



COR 1654 – 564001718

**Core A: Fair Housing, Agency, License
Law & Escrow: A Study of the Law**



Norm Willoughby, Author

Completing Your Home Study Course:

The student should look through the entire course to get a feel for the format (quizzes, notes, etc.) Highlighted areas and pre-quiz questions have been written to help students recognize key information in the material.

At the end of the course, students will take a proctored exam that will cover the course information. When you have completed the course, and have had time to review, please contact *the board from which you purchased the course* to schedule your proctored exam.

Instructor Availability

Norm Willoughby is the author and instructor for this home study program. As this program is designed to allow you to work at your own pace, it may be necessary for you to contact the instructor at some point if you are struggling with a certain area of the course.

It is the policy of the Illinois REALTORS® and Norm Willoughby to make available to you, an email address for a quick response to your questions, concerns, or comments about the home study program. Contact: Nwilloughby@illinoisrealtors.org.

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Maximum Allowable Time:

The maximum allowable time to complete this home study package is **90 days from the date of purchase.**

Any student not achieving a 70% score on the Final Exam must contact IR to prepare for a successful re-take of the Final Exam.



Terms and Definitions of Real Estate License Act

The following are important terms dealing with agency as defined in the Real Estate License Act of 2000 (RELA):

"Agency" means a relationship in which a real estate broker or licensee, whether directly or through an affiliated licensee, represents a consumer by the consumer's consent, whether express or implied, in a real property 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, whether in person or through any media or technology, for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly:

- (1) Sells, exchanges, purchases, rents, or leases real estate.
- (2) Offers to sell, exchange, purchase, rent, or lease real estate.
- (3) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate.
- (4) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange.

- (5) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements thereon.
- (6) Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate.
- (7) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate.
- (8) Assists or directs in procuring or referring of leads or prospects, intended to result in the sale, exchange, lease, or rental of real estate.
- (9) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, lease, or rental 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 auction.

“Brokerage agreement” means a written or oral agreement between a sponsoring broker and a consumer for the licensed activities to be provided to a consumer in return for compensation or the right to receive compensation from another. Brokerage agreements may constitute either a bilateral or a unilateral agreement between the broker and the broker’s client depending upon the content of the brokerage agreement. All exclusive brokerage agreements shall be in writing.

“Client” means a person who is being represented by a licensee.

“Confidential information” means information obtained by a licensee from a client during the term of a brokerage agreement that (i) was make confidential by the written request or written instruction of the client, (ii) deals with the negotiating position of the client, or (iii) is information the disclosure of which could materially harm the negotiating position of the client, unless at any time:

- (1) the client permits the disclosure of information given by that client by work or conduct;
- (2) the disclosure is required by law; or
- (3) the information becomes public from a source other than the licensee.

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

“Consumer” means a person or entity seeking or receiving licensed activities.

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

“Designated agency” means a contractual relationship between a sponsoring broker and a client under Section 15-50 of the Act in which one or more licensees associated with or employed by the broker are designated agents of the client.

“Designated agent” means a sponsored licensee named by a sponsoring broker as the legal agent of a client, as provided for in Section 15-50 of the Act.

“Dual agency” means an agency relationship in which a licensee is representing both the buyer and seller or both landlord and tenant in the same transaction. When the agency relationship is a designated agency, the question of whether there is a dual agency shall be determined by the agency relationships of the designated agent of the parties and not of the sponsoring broker.

“Exclusive brokerage agreement” means a written brokerage agreement that provides that the sponsoring broker has the sole right, through one or more sponsored licensees, to act as the exclusive designated agent or representative of the client and that meets the requirements of Section 15-75 of the Act.

“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. Examples of these acts without limitation:

- (i) responding to phone inquiries by consumers as to the availability and pricing of brokerage services;
- (ii) responding to phone inquiries from a consumer concerning the price or location of property;
- (iii) attending an open house and responding to questions about the property from a consumer;
- (iv) setting an appointment to view property;
- (v) responding to questions of consumers walking into a licensee’s office concerning brokerage services offered or particular properties;
- (vi) accompanying an appraiser, inspector, contractor, or similar third party on a visit to property;
- (vii) describing a property or the property’s condition in response to a consumer’s inquiry;
- (viii) completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client;
- (ix) showing a client through a property being sold by an owner on his or her own behalf;
or
- (x) referral to another broker for service provider.

“Sponsoring broker” means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.



Agency

The intent and purpose of Article 15 of the Real Estate License Act of 2000 (RELA) is to **govern the relationships between real estate licensees and consumers** of real estate brokerage services. Agency seems to be the most misunderstood aspect of the real estate business. Common law and statutes are the legal framework which are used to govern the relationships between real estate licensees and consumers. *Common law* are those rules of society that have been established over a period of time by tradition and court decisions. *Statutory law* are those laws which have been enacted a legislative body, an example would be the Real Estate License Act of 2000.

- Licensees are considered to be the designated agent of and **representing the consumer they are working with unless**, there is a written agreement stating that there is a different relationship, or the licensee is only providing **ministerial acts**. (Sec. 15-10)

- A licensee has the following duties when representing real estate clients: (Sec.15-15)

- **Perform the terms** of the brokerage agreement;
- **Promote the best interests** of the client by:
 1. Seeking a transactions at the price and terms as established in a brokerage agreement or other acceptable to the client;

2. **Timely present all offers** to and from the client; and
 3. **Disclosing all materials facts** concerning the transaction, which the licensee has knowledge.
- **Timely account** for all money and property of the client;
 - Obey specific directions from the client;
 - Acting in a manner that promotes the client's best interests;
 - **Exercise reasonable care** in the performance of their duties;
 - **Keep confidential information** confidential; and
 - Comply with all statutes, regulations including fair housing and civil rights statutes.
 - Provide written disclosure to all clients for whom the license is preparing **contemporaneous offers** to purchase or lease the same property.
- A licensee cannot have an action brought against them for failure to disclose: *(Sec. 15-20)*
- That an **occupant** of a property was afflicted with **HIV**;
 - That the property was the **site of an act or occurrence** that did not affect the physical condition of the property, such as **suicide or murder**;
 - **Fact situations** that is not pertinent to the subject property, such as **neighboring property**;
or
 - **Physical conditions of neighboring property** that does not have an adverse effect of the value of the subject property.
- A licensee's relationship with customers (**not clients**). *(Sec. 15-25)*
- Licensees must **treat all customers honestly** and will not knowingly give them false information. A **licensee** who is representing a seller client **must disclose all materials latent defects** that are known to any buyer, even though the buyer may be a customer and not a client. A licensee is not subject to liability if a seller client provides false information to the licensee and the licensee did not have actual knowledge that the information was false.
 - A licensee representing a client in a real estate transaction **may provide assistance to a customer by providing ministerial acts** to the customer. As long as the licensee is only providing ministerial acts to a customer, it will not be construed to be a violation of an existing brokerage agreement with a client nor shall it be considered to form a brokerage agreement with the customer.
- A licensee's duties after terminating a brokerage agreement. *(Sec. 15-30)*
- Upon termination of a brokerage agreement, the licensee must:
 1. account for all monies and property belonging to the client; and
 2. keep all confidential information confidential that was obtained while representing the client.
- A licensee has a responsibility to advise the following to a consumer in **writing no later than beginning** to work as a designated agent on behalf of the consumer. *(Sec. 15-35)*
- A consumer must be **advised in writing** that a **designated agency relationship** exists, unless there is a written agreement to the contrary;

- The **name(s) of the person's designated agent(s) in writing**. The written disclosure may be made within a brokerage agreement or a separate document and must be retained by the sponsoring broker; and
- The licensee representing a consumer must discuss the sponsoring broker's **compensation and policy** regarding cooperating with other brokers in a transaction.
- In addition, a licensee must **disclose in writing** that the licensee is **not acting as the agent of the customer** to prevent the disclosure of confidential information, no later than the preparation of an offer to purchase real property. Under the new law, this disclosure of no agency now also applies to a residential lease.

Important Note: The need to give written disclosure of notice of agency and designated agency is many times overlooked. The normal course in representing a seller includes a written exclusive listing agreement, which includes the proper designated agency disclosure. The confusion most normally occurs in the first contact with a prospective buyer, because the licensee must disclose in writing, the name(s) of the designated agent(s), no later than when a licensee has entered into a brokerage agreement with the buyer. It should be noted that most licensees believe that since they do not have a written agreement with the buyer, there is no requirement to disclose the designated agent(s) in writing. This is not the case, because a brokerage agreement is defined as an agreement, either in writing or oral, in which the licensee will provide licensed activities to a consumer with the expectation of compensation. This effectively creates a brokerage agreement when the licensee agrees to assist a buyer in finding a home, thus creating the requirement for written disclosure of designated agency. Illinois Realtors® can use the form "*Non-Exclusive Buyer Representation Contract (With or Without Dual Agency Disclosure)*". This form addresses the problem of disclosing designated agency very well, as well as addressing a number of issues. Another form which could be used is "*Disclosure of Buyer's Designated Agent*".

Likewise, when a licensee is not acting as an agent for a customer, such as when representing a buyer in a transaction and the seller is not represented. The licensee must disclose in writing that the licensee is not the agent for the seller prior to preparing a contract for purchase to prevent any presumption of agency by the seller, so the seller will not disclose any confidential information to the licensee. The Realtor® would also have the availability of using the form "*Notice of No Agency Relationship*", which also includes a disclosure that the licensee is only providing ministerial acts.

- Compensation does not determine agency. (*Sec. 15-40*)

- The **payment** or promise of payment of compensation is **not a determining factor of whether an agency relationship** has been established.

Important Note: This is another often misunderstood concept. Agency is determined by the actions of a licensee in dealing with consumers or clients, the fact that a licensee is being paid does not automatically create an agency relationship nor does the fact that a licensee is not paid create a scenario of no agency. The best illustration of this scenario is when a licensee has a listing that does not sell, when the compensation is based on the property selling. Obviously for the term of the exclusive listing agreement the licensee at all times was the agent for the seller, but was never paid.

- Disclosure of Dual Agency. (Sec. 15-45)

- A licensee may act as a **dual agent** only with the **informed written consent** of all clients.
- The **disclosure of dual agency** must be presented and signed **prior to a the licensee acting as a dual agent**.
- A **confirmation of consent to dual agency** is required at the time the parties are executing a written offer or contract to purchase.

Important Note: Dual Agency is a unique form of representation when all parties (buyer and seller) agree that one licensee may act as agent on behalf of both clients during a real estate transaction. The RELA is very specific in the requirements for disclosure and consent for dual agency. The RELA requires written consent with specific language in the consent which must be used in that disclosure (See Page 5 of Article 15). In addition, the RELA is specific in what an agent CAN and CANNOT do when acting as a dual agent (See Page 5 and 6 of Article 15). In addition, at the time an offer or contract to purchase a real property is executed by the parties, both once again must confirm in writing that the parties have previously agreed to and consented to dual agency.

- Disclosure of designated agency. (Sec. 15-50)

- A sponsoring broker who has entered into a brokerage agreement **must disclose** to a client, the agent(s) who will specifically be acting as the **legal agent(s)** of the client with the exclusion of all other agents employed or affiliated with the sponsoring broker. The sponsoring broker will not be considered to be acting for both parties in a transaction, unless the designated agent(s) are specifically representing both parties in a transaction (dual agent).
- A sponsoring broker must **take reasonable and necessary care to protect confidential information** disclosed by the client to his or her designated agent(s).
- A designated agent may disclose to his or her sponsoring broker confidential information for the purpose of seeking advice.

- No subagency. (Sec. 15-55)

- A **broker is not considered to be a subagent** of a client solely by his or her affiliation with a multiple listing service, and **an offer of subagency may not be made** through a multiple listing service.

- No vicarious liability. (Sec. 15-60)

- A consumer cannot be vicariously liable due to the acts of a licensee providing licensed activities on behalf of the consumer.

- Regulatory Enforcement. (Sec. 15-65)

- IDFP has the authority to enforce this and other articles of the RELA and promulgate rules necessary to implement those provisions.

- Actions for damages. (*Sec. 15-70*)

- In any action brought under this Article, the court, may only award actual damages and court costs or grant injunctive relief.
- Any court action taken under this Article must be brought within 2 years of the when the person knew of the alleged violation or omission.

- Exclusive brokerage agreements require minimum services. (*Sec. 15-70*)

- An **exclusive brokerage agreement** must include a **minimum level of service** which includes:
 - (1) **accept delivery** of and **present** to the client **offers and counteroffers** to buy, sell, or lease a client's property or the property a client seeks to purchase or lease;
 - (2) assist the client in developing, communicating, negotiating, and notices that relate to the offers or counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
 - (3) **answer** the client's **questions** relating to the offers, counteroffers, notices and contingencies.

**Review Quiz on Agency
True or False**

1. If a licensee is paid commission for providing licensed activities in a transaction, it can automatically be determined that the licensee was also the agent for the person paying his or her commission.
2. Subagency is still allowed under the RELA in Illinois.
3. When a licensee is representing a client, the licensee has a statutory duty to perform all the terms provided in a brokerage agreement.
4. According to the RELA, an agent is required to disclose the possibility of dual agency prior to acting as a dual agent.
5. A broker is **only** required to disclose to a client, who is the designated agent(s) when listing property for that client.
6. A licensee must disclose the fact that a person with HIV has lived in the property subject to a real estate transaction.
7. A client is a person who is being represented by a licensee.
8. Consumer means a person or entity seeking or receiving licensed activities.
9. Customer mean a consumer who is not being represented by the licensee but for who the licensee is performing ministerial acts.
10. Designated agent means a sponsored licensee named by a sponsoring broker as the legal agent of a client, as provided for in Section 15-50 of the Act.



Exemptions from Licensure

225 ILCS 454

Sec. 5-20. Exemptions from broker, salesperson, or leasing agent license requirement. The requirement for holding a license under this Article 5 shall not apply to:

(1) Any person, partnership, or corporation that as owner or lessor performs any of the acts described in the definition of "broker" under Section 1-10 of this Act with reference to property owned or leased by it, or to the regular employees thereof with respect to the property so owned or leased, where such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, provided that such regular employees do not perform any of the acts described in the definition of "broker" under Section 1-10 of this Act in connection with a vocation of selling or leasing any real estate or the improvements thereon not so owned or leased.

(2) An attorney in fact acting under a duly executed

and recorded power of attorney to convey real estate from the owner or lessor or the services rendered by an attorney at law in the performance of the attorney's duty as an attorney at law.

- (3) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will or testamentary trust.
- (4) Any person acting as a resident manager for the owner or any employee acting as the resident manager for a broker managing an apartment building, duplex, or apartment complex, when the resident manager resides on the premises, the premises is his or her primary residence, and the resident manager is engaged in the leasing of the property of which he or she is the resident manager.
- (5) Any officer or employee of a federal agency in the conduct of official duties.
- (6) Any officer or employee of the State government or any political subdivision thereof performing official duties.
- (7) Any multiple listing service or other similar information exchange that is engaged in the collection and dissemination of information concerning real estate available for sale, purchase, lease, or exchange for the purpose of providing licensees with a system by which licensees may cooperatively share information along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.
- (8) Railroads and other public utilities regulated by the State of Illinois, or the officers or full time employees thereof, unless the performance of any licensed activities is in connection with the sale, purchase, lease, or other disposition of real estate or investment therein not needing the approval of the appropriate State regulatory authority.
- (9) Any medium of advertising in the routine course of selling or publishing advertising along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

- (10) Any resident lessee of a residential dwelling unit who refers for compensation to the owner of the dwelling unit, or to the owner's agent, prospective lessees of dwelling units in the same building or complex as the resident lessee's unit, but only if the resident lessee (i) refers no more than 3 prospective lessees in any 12-month period, (ii) receives compensation of no more than \$1,500 or the equivalent of one month's rent, whichever is less, in any 12-month period, and (iii) limits his or her activities to referring prospective lessees to the owner, or the owner's agent, and does not show a residential dwelling unit to a prospective lessee, discuss terms or conditions of leasing a dwelling unit with a prospective lessee, or otherwise participate in the negotiation of the leasing of a dwelling unit.
- (11) An exchange company registered under the Real Estate Timeshare Act of 1999 and the regular employees of that registered exchange company but only when conducting an exchange program as defined in that Act.
- (12) An existing timeshare owner who, for compensation, refers prospective purchasers, but only if the existing timeshare owner (i) refers no more than 20 prospective purchasers in any calendar year, (ii) receives no more than \$1,000, or its equivalent, for referrals in any calendar year and (iii) limits his or her activities to referring prospective purchasers of timeshare interests to the developer or the developer's employees or agents, and does not show, discuss terms or conditions of purchase or otherwise participate in negotiations with regard to timeshare interests.
- (13) Any person who is licensed without examination under Section 10-25 (now repealed) of the Auction License Act is exempt from holding a broker's or salesperson's license under this Act for the limited purpose of selling or leasing real estate at auction, so long as:
- (A) that person has made application for said exemption by July 1, 2000;
 - (B) that person verifies to the Department that he or she has sold real estate at auction for a period of 5 years prior to licensure as an auctioneer;
 - (C) the person has had no lapse in his or her license as an auctioneer; and

(D) the license issued under the Auction License Act has not been disciplined for violation of those provisions of Article 20 of the Auction License Act dealing with or related to the sale or lease of real estate at auction.

(14) A hotel operator who is registered with the Illinois Department of Revenue and pays taxes under the Hotel Operators' Occupation Tax Act and rents a room or rooms in a hotel as defined in the Hotel Operators' Occupation Tax Act for a period of not more than 30 consecutive days and not more than 60 days in a calendar year.

Review Quiz on Exemptions

True or False

1. An owner of the real property subject to a real estate transaction is exempt from licensure.
2. A person with a power of attorney to act on behalf of another person must have a license to sell real estate owned by the person.
3. An apartment manager must be a resident of the building to be granted an exemption under the Act.
4. Government officials are required to hold a real estate license to sell government owned real estate.



Escrow Accounts

The requirements for handling monies in escrow accounts are specified in Section 1450.175 of the administrative rule.

- ***All monies, such as earnest money or security deposits, belonging to others held by a real estate licensee must be held in a special account by the sponsoring broker separate and distinct from any other personal or business accounts except as provided below.***
- ***Pursuant to the terms of a written agreement between a licensee and a client, such as a property management agreement, rent monies paid to a licensee for transmittal to the client are not considered to be escrow monies, or other monies held by a licensee for transmittal to a client, such as a contract for deed are NOT considered to escrow monies.***
- ***Escrow accounts must be non-interest bearing accounts, except as specifically required in writing by the principals to a transaction, including the recipient of any interest.***
- ***A sponsoring broker is NOT required to hold escrow monies or maintain special accounts if the sponsoring broker elects not receive escrow monies.***
- ***Escrow accounts must be held in federally insured depositories.***
- ***Commingling escrow monies in any other personal or business account is specifically prohibited.***
- ***All escrow monies accepted by a real estate licensee must be deposited into the sponsoring broker's escrow account not later than the next business day after a real estate purchase contract has been signed by all parties, whether or not all contingencies have been met.***
- ***A sponsoring broker shall notify in writing all principals to a transaction in the event a payment to the escrow account has not been honored for any reason, such as a check returned for non-sufficient funds.***

- *A sponsoring broker shall maintain all escrow monies on deposit in an escrow account until a transaction is closed or until he or she receives written direction from all parties to a transaction.*
- *In any event, no disbursement of funds shall be made earlier than when the transaction is closed or written direction is received from all parties to a transaction. In addition, disbursement shall be made not later than the next business day after a transaction has closed or written direction is received from all parties to a transaction.*
- *A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow monies due to any claim for commission or compensation to any licensee.*
- *If a sponsoring broker receives an order from a court providing for the disbursement of escrow monies that broker must release the escrow monies in accordance with the terms of such court order.*
- *In the event there is a dispute over the disbursement of escrow monies, the sponsoring broker shall hold the deposit until he or she has written direction from all parties to disburse the monies; the sponsoring broker (interpleader) or either party files a civil action to determine the disposition of the escrow at which time the sponsoring broker may be made to the court; or until the funds are turned over to the Illinois State Treasurer pursuant to the Unclaimed Property Act. If the sponsoring broker files an interpleader action pursuant to the terms of the real estate contract, the sponsoring broker is allowed to be reimbursed for costs and attorney's fees associated only with that interpleader action.*

Review Quiz on Escrow Accounts

True or False

1. Escrow monies may be deposited in a sponsoring broker's business account.
2. A sponsoring broker must disburse the earnest money held to the seller if the seller believes the buyer has defaulted on the contract.
3. Rents collected on behalf of a client must always be deposited in an escrow account.
4. A sponsoring broker is required to provide written notice to all parties in a transaction that the earnest money check was returned for non-sufficient funds.
5. A licensee should not deposit the earnest money check until all contingencies are satisfied on a real estate contract.



Fair Housing

Terms and Definitions of Fair Housing

“Americans with Disabilities Act” (ADA) is the federal law that provides for full and equal access to businesses, public services, and accessibility, and the right to modify residential rental properties to provide access and use by a person with a disability as qualified under the Act.

“Blockbusting” means the illegal practice of inducing homeowners to sell their properties by making representations regarding the entry of persons of a particular race or nations origin into the neighborhood.

“Civil Rights Act of 1866” is the federal act that prohibits racial discrimination in the sale and rental of housing.

“Department of Housing and Urban Development” (HUD) is the federal department that administers federal civil rights and fair housing laws as they pertain to the housing.

“Equal Credit Opportunity Act” is the federal law that prohibits discrimination in the extension of credit because of race, color, religion, national origin, sex, age, or marital status.

“Fair Housing Act” is the federal law that prohibits discrimination in housing based on race, color, religion, sex, handicap, familial status, and national origin.

“Familial status” means the presence of one or more persons who have not reached the age of 18 and live with their parents or guardian. Effectively meaning families with children.

“Home Mortgage Disclosure Act” is the federal law that requires lending institutions to report lending details by census tract to detect possible patterns of redlining.

“Illinois Human Rights Act” is the state law that provides that a violation of civil rights has occurred if a licensee engages in any act of discrimination based on race, color, religion, national origin, ancestry, age, sex, marital status, physical or mental disability, military service or unfavorable discharge, familial status, or sexual orientation and/or preference involved while providing licensed activities.

“Protected class” means any group of people so designated by the Federal Government, the state of Illinois or local municipality to be protected by federal and state civil rights, human rights or fair housing laws, which includes without limitation, ethnic or national origin minorities, women, religious groups, handicapped persons and others.

“Redlining” means the illegal practice by lending institutions of denying or restricting loans based on certain areas or location within a community.

“Steering” means the illegal practice of channeling prospective purchasers or renters to particular areas, based on the similarity of race, ethnicity, national origin or other similar group, to maintain the similarity of an area or change the character of an area, which restricts the persons choice in where they live.

“Title VIII of the Civil Rights Act of 1968” extended the prohibition of discrimination in housing to include race, color, religion, and national origin.

- As can be seen when reviewing the terms and definitions that pertain to fair housing, one can easily see that a real estate licensee is responsible and accountable to know and understand a broad spectrum of federal and state laws and even local ordinances as a real estate practitioner.

- The basis for the prohibition of discrimination began with the passage of the **Civil Rights Act of 1866**, which prohibited discrimination based on race. A U.S. Supreme Court decision in *Plessy v. Ferguson* established the doctrine of **“separate but equal”** and legalized racial segregation. This remained the law of the land until the passage of **Title VIII of the Civil Rights Act of 1968**, which included not only race, but added color, religion and national origin as a protected class. With the passage of other federal amendments other protected classes were added to include **sex, disability and familial status**. Together these laws are referred to the **Federal Fair Housing Act**.

- In Illinois, not only is there a prohibition against discrimination based on those protected classes in the federal law, but added are **ancestry, military service, unfavorable military discharge, sexual orientation and/or preference and order of protection status**. These prohibitions against the protected classes are specified in the **Illinois Human Rights Act** as it pertains to employment, **real estate transactions**, financial credit, or availability of public accommodations.

Additionally, in Illinois state law allows local governments to pass local ordinances, which prohibit discrimination in renting properties based on source of income.

Table of Protected Class and Applicability to Law

Protected Class	Federal Fair Housing Act	Illinois Human Rights Act	Equal Credit Opportunity Act of 1974
<i>Race</i>	X	X	X
<i>Color</i>	X	X	X
<i>Religion</i>	X	X	X
<i>National Origin</i>	X	X	X
<i>Sex</i>	X	X	X
<i>Age</i>		X	X
<i>Marital Status</i>		X	X
<i>Disability</i>	X	X	
<i>Familial Status</i>	X	X	
<i>Public Assistance Income</i>			X
<i>Ancestry</i>		X	
<i>Military Service</i>		X	
<i>Unfavorable Discharge</i>		X	
<i>Sexual Orientation</i>		X	

- The following are advertising guidelines, which have been established by HUD:

Protected Class	Rule	Allowed	Not Allowed
Race Color National Origin	No Preference or Limitation Allowed	“Master Bedroom” “Good Neighborhood”	“No Russians” “White Neighborhood” “No Asians”
Familial Status	No Preference or Limitation Allowed	“Quiet Neighborhood” “One Bedroom” “Great for Family Gatherings” “Couples Only”	“Only one child allowed” “No Single Mothers with Children Allowed”
Disability	No Preference or Limitation Allowed	“Walk to Schools” “Handicapped Accessible”	“Handicapped Tenants Not Allowed” “No Seeing Eye Dogs”
Sex	No Preference Allowed	“Female Roommate Sought” “Master Bedroom”	“Great Apartment for Bachelors” “Wives Will Love This Kitchen”
Religion	No Preference or Limitation Allowed	“Happy Hanukah” “Merry Christmas”	“No Catholics” “Near Lutheran School”

- For real estate licensees, equal opportunity in housing is contained in many federal and state statutes, and local ordinance. The two primary federal laws are the Civil Rights Act of 1866 and the Fair Housing Act. The two primary state laws are the Illinois Human Rights Act and the Real Estate License Act of 2000. In Illinois, there is also the opportunity for local municipalities to establish "*source of income*", as a protected class. By ordinance a unit of local government may provide that a landlord cannot refuse to rent to a tenant based on the tenant receiving Section 8 housing benefits. A real estate licensee must always remember that it is always unlawful to discriminate in the practice of real estate as it pertains to any of the protected classes. As has been described above, the list of protected classes is more extensive in Illinois than on a federal level. Additionally, the licensee must be diligent in not conducting his or her practice in a way, which could be construed to be steering, blockbusting or redlining. Each licensee should have a working knowledge of the laws involved with fair housing. Finally, a licensee who is found to have violated any federal or state equal housing laws is subject to license revocation as well as any other civil or criminal penalties.

**Review Quiz on Fair Housing
True or False**

1. Fair Housing was first established under Title VIII of the Civil Rights Act of 1968.
2. The Illinois Human Rights Act establishes protections for certain classes in real estate transactions.
3. The Urban League is responsible for the administration of Federal Fair Housing laws.
4. Local government has no authority to establish local fair housing ordinances.

Answers to Quizzes

Agency

1. F
2. F
3. T
4. T
5. F
6. F
7. T
8. T
9. T
10. T

Exemptions

1. T
2. F
3. T
4. F

Escrow

1. F
2. F
3. F
4. T
5. F

Fair Housing

1. T
2. T
3. F
4. F