Free Real Estate
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Real Estate Flashcards: 74 Exam Terms

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Escheat	Escheat is the government power that transfers ownership of property to the state when an owner dies intestate (without a will) and leaves no discoverable heirs, or when property is legally abandoned. It exists so that real estate is never left without an owner.
Chattel	Chattel is personal property: anything movable that is not real estate. A chattel transfers by bill of sale rather than by deed, and becomes real property only once it is annexed to the land as a fixture.
Adverse possession	Adverse possession is a way of acquiring title by occupying someone else's land openly and without permission for a period set by state law. The possession must be open, notorious, continuous, hostile, exclusive and actual.
Blockbusting	Blockbusting is a fair housing violation in which an agent induces owners to sell by suggesting that people of a protected class are moving into the neighborhood. It is illegal under the Fair Housing Act whether or not the claim is true.
RESPA	RESPA is the federal law governing settlement costs and closing disclosures on residential mortgages. Its most exam-tested provision, Section 8, prohibits kickbacks and unearned referral fees between settlement providers.

Eminent domain	Eminent domain is the government power to take private property for public use, provided the owner receives just compensation. It is exercised through a condemnation proceeding, and the owner may contest the public purpose or the price but not the taking itself.
Police power	Police power is the government authority to regulate the use of private land to protect public health, safety and general welfare. Zoning, building codes and environmental rules all rest on it, and because the owner keeps title no compensation is owed.
Fee simple	Fee simple is the largest ownership interest in real property: full title of unlimited duration that passes to heirs. Fee simple absolute carries no conditions, while a fee simple defeasible can be lost if a stated condition is broken, and both remain subject to government powers.
Life estate	A life estate is ownership of real property measured by someone's lifetime, after which title passes automatically to the remainderman or reverts to the grantor. The life tenant may use and profit from the land but must avoid waste and cannot will the estate to heirs.
Tenancy in common	Tenancy in common is co-ownership in which each owner holds a separate, freely transferable share that passes to their own heirs at death. Shares may be unequal and there is no right of survivorship, yet every co-tenant has the right to possess the entire property.
Leasehold estate	A leasehold estate is a tenant's right to exclusive possession and use of real property for a limited term while the landlord keeps ownership. It is classified as personal property rather than a freehold, and possession returns to the landlord when the term ends.

Lien	A lien is a creditor's claim against real property as security for a debt, giving the creditor the right to force a sale if the debt is unpaid. It is a financial encumbrance that affects title rather than use, and it is discharged when the obligation is satisfied.
Easement appurtenant	An easement appurtenant is the right to use a neighboring parcel that belongs to the land itself rather than to a person, so it transfers automatically with either property. It needs two parcels: a dominant tenement that benefits and a servient tenement that is burdened.
Easement in gross	An easement in gross is the right to use someone else's land that belongs to a person or company rather than to an adjoining parcel. Utility and pipeline rights of way are the classic examples: there is a servient tenement but no dominant tenement.
Encroachment	An encroachment is a structure or improvement that physically intrudes onto a neighbor's land, such as a fence, driveway or roof overhang crossing the boundary. It is an unauthorized encumbrance discovered by survey, and left unchallenged it can ripen into a prescriptive easement or adverse possession.
Riparian rights	Riparian rights are the water rights of an owner whose land borders a flowing waterway such as a river or stream. The owner may make reasonable use of the water, and ownership generally extends to the center of a non-navigable stream but stops at the bank of a navigable one.
Littoral rights	Littoral rights are the water rights of an owner whose land borders a static body of water such as a lake, sea or ocean. The owner may use and enjoy the water and owns the land up to the average high-water mark, with the bed below it held by the state in trust for the public.

Trade fixture	A trade fixture is an item a commercial tenant installs to conduct business, which stays the tenant's personal property and may be removed before the lease ends. Restaurant ovens and salon chairs are typical, and the tenant must repair any damage caused by removal.
Novation	Novation is the substitution of a new party or a new contract for an original one, releasing the original party from all liability. It is what distinguishes a true release from an assignment, where the assignor stays secondarily liable if the assignee defaults.
Addendum	An addendum is a separate document attached to and made part of a contract that adds terms the printed form does not cover, such as a lead-based paint or HOA addendum. Because it is attached as the contract is written, it differs from an amendment, which changes a contract already in force.
Contingency	A contingency is a condition written into a purchase contract that must be satisfied before either party is obligated to close, letting the buyer cancel and recover the earnest money if it fails. Financing, appraisal, inspection and sale-of-current-home contingencies are the ones tested most.
Earnest money	Earnest money is the buyer's good-faith deposit, held in the broker's trust account or by an escrow agent, that shows serious intent and is credited to the purchase price at closing. It is not the consideration for the contract, and the seller keeps it only on a buyer default.

Liquidated damages	Liquidated damages are a sum the parties agree in advance that the seller may keep as the complete remedy if the buyer defaults, almost always the earnest money. Accepting it closes the matter, so the seller cannot then sue for actual damages or specific performance.
Specific performance	Specific performance is a court order compelling a breaching seller to convey the property instead of paying money damages, available because every parcel of land is legally unique and cash cannot replace it. A buyer sues for it when the seller refuses to close on a valid contract.
Option contract	An option contract is a unilateral agreement in which the optionee pays non-refundable consideration for the right, but not the obligation, to buy at a set price within a set period. Only the optionor is bound, and the deal becomes bilateral the moment the option is exercised.
Right of first refusal	A right of first refusal is the holder's right to match an offer the owner has already received before the owner may sell to that third party. It is weaker than an option because it cannot force a sale and only ripens once the owner decides to sell.
Anticipatory breach	Anticipatory breach is a party's statement or act before the performance date making clear they will not perform, which lets the injured party pursue remedies at once instead of waiting for the closing date to pass. A seller who relists and accepts another offer mid-contract is the standard example.
Equitable title	Equitable title is the buyer's beneficial interest in the property, which arises the instant a valid purchase contract is signed while the seller keeps legal title until closing. It is what supports a buyer's suit for specific performance and passes to the buyer's heirs if the buyer dies before closing.

Dual agency	Dual agency is one broker representing both the buyer and the seller in the same transaction, lawful only with the informed written consent of both and stripped of full loyalty and advocacy. Undisclosed dual agency is a license violation, and several states ban the practice outright.
Designated agency	Designated agency is the broker appointing one licensee to represent the seller and a different licensee to represent the buyer in the same in-house sale, so each client keeps a full fiduciary advocate while the supervising broker stays neutral. It exists to avoid true dual agency.
Transaction broker	A transaction broker is a licensee who helps both parties close a sale without representing either one, owing honesty, accounting and disclosure of material facts but no loyalty or advocacy. In several states it is the default relationship until agency is created in writing.
Procuring cause	Procuring cause is the unbroken chain of events started by a broker's efforts that actually leads the buyer to purchase, and it is what entitles that broker to the commission. Disputes between cooperating brokers over it go to arbitration, not to whoever merely wrote the offer.
Puffing	Puffing is a licensee's exaggerated opinion used to promote a property, such as calling a view the best in town, and it stays legal because it asserts no verifiable fact. It crosses into misrepresentation the moment a buyer could reasonably treat the claim as fact.
Misrepresentation	Misrepresentation is a licensee's false statement or concealment of a material fact that a party relies on, actionable whether it was innocent, negligent or deliberate. Deliberate misrepresentation made to induce reliance is fraud, which can void the contract and cost the licensee their license.

Conversion	Conversion is the license-law and criminal violation of using client or trust funds for the broker's own purposes, a step beyond commingling because the money is actually spent rather than merely mixed with brokerage funds. It supports license revocation and theft charges.
Trust account	A trust account is the separate account, held in the broker's name and kept apart from the broker's own funds, where earnest money and other client funds must be deposited within the deadline state license law sets. Who gets any interest depends on the state: California bars it from benefiting the broker (Bus. & Prof. Code 10145), while Georgia lets the parties agree in writing (GREC Rule 520-1-.08).
Defeasance clause	A defeasance clause obligates the lender to give up its claim on the property once the debt is paid in full, reconveying title in a title-theory state and releasing the lien in a lien-theory state. It is what makes the recorded satisfaction of mortgage a duty rather than a courtesy.
Amortization	Amortization is the gradual retirement of a loan through periodic payments that cover the interest due and apply the remainder to principal. On a fully amortized mortgage the payment stays level while the interest share shrinks and the principal share grows, so the balance hits zero on the final scheduled payment.
Market value	Market value is the most probable price a property should bring in a competitive open market, with a willing buyer and seller who are informed and neither under duress. It is a supported opinion as of a specific date, which is why it can differ from the price actually paid.

Capitalization rate	A capitalization rate is the rate of return used to convert annual net operating income into a value estimate, applied as value equals income divided by rate. A higher cap rate therefore produces a lower value, because it prices in more risk in the income stream the buyer is purchasing.
Functional obsolescence	Functional obsolescence is loss in value caused by a defect within the property itself, such as an outdated floor plan, a one-car garage, or a bedroom with no closet. Appraisers split it into curable items worth fixing and incurable ones, then deduct it as depreciation in the cost approach.
External obsolescence	External obsolescence is loss in value caused by something outside the property lines, such as a new highway, a nearby landfill, or a decline in the local job market. It is always treated as incurable, because the owner cannot fix the cause, and that is what separates it from functional obsolescence.
Highest and best use	Highest and best use is the legally permitted, physically possible, financially feasible use that returns the greatest value to a site. All four tests must be satisfied in that order, which is why an appraiser may value an old bungalow on a commercial corner as land ready for redevelopment.
Quitclaim deed	A quitclaim deed transfers whatever interest the grantor happens to hold, with no warranties at all and no promise that any interest exists. That is why it is used to clear a cloud on title, add or remove a spouse, or convey between family, and almost never in an arms-length sale.

Special warranty deed	A special warranty deed warrants title only against defects that arose while the grantor held the property, and disclaims anything earlier in the chain. Trustees, executors, banks selling foreclosed homes and commercial sellers use it, which is why exams pair it against the general warranty deed rather than the quitclaim.
Marketable title	Marketable title is title free of reasonable doubt and serious defects, so an informed buyer would accept it and a lender would lend on it. It does not mean perfect: recorded easements and restrictions may remain, while an open lien, a gap in the chain or a boundary dispute makes title unmarketable.
Title insurance	Title insurance indemnifies the insured against loss from title defects that already existed when the policy was issued, unlike hazard insurance, which covers future events. An owner policy protects the buyer for as long as they hold title; a lender policy covers only the loan and dies when the mortgage is paid.
Intestate succession	Intestate succession is the statutory order in which a state distributes the property of someone who dies without a valid will, typically to a surviving spouse, then children, then more distant kin. Real property passes under the law of the state where the land lies, and only if no heir exists does it escheat.
Steering	Steering is a fair housing violation in which an agent guides buyers toward or away from neighborhoods based on a protected characteristic. It is illegal even when the agent believes they are being helpful, because the effect is to limit where a protected class may live.

Redlining	Redlining is a fair housing violation in which a lender or insurer refuses to lend or write coverage in a neighborhood because of the racial or ethnic makeup of that area. The denial is based on where the property sits rather than on the applicant, so it is illegal even when the applicant would otherwise qualify.
Fair Housing Act	The Fair Housing Act is the federal law that prohibits discrimination in the sale, rental, financing and advertising of housing on the basis of seven protected classes. Those classes are race, color, religion, national origin, sex, familial status and disability, and complaints are investigated by HUD.
Market allocation	Market allocation is an antitrust violation in which competing brokerages agree to divide up territories, property types or classes of customer so that they stop competing. Each firm gets a protected patch of the market, and the agreement is illegal whether the division is drawn geographically or by category of client.
Zoning	Zoning is the exercise of a local government's police power that divides land into districts and dictates how property in each district may be used. A zoning ordinance controls use, density, height and setbacks, and it binds the owner no matter what the deed itself allows.
Conditional use permit	A conditional use permit is approval that lets an owner put land to a use the ordinance already lists as permissible in that district subject to review, such as a church or day care in a residential zone. Unlike a variance it needs no hardship, because the use is anticipated by the ordinance rather than excused from it.

Spot zoning	Spot zoning is the illegal rezoning of a single small parcel for the benefit of its owner in a way that conflicts with the surrounding district and the comprehensive plan. Courts strike it down because zoning must serve the general public welfare rather than one landowner.
Inverse condemnation	Inverse condemnation is an action brought by an owner to force the government to pay for property it has effectively taken or made unusable without ever filing a condemnation suit. It reverses the usual direction of eminent domain, because the owner rather than the government starts the proceeding.
Estate for years	An estate for years is a leasehold that runs for a fixed term with a definite beginning and ending date, so it expires on its own without any notice. The length does not matter: a six-month lease and a ninety-nine-year ground lease are both estates for years because each has a certain end.
Periodic tenancy	A periodic tenancy is a leasehold that runs for successive intervals of the same length and renews automatically until one party gives notice. A month-to-month rental is the everyday example, and because there is no fixed end date, ending it requires notice rather than simply waiting for expiry.
Estate at will	An estate at will is a leasehold of indefinite duration that either the landlord or the tenant may end at any time, with the landlord's consent being what keeps it alive. Possession is lawful but there is no fixed term and no set renewal period, and the death of either party terminates it.

Percentage lease	A percentage lease is a lease in which rent is a minimum base amount plus a share of the tenant's gross sales. Retail and shopping center space is leased this way so the landlord shares in a successful store's upside while the base rent guarantees a floor.
Quiet enjoyment	Quiet enjoyment is the landlord's promise that the tenant may possess the premises without interference from the landlord or anyone with a superior claim of title. It is about undisturbed possession rather than noise, and a serious breach can amount to constructive eviction.
Real property	Real property is land and everything permanently attached to it, including buildings, trees and mineral deposits, together with the rights of ownership in it. Anything movable is personal property instead, which is why real property passes by deed and personal property by bill of sale.
Easement	An easement is a nonpossessory right to use someone else's land for a specific purpose, such as a road across it, without owning or occupying it. An appurtenant easement benefits the dominant estate and burdens the servient estate, and easements can be created by express grant, by implication, by necessity or by long use.
Lis pendens	A lis pendens is a notice recorded in a property's chain of title warning that a lawsuit affecting title to or an interest in that property is pending. Anyone who acquires an interest while the suit is pending takes it subject to the outcome.

Escrow	Escrow is an arrangement in which a neutral third party, the escrow agent, holds money and documents until every agreed condition of the transaction is met, then releases them. In a home sale the buyer's funds are held pending inspections, title confirmation and the other closing conditions; this is separate from the escrow account a loan servicer keeps for taxes and insurance.
Probate	Probate is the court process that proves a will is valid and supervises collecting a deceased person's assets, paying debts and taxes, and distributing property to heirs or beneficiaries. The executor named in the will, or a personal representative the court appoints, carries out those tasks.
Due diligence	In real estate, due diligence is the reasonable investigation a buyer or licensee is expected to make into a property and transaction before relying on it, such as checking title, zoning and the property's condition. For a licensee it is the standard of care that turns red flags, signs of a possible problem, into a duty to look further.
Foreclosure	Foreclosure is the legal process a lender uses to take and sell mortgaged property after the borrower defaults, either through the courts (judicial foreclosure) or, where state law allows, under a power of sale without a court order. If the sale brings more than the debt, the borrower keeps the surplus; whether the borrower owes any shortfall depends on state law.
Equity	Equity is the owner's financial stake in a property: what it is currently worth minus the amount owed on any mortgage against it. It grows as the loan is paid down and as the property gains value, and it is what a home equity loan or line of credit borrows against.

Underwriting	Underwriting is the lender's evaluation of a loan application to decide whether to approve it, weighing the borrower's ability to repay and the property securing the loan. Under the federal ability-to-repay rule the lender must make a reasonable, good-faith determination that considers income or assets, employment, the new payment, other debts, the debt-to-income ratio or residual income, and credit history.
Short sale	A short sale is the sale of a home for less than the balance owed on the mortgage, with the lender's agreement to accept the proceeds, and it is a form of loss mitigation used to avoid foreclosure. In states where the borrower stays liable for the deficiency, the seller should ask the lender to waive it before going through with the sale.
PITI	PITI is the four parts of a monthly mortgage payment: principal, interest, property taxes and homeowners insurance. Principal and interest repay the loan, while the tax and insurance shares often go into an escrow account that the servicer uses to pay those bills.
TRID	TRID is the CFPB's TILA-RESPA Integrated Disclosure rule, which sets the two forms a mortgage borrower receives: the Loan Estimate after applying and the Closing Disclosure before closing. The lender must deliver or mail the Loan Estimate within three business days of receiving the application, and the borrower must receive the Closing Disclosure at least three business days before consummation.
Appraisal	An appraisal is a written opinion of a property's market value as of a specific date, prepared independently and impartially by a state-licensed or certified appraiser and supported by analysis of relevant market information. Federal banking rules require it to conform to USPAP, which a broker's CMA or price opinion does not have to meet.