TREC allows brokers to provide brokerage service information to consumers so that consumers can decide who they want to do business with.
- None of these.

The answer is TREC believes consumers should understand the basics of agency law and fair housing requirements and understand that license holders will not abrogate those principles. The state believes that the better informed consumers are, the better real estate choices they will make.

QUESTION# 151

[QID: re_question_00147_1715.dita]

Real estate brokers and sales agents are allowed to give legal advice because

- **neither real estate brokers nor sales agents are permitted to give legal advice unless they also are licensed attorneys in the state of Texas.**
- they do not have to be lawyers to give legal advice in Texas.
- salespeople work on legal contracts all the time, giving them familiarity with the law.
- part of the licensing and continuing education classes focuses on real estate law.

The answer is neither real estate brokers nor sales agents are permitted to give legal advice unless they also are licensed attorneys in the state of Texas. Real estate agents who attempt to give legal advice are violating numerous laws, including practicing law without a license and possibly fraud. Legal questions also should be referred to attorneys.

QUESTION# 152

[QID: re_question_00147_1716.dita]

Even if your intention is only to assist buyers and sellers of real estate, what class must be taken to receive a license?

- **Property management and establishing landlord policies**
- A course on self-defense
- A course on how to do a detailed home inspection
- How to become a successful sales agent and make a competitive salary

The right answer is property management and establishing landlord policies. Sales agents must have a general familiarity with the broad practice of real estate and its subdisciplines.

QUESTION# 153

[QID: re_question_00147_1717.dita]

Before Texas residents can receive a real estate license, they must submit to the Texas Real Estate Commission

- **a set of fingerprints that will be used for a background check.**
- a high school graduation photo from a Texas high school.
- a list of family members, highlighting any who have committed criminal acts.
- a DNA sample to be matched against open criminal cases.

The answer is a set of fingerprints that will be used for a background check. TREC takes seriously the background of every agent applicant in an effort protect the state's real estate consumers.

QUESTION# 154

[QID: re_question_00147_1718.dita]

Under what circumstances may a consumer collect from the real estate recovery trust account if the person who committed the misdeed did *NOT* have a real estate license?

- **The consumer may collect from the fund if the unlicensed person works for a brokerage or other business that is licensed to conduct real estate.**
- The consumer cannot collect from the trust fund if the individual does not have a license.
- The consumer can go to a state court and obtain a judge's order directing the fund to release money.
- The consumer can go to federal court and obtain an affirming judgment that would require the state to release money.

The answer is the consumer may collect from the fund if the unlicensed person works for a brokerage or other business that is licensed conduct real estate. License holders are responsible for the work of all employees, not just sales agent license holders.

QUESTION# 155

[QID: re_question_00147_1719.dita]

If a listing agent, in collusion with the seller, provides false or misleading information to a buyer agent in the hope the information will be passed to the buyer (for the purpose of a spurring a quick offer), is that grounds for discipline?

- **Yes, the listing agent has an obligation to be fair and honest to the buyer.**
- No, as long as the listing agent is acting according to the seller's wishes, it is permissible.
- No, floating misleading information in the hope of securing a quick offer is a sales tactic similar to puffery.
- It depends; an attempt to secure a quick sale is permissible, but if the buyer is mistakenly led to believe insider information could lead to a quick resale and windfall profit, then it is illegal.

The answer is yes, the listing agent has an obligation to be fair and honest to the buyer. Using schemes, trickery, or conspiracy for the purpose of securing a sale could be considered a violation of law.

QUESTION# 156

[QID: re_question_00147_1720.dita]

Under what circumstances can property owners take back their land after it has been taken in an eminent domain proceeding?

- **If land taken by eminent domain is not redeveloped or reused within 10 years, the original owner may buy back the land for the price the owner received for it 10 years before.**
- Before an eminent domain proceeding closes and a judgment is entered, a legal landowner may take steps to pollute or otherwise destroy the land, making it no longer desirable by the government.
- There are no scenarios in which a removed landowner may retake control of a seized property.
- In a hostile eminent domain procedure, if the former landowner continues to occupy (becomes a squatter) on the land and authorities do not attempt to remove him within 60 days, the land reverts to the owner.

The answer is if land taken by eminent domain is not redeveloped or reused within 10 years, the original owner may buy back the land for the price the owner received for it 10 years before. Government projects often get stalled, lose favor, or simply become too expensive to pursue, making the land available to go back to the original owner.

QUESTION# 157

[QID: re_question_00147_1721.dita]

If an older person is granted a “conventional life estate,” what happens to the property when the person dies?

- **When the tenant dies, the estate ends and the property reverts to the original owner or to another designated person.**
- Like any other property, it goes to the heirs.
- A “conventional life estate” means a person may live on the property until the end of life, at which time it becomes the property of the State of Texas.
- Unlike other estates, a “conventional life estate” cannot be inherited but must be sold at the end of the person’s life.

The answer is when the tenant dies, the estate ends and the property reverts to the original owner or to another designated person. The estate cannot change until the tenant dies, but it is not inheritable by heirs of the original owner.

QUESTION# 158

[QID: re_question_00147_1722.dita]

If a homeowner defaults on a medical care debt, can a hospital foreclose on the individual’s home?

- **No, medical bills cannot force the sale of a homestead.**
- Yes, the sale of a homestead may be forced to help pay medical bills.
- The sale of a homestead may be forced only if hospital bills exceed \$1 million.
- The sale of a homestead may be forced if a loan on the homestead is insured by either Fannie Mae or Freddie Mac, and medical bills were covered in part by Medicare.

The answer is no, medical bills cannot force the sale of a homestead. There are only nine ways to penetrate the Texas Homestead Act, and paying medical bills is not included.

QUESTION# 159

[QID: re_question_00147_1723.dita]

An oil driller needs to access a rig. Since the well was drilled many years ago, the owner of the surface property has subdivided the land and parcels have been sold and resold. Also, the original oil company has been sold, merged, and merged again. Nobody is now sure where the original easement ran. Does the driller still have the right to access the well?

- **If nothing else, there is an easement by implication.**
- If nothing else, there is an easement in gross.
- If nothing else, there is an easement by prescription.
- No, the well is clearly abandoned and a new easement will have to be negotiated with a neighboring landowner.

The answer is if nothing else, there is an easement by implication. Under Texas law, when mineral rights are sold, it is implied that the buyer will be able to access the property.

QUESTION# 160

[QID: re_question_00147_1724.dita]

Landowners adjacent to a body of water, such as a lake, may pull water from the lake as long as

- **they have the permission of the Texas Commission on Environmental Quality.**
- they have the permission of the Environmental Protection Agency/Army Corp of Engineers.
- they need it, without restriction from the state or federal government.
- they have the permission of abutting landowners.

The answer is they have the permission of the Texas Commission on Environmental Quality. Water use is controlled by the state, except for limited use for domestic purposes. A permit is required and a person must show a beneficial use, such as crop irrigation.

QUESTION# 161

[QID: re_question_00147_1725.dita]

Is the owner of a sole proprietorship obligated to file as a business with the secretary of state's office?

- **No, a sole proprietorship need not file with the secretary of state's office.**
- Yes, a sole proprietorship must file with the secretary of state's office.
- No, but a sole proprietorship must file with the Department of Business Licensing and the Texas Department of Revenue.
- Because of the number of sole proprietorships that go out of business the first year, they need not file paperwork with the secretary of state until they complete their first year.

The answer is no, a sole proprietorship need not file with the secretary of state's office. Many real estate brokerages are sole proprietorships.

QUESTION# 162

[QID: re_question_00147_1726.dita]

If a legal partnership, framed as “tenants in common” but holding land in the name of the partnership, decides to sell the property, how many partners must sign the agreement?

- **One signature by any of the partners**
- Just the senior partner
- All the partners
- Just the attorney representing the partnership

The answer is one signature by any of the partners. If the property is owned by the legal entity of “the entire partnership,” then only one person need sign to make a sale.

QUESTION# 163

[QID: re_question_00147_1727.dita]

For an entrepreneur to set up a real estate brokerage as a sole proprietorship, she must first

- **have a valid broker’s license.**
- register with the Texas Association of REALTORS®.
- file a territorial application with TREC so it can determine whether more real estate businesses are needed in the desired area.
- There are no preliminary regulations, but a brokerage license will be required after the 10th real estate sale.

The answer is a valid broker’s license. Also, TREC must be notified within 30 days of start-up whether the company will operate under a name other than that of the broker.

QUESTION# 164

[QID: re_question_00147_1728.dita]

Must salespersons working for builders or developers have real estate licenses?

- **Paid employees of builders or developers do not need to be licensed.**
- Yes, anyone involved in property sales in Texas must be licensed.
- Rules change from county to county, but along the coast and Rio Grande Valley, all sales agents must be licensed, while in college communities, licenses are optional.
- Anyone working for a builder needs a special license that is different from a traditional real estate license.

The answer is paid employees of builders or developers do not need to be licensed. In theory, promises made by an employee must be backed up by the builder or developer if TREC needs to take action.

QUESTION# 165

[QID: re_question_00147_1729.dita]

States bordering Texas (Louisiana, Arkansas, Oklahoma, and New Mexico) all permit which kind of legal description that Texas does *NOT* permit?

- **Rectangular survey system**
- Metes and bounds
- Recorded subdivision
- Texas Department of Interior map

The answer is rectangular survey system. Most other states in America allow that system, but Texas and a handful of states, mostly on the east coast, do not permit it.

QUESTION# 166

[QID: re_question_00147_1730.dita]

While it is obviously permissible to sell off pieces of a section in a land transaction, is it permissible to blend pieces of sections together?

- **Pieces of adjoining sections may be combined without restriction so long as the legal description is accurate.**
- No, under Texas law, sections must always maintain their boundary integrity.
- Yes, but only if the abutting pieces are at least one-quarter of a section each.
- In urban areas with populations in excess of 1.5 million, it is permissible to break sections apart and reblend them into new sections.

The answer is pieces of adjoining sections may be combined without restriction so long as the legal description is accurate. Remember, however, the term "section" is almost exclusively used in rural parts of the state.

QUESTION# 167

[QID: re_question_00147_1731.dita]

Datums and *benchmarks* are terms exclusively used to describe

- **an elevation point for the purpose of establishing air rights.**
- the headwaters of a river.
- the originating point of an oil or gas pipeline.
- the originating point of a circle (datum) and the originating point of a distance (benchmark).

The answer is an elevation point for the purpose of establishing air rights. Surveyors use established datums and benchmarks to determine a starting point for elevation measurements.

QUESTION# 168

[QID: re_question_00147_1732.dita]

When a four-acre piece of property is offered at \$3 per square foot, what is the asking price?

- **\$522,720**
- \$624,860
- \$436,360
- None of these

The answer is \$522,720. There are 43,560 square feet in an acre offered at \$3 per acre (\$130,680) times 4 acres (\$522,720).

QUESTION# 169

[QID: re_question_00147_1733.dita]

When a builder does substantial work on a client's lake house, but the client refuses to pay, can the builder file a lien against both the client's lake house and the client's main home?

- **No, the builder may only file a specific lien against the lake house.**
- Yes, the builder may place a lien on all the customer's properties.
- No, the builder may only file a lien against the client's main homestead and no other ancillary properties.
- No, a lake house is considered personal property, not real estate, and therefore cannot have a lien against it.

The answer is no, the builder may only file a specific lien against the lake house. The work was only done on the lake house; therefore, the lake house is the only property that can be considered for legal action.

QUESTION# 170

[QID: re_question_00147_1734.dita]

What might be the role of a real estate broker in the event a homeowner seeks to overturn a property appraisal?

- **A broker might be able to offer actual appraisals and sales prices of comparable homes.**
- A broker might offer the attorney for the local board of REALTORS® to prepare the homeowner's case.
- A broker might testify about current market conditions and direction of home prices.
- A broker might be able to leverage local lenders who have an interest in keeping taxes low.

The answer is a broker might be able to offer actual appraisals and sales prices of comparable homes. The homeowner is required to provide written documentation that an appraisal is not too high, and one way to do that would be to provide comps.

QUESTION# 171

[QID: re_question_00147_1735.dita]

A homeseller's tax bills are especially useful for real estate agents because

- **they give agents for both sellers and buyers an idea of the direction of property values.**
- they give a listing agent an idea of how much commission the seller can afford.
- they give a listing agent a target for setting the home price.
- they give potential homebuyers a negotiating strategy.

The answer is they give agents for both sellers and buyers an idea of the direction of property values. Tax bills give percentage comparisons of this year's bill to one five years earlier.

QUESTION# 172

[QID: re_question_00147_1736.dita]

Can a judgment lien be placed on both real and personal property?

- **Yes, against both real and personal property**
- No, only against personal property
- No, only against real property, not possessions
- Yes, with exemptions for commercial properties, properties in other states, and recreational properties

The answer is yes, against both real and personal property. A judgment lien also covers real or personal property, or both, acquired after the judgment lien has been recorded.

QUESTION# 173

[QID: re_question_00147_1737.dita]

An agreement in which the buyer and the seller have agreed to meet specific obligations is called

- **an executory agreement.**
- an executed agreement.
- a nonvoidable agreement.
- an anticipatory agreement.

The answer is an executory agreement. An agreement has been reached and signed that outlines the obligations of both parties—such as to deliver a deed in exchange for payment of the property—but those objectives have not yet been fulfilled.

QUESTION# 174

[QID: re_question_00147_1738.dita]

Under Texas law, can a property be sold to someone who is *NOT* a U.S. citizen?

- **Citizenship is not listed as a required element for a valid contract.**
- No, anyone buying a property in Texas must be able to prove citizenship.
- Yes, but noncitizens must prove their intent to remain in the United States for at least seven years.
- Noncitizens may purchase Texas property only if the Texas Department of Financial Responsibility (TDFR) approves the sale.

The answer is citizenship is not listed as a required element for a valid contract. People who are not citizens of the United States routinely purchase properties in Texas and elsewhere based on their competency to enter into a contract and their capacity to pay.

QUESTION# 175

[QID: re_question_00147_1739.dita]

What is an example of discharging a contract because of impossibility of performance?

- **When one principal or the other dies before the contract can be signed**
- When the principals agree to fraudulently move boundaries to claim more land
- When the seller actually does not legally own the property being sold
- When the buyer conceals the fact that he does not have the funds to buy a property

The answer is when one principal or the other dies before the contract can be signed. The contract could not be executed unless both principals sign, meaning that one of the signatures would have to be forged.

QUESTION# 176

[QID: re_question_00147_1740.dita]

Why does the Texas Real Estate Commission approve or promulgate, or both, specific forms to be used in real estate transactions?

- **Because the vast majority of real estate transactions are similar in nature and standardized forms can help protect all parties involved**
- So that it can collect a royalty each time a form is used
- Because the federal Consumer Financial Protection Bureau has ordered TREC to provide forms
- Because lenders require transactions to be recorded via computer and computers cannot accommodate a wide variety of different answers

The answer is because the vast majority of real estate transactions are similar in nature and standardized forms can help protect all parties involved. Standardized forms help identify the responsibilities of those involved and provide recourse when procedures are intentionally, or unintentionally, not followed.

QUESTION# 177

[QID: re_question_00147_1741.dita]

Must a broker or sales agent have a written listing agreement to sell a property in Texas?

- **No, a written listing agreement is not necessary unless the license holder wants to assure his commission.**
- Yes, only a written listing agreement can be used to transfer property.
- Yes, the listing agreement and the purchase contract are the only two documents needed in a real estate transaction.
- No, many properties that do not involve listing agreements change hands every year.

The answer is no, a written listing agreement is not necessary unless the license holder wants to assure his commission. A broker or sales agent may assist in a transaction without a listing, but if compensation becomes an issue, a written contract would be important in deciding the conflict.

QUESTION# 178

[QID: re_question_00147_1742.dita]

To avoid liability, should listing agents simply accept the sellers' word when they provide information about their property?

- **It is always best to verify from an independent source (such as courthouse records) what a seller says.**
- It is important to have the seller fill out property information and for the agent to remain silent to avoid liability.
- The listing agent must challenge, for the record, every detail provided by the seller.
- Checking details of the listing agreement is a buyer chore, not a listing agent chore.

The answer is it is always best to verify from an independent source (such as courthouse records) what a seller says. Agents should not trust even a well-meaning seller's memory, especially when public documents are readily available.

QUESTION# 179

[QID: re_question_00147_1743.dita]

When a government entity such as HUD or even a municipality transfers ownership of a home, is a property disclosure required?

- **Government entities are not required to provide disclosures.**
- Yes, Texas law requires full disclosure.
- Federal regulation states that no disclosures will be provided on HUD-owned homes, but insists disclosures be made on municipally owned properties.
- Disclosure is only required of government-owned homes if the property has been wholly or partially destroyed by fire.

The answer is government entities are not required to provide disclosures. Buyers of government-owned properties are urged to seek professional home inspections even if the sales price is extraordinarily low.

QUESTION# 180

[QID: re_question_00147_1744.dita]

Even if a name and number are on the do-not-call list, the individual may be contacted if

- **the person has had a business relationship with the company in the past 18 months.**
- the person has had a business relationship with an affiliated company in the past 6 months (such as a lender affiliated with a brokerage).
- the person has had a business relationship with a competing company (such as working with a salesperson from a different company).
- the person fits a statistical profile suggesting a likelihood of being interested in real estate (such as being recently married, reaching a certain income level, having a child, etc.)

The answer is has had a business relationship with the company in the past 18 months. In this case, a sales agent is allowed to recontact a potential buyer who may not have purchased through them earlier.