INSURANCE REGULATIONS & LICENSING, ETC.

REQUIREMENTS

- ○Pass the test - unlimited attempts
- ○Application to OSI
- ○Pay a fee
- ○Fingerprint & background checks
- ○Be affiliated with an underwriter
- ○Have access to a title plant in any county where you plan to issue title insurance

▪Title plant subject to inspection by the superintendent

▪Must go back 20 years

● Maintenance/ Renewal
Requires 10 hours of continuing education every 2 years

NEW MEXICO | OFFICE OF SUPERINTENDENT OF INSURANCE

-REGULATES & PROMULGATES RATES & FORMS

-CAN GRANT, SUSPEND AND REVOKE LICENSES

-PROMULGATE RULES FOR PROTECTING CONSUMER PRIVACY

- LICENSE WAS OBTAINED BY WILLFUL MISREPRESENTATION OR FRAUD
- A LICENSEE OBTAINED THE LICENSE CHIEFLY FOR THE PURPOSE OF WRITING INSURANCE ON THE LICENSEE'S OWN LIFE, PROPERTY OR LIABILITY, OR ON THE LIVES, PROPERTY OR LIABILITY OF THE LICENSEE'S ASSOCIATES
- A LICENSEE IS NOT COMPLYING WITH ALL STATE AND FEDERAL LAWS AND REGULATIONS RELATING TO INSURANCE
- THE INTERESTS OF THE INSURED OR THE PUBLIC ARE NOT BEING PROPERLY SERVED UNDER THE LICENSE.

SUPERINTENDENT CANNOT:

SUSPEND LICENSE FOR MORE THAN 1 YEAR

NEEDS TO EITHER RE-INSTATE OR PROVE THAT A REVOCATION IS NECESSARY.

IN ADDITION TO OR IN LIEU OF SUSPENSION, AN ADMINISTRATIVE FINE MAY BE LEVIED FROM $100-$500

ADMINISTRATIVE PENALTIES MAY NOT EXCEED $5,000

- PROVIDING INCORRECT, MISLEADING, INCOMPLETE, OR UNTRUE INFORMATION IN THE LICENSE APPLICATION;
- OBTAINING OR ATTEMPTING TO OBTAIN A LICENSE THROUGH MISREPRESENTATION OR FRAUD
- IMPROPERLY WITHHOLDING, MISAPPROPRIATING OR CONVERTING ANY MONEY OR PROPERTIES RECEIVED IN THE COURSE OF DOING INSURANCE BUSINESS
- INTENTIONALLY MISREPRESENTING THE TERMS OF AN ACTUAL OR PROPOSED INSURANCE CONTRACT OR APPLICATION FOR INSURANCE
- HAVING BEEN CONVICTED OF A FELONY
- HAVING ADMITTED OR BEEN FOUND TO HAVE COMMITTED ANY INSURANCE UNFAIR TRADE PRACTICE OR FRAUD
- USING FRAUDULENT, COERCIVE OR DISHONEST PRACTICES, OR DEMONSTRATING INCOMPETENCE, UNTRUSTWORTHINESS OR FINANCIAL IRRESPONSIBILITY IN THE CONDUCT OF BUSINESS IN THIS STATE OR ELSEWHERE
- FORGING ANOTHER'S NAME TO AN APPLICATION FOR INSURANCE OR TO ANY DOCUMENT RELATED TO INSURANCE
- FAILING TO PAY STATE INCOME TAX OR COMPLY WITH A CHILD SUPPORT OBLIGATION

GROSS NEGLIGENCE - IF AGENT IS GROSSLY NEGLIGENT BY ERROR OR OMISSION IN TITLE SEARCH, PREPARATION OR ISSUANCE OF POLICY, BINDER, OR COMMITMENT, ETC - AGENT MAY BE LIABLE TO INSURER FOR LOSSES UNDER A CLAIM

DISREGARD OF WRITTEN INSTRUCTIONS –IF AGENT DISREGARDS WRITTEN INSTRUCTIONS OF THE INSURER OR AN INSURED PARTY AND IT RESULTS IN A LOSS - AGENT MAY BE LIABLE FOR THAT LOSS

UNFAIR TRADE PRACTICES & FRAUDS - IF AGENT OR SOMEONE ACTING ON AGENT'S BEHALF SHALL BE GUILTY OF FRAUD, DECEIT, THEFT, ETC. AND IT RESULTS IN A LOSS TO THE INSURER, AGENT MAY BE LIABLE TO LOSS

- MISREPRESENTATION, FALSE ADVERTISING OF POLICIES
- FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS
- ILLEGALLY INDUCING SOMEONETO SELL INSURANCE
- FAILURE TO ACT AS FIDUCIARY

FAILURE TO ACT
AS FIDUCIARY

FAILURE TO ACT
AS FIDUCIARY

TERMS TO KNOW

ELEMENTS OF A LEGAL CONTRACT*

*DOES NOT TECHNICALLY HAVE TO BE WRITTEN DOWN….

CONTRACT VOCABULARY

CONTRACT VOCABULARY

EXPRESS AUTHORITY

-AUTHORITY THAT AN AGENt has IN WRITING

-SPELLS OUT ACTIVITIES THE AGENT HAS THE POWER TO PERFORM ON BEHALF OF THE INSURER

IMPLIED AUTHORITY

- AUTHORITY NOT GIVEN IN WRITING, BUT THAT IS NEEDED IN ORDER FOR THE AGENT TO TRANSACT INSURANCE

APPARENT AUTHORITY

- AUTHORITY A thIRD PARTY BELIEVES THE AGENT HAS, DUETO THE AGENT'S ACTIONS

RESPA - REAL ESTATE SETTLEMENT PROCEDURES ACT

REAL PROPERTY & TRANSFERS OF REAL PROPERTY

REAL PROPERTY

PERSONAL PROPERTY

TITLE TO REAL PROPERTY

CONVEYANCES

TYPES OF DEEDS

ADVERSE POSSESSION

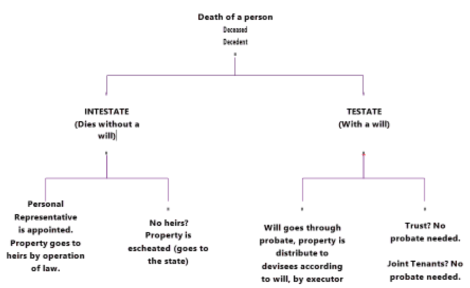
CONDEMNATION

ESCHEAT

JUDICIAL SALE/ FORECLOSURE

TRUSTS

TENANCY



LEGAL CAPACITY OF PARTIES

SECTION 4

- CHAIN OF TITLE
- TITLE SEARCHING
- NOTICE, COMMITMENT,AND CONDITIONS
- SCHEDULE A, B, STANDARD DELETION, EXCEPTIONS

Easements

•••

Easement - a legally binding, non-possessory interest in someone else's property

Express vs. Implied Easements

EXPRESS Easements

- Must be written.
- Created by deed, will, or reservation
- Agreed to by owner

IMPLIED Easements

- NOT written down
- Example: Easement by Necessity

Easement by Necessity

Easement Appurtenant aka Appurtenant Easement

Easement in Gross

Easement by Condemnation

Section 5 Review

- Liens
- Trusts
- Condominiums
- Water Rights
- Access

5.2

SPECIAL PROBLEM AREAS

FORECLOSURE

PROBATE

PRINCIPLES
OF
CLEARING TITLE

SETTLEMENT AND CLOSING PROCEDURES