

Important Notice for all Real Estate Brokers and Salespersons and *Minnesota Approved Real Estate License Education Providers

Here is information concerning the required 2018-2019 continuing education module training course. There is one 3.75-hour module course that both salespersons and brokers must complete. Completion of this course will also satisfy the 1-Hour Broker Module Requirement. In other words, there will be no separate broker module course for 2018-2019.

Please note that commercial-only salespersons and brokers are exempt from these module requirements and must apply for the commercial-only waiver when the broker submits verification of this between April 1st and June 30th each year on Pulse Portal at www.pulseportal.com. Additional information can be found at <http://mn.gov/commerce/>.

The GENERAL module course for 2018-2019

The topic for this module course is:

Risk Management

All non-exempt salespersons and brokers must complete this general module course before June 30, 2019.

Additional details:

- This course is part of the 15 hours of continuing education that are due each year, not in addition to them.
- To get credit for the general module, you must pass an examination taken at the end of the course. The examination will cover the module content. Each examination will consist of 20 multiple-choice and true/false questions randomly selected from a pool of at least 50. The passing score is 14 or more correct. The examination questions were written by subject matter experts in consultation with the Department of Commerce.
- The Department of Commerce, in consultation with a statewide real estate trade association and a statewide private continuing education provider, determines the specific topic(s) covered by the module(s) each license year and the number of credit hours allocated to each module.

****Special note for Minnesota approved real estate license education providers.***

The required 2018-2019 Module course application will be available online between May and June of 2018 at [MN Provider Course Applications](#).

2018-19 Real Estate Module
Topic: Risk Management
Timed Outline
3.75 Hours

I. Welcome and Course Objectives

II. Disclosure Requirements (Minn. Stat. §82.68)

A. Agent of Broker: Agent can only conduct business on behalf of the broker to whom licensed. A licensee shall affirmatively disclose, before the negotiation or consummation of any transaction, the licensed name of the brokerage under whom the licensee is authorized to conduct business according to this section.

B. Financial interest

1. Prior to negotiations; Disclosure must include:

- a) Licensee is licensed real estate agent/broker
- b) Directly or indirectly through a 3rd party
- c) Buyer or seller is relative or business associate
- d) Disclosure must be in writing

C. Material facts

1. Must disclose all material facts the agent is aware of

2. "Material" definition

3. Agent liability: Recognizing obvious issues and red flags

4. Exceptions

a) Suicide, natural death, accidental death

(1) Murder is NOT an exception

b) HIV/AIDS

c) Perceived paranormal activity

d) Community- based residential facilities (e.g. group homes)

e) Predatory offender if written notice of information is provided

f) Information contained in a written inspection report prepared by an independent third party

(1) Must disclose contrary information

(2) Must disclose known material facts not included in the written report

5. Statutes place same disclosure obligation on sellers

a) (Minn. Stat. §513.55)

6. Sellers (not agents) have options

a) Provide a buyer with a 3rd party inspection report

b) Request that the buyer waive the seller disclosure obligation

7. Seller's disclosure obligation is applicable to single family residences

8. Real estate agent/broker's disclosure obligation is obligatory in all real estate transactions that the licensee is involved in;

9. Consequences of inadequate disclosure

a) Disputes may arise

b) Seller and listing broker subject to a lawsuit for claims for damages

c) Ethics and DOC complaints filed against the agent and broker

D. Nonperformance of party: Must disclose the fact that a party intends not to perform

III. Advertising

A. Minn. Stat. § 82.69

1.	Licensee disclosure in ALL advertising: Brokerage name must be more prominently displayed than the licensee's name
a)	Property of others
b)	Agent-owner
2.	Team names
a)	Broker must authorize the use of team name
b)	Team name does not need to include the name of the team members
c)	Brokerage name must be more prominently displayed than the team name
B.	Fair Housing Act and Advertisements
1.	See 42 U.S.C. § 3604: Unlawful to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, handicap, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination.
C.	Real Estate Settlement Procedures Act (RESPA) and Advertisements
1.	RESPA and Marketing Services Agreements
a)	See 12 U.S.C. § 2607 and Regulation X, 12 C.F.R. Part 1024 (formerly codified at 24 C.F.R. 3500)
b)	See also U.S. Consumer Financial Protection Bureau In the Matter of Lighthouse Title, Inc. Respondent
IV.	Compensation (Minn. Stat. § 82.70)
A.	All commissions and fees must go through the broker
1.	Requirement to disclose all compensation
B.	Referral fees
1.	Referrals cannot be paid to unlicensed individuals
a)	Includes gift cards
2.	Referral fees can be paid to licensed brokerages outside of MN
C.	Sharing commissions
1.	Rebates can be given to parties involved in the transaction
D.	Brokers may pay commissions to an agent's LLC, corporation or sole proprietorship if the licensee is the sole owner
E.	Listing brokers have no claim to trust funds
F.	Actions
1.	Proof of license
2.	Written agreement
3.	Agency disclosure (residential)
4.	No arbitration/hold harmless in purchase agreement
V.	Negotiations (Minn. Stat. § 82.71)
A.	Requirement to present all written offers promptly
1.	Agents cannot substitute their own judgment for that of the sellers
B.	Cannot disclose terms of an offer prior to presentation
1.	Seller may authorize agent to "shop" terms of an offer
2.	Impact of dual agency
C.	Obligation to provide a copy of documents to the party when signed
D.	Obligation to provide closing statement detailing all receipts and disbursements
VI.	Data Security
A.	Importance of data security and privacy
1.	Personal information collected during a real estate transaction
2.	Cyber Crime
a)	Ransomware

	b)	Wire Fraud
B.		What happens if this data is breached
	1.	Fraud
	2.	Identity theft
C.		Laws that govern
	1.	MN statutes § 82.72
	2.	MN statutes §§ 325E.61 and 325E.64
	3.	Fair and Accurate Credit Transaction Act (FACTA) (15 U.S.C. §§1681-168x)
	a)	Disposal Rule (16 C.F.R § 682)
	4.	Gramm Leach Bliley (15 U.S.C. §§6801-6827)
	a)	Financial Privacy rule (16 C.F.R. § 313)
	b)	Safeguards Rule (a.k.a. The “Red Flags” Rule) (16 C.F.R. § 314)
D.		Brokers need to develop a company policy
	1.	Compliance required at the office and at home and/or off sites (agents)
	2.	Policy needs to include discipline for agents who do not comply
E.		Devices and documents
	1.	Cell phones
	2.	Computers, laptops, tablets, wearables
	3.	Photo copiers
	4.	Electronic and hard copy of files
	5.	Brief cases, purses, totes, etc.
F.		Proper destruction required
G.		How data breaches can occur
	1.	Break-ins (Smash and grabs)
	2.	Unsecured cell phones, laptops, tablets, wearables
	3.	Uneducated personnel
H.		Five key principals to a sound data security program (FTC)
	1.	Take stock
	a)	Information inventory checklist
	(1)	Who has access?
	(2)	Who maintains?
	(3)	Consumer opt-out policy
	(a)	Scale down
	(i)	Assess the information you collect
	(ii)	Document retention policy
	(iii)	Tips for maintaining security
	(b)	Lock it
	(i)	Protect the information you collect
	(4)	Checklist for protecting personal information
	(a)	Physical security
	(b)	Electronic security
	(c)	Employee training
	(d)	Security practices of contractors and service providers
	(i)	Pitch it
	(ii)	Proper disposal of personal information
	(5)	Checklist for creating a Document Retention Policy
	(a)	Accounting records
	(b)	Corporate records
	(c)	Employment/Independent Contractor records
	(d)	Legal documents

(e)	MLS documents
(f)	Property records
(g)	Pension and profit sharing
(6)	Legal review of the company policy
(7)	Periodic reviews and updates to maintain relevancy
(a)	Plan ahead
(i)	The need for a written Data Security Program
(8)	Checklist for implementing a Data Security Program
(9)	Checklist for drafting a Breach Notification Policy
I.	FBI Recommendations to Prevent Cybercrime (https://www.fbi.gov/investigate/cyber)
1.	Ransomware
a)	“FBI tips for dealing with ransomware (primarily aimed at organizations and their employees, but some are also applicable to individual users):
(1)	Make sure employees are aware of ransomware and of their critical roles in protecting the organization’s data.
(2)	Patch operating system, software, and firmware on digital devices (which may be made easier through a centralized patch management system).
(3)	Ensure antivirus and anti-malware solutions are set to automatically update and conduct regular scans
(4)	Manage the use of privileged accounts—no users should be assigned administrative access unless absolutely needed, and only use administrator accounts when necessary.
(5)	Configure access controls, including file, directory, and network share permissions appropriately. If users only need read specific information, they don’t need write-access to those files or directories.
(6)	Disable macro scripts from office files transmitted over e-mail.
(7)	Implement software restriction policies or other controls to prevent programs from executing from common ransomware locations (e.g., temporary folders supporting popular Internet browsers, compression/decompression programs).
(8)	Back up data regularly and verify the integrity of those backups regularly
(9)	Secure your backups. Make sure they aren’t connected to the computers and networks they are backing up
2.	Wire Fraud in Real Estate
a)	FBI: “How to Protect Your Computer
(1)	Keep Your Firewall Turned On
(2)	Install or Update Your Antivirus Software
(3)	Install or Update your Antispyware Technology
(4)	Keep Your Operating System Up to Date
(5)	Be Careful What You Download
(6)	Turn Off Your Computer
J.	Collecting consumer information on line
1.	Website Privacy Policy
VII. Review/Questions/Answers	
VIII. Exam	

Course Description: Today's complex real estate transactions are full of challenges and expose licensees to a number of high areas of risk. This course is designed to explore agency issues, disclosure requirements, negotiation issues, cancellation concerns, contracts and contingencies and will provide guidance on reducing risk liability exposure.

Learning Objectives: Licensees who attend this course will:

- Learn liability issues and problems relating to disclosure;
- Learn liability issues and statutory obligations pertaining to advertising;
- Learn how to protect and safeguard the personal data they collect from their clients and customers;
- Review contracts and the requirements of listing contracts, buyer representation agreement and facilitator services agreements;
- Receive tips to reduce liability through preventive measures.

Note: The exam must not be allocated credit of more than one-sixth of the time allocated to the module. However a licensee must be allowed to remain as long as reasonably necessary to complete the exam.

This Module Satisfies both the 3.75-Hour General Module and the 1-Hour Broker Module Requirement