Module Outline

This module is divided into five units and a module quiz:

Unit 1: Overview of Pennsylvania Real Estate Law
Unit 2: Pennsylvania Real Estate Licensure
Unit 3: Broker, Associate Broker, Salesperson Licenses
Unit 4: Other Pennsylvania Real Estate Licenses
Unit 5: Keeping a Pennsylvania Real Estate License

You will be required to complete each unit in this module before moving on in this course. This module should take approximately four hours.

Module Objectives

By the end of this module, you will be able to:

- Describe the roles of Pennsylvania’s real estate licensing authorities.
- Determine when a real estate license is and is not necessary.
- Identify requirements for the primary real estate licenses.
- Identify requirements for the different categories of Pennsylvania real estate licenses.
- Identify requirements for keeping a Pennsylvania real estate license.
Unit 1: Pennsylvania Real Estate Law Overview

License Law

- The purpose of license laws is to protect the public by ensuring a consistent level of competence, ethics, and professionalism.
- Pennsylvania license law is found in Title 63 – Professions and Occupations – of the Pennsylvania Statutes. Sections 455.01 through 455.902 of Title 63 are collectively known as Act 15, the Real Estate Licensing and Registration Act. The Real Estate Licensing and Registration Act also provided for the creation of the Real Estate Commission.
- The official administrative rules and regulations for the Commonwealth of Pennsylvania can be found in the Pennsylvania Code. The State Real Estate Commission rules and regulations are in Title 49, Professional and Vocational Standards, Chapter 35, which is further organized into subchapters of related information such as licensure, standards of conduct and practice, continuing education, etc.
- In Pennsylvania, the state agency that actually issues state licenses to qualified applicants is the Department of State, which is usually simply referred to as “the Department.” The Department’s Bureau of Professional and Occupational Affairs provides legal and administrative support to the State Real Estate Commission, as well as numerous other state licensing boards and commissions. One of the Department’s many responsibilities is to arrange for the licensure testing service.

State Real Estate Commission

The State Real Estate Commission:

- Oversees all activities in Pennsylvania that would require a real estate license.
- Holds public meetings once a year in Harrisburg, Philadelphia, and Pittsburgh.
- Is made up of eleven members, each of whom is appointed by the Governor for a term of five years.
- Recognizes a majority of six Commission members as constituting a quorum.

The Commission membership includes:

- The Commissioner of Professional and Occupational Affairs
- The Director of the Bureau of Consumer Protection
- Three individuals from the public at large (unlicensed)
- Five individuals who are licensed Pennsylvania real estate brokers who have been engaged in real estate for at least 10 years immediately prior to their appointment
- One individual who has been a licensed real estate broker or cemetery broker in Pennsylvania for a period of at least five years and engaged in selling cemetery lots for at least 10 years immediately prior to their appointment
Commission Responsibilities

Among the responsibilities of the Commission are to:

- Create rules and regulations necessary to carry out the Licensing Act.
- Approve schools that offer real estate education and prescribe the subjects to be tested.
- Investigate possible license violations.
- Conduct routine and special inspections of real estate offices.
- Promulgate rules to licensees.
- Set the minimum standards of acceptable practices, including documentation, disclosure, money handling, etc.
- Review petitions for licensure or renewal.
- Set penalties after a violation has been substantiated.
- Approve and regulate promotions for selling land inside and outside the Commonwealth.
- Submit an annual report and an annual budget to the Pennsylvania House and Senate.
- Establish fees with sufficient revenue to cover a two-year period.
- Administer the Real Estate Recovery Fund.

Out-of-State Applicants

Non-State Residents

Someone who has been licensed in another state within the past five years may apply for a standard Pennsylvania license if they:

- Are at least 18 years old.
- Pass the state portion of the Pennsylvania real estate license examination.
- Adhere to any other standards required by resident applicants.
- Are of good moral character.
- Provide a Certificate of Licensure or a Record of Good Standing from that state’s licensing agency along with their licensure history and disciplinary history.
- Have an employing Pennsylvania or out of state broker.

Note: Applicants with a broker’s license in another state gets two credits (30 hours) toward the Pennsylvania 240-hour requirement for each year of active practice in the past 10 years.

Reciprocity

The reciprocal arrangement, as defined in 49 PA. Code Ch. 35, allows applicants from a state which has executed a reciprocal agreement with Pennsylvania to apply for a reciprocal real estate license without any additional training, education, experience, or examination. A reciprocal license:

- Allows its holder to perform all legal activities of a real estate licensee in the Commonwealth of Pennsylvania.
- Is attached to the licensee’s standard license in the reciprocal state.
- Is invalid if the licensee’s standard license is lapsed, suspended, or revoked.
Activities Requiring Licensure

In Pennsylvania, it is illegal to act in real estate on behalf of another for a fee or valuable consideration without first being licensed or registered (unless specifically exempted). According to the Pennsylvania Licensing and Registration Act, these activities require a broker's license:

- Negotiating with or aiding any person in locating or obtaining for purchase, lease or acquisition of any interest in real estate
- Negotiating the listing, sale, purchase, exchange, lease, timeshare and similarly designated interests, financing, or option for any real estate
- Managing any real estate
- Representing himself to be a real estate consultant, counselor, agent, or finder
- Undertaking to promote the sale, exchange, purchase, or rental of real estate
- Undertaking to perform a comparative market analysis
- Attempting to perform any of the above acts

Exemptions from Needing a License

The following categories of individuals and entities are excluded from needing a real estate license:

- An owner of real estate. In the case of a corporation or partnership, this exclusion extends to no more than five of the partnership’s partners or the corporation’s officers. It does not include other employees.
- An employee of a public utility acting in the ordinary course of utility-related business when negotiating the purchase, sale, or lease of real estate.
- An officer or employee of a partnership or corporation whose principal business is the discovery, extraction, distribution or transmission of energy or mineral resources, if the purchase, sale, or lease of real estate is a common and necessary transaction in the conduct of the principal business.
- An attorney in fact (also called an agent in fact) who renders services under an executed and recorded power of attorney from an owner or lessor of real estate, if the power of attorney is not used to circumvent the intent of the act.
- An attorney-at-law who receives a fee from his client for rendering services within the scope of the attorney-client relationship and does not hold himself out as a real estate broker.
- A trustee in bankruptcy, administrator, executor, trustee, or guardian who is acting under authority of a court order, will, or trust instrument.
- An elected officer or director of a banking institution, savings institution, savings bank, credit union, or trust company operating under applicable Federal or State statutes when only the real estate of that institution is involved.
- An officer or employee of a cemetery company who, as an incidental part of his principal duties and without additional compensation, shows lots in the company’s cemetery to persons for use as family burial lots and who accepts deposits on the lots for a representative of the cemetery company legally authorized to sell them.
- A cemetery company or cemetery owned or controlled by a bona fide church, religious congregation, or fraternal organization.
• An auctioneer licensed under The Auctioneer and Auction Licensing Act while performing authorized duties at a bona fide auction.

• Any person employed by an owner of real estate for the purpose of managing or maintaining multi-family residential property. Such person may not enter into leases on behalf of the owner, negotiate terms or conditions of occupancy with current or prospective tenants, or to hold money belonging to tenants other than on behalf of the owner. So long as the owner retains the authority to make all such decisions, the employees may show apartments and provide information on rental amounts, building rules and regulations and leasing determinations.

• An elected officer, director or employee of a banking institution, savings institution, savings bank, credit union, or trust company operating under applicable Federal or State statutes when acting on behalf of that institution in performing appraisals or other evaluations of real estate in connection with a loan transaction.
Licenses

Some general requirements to become a licensed real estate broker, associate broker, or salesperson in the Commonwealth of Pennsylvania include:

- All applicants must pay a licensure fee.
- All applicants must sign a Consent to Service of Process.
- All licensure courses must have been completed within 10 years of passing the licensing exam.
- Any required licensing exam must be taken and passed within the three years prior to applying for the license.
- All applicants must be of good moral character and not misrepresent material facts on the application.
- All applicants must submit a State Police criminal background check and must submit details of any conviction of, or plea of guilty or nolo contendere, to a felony or misdemeanor and the sentence imposed.

Broker

A broker is licensed to represent buyers, sellers, landlords, or tenants within the Commonwealth of Pennsylvania with no restrictions on the type of real estate involved or the brokerage activities. A broker may:

- Be an individual or a non-living entity such as a corporation, partnership, or association.
- Manage real estate.
- Supervise and direct a real estate office.
- Employ other licensees.
- Be multi-licensed (on the “office level”).

If the applicant is a non-living entity:

- A broker must be designated as the Broker of Record for real estate licensure activity.
- All officers of a corporation or members of a partnership or association who engage in real estate activities must be a licensed broker, associate broker, or salesperson.
Individual Broker Requirements

Individual broker applicants must:

- Be 21 years old.
- Be a high school graduate (or equivalent).
- Have three years of experience in real estate sales or an equivalent.
- Submit transcripts showing the completion of 240 hours of state-approved real estate education including fair housing and professional ethics.
- Pass the state and national portions of the state real estate broker exam.
- Submit a resume detailing their real estate activities (with the employing broker’s notarized signature).
- Have a complying place of business.
- Complete a license application with recommendations from another broker or Pennsylvania property owners as to the applicant’s honesty, trustworthiness, integrity, and competence.

Associate Broker

An associate broker is employed by another broker. An associate broker’s license will be issued only to an individual. An associate broker may not:

- Employ other licensees.
- Do business under his or her own name.
- Be multi-licensed.

Associate broker applicants must:

- Be 21 years old.
- Be a high school graduate (or equivalent).
- Have three years of experience in real estate sales or an equivalent.
- Submit transcripts showing the completion of 240 hours of state-approved real estate education including fair housing and professional ethics.
- Pass the state and national portions of the state real estate broker exam.
- Submit a resume detailing their real estate activities (with the employing broker’s notarized signature).
- Have an employing broker.
- Complete a license application with recommendations from another broker or Pennsylvania property owners as to the applicant’s honesty, trustworthiness, integrity, and competence.
Real Estate Salesperson

A real estate salesperson is an individual who is licensed to engage in real estate brokerage activities on behalf of his or her employing broker with no restrictions (unless imposed by the employing broker). A real estate salesperson may not:

- Employ other licensees.
- Be multi-licensed.
- Manage property.
- Receive compensation from anyone other than the employing broker.

A real estate salesperson can provide appraisal assistance to a Certified Broker Appraiser, much like an apprentice, if the Broker Appraiser:

- Directly supervises and controls the salesperson’s work.
- Assumes total responsibility for the contents of the appraisal documents and value conclusions.
- Personally inspects the interior and the exterior of the subject property.

Real Estate Salesperson Requirements

Salesperson applicants must:

- Be at least 18 years old.
- Submit transcripts showing the completion of 60 hours of state-approved real estate education including fair housing and professional ethics.
- Pass the state-sponsored real estate salesperson examination.
- Submit the name and signature of the broker who will hold their license and supervise them.
Unit 4: Other Pennsylvania Real Estate Licenses

General Requirements

Some general requirements to note:

- All applicants must pay a licensure fee.
- All applicants must sign a Consent to Service of Process.
- All licensure courses must have been completed within 10 years of passing the licensing exam.
- Any required licensing exam must be taken and passed within the three years prior to applying for the license.
- All applicants must be of good moral character and not misrepresent material facts on the application.
- All applicants must submit a State Police criminal background check and submit details of any conviction of, or plea of guilty or nolo contendere, to a felony or misdemeanor and the sentence imposed.
- Applicants cannot practice real estate until a license issued by the Department of State.
- Brokers must display the licenses of all licensed employees in a conspicuous location in their place of business.

Cemetery Licensees

The real estate brokerage activities of a cemetery broker and a cemetery associate broker are restricted to cemetery lots, plots, mausoleum spaces, or openings.

A cemetery company must:

- Apply to the Department of State for a cemetery company registration certificate.
- Designate a broker or record or a cemetery broker of record.
- Ensure that all officers of corporation or members of a partnership or association who engage in real estate be a broker or a cemetery broker.

A cemetery broker:

- May employ cemetery associate brokers or cemetery salespersons.
- May be an individual or a non-living entity.
- May be multi-licensed (at the “office level” only).
- Must have a compliant place of business.

A cemetery associate broker is an individual who is employed by a broker or cemetery broker. A cemetery associate broker can do anything a cemetery broker can except:

- Employ other licensees.
- Do business under his or her own name.
- Be multi-licensed.

Cemetery broker and cemetery associate broker applicants must:

- Be 21 years old.
• Have three years of experience in real estate sales, cemetery sales, or an equivalent.
• Submit transcripts showing the completion of 60 hours of state-approved real estate education including fair housing and professional ethics.
• Pass the state cemetery broker exam.
• Submit a resume detailing their real estate activities (with the employing broker’s or cemetery broker’s notarized signature).
• Complete a license application with recommendations as to the applicant’s honesty, trustworthiness, integrity, and competence.

A cemetery salesperson:

• Must be an individual.
• Is restricted to selling cemetery lots, plots, mausoleum spaces, or openings on behalf of his or her employing broker or cemetery broker.
• Cannot employ other licensees.
• Can receive compensation only from his or her employing broker or cemetery broker.
• Must be at least 18 years old.
• Must complete a license application with recommendations as to the applicant’s honesty, trustworthiness, integrity, and competence, as well as an employing broker’s or cemetery broker’s signature stating that he or she will actively train and supervise the applicant.

Builder-Owner Salesperson

A builder-owner salesperson is an individual licensee who is a full-time employee of a builder-owner of single- or multi-family dwellings. Builder-owner salesperson licensees:

• Are restricted to properties owned by the employing broker-owner.
• Cannot negotiate mortgage loan financing.

Builder-owner salesperson applicants must:

• Be 18 years old.
• Be employed by a registered builder-owner with a reputation for honesty, trustworthiness, integrity, and competence.
• Pass the national and state portions of the state salesperson’s licensing exam.
• Complete a license application with recommendations as to the applicant’s honesty, trustworthiness, integrity, and competence, as well as an employing builder-owner’s signature stating that he or she will actively train and supervise the applicant.
Rental Listing Referral Agent

A rental listing referral agent owns or manages a business that generates lists of available rental units for sale to the public.

- The license may be issued to an individual or a non-living entity.
- The place of business must name a licensed manager of record if the entity is a corporation, partnership, or association.
- A rental listing referral agent may manage only one place of business.

Rental listing referral agent applicants must:

- Be 18 years old.
- Submit transcripts showing the completion of 60 hours of state-approved real estate education.
- Pass the national and state portions of the state salesperson’s licensing exam.
- Submit a license application.

Campground Membership Salesperson

A campground membership salesperson is an individual employed by a licensed real estate broker to sell campground memberships. Applicants for licensure must:

- Be 18 years old.
- Submit a transcript showing the completion of the 15-hour Campground Membership Sales Course, including basic contract law, sales practices and procedures, sales ethics, and the basic theory of campground memberships.
- Complete 30 days of onsite training at a campground membership facility.
- Submit a license application, including sworn affidavit from the employing broker stating he or she will supervise and train the applicant.

Time-Share Salesperson

A time-share salesperson is an individual employed by a licensed real estate broker to sell time-sharing or campground memberships. Applicants for licensure must:

- Be 18 years old.
- Submit a transcript showing the completion of the 30-hour Time Share Sales Course, including basic contract law, sales practices and procedures, sales ethics, and the basic theory of resort timesharing.
- Complete 30 days of onsite training at a time-share facility.
- Submit a license application, including sworn affidavit from the employing broker stating he or she will supervise and train the applicant.
Unit 5: Keeping a Pennsylvania Real Estate License

Renewal Cycles and Reactivation

- Pennsylvania renews all real estate licenses on a two-year license renewal cycle that ends on May 31 of every even-numbered year.
- Real estate broker, associate broker, and salesperson licensees are required to complete 14 hours of continuing education during every license renewal cycle.
- Other licensees, including those holding reciprocal licenses, are not required to take continuing education in Pennsylvania.
- New licenses that are issued within six months of the renewal cycle deadline do not require continuing education.
- Licenses that are not renewed are considered to be inactive, sometimes referred to as “in escrow.” Inactivity has nothing to do with completing any real estate transactions.
- A license that has been inactive for less than five years can be activated by bringing any CE requirements up to date and paying a renewal fee.
- A license that has been inactive for more than five years can be activated by passing the state licensing exam and paying a renewal fee.
- Licensees may transfer their licenses from one employing broker to another by notifying the State Real Estate Commission before the move but no later than 10 days after the move.
- Notification to the State Real Estate Commission is not required when transferring from one location to another location of the same employing broker.
- A copy of the application displayed in the new broker’s office serves as a temporary license allowing the licensee to continue to practice.
Terminology Review

Administrator
The person appointed by the court to handle the estate of someone who died without a will, with a will but no nominated executor, or the executor named in the will has died, has been removed from the case or does not desire to serve. Sometimes called a personal representative.

Agent
Anyone who is authorized to act on the behalf of someone else.

Associate Broker
A licensed broker who works for another broker.

Association
A group of people who have joined together for a common business purpose. The law may treat an association like a corporation for tax purposes, however, if it has been operating in a corporate manner.

Attorney in Fact
Any person authorized to act for another by a power of attorney (not necessarily a lawyer who is an attorney at law). Also called an agent in fact.

Broker
One who is licensed to represent another person in a real estate transaction with intent to receive compensation or valuable consideration.

Builder-Owner Salesperson
Any person who is a full-time employee of a builder-owner of single- and multi-family dwellings located within the Commonwealth; authorized and empowered to list for sale, sell or offer for sale, or to negotiate the sale or exchange of real estate, or to lease or rent, or offer to lease, rent or place for rent, any real estate owned by his builder-owner employer, or collect or offer, or attempt to collect, rent for the use of real estate owned by his builder-owner employer, for and on behalf of such builder-owner employer.

Campground
A portion of land used for the purpose of providing a space or spaces for trailers or tents, for camping purposes regardless of whether a fee has been charged for the leasing, renting or occupancy of the space.

Campground Membership
An interest, other than in fee simple or by lease, which gives the purchaser the right to use a unit of real property for the purpose of locating a recreational vehicle, trailer, tent, tent trailer, pickup camper or other similar device on a periodic basis pursuant to a membership contract allocating use and occupancy rights between other similar users.

Campground Membership Salesperson
A person who either as an employee or an independent contractor sells or offers to sell campground memberships. Such person shall sell campground memberships under the active supervision of a broker.
Cemetery
A place for the disposal or burial of deceased human beings, by cremation or in a grave, mausoleum, vault, columbarium or other receptacle, but the term does not include a private family cemetery.

Cemetery Associate Broker
A licensed cemetery broker who works for either another cemetery broker or a real estate broker.

Cemetery Broker
Any person engaging in or carrying on the business or acting in the capacity of a broker within this Commonwealth exclusively within the limited field or branch of business which applies to cemetery lots, plots and mausoleum spaces or openings.

Cemetery Company
Any person who offers or sells to the public the ownership, or the right to use, any cemetery lot.

Cemetery Salesperson
Any person employed by a broker or cemetery broker to perform duties as defined under "cemetery broker."

Commission
The State Real Estate Commission is responsible for carrying out the requirements set forth in Real Estate Licensing and Registration Act.

Consent to Service of Process
An irrevocable consent signed by non-residents agreeing to allow legal action to be brought against a licensee in the Commonwealth of Pennsylvania.

Corporation
A legal structure authorized by state law that allows a business to organize as a separate legal entity from its owners for liability or tax purposes. Also known as a “legal person.”

Department
The Department of State is the Pennsylvania state agency that issues state licenses to qualified applicants and oversees the State Real Estate Commission.

Executor
The person named in a will to handle the property of someone who has died and carry out the terms of the will. If female, may be called an executrix.

FSBO (for sale by owner)
An attempt to sell one’s own property without listing it with a real estate broker.

General Partnership
A partnership in which each member has an equal right to manage the business and share in the profits, as well as an equal responsibility for the partnership’s debts.
**Limited Liability Company (LLC)**
A business ownership structure that offers its owners the advantage of limited liability (like corporations) and partnership-like taxation, in which profits are passed through to the owners and taxed on their personal income tax returns.

**Power of Attorney**
An instrument authorizing one person (called an attorney in fact or agent in fact) to act as another’s agent, to the extent stated in the instrument.

**Receiver**
A neutral person appointed by a judge to take charge of the property and business of one of the parties to a lawsuit and receive his/her rents and profits while the right to the monies has not been finally decided or to receive rents and profits coming to a debtor either while a bankruptcy is being processed or while an arrangement is being worked out to pay creditors.

**Reciprocity**
A mutual exchange of privileges, such as recognizing a license issued in one jurisdiction in another jurisdiction.

**Rental Listing Referral Agent**
Any person who owns or manages a business which collects rental information for the purpose of referring prospective tenants to rental units or locations of such units.

**Salesperson**
An individual licensee, associated with a broker, who may perform most of the acts of a broker but cannot work independently of that broker.

**Sole Proprietorship**
A business owned and managed by one person (or for tax purposes, a husband and wife). For IRS purposes, a sole proprietor and his or her business are one tax entity, meaning that business profits are reported and taxed on the owner's personal tax return. With a sole proprietorship, the owner is personally liable for all business debts.

**Timeshare**
The right, however evidenced or documented, to use or occupy one or more units on a periodic basis according to an arrangement allocating use and occupancy rights of that unit or those units between other similar users.

**Time-Share Salesperson**
A person who either as an employee or independent contractor sells or offers to sell timeshares. Such person shall sell timeshares under the active supervision of a broker.