

**HOME STUDY**  
***CORE A – Keeping It EZ***  
***Agency, License Law & Escrow***  
***COR 1661***

**Course # 564.001821**

**3 Hrs. Core Continuing Education Credit**  
**State of Illinois**

**Sponsor: Illinois Association of Realtors**

**School Branch: Technical Training Consultants, Inc.**  
**801 Warrenville Rd. – Suite 222**  
**Lisle, IL 60532 - 4346**  
**Ph# 630-353-0400**  
**Fax# 630-353-0600**  
**Email: [ttcinc01@aol.com](mailto:ttcinc01@aol.com)**

**Instructor: Patricia L. Trombello, CPM**

Patricia Trombello, CPM  
Technical Training Consultants, Inc.  
Illinois Association of Realtors

## P R E F A C E

### Home Study – Keeping It EZ – Agency, License Law & Escrow

The new Core A requirements are important. It is also important to keep it simple and, if possible, fun. This course is geared toward the busy licensee who wants to keep informed, but values their time. Keeping It EZ incorporates all the required information IDFPR wants licensees to know to keep themselves violation free.

### **3 Hours Core Continuing Education Credit**

This course has been prepared to satisfy the guidelines to meet the State of Illinois' continuing education requirements for brokers, salespeople and leasing agents.

### **Passing Score**

Following completion of this course, each student must successfully pass a final exam with a minimum score of 70% in order to be issued a transcript which is proof of successful course completion.

### **Copyright Notice**

**The material presented in this Home Study program is copyright protected for the benefit of the author. No item in whole, or in part, may be copied, reprinted, transmitted, traced, transcribed or stored in a retrieval system in any form, or by means, or manner without prior written permission from the author. Any such violation will be prosecuted to the limit of applicable copyright laws. This notice applies to all user and persons with access to this material for any reason.**

**NO REFUNDS ARE AVAILABLE FOR HOME STUDY TUITION AND MATERIALS.**

**Patricia Trombello  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

## **ILLINOIS ASSOCIATION OF REALTORS**

### **Materials**

**Handout**                      Core A – Keeping It EZ

### **INSTRUTOR AVAILABILITY**

Patricia Trombello, CPM is the author of this Home Study Program.

It is the policy of the Illinois Association of Realtors to make available to you a toll free number for quick response to your questions, concerns, or comments about the Home Study Program.

### **IMPORTANT PHONE NUMBERS:**

- \*        Patricia L. Trombello, CPM                      630-353-0400  
          INSTRUCTOR                                      [ttcinc01@aol.com](mailto:ttcinc01@aol.com)  
          Technical Training Consultants Inc.  
          801 Warrenville Road – Suite 222  
          Lisle, IL 60532-4346
  
- \*        Illinois Association of Realtors                800-752-3274  
          P. O. Box 19451  
          Springfield, IL 62794-9451

## CORE A – Keeping It EZ (Agency, License Law and Escrow)

### AGENCY

Let's begin with the Legislative Intent behind the License Act requirements. The common law that dictates agency relationships between licensees and the consumer has led to numerous misunderstandings and sometimes, misinterpretations of the laws. Since the real estate industry plays a significant role in relation to the economy, the Illinois Department of Financial and Professional Regulation (IDFPR) finds it necessary to enact regulations to minimize these misunderstandings between licensees and consumers. In the material that follows, IDFPR's requirements are reviewed in detail.

**Instructions: Please read the following excerpts from the Real Estate License Act of 2000. Pay close attention to the underlined areas which are important to licensees. There will be four review sections throughout this handout to refresh your knowledge of each section and prepare you for the exam.**

#### Relationships between licensees and consumers (Section 15-10)

*Licensees shall be considered to be representing the consumer they are working with as a designated agent for the consumer unless:*

- (1) There is a written agreement providing a different relationship or*
- (2) The licensee is performing only ministerial acts on behalf of the consumer.*

Note: Ministerial acts or duties include such items that are more clerical functions and do not rise to the level of actual representation of a consumer. Examples might include answering phone calls, setting up appointments to show property, or assisting a licensee by completing business forms.

#### Duties of licensees representing clients (Section 15-15)

*Licensees representing clients shall/may promote the best interests of that client by:*

- 1) Seeking a transaction at the price and terms stated in the brokerage agreement*
- 2) Timely presenting all offers to and from the client, unless the client has waived this duty.*
- 3) Disclosing to the client, material facts concerning the transaction of which the licensee has actual knowledge, unless the information is confidential.*
- 4) Timely accounting for all money and property received*
- 5) Exercising reasonable skill and care in the transaction process*
- 6) Keep confidential all confidential information received from the client.*
- 7) A licensee representing a buyer or client will not be presumed to have breached a duty or obligation to that client by working on the basis that the licensee will receive a higher fee or compensation based on a higher selling cost.*
- 8) A licensee shall not be liable to a client for providing false information to the client if the false information was provided to the licensee by a customer unless the licensee knew or should have known the information was false.*

**Patricia Trombello, CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

Failure to disclose information not affecting physical condition of property

No cause of action shall arise against a licensee for the failure to disclose (i) that an occupant of the property was afflicted with HIV or any other medical condition, (ii) that the property was the site of an act or occurrence that had no effect on the physical condition of the property or its environment (iii) fact situations on the property that are not the subject of the transaction. Or (iv) physical conditions located on the property that are not the subject of the transaction.

Licensee's relationship with customers.(Section 15-25)

- (a) Licensees shall treat all customers honestly and shall not negligently or knowingly give them false information. A licensee engaged by a seller shall timely disclose customers who are prospective buyers all latent material adverse facts pertaining to the physical condition of the property that are actually known by the licensee and that could not be discovered by a reasonably diligent inspection of the property by the customer. A licensee shall not be liable to a customer for providing false information to the customer if the false information was provided to the licensee by the licensee's client and the licensee did not have actual knowledge that the information was false. No cause of action shall arise on behalf of any person against a licensee for revealing information in compliance with this Section.
- (b) A licensee representing a client in a real estate transaction may provide assistance to a customer by performing ministerial acts.

Duties following termination of brokerage agreement (Section 15-30)

Except as may be provided in a written agreement between the broker and the client, neither a sponsoring broker or any licensee affiliated with the sponsoring broker owes any further duties to the client after termination, expiration, or completion of performance of the brokerage agreement except:

- 1) to account for all moneys and property relating to the transaction and
- 2) to keep confidential, all confidential information received during the course of the brokerage agreement.

Patricia Trombello  
Technical Training Consultants Inc.  
Illinois Association of Realtors

## **REVIEW - AGENCY**

- 1) **Review the highlighted important points mentioned in the above sections.**
- 2) **Ministerial acts – remember – do not rise to the level of actual representation of a client. They are merely administrative tasks performed to assist, not to represent.**
- 3) **Licensees have a duty to present ALL offers to their clients, UNLESS the client waives their right to see all offers below a certain amount. This is not a breach of fiduciary duties.**
- 4) **Licensees must disclose all KNOWN material defects that affect the physical condition of a subject property. If the licensee has not knowledge of a defect, then no violation has occurred. An example of a material defect might be a roof leak or structural damage.**
- 5) **Above all, licensees have a fiduciary duty to provide clients with truthful, factual information that they are aware of. No puffing, no exaggerating... just the facts!**
- 6) **While a material defect is one that affects the physical condition of a property, a latent defect is a hidden defect that cannot readily be seen. An example would be termites or mold.**
- 7) **Any information that a licensee obtains while representing a customer must be kept confidential even after the period of representation is over.**
- 8) **Licensees must account for all money and property when representing their clients. It is one of their fiduciary duties.**

Agency relationship disclosure (Section 15-35)

A consumer shall be advised of the following no later than entering into a brokerage agreement with the sponsoring broker that:

- 1) A designated agency relationship exists
- 2) The name(s) of the designated agent in writing
- 3) The sponsoring broker's compensation and policy with regard to cooperating with other broker in the transaction.

Compensation does not determine agency (Section 15-40)

Compensation does not determine an agency relationship. The payment or promise of payment of compensation to a licensee is not determinative of whether an agency relationship has been created between any licensee and a consumer.

Note: The above comment that compensation does not determine agency is reflected in the situation where a broker representing a buyer is actually receiving payment of the commission due and earned from the seller, not the buyer whom they represent.

Dual agency (Section 15-45)

A licensee may act as a dual agent only with the informed written consent of all clients. Informed written consent shall be presumed to have been given by any client who signs a document that includes the following:

1) "The undersigned (insert name), (Licensee), may undertake a dual representation for the sale or lease of property. The undersigned acknowledge they were informed of the possibility of this type of representation. Before signing this document, please read the following: Representing more than one party to a transaction presents a conflict of interest since both clients may rely upon the Licensee's advise and the client's respective interests may be adverse to each other. Licensee will undertake this representation only with the written consent of ALL clients in the transaction. Any agreement between the clients as to a final contract price and other terms is a result of negotiations between the clients acting in their own best interests and one their own behalf. You acknowledge that Licensee has explained the implications of dual representation, including the risks involved and understand that you have been advised to seek independent advice from your advisors or attorneys before signing any documents in this transaction."

What a Licensee CAN do for clients when Acting as a Dual Agent

- 1) Treat all clients honestly
- 2) Provide information about the property to the buyer or tenant
- 3) Disclose all latent defects in the property that are known to the licensee.
- 4) Disclose financial qualification of the buyer or tenant to the seller or landlord
- 5) Explain real estate terms.
- 6) Help the buyer or tenant arrange for property inspections
- 7) Explain closing costs and procedures
- 8) Help the buyer compare financing alternatives.
- 9) Provide information about comparable properties that have sold, so both clients may make educated decisions o what price to accept or offer.

**Patricia Trombello, CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

*What a licensee CANNOT disclose to clients when acting as a Dual Agent*

- 1) *Confidential information that Licensee may know about a client, without that client's permission.*
- 2) *The price the seller or landlord will take other than the listing price without permission of the seller or landlord.*
- 3) *The price the buyer or tenant is willing to pay without permission of the buyer or tenant.*
- 4) *A recommended or suggested price the buyer or tenant should offer.*
- 5) *A recommended or suggested price the seller or landlord should counter with or accept.*

*If either client is uncomfortable with this disclosure and dual representation, they should let the Licensee know. Clients are not required to sign the document unless they want to allow for dual representation.*

*The dual agency disclosure form must be presented by a licensee to the client at the time the brokerage agreement is entered into.*

*A licensee acting in a dual agency capacity must obtain written confirmation of the client's prior consent for the licensee to act as a dual agent.*

*Designated agency (Section 15-50)*

*A sponsoring broker entering into a brokerage agreement with any person for the listing of property or for buying, selling, exchanging, renting or leasing real estate, may specifically designate those licensees employed by the sponsoring broker who will be acting as legal agents of that person. A sponsoring broker entering into an agreement shall not be considered to be acting for more than one party in a transaction if the licensees specifically designated as legal agents are not representing more than one party in a transaction.*

*A sponsoring broker designating licensees to act as agents of clients shall take ordinary and necessary care to protect confidential information disclosed by a client to his or her designated agent.*

*Minimum Services (Section 15-75)*

*Sponsoring brokers must provide a certain level of minimum services to clients. They include:*

- 1) *Acceptance and delivery of all offer to buy or sell a client's property*
- 2) *Assist their client in the negotiating and presenting of offers until a signed agreement is reached.*
- 3) *Answer their client's questions relating to the transaction of making offers, accepting offers, counter offers and finalizing the transaction.*

Patricia Trombello, CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors

## **REVIEW - AGENCY**

- 1) **If a licensee is acting as a dual agent, PRIOR WRITTEN disclosure is required to all parties of the transaction.**
- 2) **Dual agency is when a licensee is representing BOTH the seller and the buyer in the SAME transaction. This, as you know, requires the consent of all parties in writing.**
- 3) **There are certain duties that a licensee has when acting as a dual agent and that includes not disclosing any confidential information with the other party's knowledge. An example would be that a licensee cannot disclose to a seller, the price the buyer is willing to pay other than what has been submitted as an offer.**
- 4) **As licensees, we all owe a certain level of service to our clients. There are 3 minimum services that we owe to our clients.**
- 5) **Clients are not required to sign the disclosure form for dual agency if they are uncomfortable with it for any reason.**

## **LICENSE LAW**

### *Definitions (Section 1-10)*

The Real Estate License Act of 2000 contains three pages of definitions of how the terms in the Act are meant to be understood. Some of the most important terms that all licensees should be aware of include:

*“Agency” which means a relationship in which a real estate broker or licensee represents a consumer in a real estate transaction.*

*“Broker” means an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who for another for compensation either directly or indirectly conducts the following tasks:*

- 1) *Sells, exchanges, purchases, rents, or leases real estate*
- 2) *Offers to sell, exchange, rent or lease real estate.*
- 3) *Negotiates, offers, attempts to negotiate the sale, exchange, purchase or rental of property*
- 4) *Lists, offers, attempts or agrees to list real estate.*
- 5) *Buys, sells, offers to buy or sell options on real estate improvements*
- 6) *Supervises the collection, offer, or attempt to collect rent for the use of real estate.*
- 7) *Advertises themselves as being engaged in the business of buying, selling, exchanging or renting real estate.*
- 8) *Assists or directs the sale, exchange, lease or rental of real estate.*
- 9) *Assists in negotiations of any transaction which results in the sale, exchange or lease of real estate.*
- 10) *Opens real estate to the public for marketing purposes.*
- 11) *Sells, leases or offers for sale or lease real estate at auctions.*

*“Brokerage Agreement” means a written or oral agreement between a sponsoring broker and a consumer for licensed activities.*

*“Compensation” means the valuable consideration given by one person to another person in exchange for the performance of some activity or service. Forms of compensation include commissions, referral fees, bonuses, prizes, merchandise, finder fees, discounts, rebates, chance to win a drawing, or a person’s salary.*

*“Confidential information” shall not be considered to include material information about the physical condition of the property.*

*“Customer” means a consumer who is not being represented by the licensee but for whom the licensee is performing ministerial acts.*

*“Dual agency” means an agency relationship in which the licensee represents both the buyer and seller in the same transaction.*

**Patricia Trombello CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

*“Escrow moneys” means all moneys, promissory notes or any other type of legal tender deposited with any person for the benefit of the parties to the transaction.*

*“Managing broker” means a broker who has supervisory responsibilities for licensees in one or more offices and who has been appointed by the sponsoring broker of the real estate firm.*

*“Ministerial acts” means those acts that a licensee may perform for a consumer that are informative or clerical in nature and do not rise to the level of active representation on behalf of a consumer.*

*“Office” means a real estate broker’s place of business where the general public is invited to transact business and where records may be maintained and licenses displayed..*

Sponsoring broker, employment agreement (Section 10-20)

*A licensee may perform activities as a licensee only for his or her sponsoring broker. A licensee must have only one sponsoring broker at any one time.*

*Every broker who employs licensees shall have a written employment agreement with each licensee. The agreement shall address the employment or independent contractor relationship and shall include supervision, duties, compensation and termination.*

*In addition, each sponsoring broker must have a written employment agreement with each licensed personal assistant who assists a licensee sponsored by the sponsoring broker. The duties to be included are the same as stated above.*

Disciplinary actions, causes – (Section 20-20)

*IDFPR may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, or may censure, reprimand, or otherwise discipline or impose a civil fine not to exceed \$25,000 upon any licensee hereunder for any one or any combination of the following causes. When an applicant or licensee:*

- 1) has by fraudulent representation, obtained a license*
- 2) has been convicted of any crime (dishonesty or fraud, larceny, embezzlement or has been convicted in this state or another state of a crime that is a felony under the laws of the State or has been convicted of a felony in a federal court.*
- 3) Has been adjudged to be a person under legal disability or subject to involuntary admission in the Mental Health and Developmental Disabilities Code.*
- 4) When a licensee performs any act as a broker or salesperson in a retail sales establishment from an office, desk or space not separated from the main retail business by a separate and distinct area.*
- 5) Has been disciplined by another state*

**Patricia Trombello, CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

- 6) *Has engaged in real estate activity without a license or after a license has expired, or inoperative.*
- 7) *Attempts to cheat on the real estate exam or continuing education or aid an applicant to do the same.*
- 8) *Is performing any act as a broker, salesperson or leasing agent and is found guilty of misrepresentation, untruthful advertising, making false promises, acting on behalf of more than one party without the permission of all parties, representing a broker other than his/her sponsoring broker, failure to account for money and documents, failure to maintain and deposit in a special account all escrow money belonging to others, failure to make available to real estate enforcement all escrow records, failure to furnish copies of all documents in a real estate transaction, failure of a sponsoring broker to timely provide sponsor cards or termination of licenses to IDFPR, engaging in dishonorable, unethical or unprofessional conduct likely to defraud or harm the public. In addition, commingling of money or property of others with their own, employing any person on a temporary basis as a means of evading the law of payment of commissions, permitting the use of his/her license as a broker to enable a salesperson or unlicensed person to operate a real estate business without actual participation by the broker, displaying a for rent or for sale sign without the written consent of an owner, failure to provide IDFPR with information as a result of a complaint, advertising by means of a blind ad, offering guaranteed sales plans, influencing a prospective seller, purchaser, or occupant so as to promote racially or religiously segregated housing, engaging in any act that violates the Illinois Human Rights Act, inducing any party to a contract for the purpose of breaking the contract, negotiating a sale or lease of real estate with any person if the licensee knows that person has a written exclusive brokerage agreement with another broker, when a licensee is also an attorney acting as an attorney for either the buyer or seller, advertising or offering free merchandise without disclosing the terms of receiving the merchandise, disregarding or violating any Land Sales Registration Act or Illinois Real Estate Time-Share Act, violating the terms of a disciplinary order by IDFPR, paying compensation in violation of Article 10 of this Act, requiring a party to a transaction to retain a portion of the escrow moneys for payment of the licensee's commission or expenses, or finally by disregarding or violating any provision of this Act.*

Recent changes and additions to License Act

Some of the more recent proposed changes to the Real Estate License Act of 2000 include:

- 1) *New managing brokers must have previously been a broker or salesperson for two out of the last three years. 45 hours of post-license education for new managing brokers and 15 hours of which must have been in classroom or interactive delivery method.*
- 2) *Under definition of Broker, the exemption for regular employees might be changed to include the IRS definition of an employee, with an average of hours per week to be included.*
- 3) *A new provision to the License Act that went into effect January 2009 was regarding the disposition of escrow moneys. This provision shortens the length of time before disputed funds will be considered to be abandoned or unclaimed. Prior to January 2009, disputed moneys held in broker escrow accounts would be considered abandoned after being held for five (5) years. At that time, brokers would turn those moneys over to the Illinois Treasurer's Office (Division of Unclaimed Property or UCP). The provisions reduce the five (5) year period to six (6) months for certain disputed earnest moneys held in a broker's escrow account.*

**REVIEW - LICENSE LAW**

- 1) **All licensees need a sponsoring broker. A sponsoring broker is the person who issues a sponsor card to the licensees.**
- 2) **All licensees need a written employment agreement with their sponsoring broker.**
- 3) **Employment agreements must stipulate whether the licensee is an independent contractor or employee.**
- 4) **Disciplinary actions by IDFPR can include a civil fine up to a maximum of \$25,000.**
- 5) **It is a violation of the License Act for licensees to engage in unethical and unprofessional conduct.**
- 6) **It is a violation of the License Act for licensees to engage in real estate activities within a retail sales location.**

## **ESCROW**

### Escrow Overview (Admin Rules 1450-175)

*Definition – Escrow moneys means all moneys, promissory notes or any other type of legal tender deposited for the benefit of parties to the transaction.*

*Sponsoring brokers who accept escrow moneys shall maintain and deposit into a special account, separate and apart from personal or other business accounts, all escrow moneys entrusted to them while acting as the real estate brokers, escrow agents, or as the temporary custodians of the funds for others.*

- 1) *Escrow funds shall be maintained in a non-interest bearing account, unless the parties to the transaction agree otherwise.*
- 2) *The sponsoring broker may maintain more than one escrow account*
- 3) *If the sponsoring broker does not receive escrow moneys, an account need not be maintained.*
- 4) *All escrow accounts whether in a non-interest bearing or interest bearing account must be kept at a federally insured depository.*
- 5) *Commingling is not permitted.*
- 6) *Depositing escrow moneys – All escrow money accepted by the sponsoring broker shall be deposited in the broker’s escrow account not later than the next business day following the transaction.*
- 7) *The sponsoring broker shall keep all escrow moneys on deposit until the transaction is consummated or terminated, except to the extent where they are disbursed according to the provisions listed below.*
- 8) *Disbursement of escrow money – The sponsoring broker shall disburse escrow money upon consummation or termination of the transaction. In the event the sponsoring broker receives written direction from all of the principals to the transaction or their authorized agent agreeing to a disbursement of the moneys, that broker must disburse the escrow moneys accordingly*
- 9) *Disputes over escrow moneys –(IAR legal) Effective January 1, 2009, the Real Estate License Act was amended to reflect a shortened period of time before disputed funds will be considered abandoned. Prior to January 1, 2009 disputed moneys held in broker escrow accounts would be considered abandoned after being held for five (5) years. At that time, brokers would turn those moneys over to the Illinois Treasurer’s Office (Division of Unclaimed Property). The new provisions reduce the five (5) year time period to six (6) months for certain disputed earnest moneys held in a broker’s escrow account. Funds shall be deemed “abandoned” 1) in the absence of disbursement as permitted, 2) in the absence of notice of the filing of any claim in a court of jurisdiction and 3) if six (6) months have elapsed after the receipt of a written demand for the escrow moneys from one of the principals to the transaction or the principal’s authorized agent.*

**Patricia Trombello, CPM  
Technical Training Consultants Inc.  
Illinois Association of Realtors**

*Disciplinary causes related to escrow (Section 20-20 h)*

*Disciplinary actions for violations of escrow include:*

- 1) Failure to account for or to remit any moneys or documents coming into his or her possession that belong to others.*
- 2) Failure to maintain and deposit in a special account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others or failure to maintain all escrow moneys on deposit in the account until the transactions are consummated or terminated, except to the extent that the moneys, or any part thereof, shall be disbursed prior to the consummation or termination in accordance with: a) the written direction of the principals, b) directions for providing the release, payment or distribution of escrow moneys contained in any written contract signed by the principals to the transaction, c) pursuant to a court order. The account shall be non-interest bearing, unless the character of the deposit is such that payment of interest is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest-bearing account.*
- 3) Failure to make available to the real estate enforcement personnel of IDFPR during normal business hours, all escrow records and related documents maintained in connection with the practice of real estate.*
- 4) Commingling the money or property of others with his or her own funds.*

## **REVIEW - ESCROW**

- 1) **“Escrow moneys” refers to all moneys, promissory notes and other legal tender.**
- 2) **Escrow funds must be placed in a non-interest bearing account until the parties to the transaction agree otherwise.**
- 3) **IDFPR require escrow funds to be kept for five (5) years.**
- 4) **If a broker receives no escrow money, the broker is not required to maintain an escrow account.**
- 5) **Brokers can maintain as many escrow accounts as needed. There is no limit or maximum.**
- 6) **Escrow moneys must be deposited within 24 hours of receipt.**
- 7) **Brokers are required to make their escrow records available to IDFPR for inspection during normal business hours.**

## **CONCLUSION**

**At this point, you should read over the Review Sections (all 4 of them). You are now ready to take a 25 question true/false exam for continuing education credit for the State of Illinois license renewal.**

**If you have any questions about the license act provisions contained in this home study, please contact the author (Patricia Trombello at Technical Training Consultants, Inc. at 630-353-0400 or via email at [www.ttcinc01@aol.com](mailto:www.ttcinc01@aol.com)**