Brokerage Offices

- All active brokers must maintain an office
- Requirements
  - Registered with the Department of Business and Professional Regulation (DBPR)
  - At least one enclosed room in a building of stationary construction
  - Negotiations and closings - privacy
  - Books, Records, and files kept there
  - May be in broker’s home if Zoning permits
  - May be in another state if broker agrees to cooperate with investigations
  - Keep all records for 5 years
Principal Office

- Main office where business is conducted
  - Can be moved by filing a change of Address Form
  - Registration is transferable
Branch Offices

- Branch Offices
  - Any additional location where the business is conducted
  - Change of location requires a New Registration
    - Registration is not Transferable
  - May be reopened at the original location with no further action if the registration has not expired
Temporary Shelter

- Intended only for the protection of customers
  - May not:
    - Have sales associates assigned there
    - Maintain sales supplies there
    - Have sales transactions occur there
    - Advertise Location
- Any of the above would require branch office registration
Signs

- All active brokers must display
  - On or about (near) the entrance to the Office
  - Easily observed and read
  - Exterior or interior
  - All Principal and Branch offices

- Temporary shelters
  - Are not branch offices
  - Do not require signs
Office Signs

Sunshine Real Estate, Inc.
John Smith
Licensed Real Estate Broker

Jane Smith, Sales Associate
John Doe, Broker Associate
Advertising

- Includes
  - Letterhead stationary
  - Business cards
  - Promotional items – key rings, calendars, coffee mugs, etc.

- Must contain the name of the Brokerage Firm

- Licensees name in ad
  - May appear
  - Last name as registered with Commission
Advertising

Sales Associate’s name

- Not required
- If used in the advertising
  - Last Name must appear as registered with DBPR
  - E.G. If ABC realty runs the following ad
    - 3 bedroom / 2 bath located on a lake
      only $289,900. call ABC Realty, Inc. (222) 555-4444 ask for John
- To make it legal
  - 3 bedroom / 2 bath located on a lake
    only $289,900. call ABC Realty, Inc. (222) 555-4444 ask for John Brown
Two Types of Advertising

Institutional
- Creates image
- Not for selling a product
- Business cards

Specific
- Sells the product
- Features a particular home
Internet Advertising

- Ads placed online
  - Firm or trade name must appear:
    - Immediately above or below point of contact information
  - Point of Contact Information
    - Brokerage firm or name:
      - Mailing address
      - Phone number
      - Fax number
      - E-mail address
Advertising

- **Blind Ad**
  - Contains only a phone number or address
  - Does not disclose the name of the brokerage firm
  - Illegal
  - E.G. If ABC realty runs the following ad
    - 3 bedroom / 2 bath located on a lake only $289,900. call (222) 555-4444
  - To make it legal
    - 3 bedroom / 2 bath located on a lake only $289,900. call ABC Realty, Inc. (222) 555-4444
Personal Transactions

- May sell or buy for own benefit
- Must make licensing status known before:
  - Entering into serious negotiations
  - Not when advertising property
  - Disclose status in Purchase & Sale Contract
Escrow funds

- Earnest money deposit
- Also called: Good Faith Deposit
- Anything of value that can be turned into cash
  - Postdated checks with sellers approval
  - Promissory notes with sellers approval
- Broker not responsible for bounced checks
  - Deposited immediately
Escrow (Trust) Accounts with Attorney/Title Company

- An account for the deposit of money held by a third party

- 3 steps:
  - Name, address & phone number of title co./attorney on sales contract
  - Request written verification of deposit with 10 business days
  - Provide seller’s broker or seller with copy of verification within 10 business days
Escrow (Trust) Accounts

- An account for the deposit of money held by a third party
- Real estate broker’s escrow account must be in a Florida based:
  - Title Company with Trust Powers
  - Commercial Bank
  - Credit Union
  - Savings Association
- May be interest bearing account with written consent of all parties
Escrow Account

- Commingling
  - Illegal practice of mixing the broker’s personal funds with the escrow funds.
  - Exception to open and maintain the account
    - $1,000 for sales escrow accounts
    - $5,000 for property management escrow accounts

- Conversion
  - Unauthorized control or use of another person’s personal funds.
    - E.G. shortage in escrow account
Escrow (Trust) Deposits

- Deposits must be placed in escrow account immediately defined as

  - Post dated checks or promissory notes require Seller’s Consent before accepting
Escrow Account

- Records must be kept available for inspection
  - At least 5 years
  - At least 2 years beyond court proceeding
- Must be reconciled Monthly
  - Reconciliation statement signed by the broker
Escrow Disputes (Conflicting Demands)

- Buyer and seller both make demands on escrow funds
  - Step 1 – Notify FREC in writing within 15 business days
  - Step 2 – Institute one of the following settlement procedures within 30 business days
    - Mediation
    - Arbitration
    - Litigation
      - Interpleader
      - Declaratory decree
    Escrow Disbursement Order
Escrow Disbursement Exceptions

- Condominium purchase rescission period
- Finance contingency
- HUD owned property
Rental Information

- Must receive written contract or receipt
- Refund within 30 days
  - 75% if rental is not obtained
  - 100% if not current or is inaccurate
Rental Information

Violation Would be a First Degree Misdemeanor
Sales Associate Duties

- Compensation
  - Work for one broker or owner-developer at a time
  - Can only be paid by broker
    Can only sue broker for unpaid commission

- Change of Employer address
  - Must report within 10 days to the DBPR
  - Become nonresident – 60 days to notify FREC
  - May not take files without permission
  - Take original files – may be charged with larceny
**Business Formations**

Real Estate Corporation vs. Real Estate Brokerage Corporation

- Real estate corporation may buy and sell real estate for its own purposes
- Real estate brokerage corporation may buy and sell real estate for and on behalf of others (provide real estate services)
- Corporate veil
Business Formations

- **Sole Proprietorship**
  - Individual business
  - Can buy & sell real estate for personal use
  - Do not have to file with the State

- **Sole Proprietor Broker**
  - Can operate as a real estate broker
  - Needs broker license
  - Use own name or trade name
  - Must register with DBPR
Business Formations

- General Partnership
  - Two or more people
  - Agree to share profits/losses
  - Implied, oral, in writing
  - Buy & sell for partnership **not** public
  - Do not need to register with State

- Real Estate Brokerage Partnership
  - Must have at least one active broker
  - All partners providing real estate services to public must be licensed
  - Sales/broker associates cannot be partner
  - Must register with the DBPR
Business Formations

- **Real Estate Brokerage Partnership**
  - Can buy & sell real estate for public
  - At least 1 partner must be an active broker
  - Sales/broker associate may not be partner
    Partners providing services to the public must hold a brokers license
    - Active broker leaves:
      Vacancy must be filled within 14 calendar days
      Finish up old business, not write new
      Registration cancelled if broker not replaced within 14 calendar days
    - Must register partnership with DBPR
Business Formations

- Sole Proprietor Broker
  - Can operate as a real estate broker
  - Needs broker license
  - Use own name or trade name
Business Formations

- **Limited Partnership**
  - One general partner
  - One limited partner
    - May not actively participate in mgt. of business
    - Limited to investment in event of loss
    - Register with Secretary of State

- **Real Estate Brokerage Limited Partnership**
  - One general partner
  - One limited partner
    - May not actively participate in mgt. of business
    - Limited to investment in event of loss
    - Can act as sales/broker associate
    - Must register with the DBPR
Business Formations

- Joint Venture (joint adventure)
  - Temporary business arrangement
  - One or predetermined # of transactions
  - May act as brokerage if all parties are brokerages
  - May not register with DBPR
Business Formations

- Corporation for Profit
  - Artificial person created by law
  - Corporate veil
  - Domestic
    - Organized under Florida law
      - Register with Secretary of State
  - Foreign
    - Organized under laws of another State
      - Register with Secretary of State
  - Alien
    - Organized under laws of another country
      - Register with Secretary of State
Business Formations

- Real Estate Brokerage Corporation
  - One corporate officer must have active brokers license
    - Active broker leaves:
      - Vacancy must be filled within 14 calendar days
      - Finish up old business, not write new
      - Registration cancelled if broker not replaced within 14 calendar days
  - May have more than one registered broker
  - Active broker leaves – appoint another to be designated broker – no effect on business
  - Sales/broker associate – may not be officer or director
  - Must be registered with DBPR
Business Formations

- Not-For-Profit Corporation
  - Buy and sell real estate for its own use
  - Employees may provide real estate services
    - For the corporation use
    - Without real estate license
    - Paid salary

- Cooperative Association
  - Buy and sell real estate for its own use
  - May not register with DBPR

- Corporation Sole
  - Formed for religious purposes
  - May not register with DBPR
Business Formations

- Business Trust
  - Must have an active real estate license when performing real estate services
  - May not register with DBPR

- Unincorporated Association
  - Example:
    - HOA
    - Community improvement association
  - Members are treated like partners – liable
  - May not register with DBPR
Ostensible Partnership

- Not a true partnership
  - Public believes a partnership exists
  - Members of “ostensible partnership” treated as if a true partnership existed
  - May be liable
  - FREC can take disciplinary action