

REAL ESTATE EXAM PREP

A Comprehensive Guide to the
National/General Portion of Your License Exam



Real Estate Exam Prep

A Comprehensive Guide to the National/General
Portion of Your License Exam

1st Edition Update

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REAL ESTATE EXAM PREP 1ST EDITION UPDATE

©2022 Kaplan North America, LLC

Published by DF Institute, LLC, d/b/a Dearborn Real Estate Education and
Kaplan Real Estate Education
1515 West Cypress Creek Road
Fort Lauderdale, Florida 33309

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10 9 8 7 6 5 4 3 2 1

ISBN: 978-1-5062-8837-6

10 9 8 7 6 5 4 3 2 1

ISBN: 978-1-5062-8838-3 (custom)

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SAMPLE

PREFACE

NATIONAL PORTION REVIEW

The national portion for salesperson contains 80 or 100 questions, depending on the exam provider and state. The national portion for brokers contains 75 or 80 questions and 5 or 10 scenario questions, depending on the exam provider and state. These questions reflect the current national real estate laws, rules, and regulations. Topics covered in the national portion are listed as follows.

Property Ownership

Topics include real versus personal property, encumbrances and effects on property ownership, and legal descriptions.

Forms of Ownership

Topics include freehold estate, leasehold estates, and sole versus co-ownership/multiple owners.

Transfer of Title

Topics include essential elements of a valid deed, types of deeds, title transfer, recording the title, and title insurance.

Land-Use Controls and Regulations

Topics include governmental powers (Rights in Land [PETE])/public controls, zoning, regulation of special land types, environmental hazards, and regulation.

Agency Relationships

Topics include agency and nonagency relationships and licensee-client relationships, creation of agency, the agent's duties to clients, liability for another's acts, disclosure of representation, seller representation—listing agreements, buyer representation agreements, termination of agency, responsibilities of the agent to customers and third parties, Sherman Antitrust Act, and multiple listing service (MLS).

Leasing and Property Management

Topics include basic concepts/duties of property management, property management agreement, leases, and fair housing compliance and ADA in property management.

Practice of Real Estate

Topics include federal fair housing laws, the Americans with Disabilities Act (ADA), Megan's Law, advertising, National Do Not Call Registry, trust/escrow accounts and employing broker responsibilities, mandated disclosures, types of insurance, warranties, and broker responsibilities.

Contracts

Topics include types of contracts, general concepts, sales contracts, option contracts, and amendments, addenda, contingencies, and time is of the essence.

Property Valuation

Topics include appraisals, concepts of value, valuation methods, and reconciliation.

Finance

Topics include lien theory versus title theory, financing instruments, foreclosure, deed in lieu of foreclosure, and short sales, financing terms, methods of debt service (debt repayment), types of loans, primary and secondary mortgage markets, laws affecting financing and lending, and mortgage fraud and predatory lending.

Real Estate Calculations

Topics include measurement, finance, property management calculations, property valuation, investment, and settlement/closing calculations.

Broker Only Topics

Topics include forms of ownership, transfer of title, leasing and property management, practice of real estate, and real estate calculations.

UNIT

1

Property Ownership

LEARNING OBJECTIVE

When you have completed this unit, you will be able to accomplish the following.

- › Discuss the characteristics and rights associated with real property, distinguish the difference between real property and personal property, the types of encumbrances and their effect on property ownership, and the methods used to describe real property.

I. REAL VS. PERSONAL PROPERTY

A. Definitions

1. Real property is land, plus appurtenances that benefit the land. (Appurtenant means *belongs to or goes with*.) Appurtenances are things that transfer with the land when the land is transferred to another owner, such as improvements, rights, privileges, and fixtures.
 - a. This includes permanent natural objects, such as water and trees.
 - b. This includes anything attached to the land with the intent of being permanent, like a building, house, and garage.
 - c. This includes the rights of ownership enjoyed by the owner of a parcel of real estate.
 - d. This encompasses and includes the rights appurtenant to the following:
 - i. Surface
 - ii. Subsurface
 - iii. Air above the surface

2. Personal property is everything owned that is not real property.
 - a. Items of personal property are also referred to as chattel.

B. Characteristics of real property

1. The economic characteristics of real property are scarcity, improvements, permanence of investment, and location.
 - a. Scarcity—the supply of land is not limitless. Land at a given location, or of a particular quality is finite.
 - b. Improvements—an improvement built on a parcel of land affects that land's value and use, as well as that of neighboring tracts of land, and potentially an entire community.
 - c. Permanence of investment—because the capital and labor required to build an improvement may be a large investment, the return on an investment tends to be long and stable in comparison to other types of investments.
 - d. Location—location is the most important economic characteristic of land. Sometimes called area preference, location refers to people's preferences of an area based on its history, reputation, scenic beauty, and convenience.

C. Physical characteristics

1. The physical characteristics of real property are immobility, indestructibility, and uniqueness.
 - a. Immobility—the geographic location of a tract of land is fixed; it is immobile.
 - b. Indestructibility—the permanence of land tends to make investments in real property relatively stable compared to other investments. However, improvements on land can depreciate and reduce the land's value.
 - c. Uniqueness—no two parcels of land are alike. Each parcel is geographically distinct.

D. Rights

1. Ownership of real estate includes certain rights that pertain to the surface of the land, the subsurface below the surface, and the air above the surface.
 - a. Mineral rights—an owner of real estate is entitled to use the natural resources below the earth's surface, provided they're not held by another party or the government.
 - b. Air rights—an owner of real estate may use the air above the land, provided the rights have not been eliminated by law.
 - c. Mineral and air rights are independent of the surface rights of land ownership. An owner may transfer those rights to another party while still retaining surface rights to the land itself.
 - d. Water rights—owners of land adjacent to rivers, lakes, or oceans have special common-law rights.
 - i. Riparian rights are granted to owners of land along the course of a stream, river, or similar body of water.

- An owner has unrestricted rights to use the water, provided the owner does not impede the flow of water.
- ii. Littoral rights are granted to owners of lands that border a standing body of water, like a lake, or the seas and oceans. These owners have the right to use the available waters, but not at the expense or detriment of the other littoral owners.
- iii. Water rights are appurtenant to the land and are not retained when the land is sold; a former owner does not enjoy those rights once that owner sells the land.
- iv. Doctrine of prior appropriation
 - Certain states rely on this doctrine, which states that the first user diverting water for beneficial use (like irrigation) has the first claim on the water.

E. Personal property—also referred to as chattel, and must be included in the sale contract if the buyer wishes to receive it

1. Personal property is all property that does not fit the definition of *real property*.
2. Personal property is movable, and includes such things as furniture and drapes/curtains but does NOT include anything built in or otherwise attached/affixed to an improvement.
3. Any manufactured housing that is not permanently affixed to the land is also considered personal property.
4. An emblem is an annually growing crop that is produced and picked at harvest. Though attached to the land before harvest, emblems are regarded as personal property.
 - a. In the case of a tenant growing the crop on leased land, the tenant has the right to take the harvest resulting from the tenant's labor even after the lease is terminated. The crop's harvests are the tenant's personal property.
 - b. A landlord cannot terminate a lease without giving the tenant the right to enter the land to harvest any crops belonging to the tenant.
5. Personal property can become real property if the personal property becomes a fixture.
 - a. Fixtures and trade fixtures
 - i. A fixture is personal property that has been affixed or attached to land or to an improvement so that it becomes a part of the real property (including such items as heating systems, kitchen cabinets, light fixtures, and plumbing), and transfers with the property unless the contract specifically excludes them.
 - ii. Intent is the determining factor in what constitutes a fixture. Intent depends on three factors:
 - The method of annexation: how permanent is the attachment of the item?
 - Adaptation to real estate: is the item used as real property or personal property?
 - Example: garage door openers and keys to the doors in the home
 - Agreement: have the parties agreed to whether a particular item is real or personal property?

- iii. A trade fixture is an article belonging to a commercial tenant, which is attached to a rented space or building and used in conducting the business of the tenant (such as moving clothing racks in a dry-cleaning business or ovens, stoves, food preparation vents, bars, wine racks, and other restaurant equipment in a restaurant).
- iv. A tenant is responsible for removing trade fixtures before the last day of the rental period, or the fixtures may become the real property of the landowner.
- b. Attachment, severance, and bill of sale
 - i. Attachment—an item of personal property can become real property when it is affixed to real property. Construction materials used to build a house or other structure become part of real estate through attachment, as well as lighting and plumbing fixtures, for example.
 - ii. Severance—this is removing something attached to the land or an improvement, resulting in the object becoming personal property, such as a light fixture the sellers wish to take with them.
 - iii. Bill of sale—an item of personal property is transferred through a bill of sale, not with a deed.

II. ENCUMBRANCES AND EFFECTS ON PROPERTY OWNERSHIP

A. Encumbrance (i.e., an imperfection, or cloud on title)

- 1. An encumbrance is a charge, claim, or liability attached to real property.
- 2. It is a right or interest held by someone other than the fee owner of the real estate, and therefore is not a possessory interest.
- 3. Encumbrances are clouds on title that may impair or lessen an owner's rights or property value.

B. Liens and lien priority

- 1. A lien is a claim or interest in a property to secure payment of a debt. If the debt obligation is not paid, the lienholder may have the debt satisfied from proceeds of court proceedings or a forced sale of the property.
- 2. A general lien affects all of a debtor's property—both personal and real property. Here are examples:
 - a. Judgment lien
 - b. Inheritance or estate tax lien
 - c. IRS lien
- 3. A specific lien attaches to a particular property or type of property, making the owner of the real estate responsible for payment. Here are examples:
 - a. Mechanics' liens
 - b. Mortgage liens

- c. Real estate tax liens and special assessment liens
- d. Condominium/townhome association liens
- 4. The creation of a lien may be
 - a. voluntary, created by action of the property owner (such as a mortgage lien); or
 - b. statutory (involuntary), created without the express permission of the property owner (like property tax liens and mechanic's liens).
- 5. The priority of a lien determines the order in which claims will be paid off (satisfied):
 - a. Generally, liens first legally recorded are satisfied first
 - b. But real estate taxes and special assessments take priority over all other liens
 - c. Lienholders may establish a subordination agreement that changes order of priority of liens
- 6. Real estate tax liens include real estate taxes and special assessments.
 - a. Real estate taxes
 - i. Referred to as an ad valorem (Latin for “at value”) tax
 - ii. Based on the assessed value of the property, and is an involuntary, statutory (created by law) lien
 - iii. Ad valorem taxes: levied by government agencies (e.g., school districts or water districts) and municipalities (e.g., states, counties, cities, towns, and villages)

C. Easements and licenses

- 1. Easements
 - a. An easement is the right to use another owner's land for a particular purpose.
 - b. Easements are not revocable once granted.
 - c. An easement always transfers with the land at closing unless it's released by the holder.
 - d. They may or may not be paid for, but they must be in writing.
 - e. They can apply to any part or portion of real property, including a right-of-way across the property, or even the airspace above the property.
 - i. Appurtenant easement—always involves two separate properties
 - Allows the owner of one parcel of land to use another owner's land for a specific purpose
 - Parcel over which the easement runs is called the servient tenement (it “serves” the interests of the other parcel)

- The parcel that benefits from the easement is called the dominant tenement (it “dominates” the interests of the servient parcel)
- An appurtenant easement runs with the land; will transfer with the deed of either parcel, and remains in effect until it is released

ii. Easement in gross

- Has only a servient tenement (e.g., an easement held by a utility, or a railroad’s right-of-way)

iii. Easement by necessity—used to help a buyer purchasing a landlocked property

- Arises when an owner sells part of their land that has no access except over the seller’s remaining land; this easement is created by a court order
- Only available to private owners; not available to government, utility, cable, telephone, or gas companies

iv. Easement by prescription occurs when a party (or parties) uses another person’s property continuously without property owner’s permission for a statutory period of time; state laws define the time period required to create this kind of an easement

f. How an easement is created

- i. An easement always involves two separate parties, one of whom is the owner of the land over which the easement runs
- ii. Easements must be in writing, and are commonly created between the two parties, but may also be created by other means (e.g., court order)
- iii. A party wall easement is a commonly shared partition wall between two connected properties (e.g., side-by-side townhomes)

g. The most common ways easements are terminated

- i. When the parcels merge (owner of either parcel becomes the owner of both parcels)
 - Doesn’t terminate the easement, until the owner records a release of the easement in the property records
- ii. When the easement is released
- iii. If the easement is abandoned

2. License

- a. Does not establish a legal interest in real property
- b. Revocable permission, granted by the owner, to enter the owner’s land for a specific purpose
- c. Terminated by the owner, by the death of the owner, or the sale of the property

D. Encroachment

1. Unauthorized use of another owner's land(s)
2. Occurs when all or part of a structure illegally extends beyond the land of its owner or beyond the legal boundary lines
3. Usually disclosed by either a physical inspection of the property, a spot survey, or an ILC (Improvement Location Certificate) showing the location of all improvements on a property and whether they extend over the lot or building lines
4. Neither a standard title insurance policy nor an attorney's title opinion protect against encroachments

E. Lis pendens

1. A recorded document that gives constructive notice of a pending lawsuit regarding title to a property

F. Other potential encumbrances of title

1. Deed restrictions—privately created controls on land use
 - a. They are also known as restrictive covenants or CC&Rs (covenants, conditions, and restrictions).
 - b. They are typically imposed by a developer to maintain subdivision standards and are listed in the original development plans for the subdivision (e.g., no RVs are allowed to be parked on driveways, all homes must be painted certain colors, fencing must be of a certain type, there must be minimum square footage of a dwelling structure).
 - c. They may not violate fair housing laws (e.g., cannot refuse to sell based on a buyer's race or national origin).
 - d. They are binding on all present and future owners.
 - e. Property owners could be subject to injunctions if they violate deed restrictions.
2. Homeowners association regulations—privately created controls
 - a. Communities managed by an association are restricted by policies or procedures dictated by the association.
 - b. A developer transfers the right to enforce any CC&Rs in a community once a certain percentage of the lots or units have been sold.
 - c. Individual properties may be restricted to certain lot sizes, square footage, paint color schemes, and other factors affecting homes, condominiums, or townhomes in the community.
3. In the case of deed restrictions, covenants, CC&Rs, regulations, and zoning, most stringent (strictest) requirement always applies

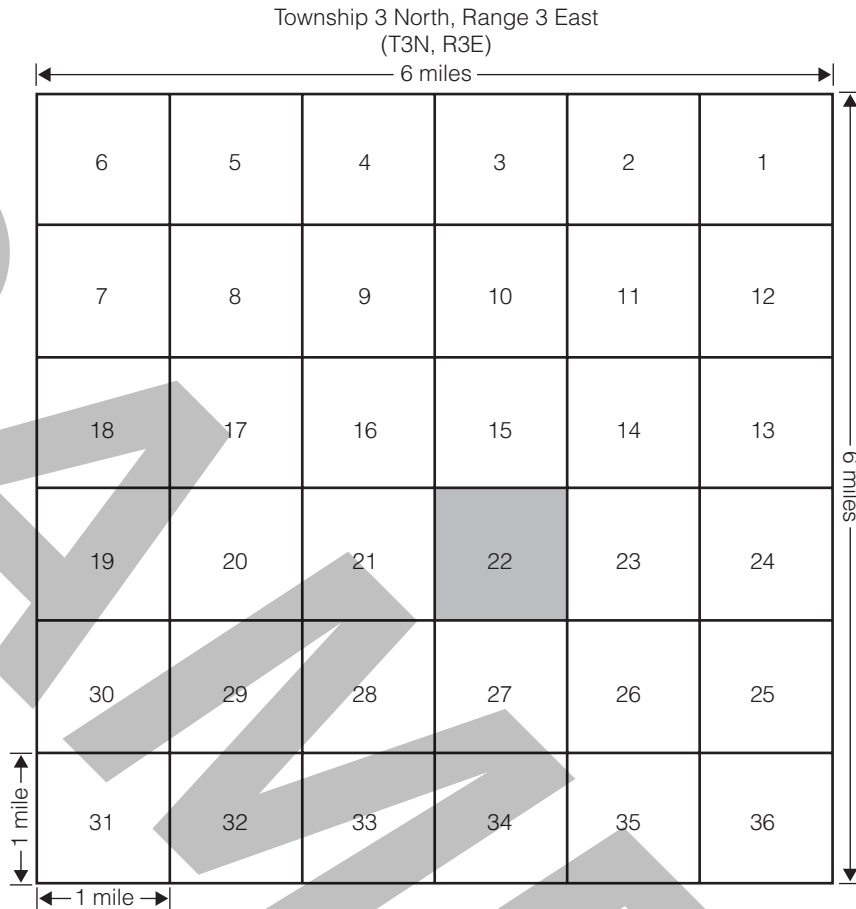
III. LEGAL DESCRIPTIONS

A. Definition of a legal description

1. A legal description of real estate is one that is sufficiently specific enough for a surveyor to locate the exact dimensions of a particular property.
2. A street address is not precise enough to be used on documents affecting the ownership of land.

B. Types of legal descriptions

1. Metes and bounds is the oldest method of legal description in the United States, and the most accurate when used with contemporary global positioning system (GPS) technology. This type of legal description does the following:
 - a. Uses compass directions and distances (metes) to describe the perimeter of a property's boundaries (bounds)
 - b. Starts and ends at a point of beginning (POB)
 - i. The only form of legal description that begins with words such as starting, proceeding, beginning, etc.
 - c. Uses monuments (fixed objects or markers) to identify the POB and specific locations where boundaries change directions
 - i. Monuments may be natural objects (rocks, trees, or streams) or iron pins or concrete posts placed by U.S. Corp of Engineers or a private surveyor
2. Recorded plat, also known as lot, block, and subdivision, is used in urban residential areas to describe property in a subdivision. This type of legal description does the following:
 - a. Divides a large parcel of land into blocks and lots on a plat map, which is filed in the public records of the county where the property is located
 - b. To create a subdivision, a developer must first create the plat map, then record the map
 - i. Without recording the plat map, there is no record of lot, block, and subdivision
3. The government survey, also known as the rectangular survey system:
 - a. Divides land into squares and rectangles
 - b. Is measured from the intersections of principal meridians (imaginary north/south lines) and base lines (imaginary east/west lines)
 - c. Describes townships relative to their positions east or west from a prime meridian, and north or south from a correlating base line
 - i. Townships are 6 miles by 6 miles
 - ii. And they contain 36 square miles, each of which is called a section
 - Each section—640 acres



C. Measuring

1. Units and measurements are used to determine the size and square footage of both structures and parcels of land:
 - a. Mile = 5,280 ft.
 - b. Square mile = 5,280 ft. × 5,280 ft., and contains 640 acres
 - c. Acre = 43,560 sq. ft.
 - d. Square yard = 9 sq. ft.
 - e. Square foot = 144 sq. in.
2. Measuring elevations
 - a. Air lots
 - i. Air lots are the airspace within specific boundaries located above a parcel of land, which show elevations of floors and ceilings and vertical boundaries of units (like condominiums and offices) referencing an official surface, line, or point from which elevations are measured.

- b. Subsurface rights can be legally described in same manner as air lots (above), but are measured below an official surface, line, or point rather than above it

D. Livable, usable, and rentable area

1. The livable area of a home is the total area that is heated or cooled.
2. Usable area (commonly used for rental property) describes the area a tenant can use for ordinary, daily living.
3. Rentable area is another term for usable area.

E. Survey

1. A licensed surveyor is authorized to locate and confirm, as well as create the legal description of a parcel of land. A surveyor usually prepares two documents:
 - a. A survey that states the property's legal description
 - i. As mentioned previously, surveys are used to create plat maps of subdivisions.
 - b. A survey sketch that shows the location and dimensions of the parcel
 - i. Note: When a survey shows the location, size, and shape of buildings on the lot, it is known as a spot survey.
2. A survey may be necessary to discover any encroachments on a property.

UNIT 1 REVIEW QUESTIONS

True/False Questions

1. Because a garage door opener is movable, it is considered personal property.
A. True
B. False
2. A 20-foot potted tree is chattel.
A. True
B. False
3. If a seller wants to take chattel, it must be excluded from the purchase contract.
A. True
B. False
4. After a lease of agricultural property terminates, the growing crop of wheat belongs to the landlord.
A. True
B. False
5. Emblements are regarded as personal property.
A. True
B. False
6. Real estate can include surface rights, subsurface rights, and air rights.
A. True
B. False
7. A license is the irrevocable permission of the landowner, allowing a nonowner to use the property without it being a trespass.
A. True
B. False
8. An encroachment must touch the property.
A. True
B. False
9. Property tax liens take priority over all other liens.
A. True
B. False
10. A specific lien, in contrast to a general lien, attaches to a specified parcel of real estate.
A. True
B. False
11. To remove an appurtenant easement, the owner of the servient tenement would sign a quitclaim deed.
A. True
B. False
12. In the rectangular survey system, a section of land is one square mile and contains 640 acres.
A. True
B. False
13. In the government survey system, the grid is formed by a base, a meridian, lots, and blocks.
A. True
B. False
14. A developer growing a new residential subdivision in a suburban area would likely use the lot and block method legal description.
A. True
B. False
15. In the metes and bounds legal description, *metes* refers to distances and *bounds* refers to boundaries.
A. True
B. False
16. In the rectangular survey system, a section contains 36 square miles.
A. True
B. False
17. The metes and bounds legal description starts at some point external to the parcel of real estate being described.
A. True
B. False

Multiple-Choice Questions

1. In a purchase agreement, fixtures transfer with the title, while personal property must be included to transfer to the buyer. An encumbrance that also automatically transfers with the land is
 - A. a freestanding stove or dishwasher.
 - B. a freestanding refrigerator.
 - C. an appurtenant easement.
 - D. a trade fixture currently being used and attached to the property.
2. In the lease agreement, two tenants have agreed to build out a commercial space to meet their needs at their own expense. The chattel fixtures that they add are the property of
 - A. the landlord upon the expiration of the lease, because they are now attached to the property.
 - B. the tenants, as long as they are removed from the property on or before the expiration of the lease and they leave the property in good repair.
 - C. the tenants, as long as they are removed from the property on or before the expiration of the lease because they paid for them.
 - D. the landlord automatically upon their addition, and the property must be left in good repair.
3. House keys are considered to be
 - A. personal property because they are movable.
 - B. personal property because they are not attached.
 - C. real property because sale contracts stipulate that they will be transferred.
 - D. real property because of the adaptation to the real estate.
4. There are two neighboring parcels. The southern parcel has access to the only road in the area. The northern parcel has no access to any nearby road. The owner of the southern parcel verbally and informally allows the owner of the northern parcel to cross over the southern parcel to get to the road. This arrangement continues for 10 years. Which of these describes this arrangement?
 - A. A prescriptive easement
 - B. An appurtenant easement
 - C. An easement in gross
 - D. A license
5. Which lien is given first priority?
 - A. A real estate tax lien
 - B. A mortgage lien
 - C. A trust deed lien
 - D. A hospital bill lien
6. A prospective buyer is considering the purchase of a single-family residence. Which of these might dissuade the buyer from purchasing the real estate?
 - A. An appurtenant easement over a neighboring parcel for street access
 - B. A one-inch encroachment of a neighbor's house
 - C. A deed restriction limiting the races to whom the property could be sold
 - D. A withdrawal of lis pendens, filed several years ago
7. A seller recently sold a buyer a parcel of real estate. The legal description stated, "Parcel A, reserving therefrom, the west half, and further reserving an easement over the south 10 feet of the property for street access." After the purchase transaction is complete, which of these describes what the seller still holds?
 - A. The west half and an appurtenant easement over the south 10 feet of the east half
 - B. The east half and an appurtenant easement over the south 10 feet of the west half
 - C. The south half and an appurtenant easement over the north 10 feet of the north half
 - D. The north half and an appurtenant easement over the south 10 feet of the south half
8. The owner of a large parcel of real estate located in a rural area listed the property for sale. The metes and bounds method of legal description was used to describe this irregularly shaped parcel. The legal description started at an iron spike driven into the center of an immediately adjoining road. Which phrase was MOST likely used at the point in the legal description that began to describe the boundaries of the listed parcel?
 - A. Commencing at
 - B. Starting at
 - C. Point of beginning
 - D. Base and meridian

9. A developer was subdividing a large parcel of vacant land for a new residential subdivision in a suburban area. Before building, the developer was legally required to create and file a plat for the new subdivision. What type of legal description would the developer MOST likely use?
- A. Metes and bounds
 - B. Government survey system
 - C. Lot and block
 - D. Rectangular survey system

REAL ESTATE EXAM PREP

REAL ESTATE EXAM PREP allows you to study exactly what you need to pass your licensing exam, featuring focused content to sharpen your understanding of vital exam items. The most up to date, accurate, and comprehensive study tool available, **REAL ESTATE EXAM PREP** expertly covers everything you need for the national/general content of the PSI and Pearson Vue provided license exams. Command your confidence, study with Dearborn.

This valuable guide includes:

- Questions reflecting the current national real estate laws, rules, regulations, and practices
- Emphasis on important key terms and concepts to know for your licensing exam
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ISBN: 978-1-5062-8837-6



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