

EXAM SPECIFICATIONS FOR COMMERCIAL REAL ESTATE LAW

The purpose of the certification examination is to require applicant to demonstrate substantial knowledge of significant legal concepts and corresponding skills in commercial real estate law.

DEFINITION. Real estate law is the rendering of advice and services concerning the laws applicable to land and the improvements and appurtenances (including air and subsurface estates) to land. It also includes the acquisition, transfer, development, financing and use of land; and includes without limitation, knowledge of the legal restrictions and constraints imposed privately and by local, state and federal governments upon land and the improvements to land.

Commercial real estate law is legal practice involving advice and services in connection with the acquisition, ownership, leasing, financing, use, transfer and disposition of real property other than residential, farm, ranch, or oil, gas and mineral property.

KNOWLEDGE. Applicant must have knowledge of the following: **(Not all of the following exam topics will be covered on the exam. Applicant will be tested on all laws currently in effect at the time of the exam.)**

- I. Commercial Real Estate Law
 - A. Current Developments (State legislation and court decisions during prior 3 years)
 - B. Acquisition and Disposition
 - C. Financing
 - D. Land Use Controls
 - E. Title Insurance (including forms promulgated by the State Board of Insurance)
 - F. Leases
 - G. Debtor/Creditor Matters
 - H. Federal Tax Aspects
 - I. Relative Rights of Surface Owners vs. Mineral Owners (including lessees)
 - J. Control of Oil and Gas Development and Operations by Governmental Authorities within Cities
 - K. Documents Involved in the Conveyance, Financing, and Development of Commercial Real Estate
 - L. Miscellaneous Topics
 - 1. Condominiums
 - 2. Letters of Credit
 - 3. Construction Contracts
 - 4. Insurance Relating to Real Estate
 - 5. Eminent Domain
 - 6. Environmental Laws - CERCLA, etc.
 - 7. Americans with Disabilities Act requirements
 - 8. Selection of Business Entity

9. Fraudulent Conveyance

II. General Real Estate Law

- A. Interests and Estates in Real Property
- B. Sales of Real Estate
- C. Conveyances of Real Estate
- D. Real Estate Financing Liens, Security Interests and Remedies
- E. Mechanic's, Materialman's and Other Liens
- F. Title Insurance
- G. Development, Zoning, and Platting of Real Estate
- H. Federal and State Regulation of Real Estate
- I. Landlord/Tenant Rights and Responsibilities
- J. Actions, Remedies and Defenses in Actions Concerning Real Property
- K. Water Rights

III. The Texas Disciplinary Rules of Professional Conduct

The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an applicant is advised to be familiar with all provisions of the TDRPC.

SKILLS. Applicant must demonstrate the:

- 1. Ability to communicate effectively to a variety of audiences (e.g., communications addressed to clients, counsel, courts, administrative agencies, etc.)
- 2. Ability to develop and evaluate strategies for solving a problem or accomplishing an objective
- 3. Ability to analyze and apply legal rules and principles
- 4. Ability to analyze, sort and use facts, and to plan and direct factual investigations
- 5. Ability to organize and manage a legal task efficiently within time constraints
- 6. Ability to represent a client consistent with applicable ethical standards
- 7. Ability to invoke and utilize the procedures normally required in the area of specialty including pleadings and filings

Specifically, applicants must be able to:

- 8. Evaluate a case, including available remedies and elements of damages and develop strategy and proposals for settlement
- 9. Identify necessary parties
- 10. Draft appropriate curative and conveyancing documents
- 11. Assess actions/documents required by governmental agencies
- 12. Initiate/respond to procedures to enforce rights of clients, including court actions involving real property