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Leasing Residential Property

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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

Pat Trombello 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 Pat Trombello to make available to you, an email address for a quick response to your questions, concerns, or comments about the home study program. Contact:

Always leave a detailed message with specific pages and/or topics you would like to discuss - **Email – ttcinc01@aol.com**

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 Illinois REALTORS® to prepare for a successful re-take of the Final Exam.

LEASING AGENTS

Let's begin with an overview of who can lease property for another FOR COMPENSATION. The answer is ANY licensee! That could mean they hold a valid license as a broker, salesperson or a leasing agent.

In addition, a property OWNER could lease his/her own property. If they are the "owner", then no real estate license is required. They could also hire employees who work directly for them and those employees do not have to be licensed because they would fall under the same exemption in the License Act of 2000 that exempts owners of property from being licensed.

There are ten exemptions from the Real Estate License Act of 2000. Each of the following are not required to be licensed.

- 1) Owners of property and their direct employees**
- 2) Attorneys**
- 3) Receivers or trustees**
- 4) Resident Managers**
- 5) Federal Government**
- 6) State Government**
- 7) Multiple Listing Service (s)**
- 8) Any Medium of Advertising**
- 9) Railroads and Public Utilities**
- 10) Resident Lessees (Individuals who live on-site at a property)**

1) Owners of property and their direct employees -

Anyone can own a piece of real estate, whether it's one unit, 40 units or 400 units. If you are the owner, no license is required. In addition, owners of property can hire people to work for them and those employees do not need to be licensed either (because they work for the owner directly).

2) Attorneys

Attorneys are exempt from holding a real estate license. They are covered under the guidelines that regulate them to be licensed as attorneys.

3) Receiver or Trustee

These people do not need to be licensed because they are not performing licensed activities for others for compensation. In the event a property owner defaults on a loan and a lending representative comes out from the bank to oversee the activity in the interim, they do not require a license because they are merely protecting their investment due to the default.

4) Resident Manager

If a person is acting as a resident manager for a property, it doesn't matter whether they are working for a broker or an owner, as long as they hold the title of "resident manager", they are exempt from licensing. The term "resident manager" implies they are responsible for the leasing and management of the property. It must; however, be their principle place of residence.

5) Federal Government

The federal government is exempt from this licensing requirement.

6) State Government

The state is exempt from this licensing requirement.

7) Multiple Listing Service(s)

If you list information with a listing service pertaining to what you have available for lease, the listing service is not required to be licensed because they are merely printing or listing the information you provided to them. They should not; however, be showing properties for lease.

8) Any Medium of Advertising

The same theory applies here. If you place an advertisement in a local newspaper or other publication, that newspaper or publication is not responsible for what you list. They are just printing your information in their publication and assume no liability for it. You are responsible for all the advertisements that you place.

9) Railroads and Public Utilities

They are regulated by the State and are typically not performing licensed activities for another for compensation as defined in the License Act.

10) Resident Lessees

Individuals who live on site at a property and refer prospective tenants to the landlord do not have to be licensed. This is called resident referrals. In addition, landlords can pay resident lessees referral fees for prospective tenants who they refer, even though the resident is not licensed, because they live at the property. There are; however, some restrictions as to how many referrals they can pay. Currently residents may refer no more than 3 lessees in a 12 month period and receive compensation of no more than \$1,500 OR the equivalent of one month's rent, which is LESS.

Review of Leasing Agent Section

- **Property Owners (and their employees) do not need to be licensed to lease their property.**
- **Brokers, salespeople and leasing agents who hold a current, valid real estate license may lease property.**
- **Resident lessees can refer prospects to a property and can be paid a referral fee, but they must live at the property**
- **Licensees may not pay an unlicensed person a referral fee (unless mentioned above – as a resident referral).**

REFERRAL FEES

Fees Paid to Licensees – Compensation/referral fees can be paid to licensees, as long as it is paid to them by their sponsoring broker. For instance, one licensee cannot pay another licensee a referral fee. It must go through the sponsoring broker and then that broker can pay their licensee.

Inducements – You might think of an inducement as an “incentive” paid to someone. A licensee may pay an inducement in the form of a gift or a prize. At multi-family apartment complexes, inducements might be offered to the public to entice them to visit the property by offering a gift card or other item. These are not considered referrals.

Resident Referral Fees- As we discussed above, the only exception where a licensee may pay a referral fee to an unlicensed person would be if they are a resident at the property and that resident refers a prospect to the property. The property should have a written policy on payment of referrals and it must comply with the requirements for paying referrals as stated in the License Act.

Review of Referral Fees Section

- **Referral fees can be paid to licensees through their sponsoring broker.**
- **Inducements are “incentives”**
- **Residents must live at the property to receive resident referrals.**

THE LEASING PROCESS

1) Advertising

Where and how often you choose to advertise your product/property is up to you as the licensee and/or the owner of the property. It should be noted; however, that it's important to always show diversity in your advertising. What we mean by that is, don't always advertise in one local newspaper. Periodically (monthly, quarterly or annually) place an ad in another publication that reaches a broader area. In the event of a fair housing complaint, one of the first things that may be asked is "Where do you advertise?"

2) Prospective Tenants

Each time a property is shown to a prospect, you should have a prospect card on hand. If the prospect does not want to complete it, you can fill in some general information about their visit to the property. Be sure to note only comments that pertain to the prospect's need for housing and not any personal comments about the prospect unless they are notifying you of a request for a reasonable accommodation or modification needed. If the prospect telephones you, keep a phone log. This record keeping is important in the event of any fair housing complaints or violations that may be filed against you. Good record keeping is essential.

3) Tenant Selection Criteria

Whichever credit bureau or process you decide to use to check the prospect's information is totally up to you. Be sure to follow exactly the same procedures for everyone when verifying prospect's information whether it be for prior landlord references or employment verification.

4) Fair Credit Reporting Act

The Fair Credit Reporting Act ensures equal treatment for all. Many professional associations in real estate will have sample letters that can be utilized.

Review for Leasing Process Section

- **Good record keeping is essential.**
- **There are no restrictions on where you can advertise.**
- **A prospect card and/or a telephone card should be maintained as a record for the property.**
- **A policy on credit checks should apply to all.**
- **Information on prospect cards should pertain only to prospect's housing requirements/accommodations.**

SECURITY DEPOSITS

The amount of security deposit you decide to charge or not charge is, again, up to you and/or the owner you represent. The State does not stipulate an amount to be charged.

➤ INTEREST ON SECURITY DEPOSITS

In Illinois, residential properties that contain 25 or more units must pay interest on security deposits that are held for more than six months. The interest rate to be charged is published at the beginning of each calendar year. Those rates can be obtained from any professional real estate association. The rates vary within Illinois. Typically, there is one rate for properties within the City of Chicago, Evanston, and then a rate for the rest of Illinois. Please check your local area for rates.

➤ RETURN OF SECURITY DEPOSIT

In Illinois, the Illinois Security Deposit Return Act applies for residential properties of five units or more. NOTE: This is different than the City of Chicago. For Chicago rates and information, contact City Hall or consult the Chicago Landlord Ordinance .

In Illinois, if there are NO damages, the security deposit must be returned to the tenant no later than 45 days from the day the tenant vacates the premises. If there are damages when the tenant vacates, then we must provide an itemized statement of damages and repairs within 30 days of vacating. If you fail to comply with these Illinois requirements, the tenant may be able to collect double the security deposit plus court and attorney fees if they pursue court action.

Review for Security Deposit Section

- **Deposits should be returned within 45 days of vacating.**
- **Strict penalties apply for failure to return the deposit.**
- **Interest rates vary depending on the property's location**
- **The amount of deposit is not regulated by the State.**
- **If there are damages when the tenant vacates, a list of those damages needs to be provided to tenant within 30 days of tenant's vacating.**

LEASES

Whatever form of lease you choose to use is up to you and/or the owner. Leases are available at office supplies stores, your local association of realtors or an attorney can draft one on behalf of the owner, if preferred.

Other forms that are helpful include move-in, move-out checklists, inspection checklists etc. Many professional real estate associations may be able to provide you with information on forms available for purchase.

Review for Lease Section

- **There is no required lease form in Illinois.**
- **Attorneys may draft lease forms for owners.**

FAIR HOUSING

A HUGE part of the leasing process comes in the form of applying good fair housing practices. Remember, you do not need to give people special treatment, just EQUAL treatment regardless of race, color, religion, national origin, sex, familial status or handicap.

Let's start with a review of assistance animals.

- **ANY animal that provides assistance to a person with a disability can be an assistance animal (dog, miniature horse, potbellied pig, monkey, bird etc.).**

NO EXTRA FEES CAN BE CHARGED FOR AN ASSISTANCE ANIMAL.

Companion animals are used for a person's EMOTIONAL WELL-BEING. Again, any animal can be used as a companion animal. The burden rests on the person with the disability to inform you that they need a "reasonable accommodation".

- **Remember, a reasonable accommodation is a change in a rule or policy.**

For instance you may not allow pets at your property, but if a prospect informs you that they have a need for an assistance or companion animal, you must accommodate them.

- **You may; however, if it is your policy, ask for a doctor's note that you would keep in that prospect's/tenant's file. Only ask for a doctor's note if you ask it of everyone who requests an accommodation.**

Senior Housing

If a property is utilized as senior housing, one of the following would typically apply.

- **If your property is operated for individuals over 62 years of age, there are tax advantages for the owner of the property.**

OR

- **The property may be operated where at least one person is age 55 or older in 80% of the units at the property. The other 20% of the units can be leased to whoever else qualifies under the housing program you are involved with.**

SECTION 8 Housing Programs

Section 8 is a government subsidized housing program. It is a voluntary program everywhere EXCEPT the City of Chicago. In the City of Chicago, landlords must accept the prospect's housing voucher as a source of income in qualifying them for housing.

Review for Fair Housing

- **Any animal can be used for assistance-no extra fees can be charged**
- **Equal treatment to all individuals**
- **Assistant animals are not considered pets**
- **Companion animals are for a person's emotional well-being**
- **Pets are not a protected class**

COMMONLY ASKED QUESTIONS

Certain questions keep coming up and are sometimes mis-understood by landlords. Let's review some of the more common questions that are being asked today.

Is sex a protected class?

YES. The Housing & Community Development Act of 1974 provides protection against discrimination on the basis of sex. If two men or two women inquire about housing, no regard can be given for qualifying them as anything other than individuals.

Can I refuse to rent to someone under 21 years of age?

YES, if that is your practice. There is no age protection in federal fair housing laws. It is; however, covered in the Illinois Human Rights Act, but that references discrimination for people over age 40. You should have a policy in writing at the property. If you don't have a policy, then you must accept whoever qualifies regardless of age.

Can I refuse to rent to a smoker?

Smoking is something that needs to be covered in a policy for that property. We cannot refuse to rent to someone because they are a smoker, but we can have a policy that a property is a smoke-free property and thereby smoking is not allowed in the units or common areas.

Can I refuse to rent to a person with pets?

Pets are not a protected class, yet. Remember, an assistance animal or companion animal is never referred to as a pet.

Can I charge extra for pets?

YES, pets are not a protected class. You may institute a policy on pets relative to fees to be charged.

Are people who use drugs considered disabled and are they a protected class?

NO, people who use illegal drugs or misuse prescription drugs are not considered disabled and are not a protected class UNLESS they inform you that they are in rehab. Then, you must work with them while they work through their drug problems.

Can I charge extra fees for assistance animals used by a person with a disability?

NO. Extra fees associated with a person utilizing an assistance animal or companion animal cannot be charged. Think of that animal the same as you would a “wheelchair”. You would not charge someone extra for the use of a wheelchair in their unit or at the property. The same applies for animals. Do not pet, feed or talk to the animal without the owner’s consent.

Are persons with allergies considered disabled?

If an allergy affects a person's daily life functions such as breathing, walking, talking, hearing, learning, self care, etc. then they may be considered disabled.

What types of modifications might be required to assist a person with an allergy?

It is the responsibility of the person with the disability to inform you of an accommodation needed. Some common measures might include a request for changing filters to a hepa filter, or a change in cleaning products if they are allergic to certain chemicals. You may possibly be requested to remove carpeting if there are traces of dander from pets which can be easily detected by a person with allergies. There is one accommodation which I recently became aware of and that is a request for vertical blinds as opposed to horizontal blinds. Apparently, the dust accumulates on horizontal blinds causing people with allergies discomfort. Whereas, dust tends to not cling to vertical blinds as much.

If a person with a disability wants to rent a second floor unit that is not handicap accessible, do you have to rent the second floor unit that they request even though you may have several first floor units that are already handicap accessible?

YES, people get to choose where they want to live regardless of a disability.

If a person with a disability has limited mobility and cannot climb or walk up stairs, what is your responsibility to show them a unit that is not accessible?

There are other means of showing a unit such as pictures, floor plans, videos etc. If a person cannot physically get to the unit, use another method of describing the unit.

Can limit the number of children per unit?

NO – NO – NO. I can; however, limit the number of occupants.

Can I charge extra rent per person?

No, that would be discrimination against families. Rent is set by unit, not by charging more per person. You should; however, be following local ordinances or HUD's GUIDELINE (not a law) that states how many people or occupants can occupy a unit. This is referred to as an occupancy standard.

RESIDENTIAL RESOURCES

If you are involved in the leasing of residential property, there are many resources available to you. Listed below are just 3 or these resources which you may be familiar with.

- ✓ **Institute of Real Estate Management (IREM)**
430 N. Michigan Avenue
Chicago, IL 60603
312-329-6000
www.irem.org

- ✓ **The Chicagoland Apartment Association (CAA)**
9950 W. Lawrence Avenue- Suite 119
Schiller Park, IL 60176
847-678-5717
www.caapts.org

- ✓ **Building Owners and Manger's Association (BOMA Chicago)**
120 S. LaSalle Street
Chicago, IL 60603
312-236-5237
www.boma-chicago.org

VENDORS

Most professional associations also have a listing of vendors used by their members or whom they recommend. This is a much better source than the yellow pages or on-line where you don't have any idea of a company's history. The Better Business Bureau is also a good source to check out before using the services of a new vendor or supplier.

CONCLUSION

If you have any questions about this home study or additional questions about leasing, please contact the author (Patricia Trombello at Technical Training Consultants) at 630-353-0400 or via email at www.ttcinc01@aol.com.

At this point, you should read over the Review Sections and you are ready to take your 25-question true/false exam.