

HOME STUDY

COR 1662

Disclosure Issues

For Landlords

Course #564.001825

**3 HR Core Continuing Education Credit
State of Illinois**

Sponsor: Illinois Association of Realtors

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P R E F A C E

Home Study – Disclosure Issues for Landlords – Core B

Lack of disclosure can lead to many violations for licensees and for landlords. This refresher course addresses four main disclosure issues: 1) Lead-based paint, 2) Mold, 3) Radon, and 4) Illinois Real Estate License Act disclosures. Whether you sell residential property or manage real estate, these disclosures affect you.

3 Hours Core Continuing Education Credit – State of Illinois

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

Passing Score

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

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ILLINOIS ASSOCIATION OF REALTORS

Materials

Handout – Core B – Disclosure Issues for Landlords

INSTRUCTOR 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 numbr for quick response to your questions, concerns, or comments about the Home Study Program.

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DISCLOSURE ISSUES FOR LANDLORDS

Introduction

The Residential Real Property Disclosure Act requires sellers of residential property with 1 to 4 units to make buyers aware of any known defects affecting the physical condition of the property. There is no obligation on the part of the seller to make any of the improvements, just to disclose facts that the seller knows about the condition of the property. The only exemptions to this act are 1) if the transfer of property occurs through a court order (administration of an estate), 2) transfers between spouses, 3) bankruptcies, 4) eminent domain, and/or 5) court decree.

Instructions: Please read the material below and pay attention to the areas we've underlined. After each section, you will find a series of Review Questions. These review questions will refresh your knowledge of each section and prepare you for the exam which will be 25 questions true/false.

The four main disclosure issues we will be covering in this material are:

- 1) Lead based paint
- 2) Mold
- 3) Radon
- 4) Illinois Real Estate License Act disclosures

LEAD BASED PAINT

Properties constructed prior to 1978 are required to issue a disclosure to prospective buyers and renters of the possibility that lead based paint is present at the property. Owners/landlords must provide a copy of the brochure from the Illinois Department of Public Health on the risks of lead based paint.

How to Children Come in Contact with Lead Based Paint?

Each year, more than 300,000 children are exposed to lead based paint in residential properties. In fact, in Illinois, there are 9,000 children at risk for lead contamination.

Sources of Lead Exposure:

Typically young children are exposed to lead through hand and mouth contamination by ingesting the lead. Listed below are some of the more common sources where children come in contact with lead.

- 1) Soil around residential properties that are exposed to lead from paint chipping to the previous use of leaded gas car exhaust that has been absorbed in the soil.
- 2) Consuming foods that were imported from outside of the U.S.
- 3) Consuming foods from imported glazed pottery.
- 4) Outside playground equipment
- 5) Consuming water from plumbing that contains lead pipes or soldering

In addition, sometimes children can come in contact with lead based paint through their family's occupations. If a family member or close friend engages in one or more of the following careers or activities, they could be transmitting lead to children via their clothing or touching.

- 1) Radiator repair
- 2) Welding
- 3) Construction, renovation, home repairs or house painting
- 4) Visiting a firing range
- 5) Valve and pipefitting activities
- 6) Spending excessive time on heavily traveled major highways
- 7) Automotive repairs
- 8) Bridge, tunnel or highway construction work
- 9) Refinishing furniture
- 10) Burning lead paint wood

Family members may also transmit lead to others via the hobbies they participate in. Activities may include:

- 1) Stained glass
- 2) Pottery making
- 3) Target shooting practice

Yes, the list goes on and on. The toys children may come in contact with could contain lead as could keys.

Lead based paint (continued)

Many cultures participate in home remedies for medicinal purposes. Consider the following:

Mexican Folk remedies

Azarcon or greta is used to treat intestinal blockages (90 percent lead)

Asian Folk remedies

Ghasard- used to promote digestion

Kandu – used to treat stomach ache

Middle Eastern folk remedies

Farouk – used for teething purposes

Other sources, less known, for lead contamination include:

- 1) Vinyl mini-blinds
- 2) Curtain weights
- 3) Candles made outside the United States (the wick may contain lead)
- 4) Pewter figurines
- 5) Lead sinkers used for fishing
- 6) Children's toys – metal toy soldiers
- 7) Sometimes the metallic toys that are used in gumball machines contain lead
- 8) Inexpensive, imported jewelry
- 9) Moonshine – could be that metal pot used in brewing
- 10) Other noteworthy medicines include: a drug called Ayurrvedic which is a fertility pill from India or nutritional pills that contain calcium supplements made from bonemeal

Who is at the most risk? Children under the age of 2 tend to ingest lead into their bodies at a much quicker and dangerous level. Long term exposure to lead can result in:

- 1) Learning disabilities
- 2) Problems paying attention
- 3) Behavioral problems

Maintaining Lead-Safe Properties

The safest thing we can do for children is to minimize how much contact they have with lead. At residential properties, we can do the following:

- 1) Maintain the interior painting so there is no peeling or chipping paint
- 2) Repair and rotted wood or wood that has been damaged by water/floor
- 3) Any remodeling or renovations done at the property should take into consideration how the lead dust particles may affect the residents, particularly children.
- 4) If in doubt, consult a state licensed lead inspector

Take Extra Pre-cautions during Renovations

- 1) Keep small children away from the work area. Also, pregnant women are at risk.
- 2) Use plastic sheeting in the work area for dust and other debris.
- 3) Use water to mist the work area to keep dust to a minimum.
- 4) Do not eat, drink, or smoke in the work area
- 5) For major renovations, you may want to cover or remove furniture
- 6) Tape plastic sheeting over doors and windows to minimize dust escaping the area
- 7) Close off or turn off any HVAC ducts or at least cover the vents with plastic to seal the area

REVIEW – Lead based Paint

- 1) **The Residential Real Property Disclosure Act requires sellers to disclose any known adverse defects at the property.**
- 2) **Residential properties constructed prior to 1978 may contain lead based paint.**
- 3) **Owners must disclose the possibility of lead based paint (properties prior to 1978) to prospective buyers and renters and provide them with a disclosure form/brochure.**
- 4) **Little known sources can contribute to lead based paint exposure including engaging in certain occupations by family members who can transmit the lead poisoning.**
- 5) **Children are at risk when playing with metal toys that contain lead.**
- 6) **At most risk, are children under the age of 2 because they ingest lead into their blood at a faster rate than adults.**

MOLD

Mold can be found indoors and outdoors. Mold is small organisms that cling to damp surfaces. For example, when wall, floors/carpets are exposed to excessive water, the mold spores multiply and in large quantities, can produce allergic symptoms in some people (all ages)

Sources of Mold

Mold can be found in:

- 1) Flooded basements or sewer overflows
- 2) Leaky roofs
- 3) Humidifiers
- 4) Damp crawl spaces
- 5) Plumbing leaks that go uncorrected

Allergic Reactions to Mold

Airborne mold spores can cause skin irritations, asthma and other respiratory problems in adults and children. High levels of exposure can result in a shortness of breath or tightness of chest and left untreated can perhaps result in pneumonia.

We come in contact with mold every day simply by touching surfaces or breathing in airborne spores. The Illinois Department of Public Health does not recommend testing for mold. If mold is able to be seen, the first step is not to test for it, but to clean it up. Illinois Dept of Public Health does not enforce or require landlords to clean up the mold. However, local Building and Zoning Ordinances come into play when violations are reported. If the result is that the landlord is cited for a violation, they may be required to take action.

Reducing Exposure to Mold

During the routine clean up of mold, airborne spores can be released which can cause health irritants. If you or your staff is charged with the responsibility of cleaning up the area, certain precautions should be taken.

- 1) Workers who already have a chronic illness should not do the cleanup.
- 2) Don't allow people (other than the clean up crew) to be present in the immediate area while cleanup is taking place. Again, the airborne materials can be transmitted to them by inhaling.
- 3) Wear protective clothing and eye gear to minimize further exposure
- 4) Tightly cover HVAC vents or at least cover them with plastic sheeting.
- 5) Turn on any available fan or ventilate the area as best as possible.
- 6) Open windows during and after the clean up to be sure it is thoroughly removed.
- 7) Work in short period of time to reduce constant exposure.

REVIEW – Mold

- 1) Exposure to mold can create health concerns for some people.**
- 2) Damp basement or crawl spaces are common places for mold to grow.**
- 3) Health conditions such as respiratory problems can result from exposure to mold.**
- 4) If you can see or smell mold, it could affect your health. It's not necessary to test for it, just clean it up.**
- 5) Mold can be found both indoors and outdoors.**

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RADON

Radon is the leading cause of lung cancer for non-smokers. About 1,000 people in Illinois alone each year are diagnosed with lung cancer. The Surgeon General issued the following statement regarding radon:

“Breathing radon over prolonged periods of time can present a significant health risk to families all over the country.”

The U.S. Environmental Protection Agency recommends that INDOOR radon levels be below 4/0 picocuries per liter of air.

How does radon enter our homes? Radon enters buildings because of air pressure and temperature differences between the home and the outside. Radon and other soil related gases can be re-routed via pipes installed which lead through and out of the building. It’s relatively easy to cure, but many health conditions go undiagnosed or mis-diagnosed because radon testing has not been done to determine acceptable levels.

The Illinois Radon Awareness Act became effective on January 1, 2008. This Act requires sellers of residential properties (from 1 to 4 units) to provide prospective buyers with two documents before the contract becomes binding on all parties. 1) A brochure entitled “Disclosure of Information on Radon Hazards” and 2) a pamphlet on radon testing guidelines. These documents are available from The Illinois Emergency Management Agency (IEMA) at www.radon.illinois.gov or from the Illinois Association of Realtors at www.illinoisrealtor.org
The purpose of this Act is to promote awareness of radon.

The seller is NOT required to test for radon or to make improvements to redirect it.

Does a seller have to disclose it if they tested for radon? Yes, to be on the safe side, full disclosure would mean that the seller would disclose it.

Homeowners can test for radon using a home radon test kit obtained at hardware stores or your local county health department. Other options or sources would be to contact the Illinois Emergency Management Agency (IEMA) at 1-800-325-1245 or to contact a licensed IEMA mitigation professional.

Radon is a colorless, odorless radioactive gas in the soil around your home. If radon is found to be present, many homeowners have installed a Passive radon reduction system.

REVIEW – Radon

- 1) **Radon is the leading cause among non-smokers for lung cancer.**
- 2) **Radon enters the home due to air pressure differences between the building and the outside air.**
- 3) **The Illinois Radon Awareness Act went into effect January 2008.**
- 4) **While the Illinois Emergency Management Agency (IEMA) recommends testing for radon, sellers are not required to test. The Act promotes awareness of the possibility of radon.**
- 5) **Sellers are; however, required to provide two disclosure pamphlets to prospective buyers.**
- 6) **Radon laws affect the sellers of properties with 4 or less units.**

REAL ESTATE LICENSE ACT DISCLOSURES

AGENCY

Consumers must be advised no later than entering into a brokerage agreement with the sponsoring broker that:

- 1) The agency relationship exists
- 2) The names of the designated agent they will be working with
- 3) Sponsoring broker's compensation policy regarding cooperating with other brokers

Single Agency – occurs when a broker or salesperson represent only one party (buyer or seller) in a real estate transaction.

Dual Agency – occurs when a broker or salesperson represents BOTH the buyer and the seller in a real estate transaction. Section 15-45 of the Real Estate License Act of 2000 states:

- (a) A licensee may act as a dual agent only with the informed written consent of all clients.

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 material 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 to 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 on what price to accept or offer.*

What a Licensee Can NOT Do for 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 buyer or tenant is willing to pay without the permission of the buyer or tenant.*
- 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, please let the Licensee know. You are not required to sign this document unless you want to allow Licensee to proceed as a Dual Agent in this transaction. By signing below, you acknowledge that you have read and understand this form and voluntarily consent to Licensee acting as a Dual

Agent (that is, to represent BOTH the seller or landlord and the buyer or tenant) should that become necessary.

Section 15-30 – Duties after termination of brokerage agreement

Except as may be provided in a written agreement between the broker and the client, neither a sponsoring broker nor 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.*

PROPERTY DISCLOSURES

The Real Estate License Act (Section 15-15 (c) states:

“Disclosing to the client material facts concerning the transaction of which the licensee of which the licensee has actual knowledge, unless that information is confidential information.”

Section 15-20 – Failure to disclose information not affecting physical condition

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 or the structures located thereon; or
- (iii) fact situations on property that is not the subject of the transaction; or
- (iv) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is subject of the transaction.

Section 10-27 – Disclosure of licensee status

Each licensee shall disclose, in writing, his or her status as a licensee to all parties in a transaction when the licensee is selling, leasing, or purchasing any interest, direct or indirect, in the real estate that is the subject of the transaction.

Rules Regarding Licensees Selling their Own Property

Licensees must disclose their status as a licensee when selling, purchasing, property when the use of another licensed broker or salesperson is not utilized. Disclosure can be as simple as indicating on For Sale yard signs that the property is “Agent owned” or “Broker owned”.

REVIEW – Real Estate License Act Disclosures

- 1) **Single agency is when a broker or salesperson represents only one party (buyer or seller) in a real estate transaction.**
- 2) **Dual agency is when a broker or salesperson represents BOTH parties (buyer and seller) in a real estate transaction. Prior written permission from both parties is required before engaging in a dual agency relationship.**
- 3) **Licensees have an obligation to disclose all known material defects that adversely affect the property or the environment.**
- 4) **No disclosure is required for stigmatized property (murder or suicide) unless asked directly by the prospective buyer. In that case, no details are required as that is public knowledge, just an acknowledgement that in fact a death did occur or not occur on the property if the licensee had knowledge of it.**
- 5) **All licensees must disclose in writing their status as a licensee when selling or purchasing property or if they have any interest in the subject property.**
- 6) **Licensees are accountable for money and property during the course of the brokerage agreement.**
- 7) **On For Sale by Owner yard signs, licensees must disclose that the property is broker-owned or agent-owned.**

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 contents of this home study, please contact, Patricia Trombello at Technical Training Consultants, Inc. at 630-353-0400 or www.ttcinc01@aol.com

