Chapter 6: Practice of real estate and disclosures

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Chapter 6: Practice of real estate and disclosures

Key Concepts

Critical real estate concepts equaling approximately 25% of the state licensing exam.

- Trust account management
- Fair Housing laws
- Truth in advertising
- Record keeping requirements
- Agency supervision
- Permitted activities of unlicensed sales assistants
- DRE jurisdiction and disciplinary actions
- Licensing, continuing education requirements and procedures
- California Real Estate Recovery Fund
- General ethics
- Technology
- Property management
- Commercial/Industrial/Income properties
- Specialty areas
- Transfer Disclosure Statement (TDS)
- Natural Hazard Disclosure Statement (NHD)
- Disclosure of material facts affecting property value
- Need for inspection and obtaining / verifying information
- Reports
- Servicing diverse populations

Key Terms

Fundamental real estate vocabulary likely to appear on the state exam with reference to the quiz questions illustrating its application. See the Real estate glossary on page 331 for the full definitions.

abandonment (q. 57)  bulk sale (q. 15)  comparative market analysis (CMA) (q. 3)
advertising (q. 2, 10-12)  certificate of clearance (q. 16)  Department of Real Estate (DRE) (q. 18)
Americans with Disability Act (ADA) (q. 9)  commingling (q. 20, 21)  disclosure (q. 23-25)
anti-trust (q. 13)  commission (q. 4, 8, 22, 28)  due diligence (q. 59)
blockbusting (q. 14, 71)  common area (q. 58)
Just the Facts

Trust Account Management

Funds belonging to others which a broker and their agents handle when acting as agents in a transaction are called trust funds.

Trust funds generally include:

- rents and security deposits collected under a property management agreement;
- good faith deposits tendered by a buyer with an offer to purchase;
- fees and costs handed to the broker in advance of their performance of agreed-to services; and
- loan payments and funds on contract collection and loan brokerage.

Trust funds may also be in the form of any monetary or other personal property of value.

Trusts funds are held by brokers for safekeeping and are kept separate from the broker’s personal funds. Recordkeeping and accounting requirements are imposed on brokers when they receive, transfer or disburse trust funds.

Monies collected on behalf of a client need to be deposited no later than three business days after receipt. A broker may maintain a maximum of $200 in the account to offset bank fees.

The commingling of client funds with other client monies is one of the primary causes of licensee disciplinary action. Similarly, conversion occurs when a licensee uses the client’s funds for their own purposes.
Any employee may be authorized by the broker to withdraw monies from the trust fund. If the authorized person is not licensed, they need to have a fidelity bond for an amount equal to what they can access.

A trust account ledger must be maintained even when client funds are not cashed but transferred to escrow or title companies. Ledgers and trust accounts are to be balanced monthly.

If a broker owns an apartment building, the monies from this property are to be handled separately from that of the clients and not deposited in a client trust account.

**Fair Housing Laws**

Most Fair Housing Laws come from the 1968 Civil Rights Act consisting of the:

- Federal Fair Housing Act (FFHA); and
- Federal Open Housing Law.

The Thirteenth Amendment of the United States Constitution is the foundation of much of the fair housing laws.

Discrimination against an individual is prohibited by the FFHA in:

- the sale, rental or advertisement of a residence;
- offering and performing broker services;
- making loans to buy, build, repair or improve a residence;
- the purchase of real estate loans; or
- appraising real estate.

A residence held out for sale, lease or refinance is defined to include:

- any building or structure occupied or designed to be occupied as a residence by one or more families; and
- any vacant land offered for sale or lease for the construction of a residential building or structure.

**Discriminatory actions** of a broker or sales agent covered under the FFHA are actions taken against individuals based on that individual’s:

- race or color;
- national origin;
- religion;
- sex or sexual orientation;
- familial status; or
- handicap.

Under the Americans with Disabilities Act (ADA), an employer may not discriminate against a qualified person with a disability who seeks employment based on that person’s disability. ADA requires various amenities added to new construction, but generally does not require changes to existing buildings.
Many questions on the state exam will be asked about discrimination and what is ethically and legally correct. Consider the protected groups covered by these laws, and recognize that the public policy goal is to have a color-blind society that treats all people the same.

These are some of the key points and terms concerning discrimination:

- **redlining** – a lender or insurance company refusing to do business within a geographic area;
- **steering** – a licensee attempting to show prospective buyers and tenants only properties they deem appropriate, rather than what the client wants to see;
- **blockbusting** and **panic selling** – an attempt to influence sales or rentals of real estate by exploiting the prejudices of property owners in a neighborhood. For example, a licensee attempting to secure a listing to sell a residential property by telling the seller the neighborhood demographics are changing, and they need to sell now before the change occurs;
- **implicit discriminatory practices** – those which are not openly discriminatory, but result in discriminatory effects;
  - complaints must be filed with the Department of Housing and Urban Development (HUD) within one year of the discriminatory act; and
  - victims of housing discrimination can enforce their rights by filing civil court cases in federal court, state or local courts or by filing a complaint with HUD.

Additional California Fair Housing laws include:

- the **Fair Employment and Housing Act (Rumsford Act)** which prohibits discrimination in supplying housing accommodations and is overseen by the Department of Fair Employment and Housing;
- the **Housing Financial Discrimination Act (Holden Act)** which protects against discrimination in lending practices; and
- the **Unruh Civil Rights Act** which prohibits discrimination in businesses.

**Truth in advertising**

A licensee’s name and license number needs to be contained in all of their advertising intended to be the first point of contact with a potential client, including business cards.

Advertisements may not be misleading. Examples of misleading advertisements include:

- the failure to state material facts about the condition of the property; or
- publishing a map that causes people to believe a property is closer to area amenities such as shopping and transportation than it actually is.

**Puffing** refers to the exaggeration of a property feature that becomes misleading when a reasonable person perceives it as an absolute fact.

A **blind advertisement** is an ad that neither names the broker nor states a licensed agent is involved.

**Buyer gifts**, such as movie tickets or wine, are permissible so long as they are:

- available to everyone; and
- any obligation, such as attending a presentation, is clearly disclosed.
Record keeping requirements

The **Business and Professions Code** requires records to be kept for **three years**. Records include:

- copies of all listings;
- trust account ledgers;
- purchase agreements; and
- all documents used in connection with a transaction.

Electronic records are permitted so long as they are non-erasable, “**write once, read many**” (WORM) format.

The hard copies must be made available to the Department of Real Estate (DRE) upon request.

Agent supervision

A broker is responsible for the actions of licensees working under their license. In order to demonstrate proper supervision, brokers need to implement a combination of training and oversight.

The risks taken by a broker and their agents expose the broker to liability caused by an:

- error;
- omission; or
- misunderstanding brought about by the activities of the broker or their agents.

All acts carried out by a broker or their agents present the possibility that a client or other party will be **injured financially**.

It is the risk of causing these losses which the broker needs to control. Thus, brokers need to maintain a **risk reduction program** to keep claims from clients and others under control.

As a buffer against liability, a broker can purchase negligence insurance, called **errors and omissions insurance**, or more simply, **E and O insurance**. With the payment of a premium, **E and O insurance** protects brokers from the full cost of defending against a **negligence claim** made by a client or others.

Permitted activities of unlicensed sales assistants

Real estate licensees often hire **unlicensed assistants** to perform nondiscretionary administrative activities. An **unlicensed assistant** may not perform any activity for which a real estate license is required. Thus, an unlicensed assistant cannot **communicate price** and **terms** with potential clients.

An unlicensed assistant may write up documents including contracts and comparative market analyses (CMAs), so long as they are reviewed by the broker. They may also host an open house provided they do not answer questions regarding the price and terms.

As with an office receptionist, they may take telephones calls but need to refer the call to a licensed agent once it is determined the call is in response to a sign or advertisement. Further, they may not induce anyone to use their employing broker’s services, or make any solicitation regarding a specific property, transaction or product.
Any unlicensed person may locate prospective buyers, sellers, borrowers, tenants or landlords for referral to a broker’s services as an “unlicensed finder” for a fee.

Finders need to be hired under written contracts of employment. These employment contracts will delineate the finder’s responsibilities and limit their conduct to activities permitted by regulations for their unlicensed statuses. Finders may be compensated by:

- a salary;
- a percentage fee; or
- a lump sum basis per closing.

**DRE jurisdiction and disciplinary actions**

The California Legislature created the Department of Real Estate (DRE) to oversee, regulate, administer and enforce the real estate law. Prior to July 2018, the DRE was known as the California Bureau of Real Estate (CalBRE) and was contained within the Department of Consumer Affairs. Most of the laws that relate to real estate practice are contained in the Business and Professions Code.

The chief officer of the DRE is the Real Estate Commissioner. The Real Estate Commissioner’s principal responsibility is to enforce all the real estate laws pertaining to real estate licensing and the Subdivided Lands Law.

The Commissioner ensures that real estate licensees and members of the public dealing with licensees receive maximum protection.

As a means of enforcing licensing and subdivision laws, the Commissioner promulgates rules and regulations addressing conduct of persons falling within the real estate law activities. The regulations are part of the California Code of Regulations known as Title 10.

The DRE may fine, suspend or revoke a license. Legal actions such as fraud are dealt with by the Justice Department.

The Commissioner also has authority over developers through the Subdivided Lands Law.

The DRE does not hear commission disputes, which are settled by civil lawsuits.

**Licensing continuing education requirements and procedures**

To engage in the business of real estate as a real estate broker or agent, a person first obtains a real estate license issued by the DRE.

A real estate broker is a person who, for compensation or in expectation of compensation, engages in:

- negotiating the sale, purchase or exchange of real estate, leases or business opportunities;
- soliciting listings from buyers or sellers;
- leasing or renting, or offering to lease or rent, property on behalf of an owner or tenant;
- collecting rent from real estate or business opportunities;
- assisting in the purchase or lease of property owned by the state or federal government;
• negotiating real property sales contracts or loans to be secured by real estate or business opportunities on behalf of lenders or borrowers; and
• negotiating the sale or purchase of mobilehomes.

To be eligible for a broker or sales license, the applicant needs to:

• be at least 18 years old;
• be honest and truthful;
• provide proof of legal presence in the U.S.;
• make the application on the proper form prescribed by the DRE;
• complete the mandatory education; and
• pass the qualifying exam.

A real estate broker and real estate sales license is valid for four years from the date of issuance noted on the license certificate.

All real estate brokers and sales agents need to complete at least 45 hours of continuing education (CE) to renew a license issued by the DRE.

The CE requirements for license renewal were legislated to help maintain and improve the level of competence of real estate brokers and agents.

The DRE sales agent renewing for the first time needs to complete 45 hours of CE, consisting of:

• 18 hours of Consumer Protection courses;
• 15 hours comprised of five separate three-hour courses in:
  ° Agency;
  ° Fair Housing;
  ° Trust Funds;
  ° Ethics; and
  ° Risk Management; and
• the remaining 12 hours composed of either Consumer Protection or Consumer Service courses, including Office Management and Supervision course if they choose to take it.

While brokers and sales agents beyond their first renewal are required to include the Office Management and Supervision course in their 45 CE hours, the DRE allows them the option of choosing how to study it. A licensee may study the Office Management and Supervision material separately or aggregated into an eight-hour “survey” course with the five mandated courses.

If the licensee fails to renew prior to their expiration date, they enter a two-year grace period. They may not practice real estate when their license is expired.

California Real Estate Recovery Fund

The Real Estate Recovery Fund, also known as the Consumer Recovery Account, is available to individuals who have obtained a final-court judgment against a real estate licensee for losses caused while acting as an agent and are unable to recover the judgment from the licensee.
The judgment needs to be based on:

- fraud, misrepresentation or deceit;
- conversion of trust funds; or
- criminal restitution.

Recovery from the fund is limited to $50,000 for one transaction and $250,000 for any one licensee.

A licensee’s license will be suspended and will not be reinstated until the licensee repays any amounts paid from the Real Estate Recovery Fund to satisfy a judgment against them, plus interest.

**General ethics**

**Ethics** are a set of values which guide a licensee’s behavior towards others. Ethical and legal guidelines are covered in the Business and Professions Code.

For the purpose of taking the state exam, presume that any question that asks whether it is illegal or unethical should be presumed to be illegal.

Recognize that unusual contracts between clients and licensees, such as net listings and listings with options to purchase, require a greater amount of transparency – full disclosure on the part of the licensee.

**Pocket listings** – holding a signed listing contract rather than submitting it for exposure to the general public on the Multiple Listing Service (MLS) – are unethical unless explicitly authorized by the seller. Fiduciary duty requires a maximum effort to advertise a property on behalf of the seller. To hold the listing without releasing it on the MLS creates a conflict of interest since the salesperson’s purpose for doing so is to receive both sides of the commission.

A **conflict of interest** arises when a broker or their agent, acting on behalf of a client, has a competing professional or personal bias which hinders their ability to fulfill the fiduciary duties they have undertaken on behalf of their client.

In a professional relationship, a broker’s financial objective of compensation for services rendered is not a conflict of interest.

However, fees and benefits derived from conflicting sources must be disclosed to the client. This includes compensation in the form of:

- professional courtesies;
- familial favors; and
- preferential treatment by others toward the broker or their agents.

**Technology**

Modern technology has allowed for more efficient record keeping, documentation and marketing to be done by computer and through the internet.

Licensees need to remember the time requirements for the storage of records (three years) and the need to be able to recover that data if required by courts or by a DRE audit. Brokers also need to recognize their responsibility for approving and supervising any internet marketing.
**Property management**

The management of client properties requires a **broker license**. A broker has the authority to act as a property manager by virtue of their DRE license alone. There is no special “property management” license or endorsement required under California law.

For exam questions concerning the relationship between the property manager and the tenant, many of the Fair Housing principles discussed above apply.

A property manager’s authority to take possession and control of income-producing real estate and manage its leases, rents, expenses, mortgage payments and accounting in expectation of a fee is established in a **property management agreement**. The property management agreement sets out the specific rights, responsibilities and expectations of the property manager and the landlord, and includes authorized activities, performance standards and expense limitations.

Compensation for the manager can be a flat rate or a percentage of monies collected. Compensation can never be a kickback or discount on materials or services paid by the owner.

A **security deposit** is security for the tenant’s default on obligations agreed to in the rental or lease agreement. The maximum security deposit equals **two months’ rent** for an unfurnished rental and **three months’ rent** for a furnished rental unit. No other consideration affects the maximum amount that can be demanded.

After a tenant has surrendered the unit, the property manager has **21 days** to return any unused deposit along with an explanation of how the monies were used.

**Commercial/Industrial/Income properties**

While most real estate licensees are involved in residential property sales and leasing, no additional licensing requirements exist for the sale or leasing of commercial, industrial or income-producing properties.

**Specialty areas**

A **business opportunity** is the sale or lease of the operations and goodwill of an existing business enterprise or opportunity. The arranging of a sale or purchase of a business opportunity is governed by the DRE. To receive a fee for the sale of a business opportunity, it is necessary to hold a real estate license, unless the person receiving the fee is licensed as a **securities broker** or **dealer** by California or the United States.

The sale of a business opportunity may consist of two transactions:

- the sale of the business, including inventory, trade fixtures and goodwill (classified as **personal property**); and
- the sale of the real property itself, whether a fee or leasehold interest, including the building and land.

The documents used in the sale of a business include a:

- **bill of sale**;
- **Uniform Commercial Code Financing Statement (UCC-1)** for the personal property; and
• a **deed** for the transfer of the real property.

The transfer of more than one-half the business’s inventory of materials or goods to a person other than a customer of the business is called a **bulk sale**.

In the sale of a retail business, other considerations exist, such as the buyer’s request for a **certificate of clearance** from the **State Board of Equalization (SBOE)** to assure the sales tax has been paid up to the close of escrow. Other considerations include approvals by government agencies and building departments, as well as acquisition of city business permits and permits by the Alcohol Beverage Control (ABC) in regards to alcohol licenses.

**Franchises** are business opportunities, as in the right to conduct business using the franchisor’s business plan.

An escrow is required if the business opportunity includes a **liquor license**.

**Mobilehomes** have a unique legal status, being either real estate or personal property.

A *mobilehome*, also known as a *manufactured home*, is a structure:

• at least eight feet in width, 40 feet in length or more than 320 square feet when transported in one or more sections;
• built on a permanent chassis;
• designed to be used as a dwelling with or without a permanent foundation.

A mobilehome that meets the requirements and is attached to a permanent foundation loses its personal property status and becomes real property since it is now a permanent fixture or an improvement to the real estate.

The broker handling the sale of a mobilehome that is considered real estate conducts themselves as they would on the sale of any type of real estate.

The rules for buying, selling, registering and encumbering mobilehomes that are not considered real property differ from the rules for real estate sales.

The government agency responsible for the registration of mobilehomes is the **California Department of Housing and Community Development (HCD)**. Mobilehomes are registered with the **HCD**, unless the mobilehome is considered real estate.

When a new mobilehome is first purchased, it is registered on a form provided by the HCD referred to as the **original registration** of the mobilehome.

At the time of the **original registration** of the mobilehome, the HCD creates a permanent title record for the mobilehome. The real estate licensee can only handle sales of a mobilehome subsequent to the original registration.

**Transfer Disclosure Statement (TDS)**

The seller of a one-to-four unit residential property completes and delivers to a prospective buyer a statutory form called a **Transfer Disclosure Statement (TDS)**, more generically called a **Condition of Property Disclosure Statement**.
The state mandated disclosure form requires the seller to state all known material facts affecting the property’s value and desirability. The seller’s mandated use of the TDS requires it be prepared with **honesty and in good faith**, whether or not a seller’s agent is retained to review its content.

Further, the listing agent is expected to make a thorough inspection of the property and report honestly what is observable. The licensee may not fill-out the seller’s portion of the form.

The TDS is required even when the property is being sold “as is” or when the property is sold by the owner without an agent, known as a **For Sale By Owner (FSBO)**.

Transactions which exempt the seller (but not the seller’s agent) from preparing and delivering the statutory TDS to the buyer include transfers:

- by court order, such as probate, eminent domain or bankruptcy;
- by judicial foreclosure or trustee’s sale;
- on the resale of real estate owned property acquired by a lender on a deed-in-lieu of foreclosure, or by foreclosure;
- from co-owner to co-owner;
- from parent to child;
- from spouse to spouse, including property settlements resulting from a dissolution of marriage;
- by tax sale;
- by reversion of unclaimed property to the state; and
- from or to any government agency.

A buyer has **two years** to bring an action against a licensee for failure to disclose a known material fact.

If the TDS is belatedly delivered to the buyer, the buyer has **three days after personal delivery** or **five days after mailed delivery** to terminate the offer in writing.

**Natural Hazard Disclosure Statements**

**Natural hazards** come with the location of a parcel of real estate, not with the man-made aspects of the property.

The existence of a hazard due to the geographic location of a property affects its desirability, and thus its value to prospective buyers. Hazards, by their nature, limit a buyer’s ability to develop the property, obtain insurance or receive disaster relief.

Whether a seller lists the property with a broker or markets the property themselves, the seller must disclose to prospective buyers any **natural hazards known to the seller**, including those contained in **public records**.

To unify and streamline the disclosure by a seller (and in turn the seller’s agent) for a uniform presentation to buyers concerning natural hazards which affect a property, the California legislature created a statutory form entitled the **Natural Hazard Disclosure Statement (NHD)**.

Locations where a property might be subject to natural hazards include:

- special flood hazard areas, a federal designation;
• potential flooding and inundation areas;
• very high fire hazard severity zones;
• wildland fire areas;
• earthquake fault zones; and
• seismic hazard zones.

Actual use of the NHD by sellers and their agents is mandated on the sale of all types of properties, with some sellers (but not agents) being excluded. The NHD handed to a prospective buyer is unrelated to the environmental hazards and physical deficiencies in the soil or property improvements. These hazards are disclosed by use of the TDS.

**Disclosure of material facts affecting property value**

Disclosure of material facts affecting property value is primarily accomplished through the delivery of the TDS and NHD.

The buyer is also to receive copies of the following booklets:

- **Environmental Hazards: A Guide for Homeowners, Buyers, Landlords and Tenants** (on all one-to-four residential units);
- **Protect Your Family from Lead in Your Home** (on all pre-1978 one-to-four residential units); and
- **The Homeowner’s Guide to Earthquake Safety** (on all pre-1960 one-to-four residential units).

Further, if a property was built prior to 1978, the buyer must also receive a copy of the Federal Lead-based Paint (LBP) disclosure. Lead-based paint is any surface coating containing at least 1.0 milligram per square centimeter of lead, or 0.5% lead by weight.

Generally, seller’s agents are not required to voluntarily disclose information to a potential buyer regarding a prior occupant whose death, from any cause, occurred on the real estate more than three years prior to the purchase offer, or who was afflicted with HIV or AIDS. However, if a death on the property for some reason adversely affects the market price of the property, it must be disclosed.

However, on direct inquiry by the buyer or the buyer’s agent about deaths on the property, the seller’s agent must disclose their knowledge of any deaths on the real estate, no matter when they occurred. An intentional concealment of a death after a buyer makes a direct inquiry is a breach of the seller’s agent’s general duty and the buyer’s agent’s agency duty.

**Need for inspection and obtaining/verifying information**

A seller’s agent owes a duty to the prospective buyer to conduct a reasonably diligent visual inspection of the property for defects which adversely affect the value of the listed property. The seller’s agent notes on the TDS any defects observable or known to the seller’s agent that are not already noted by the seller or are inconsistent with the seller’s disclosures. The TDS is handed to prospective buyers as soon as practicable, putting the buyer and the buyer’s agent on notice of physical defects in the property which are observable or known to the seller or the seller’s broker and their agents.
All property information received from a seller is reviewed by the seller’s agent for inaccuracies or untruthful statements. However, a seller’s agent need not investigate the seller’s claims any further before using the information to market the property so long as they are not known to the agent to be false.

An agent can hire a **home inspector** to generate a **home inspection report (HIR)** used to prepare the seller’s TDS, releasing the seller’s agent of liability. However, if the seller or seller’s agent is aware of a **material fact** that is not reported by the inspector, neither is relieved of liability. Further, use of an HIR by the seller’s agent in the preparation of the TDS does not relieve the agent from conducting their mandatory visual inspection.

### Reports

There is a wealth of information for both consumers and licensees available through the DRE website, [www.dre.ca.gov](http://www.dre.ca.gov). In the upper right-hand corner above the search bar, the **Publications** tab provides access to a full library of publications and reports produced by the agency.

These publications are categorized by:

- **consumer publications**;
- **licensee/examinee publications**; and
- **subdivision publications**.

Examinees are advised to review the DRE’s **Reference Book – A Real Estate Guide**, which provides a helpful discussion of real estate principals and basic matters of practice. This state publication is an excellent resource for the purpose of preparing for the licensing exam.

### Servicing diverse populations:

Ultimately, **Fair Housing and Civil Rights laws** require agents to treat everyone the same – essentially being colorblind – without recognition of ethnicity, gender, or sexual preferences.

All exam question of this nature are rooted in these same public policy objectives.

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**Exam Jargon**

*Specialized real estate terminology related to the practice of real estate and disclosures. See the Real estate glossary on page 331 for the full definitions.*

- caveat emptor
- forfeiture
- hazardous waste
- panic selling
- ratification
- rent skimming
- subrogation
SAMPLE QUESTIONS

1. All of the following are requirements for licensing as a real estate salesperson, except:
   a. ownership of property.       c. being honest and truthful.
   b. being eighteen years or older. d. getting fingerprinted.

2. A real estate broker’s advertisements need to include:
   a. the name of the broker and license number.
   b. a statement that the advertiser is a broker or agent.
   c. the address of the broker.
   d. the number of years the broker has been licensed.

3. An unlicensed assistant may:
   a. show property to prospective buyers.
   b. encourage a prospective client to use the broker’s services.
   c. discuss the terms or conditions of a possible sale.
   d. prepare a comparative market analysis (CMA) for a client.

4. Roland, a broker, arranges a sale and opens escrow. Before escrow closes, his license is revoked by the Department of Real Estate (DRE). What happens to Roland’s commission?
   a. Roland’s commission goes to the Real Estate Education Research and Recovery Fund.
   b. The seller does not have to pay any commission.
   c. The commission is split between the buyer and seller.
   d. Roland gets his commission.

5. Real estate licenses are issued for:
   a. one year.       c. four years.
   b. two years.      d. life.

6. Robert, a developer who is unlicensed, hires Yvonne, a broker, to sell his properties. While Yvonne is out of town, Robert shows property, quotes prices and makes sales. Have Robert or Yvonne violated the Real Estate Law?
   a. Yvonne has violated the Real Estate Law and can be fined $500.
   b. Robert has violated the Real Estate Law and can be fined $500.
   c. Both Robert and Yvonne have violated the Real Estate Law.
   d. Neither Robert nor Yvonne has done anything wrong.

7. Which of the following is true?
   a. Every real estate broker needs to maintain a definite place of business in California.
   b. An advertisement must include the licensee’s name and license number.
   c. Both a. and b.
   d. Neither a. nor b.

8. A salesperson’s commission is paid by:
   a. the seller.       c. escrow.
   b. the broker.      d. the buyer.
9. The ________ prohibits an employer from discriminating against a person with a disability seeking employment based on their disability.
   a. Civil Rights Act of 1964  
   b. Americans with Disabilities Act (ADA)  
   c. Civil Rights Acts of 1866 and 1870  
   d. Unruh Law

10. Salesperson Sally advertised in a newspaper that anyone who bought a home through her services would receive a free home appliance valued up to $500. Such an advertisement is:
   a. illegal under any conditions.  
   b. legal, provided the chance to win is disclosed.  
   c. legal, provided full disclosure is made to all interested parties.  
   d. illegal, since the value exceeds $300.

11. A prohibition against a “For Sale” sign in a residential neighborhood:
   a. is permitted, provided it applies to everyone in the neighborhood equally.  
   b. violates the Fifth Amendment.  
   c. violates the First Amendment.  
   d. violates the Fourteenth Amendment.

12. A newspaper advertisement is considered “blind” when it:
   a. doesn’t include the property address.  
   b. contains misleading information.  
   c. doesn’t state the sales price.  
   d. fails to state the fact the advertiser is a broker or agent and does not include their Department of Real Estate (DRE) license number.

13. If a group of brokers agreed to divide a market area or set commission rates, it would:
   a. be a cooperative business practice.  
   b. create an extra protection for consumers.  
   c. violate Real Estate Law.  
   d. violate Anti-Trust Law.

14. Any suggestion by a licensee that the racial makeup of a neighborhood is changing to induce panic selling is an example of:
   a. blockbusting.  
   b. steering.  
   c. redlining.  
   d. usury.

15. The Uniform Commercial Code, which pertains to a bulk sale transfer, exists primarily for the protection of:
   a. creditors.  
   b. buyers.  
   c. sellers.  
   d. customers.

16. When purchasing a business, the buyer needs to be certain a certificate of clearance has been issued by the:
   a. Secretary of State (SOS).  
   b. Department of Business and Transportation (DBT).  
   c. Alcoholic Beverage Control (ABC).  
   d. State Board of Equalization (SBOE).
17. The best guideline to determine whether an action is ethical can be found in:
   a. state legislation.
   b. the Business and Professions Code.
   c. the Preamble of the National Association of REALTORS®.
   d. what is in the best interest of the real estate licensee.

18. A prospective buyer is interested in purchasing a vacant lot in a rural subdivision. The buyer wishes to know about sewer assessments, liens, utilities to the lot, blanket encumbrances and street maintenance. The source that provides all of this information is the:
   a. county planning director.
   b. county Board of Supervisors.
   c. county engineer.
   d. Real Estate Commissioner.

19. If a licensee's name is on a list of obligors who have not complied with a court-ordered payment of child support, the licensee's renewal application will:
   a. renew as a suspended license until paid.
   b. be suspended until they have paid the delinquent amount.
   c. renew as a temporary license, but the debt must be paid within 150 days.
   d. be renewed for a one-year term only, unless the licensee submits proof from the District Attorney the debt has been paid.

20. State regulations in California contain a statement that prohibits discrimination due to race, color, religion, marital status, national origin, or ancestry. Discrimination in which of the following areas would not be a direct violation of the Rumsford Act?
   a. Unimproved land to be used for a home.
   b. Vacant housing accommodations.
   c. Four unit apartment building.
   d. Unimproved land to be used for a commercial development.

21. Commingling involves the mixing of one client's monies with:
   a. the brokerage firm's general account.
   b. other clients' monies.
   c. the sales licensee's personal account.
   d. Any of the above.

22. In California, commission fees charged on residential properties cannot exceed:
   a. 6% as set forth in the Real Estate Law.
   b. an amount which is determined by the broker's contract with their principal.
   c. 8% of the total sales price of a residence.
   d. any amount determined by local custom.

23. A seller's broker sold a property to a buyer. Four months later, when the first rains of the season began, the buyer discovered significant roof leaks. The buyer sued both the seller and the broker for the cost of repairs. The seller sued the broker in the same action since the seller had informed the broker numerous times that the building needed a new roof. The broker's testimony in court revealed the broker was aware of the leaky roof but had not mentioned it to the buyer since the issue of the leaking roof was not mentioned by the buyer. What is the most likely result of the court action?
   a. On the basis of the principle of caveat emptor, the buyer is not entitled to recover from either the broker or the seller.
   b. The buyer may recover from the broker, but the seller would not be liable.
   c. The buyer may recover from the seller, but the broker would not be liable.
   d. The buyer may recover from both the seller and the broker. Further, the seller would recover in the suit against the broker.
24. A real estate broker takes listing on a residential property. The broker likes the property and chooses to buy it in the name of a separate investment company he owns. Which of the following statements is most correct?
   a. The broker has failed to serve the client’s best interests and cannot collect a fee.
   b. The broker may offer to purchase the property, but must first disclose to the seller that they are the buyer.
   c. The broker may purchase the property, but may only accept half of his agreed-to fee.
   d. The broker need not disclose his interest in the investment company, so long as he is not the sole owner of it.

25. All of the following copies a buyer of a common interest development (CID) is entitled to receive, except:
   a. a homeowner warranty.
   b. the governing conditions, covenants and restrictions (CC&Rs).
   c. the homeowners’ association (HOA) bylaws.
   d. the HOA’s financial statement.

26. Under the Alquist-Priolo Special Studies Act, a subdivider is required to disclose to potential purchasers:
   a. earthquake fault lines.
   b. flood hazard zones.
   c. environmental issues.
   d. the existence of nearby military ordinances.

27. Under no circumstances may a real estate broker misrepresent a material fact to a buyer. If they do, the broker faces:
   a. disciplinary action by the Department of Real Estate (DRE).
   b. criminal action.
   c. civil action.
   d. Any of the above.

28. It is least likely to be a violation of the Real Estate Law for a broker to pay a portion of the commission to a(n):
   a. unlicensed assistant.
   b. a salesperson working for another broker.
   c. unlicensed person who obtained the listing.
   d. buyer or seller in the transaction.

29. A Natural Hazard Disclosure Statement (NHD) needs to be given to a buyer when a natural hazard exists. All of the following trigger delivery of an NHD, except:
   a. A property located in a very high fire hazard severity zone.
   b. A property that contains lead-based paint.
   c. A property located in an earthquake fault zone.
   d. A property situated in a special flood hazard area.

30. Earthquake fault zones need to be disclosed to prospective buyers of certain properties in California. Typically, earthquake fault zones are:
   a. 0.25 miles wide.
   b. 0.5 miles wide.
   c. 1 mile wide.
   d. 2.5 miles wide.
31. A verbal agreement to sell real estate is enforceable when:
   a. the sale is for unimproved land.
   b. the purchase price is less than $900.
   c. the parties have given an oath regarding the agreement.
   d. the buyer makes a down payment, takes possession and improves the property.

32. Discriminatory acts in the sale or rental of residential housing accommodations based on sex, religion or national origin of the prospective tenant or buyer are:
   a. unenforceable.  
   b. illegal.  
   c. contrary to public policy.  
   d. Any of the above.

33. Which of the following state agencies is empowered to prevent acts of discrimination in housing accommodations in California due to race, color, sex, national origin or ancestry:
   a. the Department of Real Estate (DRE).  
   b. the Unruh Department.  
   c. the Department of Fair Employment and Housing.  
   d. the Department of Housing and Urban Development (HUD).

34. A Latino real estate agent working in a Hispanic neighborhood informed current owners they should move out because another ethnic group is moving into the area. This conduct is an example of all of the following, except:
   a. blockbusting.  
   b. panic selling.  
   c. a legal practice, but unethical.  
   d. an illegal practice.

35. An agreement between two parties in which one party is granted the right to offer, sell, or distribute goods or services under a marketing plan described by the other party is commonly known as:
   a. a franchise agreement.  
   b. a real property securities transaction.  
   c. a business opportunity transaction.  
   d. a personal securities investment.

36. A broker chooses to employ their salespeople as independent contractors rather than employees. By doing so, the broker will save:
   a. automobile insurance.  
   b. errors and omissions insurance.  
   c. social security.  
   d. advertising.

37. When inspecting a residence in a hillside subdivision, the salesperson observes cracks in the foundation and notices the doors and windows do not close properly. As a matter of best practice, the salesperson references their observations in the Transfer Disclosure Statement (TDS) and recommends that which of the following be ordered?
   a. A home warranty policy.  
   b. A special studies report.  
   c. A soil engineer’s inspection.  
   d. A termite clearance.

38. The maximum security deposit for a furnished apartment is:
   a. $10,000.  
   b. one month’s rent.  
   c. two months’ rent.  
   d. three months’ rent.

39. An investor made a $40,000 down payment on a $400,000 condominium. One year later, the property increased 10% in value. This resulted in a $40,000 or 100% gain on the $40,000 equity. This is an example of:
   a. contribution.  
   b. assemblage.  
   c. substitution.  
   d. leverage.
40. The purpose of a(n) __________, like an easement and a lease, is to grant the right to use property owned by another person.
   a. encumbrance  
   b. personal privilege  
   c. unlawful detainer (UD)  
   d. license

41. Roy, an inactive real estate salesperson, offers to assist Mel lease or purchase federal land for a fee.
   a. Roy can legally arrange a lease or sale for a fee since the land is federally owned.
   b. Roy must be a broker to perform these duties and collect a fee.
   c. Roy is subject to disciplinary action from the Department of Real Estate (DRE).
   d. Roy is committing a federal crime.

42. After an applicant passes the real estate licensing exam, they need to apply for a license within:
   a. one year of the examination.
   b. one year after being notified of the test results.
   c. two years from the date of the exam.
   d. six months of being notified of test results.

43. Which of the following is an example of “puffing”:
   a. convincing the seller to pay a high commission.
   b. convincing an appraiser to place an unrealistic value on the property.
   c. exaggerating certain features or benefits of a property.
   d. stating an opinion that sounds like fact.

44. All of the following are appropriate ways for real property managers to be compensated, except:
   a. a commission for new tenants solicited.
   b. a percentage of the total gross rents received.
   c. additional compensation for supervising renovations and improvements.
   d. receiving kickbacks from contractors and suppliers.

45. Who is authorized to manage property for the general public?
   a. A responsible adult.
   b. Only a Certified Property Manager (CPM).
   c. A licensed real estate broker.
   d. An escrow officer.

46. An unlawful detainer (UD) action is instigated by:
   a. a grantor.
   b. a trustee.
   c. a lessor.
   d. a real estate broker.

47. The purpose of the Real Estate Law is to:
   a. prevent fraud.
   b. protect the public.
   c. keep track of all real estate transactions.
   d. limit competition.

48. Most real estate records need to be kept for a period of three years, commencing from the date that a property is first listed or the date:
   a. the agent meets a client.
   b. the sale occurs.
   c. escrow closes.
   d. the buyer’s first property tax bill is due.

49. When a purchase agreement states the property is being sold “as is,” it:
a. still requires the buyer to receive a Transfer Disclosure Statement (TDS) noting any material facts which affect the property's value.
b. puts the buyer on notice they should beware.
c. underscores the fact that nothing is warranted.
d. releases the seller of the requirement to deliver a TDS to the buyer or make any disclosures about the condition of the property.

50. An example of a red flag would be:
   a. a cited code violation.
   b. a home overbuilt for the neighborhood.
   c. a floor that is not level.
   d. an older home.

51. The Transfer Disclosure Statement (TDS) form is required on:
   a. the sale of a one-to-four unit residential property.
   b. the sale of a commercial building.
   c. all foreclosure sales.
   d. the sale of vacant land.

52. If a seller refuses to fill out their section of the Transfer Disclosure Statement (TDS), the seller's agent is advised to:
   a. give written notice to the buyer of their right to receive such a TDS.
   b. accept the listing and obey the seller's direction not to disclose any negative property issues.
   c. complete the listing agent's portion of the TDS and deliver it to the buyer without the seller completing their section of the form.
   d. obtain the buyer's waiver of their right to receive a copy of the TDS.

53. The total positive balances due to all beneficiaries of a broker's trust account need to at all times equal the account's:
   a. shortage.
   b. balance.
   c. overage.
   d. fidelity bond coverage.

54. Both a seller and a buyer ask the broker to give them the trust funds deposited by the buyer. How is the broker to respond?
   a. Begin a surrender action.
   b. Turn the funds over to the Real Estate Recovery Fund.
   c. Declare an equitable assignment of the funds.
   d. Commence an interpleader action to resolve the dispute.

55. Freddie, an unlicensed employee of a real estate broker, hands out door hangers and makes telephone solicitations seeking buyers and sellers. Under the real estate law, these activities are:
   a. unethical for the broker who employs Freddie as an unlicensed employee.
   b. commonly accepted behavior in the brokerage community.
   c. unlawful for Freddie.
   d. unlawful for both Freddie and his employing broker.

56. An unlicensed assistant in a real estate office cannot:
   a. sit at open houses conducted by the broker's office.
   b. type listings and sales contracts for licensees.
   c. hand out brochures.
   d. discuss the price and term of a transaction with a principal.

57. An abandonment can be noticed and carried out when a tenant stops paying rent and:
a. voluntarily vacates the leased premises with an intention to reoccupy.
b. voluntarily vacates the leased premises with no intention to reoccupy.
c. involuntarily vacates the leased premises with an intention to reoccupy.
d. involuntarily vacates the leased premises and leaves their possessions behind.

58. A public walkway within a condominium community:
   a. needs to be at least five feet wide.  c. exists in a common area.
   b. must be made of concrete.  d. is maintained by individual owners.

59. _______ activities refer to the concerted and continuing efforts taken by an agent to meet the objectives of their client under their employment agreement.
   a. Conflict of interest  c. Unlicensed
   b. Due diligence  d. Advance fee

60. When a real estate license expires, how long is the agent's grace period in which they may reinstate their license?
   a. One year.  c. Three years.
   b. Two years.  d. Four years.

61. All of the following conditions would cause a building to be declared uninhabitable, except:
   a. Dampness in the habitable rooms.
   b. Electrical wiring that is safe and working properly but does not comply with present building codes.
   c. There is no heating in the entire property.
   d. A broken window at the back of the house.

62. All of the following is disclosed in the seller's Transfer Disclosure Statement (TDS), except:
   a. The presence or absence of carbon monoxide detectors.
   b. Criminal activity in the surrounding neighborhood.
   c. Whether quick-release mechanisms are installed on bedroom windows.
   d. The existence of a septic tank on the property.

63. If a tenant moves in and pays one month's rent prior to receiving a written copy of a verbally agreed-on two-year lease, the tenant has a(n):
   a. tenancy at sufferance.  c. estate for years.
   b. periodic tenancy.  d. estate at will.

64. The covenant of quiet enjoyment most directly relates to:
   a. a court action to clear title.  c. tenant freedom from owner harassment.
   b. natural hazards.  d. fair housing protections for the mute.

65. A seller's broker earns their commission:
   a. by finding buyers who are ready, willing and able to buy.
   b. by diligently attempting to market property on behalf of a seller.
   c. the moment they list properties.
   d. on the close of escrow.

66. A right to later buy a property at an undetermined price given to a tenant that does not compel the owner to sell is an example of a(n):
   a. land contract.  c. right of first refusal.
   b. lease with an option to purchase.  d. contract of adhesion.
67. The act of restricting a person from seeking to buy a residential property in a community and redirecting them to other housing is known as:
   a. steering.  
   b. driving.  
   c. redlining.  
   d. panic peddling.
68. A sublease:
   a. is similar to an assignment.  
   b. transfers a portion of the leasehold interest.  
   c. transfers the entire leasehold interest.  
   d. cannot exceed one year.
69. A surrender occurs due to the cancellation of the lease agreement by:
   a. the actions of the tenant only.  
   b. the actions of the landlord only.  
   c. the mutual consent of the landlord and the tenant.  
   d. the abandonment of the tenant.
70. Which of the following is an example of personal property?
   a. An appurtenant easement.  
   b. Trade fixtures.  
   c. Fixtures installed in a property for manufacturing purposes.  
   d. Mineral rights.
71. The Real Estate Commissioner may discipline a broker for committing which of the following violations of Fair Housing law?
   a. Blockbusting.  
   b. Steering.  
   c. Hiring salespersons from only one specific ethnic group.  
   d. All of the above.
72. Sexual discrimination in housing is outlawed in sales and rentals under the:
   a. Fourth Amendment.  
   b. Eighteenth Amendment.  
   d. Uniform Fair Housing Act.
73. Title VIII, also known as the Federal Fair Housing Act, refers to the:
   b. Unruh Act.  
   d. Civil Rights Act of 1866.
74. A resident manager in an apartment building is required to have a contractor’s license for any repairs exceeding:
   a. $300.  
   b. $500.  
   c. $1,000.  
   d. No contractor’s license is needed so long as the work is personally performed by the resident manager.
**ANSWER KEY**

1. **a** — Property ownership is not a requirement for obtaining a Department of Real Estate (DRE) license.

2. **a** — Without the disclosure of the broker’s name and license number, this type of advertisement is considered a prohibited “blind ad.”

3. **d** — An unlicensed assistant may be employed to perform nondiscretionary administrative activities, such as write up documents including contracts and comparative market analyses (CMAs), as long as they are reviewed by the broker. However, most interactions with the public are not allowed.

4. **d** — The broker’s commission is earned when a ready, willing, and able buyer is found. Thus, since the broker was licensed at the time he procured a buyer as contracted for, he is able to collect his fee.

5. **c** — A real estate license needs to be renewed every four years by completing 45 hours of continuing education.

6. **d** — Robert is the owner of the property being sold. Thus, the sale is considered a for sale by owner (FSBO) transaction which does not require a license, as the private seller is acting for their own account, not as an agent of another.

7. **c** — A licensee’s name and license number is required on all promotional materials, including business cards. Further, a broker needs to have a physical address on record with the Department of Real Estate (DRE) to receive mailings and be subject to state audits.

8. **b** — A salesperson is “an agent of the agent” and always works for the broker who represents the principal. Thus, the commission is paid to the broker who then distributes the monies according to the terms of the salesperson/broker agreement.

9. **b** — The Americans with Disabilities Act (ADA) protects against discriminatory conduct against a person seeking employment.

10. **c** — Disclosure is key to most such questions. Provided everyone is made aware of the promotion and its terms, this is a perfectly acceptable business practice.

11. **c** — Prohibiting the display of “For Sale” signs is a violation of the First Amendment freedom of speech right and prohibits the free flow of truthful commercial information. A homeowners’ association (HOA) may impose reasonable rules about the posting of a For Sale sign, though cannot prohibit it.

12. **d** — The lack of licensee identification creates the blind ad.

13. **d** — Any restraint of trade is a federal anti-trust violation.

14. **a** — Blockbusting, also known as panic selling, is the prohibited practice of inducing a person to offer a dwelling for sale by creating fear over the changing demographics within the neighborhood.

15. **a** — Creditors need protection from those who might attempt to walk away from their debt obligations.

16. **d** — The certificate of clearance, issued by the State Board of Equalization (SBOE), assures the buyer of a business opportunity that any taxes due have been paid.

17. **b** — Real estate brokerage is a profession. Therefore, any question about proper business practice is controlled by the Business and Profession Code.

18. **d** — The Real Estate Commissioner issues a public report on all rural subdivisions containing this sought after information.

19. **c** — On renewal of their license, failure to pay child support will cause a licensee to receive a temporary license allowing 150 days to resolve the arrears.
20. d — The **Rumsford Act** applies to one-to-four unit residential properties as well as vacant land designated for residential use.

21. d — **Commingling** is the mixing of client’s monies with those of other clients or the agent. This is in contrast to **conversion**, which is the use of client funds by the agent or their office for their own use.

22. b — No government agency or private trade organization establishes fees. A broker’s fee is set between the broker and client.

23. d — The lack of disclosure between the broker and the buyer causes the broker to be the responsible party. Therefore, the buyer may recover from both the seller and the broker. Further, the seller may also recover from the broker since the broker was informed of the leaky roof by the seller and did not disclose it to the buyer. In actual practice, the seller would have disclosed the leaky roof in the **Transfer Disclosure Statement (TDS)**.

24. b — Disclosure is the critical point in this question. There is nothing wrong with purchasing the property, provided the broker makes full disclosure to the client and receives their consent.

25. a — A buyer of a condominium or property in a planned urban development (PUD) has the right to receive copies of all the association and subdivision information and documents. A homeowner warranty is an insurance policy that is purchased separately by the buyer.

26. a — This is the **earthquake disclosure law**.

27. d — A **material fact** is one that affects the value and desirability of a property. As such, the failure to disclose is a significant breach of the broker’s fiduciary duty to their client. If the failure to disclose rises to the level of fraud or deceit, the broker may be subject to civil or criminal penalties depending on the nature of the misconduct.

28. d — Paying a portion of their commission to a buyer or seller in a transaction is allowable provided full disclosure is made to all parties. Each of the other answer selections is against the law.

29. b — A **Natural Hazard Disclosure Statement (NHD)** is required on all properties located in the areas specified in answer selections a, c and d. Lead-based paint is not a natural hazard and is provided on the sale of any residential property which was constructed pre-1978 using a **Lead-Based Paint Disclosure**.

30. a — Earthquake fault zones are a quarter of a mile wide.

31. d — The theory of **estoppel** holds the act of making a down payment, occupying and improving a property represents a mutual agreement to the sale.

32. d — Discrimination is almost always wrong as it is against public policy and in conflict with **Fair Housing laws**. Senior citizen housing is one of the few exceptions.

33. c — The **Department of Fair Employment and Housing** is the state agency empowered to enforce **Fair Housing laws**.

34. c — Discrimination can occur among any protected group. Here’s an example of a question that can cause confusion simply by the structure of answer choice C. If the act is illegal (answer choice D), then it cannot be legal regardless of being classified as ethical or not.

35. a — **Franchise sales** is an important part of business brokerage, such as fast food restaurants and convenience stores.

36. c — A broker needs to pay into **social security** for an employee, but not for an independent contractor.

37. c — Here’s an example of arriving at the correct answer by eliminating the wrong answers. Though the other answer selections moderately relate to a property, the existence of cracks in a hillside subdivision indicates there may be a problem with the soil under the property, which is best diagnosed by a soil engineer.
38. **d** — The maximum **security deposit** for an unfurnished rental unit is two months’ rent while the maximum for a furnished unit is three months’ rent. There is no specific dollar limit.

39. **d** — **Leverage** is the use of debt financing of an investment to maximize the return per dollar of equity invested.

40. **d** — A **license** is a revocable right to use something, such as land. A license is appropriate where the use of the land is open and notorious to avoid an adverse possession claim.

41. **b** — This is a real estate licensing question. Recognize the need to have a license for most any activity involving a potential principal.

42. **a** — An applicant needs to apply for a license within one year of passing an examination.

43. **c** — **Puffing** refers to exaggerating certain components of a property. Think of a bird that expands its chest to impress a potential mate.

44. **d** — This is a clear ethics violation. **Kickbacks** are never acceptable under any circumstance.

45. **c** — This is a licensing question. A broker’s license is required to assist property owners and buyers.

46. **c** — An **unlawful detainer (UD) action** is the court procedure to force a tenant to vacate the rental space they do not have the right to possess. A lessor (landlord) is the aggrieved person who initiates this process against an individual who holds no right to occupy a property, such as a holdover tenant.

47. **b** — Most laws and regulations are designed to protect the public. Preventing fraud may be part of the goal, but the total reach of the Real Estate Law is far broader than that.

48. **c** — **Record keeping** commences from when the listing was signed or when the sale was complete, i.e., the close of escrow.

49. **a** — “As is” is a nebulous and frequently misunderstood statement in real estate practice. A **Transfer Disclosure Statement (TDS)** containing property information including known or suspected property defects affecting value is required to be delivered to a prospective buyer on the sale of a one-to-four unit residential property as soon as practicable on the commencement of negotiations.

50. **c** — A **red flag** is something that alerts an agent of a previously unknown potential physical problem with a property. The only answer selection that is consistent with this is an uneven floor.

51. **a** — Many disclosure laws target one-to-four unit residential properties as a protected class of real estate. As the **Transfer Disclosure Statement (TDS)** form is completed by a seller regarding known facts, it is not required in the instance of a foreclosure. Further, commercial property transactions require the disclosure of property defects affecting value, but the statutory TDS form is not required.

52. **c** — This is the best answer choice. However, as a matter of best practice, the seller’s agent is to explain to the seller their obligation to accurately complete their portion of the Transfer Disclosure Statement (TDS).

53. **b** — Just as with a personal checkbook, a trust account needs to balance.

54. **d** — This is a terminology question. An **interpleader action** is a legal process asking the court to resolve the dispute between the principals.

55. **d** — An employing broker is liable for any **wrongful act** conducted by their employee.

56. **d** — This question provides a good source of information about the activities that can be performed by unlicensed assistants that can be used in future questions on this topic.

57. **b** — The **abandonment** of real property requires having no intent to continue meeting the obligations of a lease or occupying the property.
58. **c** — Can you visualize exceptions that would make answer selections A and B incorrect? For instance, some walkways may be narrower than five feet or made of asphalt. Answer choice D cannot be correct, as the homeowners’ association (HOA) within a condominium community is responsible for the maintenance of common areas and facilities. Thus, C is the best option as public walkways always exist in a common area in an HOA community.

59. **b** — **Due diligence** is a positive effort to work for the client’s best interest. A conflict of interest imposes a bias that makes it difficult to work solely for the client's best interest.

60. **b** — A **grace period** lasts two years in which a licensee by process of a late-renewal may reinstate their license.

61. **b** — This question is phrased in the negative. Answer selections A, C and D render the rental property uninhabitable. The electrical wiring (a significantly longer answer and more detailed answer selection), does not trigger the inhabitable defense since it is safe and functional even though it does not meet current building codes.

62. **b** — The statutory **Transfer Disclosure Statement (TDS)** only comments on conditions within the property itself. However, **criminal activity** occurring near the property is a material fact which must be separately disclosed.

63. **b** — Due to the fact the tenant moved in and began paying rent, these activities signifying **periodic tenancy** take precedence over the verbal lease agreement.

64. **c** — Standard rental agreements contain a covenant obligating the lessor (landlord) to allow a tenant to live free of harassment and benefit from the **quiet enjoyment** of their property.

65. **a** — The key word in the question is “earned.” When the buyer who is ready, willing, and able has been found, the commission is earned. Another question might ask “when” the commission is generally received, which is the close of escrow.

66. **c** — This is the only the answer selection which meets all the requirements set forth in the question. Options and contracts both obligate the seller and stipulate an agreed to price. A **right of first refusal** is a pre-emptive right to buy a property if the owner decides to sell.

67. **a** — This is a Fair Housing question. Envision a sales agent “steering” the potential buyer away from neighborhoods the buyer might wish to see.

68. **b** — A **sublease** is less than a complete transfer of a leasehold interest subject to the terms of the master lease. The original lessee retains certain obligations and acts in a capacity similar to the lessor in relation to the sublessee.

69. **c** — When the tenant relinquishes possession by mutual agreement with the owner, it is referred to as **surrender**. Alternatively, if the tenant relinquishes possession with no intent of returning and without the agreement of the owner, it is called **abandonment**.

70. **b** — Only trade fixtures belong to the tenant as **personal property** and are to be removed by the tenant on the termination of the lease.

71. **d** — All of the listed activities are violations which are subject to disciplinary action.

72. **c** — Gender is among the protected groups described in the **Civil Rights Act of 1968**.

73. **a** — The Unruh Act is California specific. The Civil Rights Act of 1964 is in reference to voting rights legislation. Thus, the correct answer is **A. Civil Rights Act of 1968**. Notice the Civil Rights Act of 1968 is addressed in several other questions, which may be helpful when answering this question.

74. **b** — A resident manager who performs, orders, or oversees maintenance or repair projects costing $500 or more are subject to contractor licensing requirements issued by the **California Department of Consumer Affairs Contractors State Licensing Board (CSLB)**.