The enclosed information has been compiled by the Palmetto Land Title Association as a guide for persons wishing to become licensed as a title insurance producer in the State of South Carolina. The materials contained herein are designed to help in the preparation to pass the licensing exam. These materials are not intended as a legal opinion nor professional advice. The materials provided include examples of questions that may have appeared as topics for questioning on past exams as well as a sample exam. These are not actual exams and no representation of such is made.

The title insurance field provides many wonderful career opportunities and challenges. We wish you much success in your preparation for the exam and in your future experience in the title insurance industry.

If the Palmetto Land Title Association can assist you in the future please contact our Executive Secretary, Kim Burkett at P.O. Box 11372, Columbia, South Carolina 29211. Phone 803-892-5582.

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INTRODUCTION

Owning your property free and clear involves more than having a deed in your hands. A deed does not cancel certain prior “rights” and “claims” other people may have to your property - rights whose existence you never suspected; claims that may go back in time to the earlier owners of your newly acquired property. Because of this you want some protection and that is why you have title insurance.

What is title insurance?  It is a one-premium agreement to indemnify a policy holder for losses caused by defects found in the title or interest to an insured land in an amount not exceeding the face amount of the policy and which are in existence on the date on which the policy is issued. There is also a newer ALTA product that provides coverage for many defects that do not occur until after the policy date but for purposes of this study guide and examination we will limit discussion to the standard policies. A title insurance policy is a contract of indemnity. It is an agreement in which the Title Company agrees to indemnify an insured who sustains actual monetary loss or damage. The title policy is not a guarantee of status of title. Unasserted liens or defects do not trigger coverage. The insured must suffer “actual loss or damage” before there is any liability under the policy.

Title insurance is different from mainstream insurance such as homeowners insurance or car insurance because it insures against loss or damage for matters that have occurred in the past, whereas the others insure against loss resulting from future contingencies. Title Insurance is risk elimination. It attempts to identify and eliminate prior risks through a careful examination of public records, maps and documents, (i.e., title searches). Other types of insurance, (i.e. homeowners, car, etc.) are risk assumption, which cover risks that happen in the future. Generally, title insurance operates to protect a purchaser or mortgagee against unforeseen defects in or encumbrances on title, which are in existence at the time the insured takes title. In other words, coverage is for pre-existing defects arising in past transactions, which may be declared in the future. It does not insure against defects first arising after the effective date of the policy.

A title insurance policy describes your land in detail and states what limitations, if any, there are to your ownership. For example, you may take ownership subject to existing liens or encumbrances or easements may have been granted to utility companies or adjacent property owners. Most importantly, a title insurance policy indemnifies that the property you are purchasing is free of undisclosed liens, confusion in the rights of ownership and other clouds on the title. A title insurance policy provides you with peace of mind. It takes the risk out of acquiring property whose history is unknown to you. Through the years, your new property may have changed hands many times through sale, inheritance, foreclosure, or bankruptcy. Each transfer was an opportunity for an error in title to arise. If an error has occurred, and has never come to light, it puts your title in jeopardy. You could lose your property and the money you paid for it. And, even if you successfully defend your rights of ownership, the cost in time and legal fees could be costly. Among the many risks against which title insurance protects you are forged documents; mistakes in recording legal documents, undisclosed or missing heirs; fraud, invalid divorces, clerical errors in public records, etc.
Before a policy is issued, an abstractor conducts a title search, which is examined by an attorney. Only after collecting, examining and interpreting appropriate records is a commitment or policy issued insuring the condition of title. Besides describing your property, subject to exclusions and exceptions insuring against limitations on your ownership, a title insurance policy sets forth in clear terms what the title insurance company may do in the event that a flaw in title is discovered or your rights of ownership are challenged:

1. Defend your title in the courts, as insured, at the Underwriter’s expense;
2. Correct or clear the title when possible; and
3. Promptly pay you for your loss in the event of an unsuccessful defense of your title.

This is why it is in your best interest to select a title insurance company that meets the highest standards of financial stability, professional integrity and responsible management. Additionally, title companies are required by law to maintain adequate reserves to pay claims made against policies.

**Types of Coverage**

**Mortgage policy (a/k/a Lenders or Loan Policy)**

- it insures the mortgage company and its assigns through the life of the loan
- coverage is limited to loan amount and decreases as payments are made
- it does not cover the owner. Contrary to popular belief, the owner is not a third party beneficiary on a loan policy.

**Owners Policy (a/k/a Fee Policy)**

- insures the owner while he owns the property
- insures the owner after he sells the property against any claims based on deed warranties or in the event he accepts a purchase money mortgage

**The Title Policy**

The policy is a contract which has four main parts- **Declarations, Insuring Agreement, Conditions and Exclusions**.(DICE)

**Declarations**: the first schedule showing policy number, effective date, insurance amount, names of Insured(s), name in which title is vested, nature of interest and description of land insured.

**Insurance Agreement**: sets forth the particular risks covered, including defense costs and expenses(subject to the exclusions, exceptions and conditions and stipulations). A lender’s policy covers such risks as title being vested other than as stated, defects or
liens, unmarketability, lack of priority over materialmen liens and invalidity or unenforceability of the insured mortgage. An owners policy covers such risks as someone else having an interest in your land, forgeries, liens, rights of others by reason of leases to your land.

**Conditions:** sets forth the definitions of terms under the policy, the circumstances of policy continuation and how claims are handled.

**Exclusions:** sets forth which matters are not covered by title insurance, such as government police power and matters known by the insured but not disclosed to the insuring company.
THE AGENT

1. Q. Individuals attempting to enter the insurance business, in order to succeed, must have a strong sense of responsibility to the public, and be individuals of what nature?

   A. High caliber, intelligent and of strong moral character.

2. Q. Insurance is considered to be what kind of vocation?

   A. Professional Vocational

3. Q. Insurance agents must possess what trait commensurate with their profession?

   A. Knowledge. The insured places his trust in the agent to know his business and be honest and fair. The agent deals with the future of individuals who accept his recommendations.

4. Q. What is an agent’s first duty even though he represents his company?

   A. His first duty is to serve the Insured. (Everyone’s first interest is to the insured).

5. Q. The agent is in every sense an advisor on what kind of matters:

   A. Financial Matters.

6. Q. The insured does not make the terms of the contract so he places his trust in the agent on what two counts?

   A. 1. To know his Business
       2. To be Honest and Fair

7. Q. What is the agent’s utmost position?

   A. One of utmost Good Faith

8. Q. Even though the agent’s first duty is to the INSURED, who does he represent?

   A. The Company

9. Q. What is the fundamental purpose of insurance?

   A. The sharing of losses through proper distribution of the common fund provided by the many to bear the anticipated losses of the few.
10. Q. Who is an insurance agent?

   A. An insurance agent is an individual duly authorized and licensed to represent an insurance company in transactions involving types of insurance which the company is authorized to write in a given state.

11. Q. (a) Who is the Insurer? (b) Who is the Insured?

   A. (a) Insurer is the Company or Principal or Carrier.
   (b) Insured is the Policyholder, Citizen, People, Customers, Clients
GENERAL LAWS OF INSURANCE

1. Q. What is the fundamental purpose of insurance?
   
   A. The sharing of losses through proper distribution of the common fund, provided by many to bear the anticipated losses of a few. It is a transfer of a risk of loss to the company.

2. Q. The Insurance Policy is a legal contract between the insurance company and the policyholder and is subject to the legal requirements of the law of contracts. What are the ELEMENTS of an insurance contract?
   
   A. 1. An Agreement (offer and acceptance)
       2. Competent Parties
       3. Legal Object or Purpose
       4. Consideration (something of value)

3. Q. What does Agreement mean?
   
   A. Agreement is the result of an offer by one party and acceptance by the other, or Mutual Assent. Silence on the part of one party ordinarily indicates rejection.

4. Q. What does competent parties mean?
   
   A. The general rule is that one must be able to understand the nature of the transaction; of legal age; not under the influence of drugs or alcohol. S.C. law states a “minor cannot give a valid receipt”. Therefore, you should not make a contract direct with a minor.

5. Q. What does Legal Object or Purpose mean?
   
   A. In insurance it requires the existence of an insurable interest. The object or purpose must not be contrary to law of Public Policy and have a legal purpose.

6. Q. What is consideration?
   
   A. Basically, it is the Statements in the Application and the settlement of Premium in Life and Health Insurance. Most Property and Casualty policies stipulate that the consideration of the insured shall be “The Provisions and Stipulations and Premiums Paid”. The mere promise to pay is construed to be proper consideration in Property and Casualty Insurance.
7. Q. What is an Insurable Interest?

A. Anyone who would suffer a financial loss or economic hardship in the event of the occurrence of peril or contingency as insured against by the policy has an insurable interest.

8. Q. What are some “Unique Features” of an insurance contract which are different from other contracts? The contract itself is based on Utmost Good Faith of both parties and the only contract that is aleatory and adhesion.

A. 1. Aleatory – equal value is not paid in cash by each party – unequal values.

2. Adhesion – written “to favor” or “in favor” of the company in order to always be able to pay a claim. A termed description of a standard form printed in the contract, prepared by one party and submitted to the other party on a take it or leave it basis, where there is no bargaining power on the part of one party.

3. Executory – the promise to pay in the event of a future occurrence insured against.

4. Unilateral – Uni means one: only one party makes any enforceable promise.

5. Conditional – Based on loss occurring before a performance – something has to happen before it pays, as a condition.

6. Insurable Interest – Someone will suffer financial loss if a loss occurs.

7. Indemnity – The principle of Indemnity is to restore the insured to the exact financial position as they were at the time of the loss or to make the insured whole again.

8. ACV – Actual Cash Value – Replacement less depreciation.

9. Utmost Good Faith – Everything is based on personal integrity because of the “abstract” promise to pay for a future happening. The company cannot control the loss circumstances. Personal Aspect – both the insurer and the policyholder consider the character, credit and conduct of each other.

10. Entirety – when the policy goes into effect, the entire premium is considered earned by the company.

9. Q. What is Subrogation?

A. 1. To “ask in place of” – the right of insurer to take the place of the insured against a third party after the company has already indemnified the insured for his loss.

2. It precludes collecting twice on the same loss.

3. This clause means simply that the insured must assign to the company, any rights he may have against any third party responsible for the loss. This clause enables the company to recover part or all of a loss paid to the insured when the loss results from the negligence of someone else.
10. Q. What is a Waiver?
   A. A voluntary abandonment by a party of a legal right (take-off); whereas, a rider is an add on.

11. Q. What is a Warranty?
   A. The company’s guarantee of the assumption of the risk as outlined in the policy. The company’s statements and stipulations contained in the policy concerning some aspects of the risk the company has assumed. When the application is attached to the policy, then it becomes part of the entire contract.

12. Q. What are Representations?
   A. Representations are material statements made to the company by the applicant in the application, represented as the truth.
      1. They are not a part of the insurance contract but are statements made by the applicant to the insurance company in the process of obtaining the policy.
      2. They may be in the written application or given orally.
      3. Usually concern facts of the past or present and rarely relate to future events.

13. Q. When is an incorrect fact a Misrepresentation?
   A. Only when it is material to the risk, usually given unintentionally.

14. Q. What is Concealment in relation to insurance?
   A. 1. It is willfully withholding hidden facts—Material (important) to the risk.
      2. May exist if an applicant is found guilty of an untruth.
      3. Must be proven by the insurer that the insured was fully aware that the concealed facts were material, that the insurer had no knowledge of the fact. Finally, the insured’s silence was motivated by an intent to defraud.

15. Q. What is the Principle of Indemnity?
   A. The intent of the insurance contract is to make the person with the insurable interest whole again, or restore him to the same conditions he enjoyed prior to the loss.

16. Q. What is insurable Interest?
   A. The purchaser of insurance must be in a position to lose money or something of value if the contingency insured against should happen.
17. Q. What are the powers of insurance agents, usually called “Powers of Agency”?

A. 1. Expressed or Specified – The express powers are those contained in his agency contract.
2. Apparent – Those that the public may reasonably assume the agent has normally by custom.
3. Implied – Those which the agent has exercised beyond the agreement and which the company has failed or neglected to protest. The agent has binding power upon the principal because he acts “as” the principal in most matters.

18. Q. Who has the most power—the Power of Attorney or the Power of Agency?

A. The Power of Attorney acts for a principal in legal matters but the Power of Agency acts “AS” the principal, therefore the agent has “binding” power upon the principal—by his words and deeds.

19. Q. What is Estoppel?

A. If an agent or company has “lulled the insured into a feeling of security” falsely the contract could be voided and the company would be responsible for the acts of the agent is the responsibility of the company. Courts usually rule in behalf of the insured unless there was definite proof otherwise.

20. Q. What is Fiduciary?

A. Holding money in trust for another. The agent is basically understood to have 30-day Fiduciary capacity. (Return of premium should be made as soon as possible—but never later than Fiduciary capacity).

21. Q. The Application is a form that is completed regarding the insured and identifies the subject and type of insurance to be purchased. What are some of its uses?
A. 1. The Application is the basis for underwriting and rating of the policy, but it is also the source of claims when poorly filled out by the agent.
2. When presented by the agent, it is an invitation to make an offer (to purchase insurance). When all consideration is given by the insured, it is an offer made by the insured.
3. The agent can accept the first premium payment and give a binding or conditional receipt depending on the authority granted him by his company, even the insured’s “promise to pay”—(promissory note).

22. Q. If a broker acts in behalf of the insured, in whose behalf does the agent act?

A. The company, even though everyone’s first duty is to the insured.
23. **Q.** What is the penalty for rebating in South Carolina?

   **A.** A fine not in excess of $5,000 or imprisonment, or both, at the discretion of the court, and revocation of license.

24. **Q.** Why is there a requirement of the “Utmost Good Faith” in the Insurance Policy negotiations?

   **A.** Insurance is an abstract promise to pay for a future happening. The Company cannot control loss circumstances.

25. **Q.** Where are an agent’s responsibilities and limitations spelled out?

   **A.** These are spelled out in his agency agreement. (Contract).

26. **Q.** What is a Proof of Loss?

   **A.** A sworn written document by which the insured presents his claim to the insurance company.

27. **Q.** To whom may commissions be paid?

   **A.** Commissions may be paid only to individuals properly licensed as agents or brokers to engage in the insurance business.

28. **Q.** What is an Endorsement?

   **A.** An Endorsement is an agreement not contained in the policy contract, which may be written on or attached to the policy, upon which it becomes part of the contract, bearing language necessary to change the terms of the policy to fit the circumstances. It may modify or change, in some respect, the printed portion of the policy.

29. **Q.** What is “fraud”?

   **A.** “Fraud” is an intentional deception on the part of the insured for the purpose of gaining an advantage or any act of moral turpitude.

30. **Q.** What does the Parole Evidence Rule mean?

   **A.** It states that all terms of an agreement between parties must be stated in their writing because all oral agreements are deemed to merge with the writing. Cannot thereafter modify terms absent mistake or fraud.
31. Q. What are Binders?
   A. Agreements to insure executed by agent or insurer prior to payment of premium.

32. Q. What kind of receipt is used in life insurance?
   A. A Conditional Receipt is used instead of a binder. It indicates tentative approval by the agent but final lies with the home office underwriter.

33. Q. What does “Return of Premium” mean?
   A. Premiums returned to policyholders, principally on cancellation or partial cancellation of contracts, on rate adjustments, or on determination that an advanced premium is in excess of the actual premiums.

34. Q. When should a premium be returned by agent?
   A. Even though all monies should be turned over immediately to the proper place, except that portion belonging to the agent, but never later than his fiduciary capacity of 30 days. Immediately means “as soon as reasonably possible”.

35. Q. What is an Insurable Interest?
   A. 1. Anyone who would suffer a financial loss in the event of the occurrence of the peril or contingency insured against by the policy, has an insurable interest.
      2. Insurable interest must exist at time of loss.
      3. An “economic hardship” would result if the loss should occur.

37. Q. What constitutes a Joint Insurable Interest in property?
   A. Where two or more persons have interest in property, such interest would be jointly insurable. Examples:
      (1) Lienholder / Stockholder
      (2) Bailor / Leaseholder
      (3) Mortgagor / Insured
      (4) Co-Owner / Vendor

38. Q. What is the meaning of Insurable Value in property insurance?
   A. Insurable value is the maximum amount for which the property may be properly insured, usually the cost to replace the property with materials of “like kind and quality” within a reasonable time after the date of loss less depreciation.
39. Q. What is meant by Torts?

   A. A tort is a civil wrong in contrast to a crime. A tort is a legal wrong for which the law would afford a remedy in the form of an action for money damages. It is the category of torts that the liability insurance mechanism is designed to underwrite. Insurance can cover a tort but not a crime.

40. Q. What is the Tort of Negligence?

   A. The Tort of Negligence is one that is probably the subject of more insurance coverage than the other two combined, that of intentional injury or damage, or liability without fault.

41. Q. What is the Law of Negligence?

   A. “Negligence” (careless) is defined as the failure to do what an ordinary, reasonable, prudent man would do under the same or similar circumstances.

42. Q. What is the doctrine of Proximate Cause?

   A. Proximate cause is the natural, efficient cause, which through an uninterrupted chain of events, results in a loss or injury—direct or exact.

43. Q. What is an Intervening cause?

   A. In addition to asserting that he never committed the alleged acts of negligence, the defendant insured may plead that an intervening cause, disrupted the chain of events, thereby freeing him from liability for the original act of negligence.

44. Q. What is Contributory Negligence?

   A. Since the determination of negligence is more a subtle art, than an exact science, it is often to the best economical interest of all parties for the adjuster to compromise a claims settlement when there is some degree of contributory negligence on the part of the claimant.

45. Q. What is Comparative negligence?

   A. When both the plaintiff and defendant are negligent in causing the plaintiff injury, the financial responsibility will be shared by the defendant and the plaintiff in proportion to their relative degree of negligence. (For example, if a plaintiff is judged to be 25% responsible for his own injuries, he would collect only 75% of his damage. If his negligence exceeds 50%, he would be
barred from any recovery).

46. Q. What are the two basic elements that a person may protect himself against by means of insurance?

A. Torts and Negligence.

47. Q. Define concurrency.

A. Concurrency refers to the agreement or lack of agreement in the terms of all policies covering the same hazards of the same risks. In other words, if there are several policies in effect on a specific property, the perils insured, co-insurance requirements, if any, additional riders and endorsements must all be identical if the policies are to be concurrent. The term refers to the coverage itself at any given time.
INSURANCE BASICS

1. Q. What is Insurance?
   A. “Pooling resources of many to share the losses of a few” and by transferring that risk over to the insurance company. It is then shared by a group of persons who pay premiums to that company. Pooling, Sharing, and Transfer.

2. Q. How do you handle risks? (or chance of loss?)
   A. You can insure a “chance of loss” but you cannot insured uncertainty..., therefore a risk has to be measurable. You can handle it by 4-methods: Eliminate it, reduce it, retain it or transfer it.. to something or someone else.

3. Q. How do you transfer a risk?
   A. By contract or agreement to someone else, by means of INSURANCE or, by taking it out yourself.

4. Q. How do you evaluate a risk?
   A. 1) You would assess all the Assets (Property) (Premises) (real & personal)
      2) You would process all information (Operations) (Manufacturing) (Machinery.)
      3) You would need to look at the product (Completed Operations)
      4) You would look at the liability exposure involved with all of this such as:
         a) Premises Liability
         b) Operations Liability
         c) Automobile Liability
         d) Products Liability
         e) Advertising Liability (the spoken & printed word)

5. Q. How do you figure the PML (Probable Maximum Loss) (the most you could lose)?
   A. You would make a study to show how the losses could accumulate such as regular losses in small amounts and sited, as well as how often they occur, then question the needs if the loss should occur such as in the case of school where fees have already been paid and the school burns...not only would you need the building replaced, but temporary quarters...or could be out of operations because of a defective boiler or piping. (Everything is to be considered in figuring PML).
6. Q. How is the law of Large Numbers used in insurance?

   A. The Law of Large Numbers can predict the losses of large group or the future losses of a few.

7. Q. What factors must be used in the Law of Large Numbers?

   A. The losses must be measurable (Ascertainable)
      They must be not intentional (Accidental)
      They must cause an Economic Hardship.
      There should also be Geographic Dispersion of the Exposure Units as companies cannot afford to “put all of their eggs in one basket.” For example, all homes on the coast cannot be insured by one company.

8. Q. What are some of the needs for insurance?

   A. Business needs, Personal Needs, Property Needs, Casualty (Liability) needs, Life Insurance, Health Insurance and Annuities Investments.

9. Q. In Property and Casualty, what are some of the structures of companies?

   A. The oldest of the companies is Lloyds of London, which represents investors who provide capital to insure risks.

10. Q. Are insurance companies required to file rates?

    A. All insurers must file all rates and changes to rates for approval prior to use in an effort to promote the public interest in avoiding excessive rates, inadequate reserves of insurers and discriminatory practices.

11. Q. How is the product of Insurance distributed to the public?

    A. The distribution of insurance can be by “company direct” but most often through agents (Life, Property and Liability), brokers, general agents, sub-agents or state agents, and sometimes through regional and branch offices.

12. Q. In what ways do we find Federal Involvement in Insurance?

    A. NAIC – National Association of Insurance Commissioners
       McCarran-Ferguson Act of 1945 (Public Law 15) – gave states the right to regulate insurance at state level.
       FHA – Federal Housing Administration
       FDIC – Federal Deposit Insurance Corporation
       National Flood Insurance Act
       Federal Crime Insurance
Federal Crop Insurance Corporation
SGLI which can be converted – VGLI (Serviceman’s Group Life Ins.) or (Veterans Group Life Ins.)
Social Security – Old Age/Survivors/Disability Benefits (OASDB)
which has Federal Health Insurance – Medicare and support, also the State and Federally funded program called Title XIX Funds.
Medicaid Occupation Insurance.
**REVIEW**

1. Q. In title insurance, who is protected?
   
   A. The buyer under an owner's policy and the mortgagee under a loan policy.

2. Q. What are some risks not normally covered by title insurance?
   
   A. 1. Zoning
       2. Events occurring subsequent to the policy

3. Q. What are some of the areas of investigation of records in order to obtain good title insurance?
   
   A. Investigation of records, not only in the offices of the county recorder, but also the county clerk, taxing agencies, federal and state courts, and other public agencies.

4. Q. Before title insurance became widespread, how was the title evaluated?
   
   A. The value of the opinion was in proportion to the reputations of the persons involved.

5. Q. What does a title insurance company do?
   
   A. A title insurance company issues a policy based on an attorney's opinion. A title policy covers: Defects, liens or encumbrances against the title, Unmarketability of Title, lack of access, and title being vested other than as stated. Such matters having existed but undiscovered at time policy is issued.

6. Q. A policy of title insurance indemnifies the insured against what loss?
   
   A. A defect in the title, which existed, but was undiscovered at the time the policy was issued.

7. Q. Are defects, arising in the future, covered under the standard title insurance policy?
   
   A. No.

8. Q. How far back does the title search go?
   
   A. The title searcher examines public records beginning with the last recorded deed or encumbrance, and can go back to the patent or grant from the sovereign power.
9. Q. Is there a standard title policy? Is it required?
   
   A. The American Land Title Association Forms are used, but are not required by South Carolina statute.

10. Q. What do all other policies have in common?

   A. They all indemnify the insured for the loss or damage, resulting from an undiscovered defect in the title.

11. Q. What are some of the subjects that a title policy contains?

   A. Declarations, an insurance agreement, a conditions section, and exclusions.

12. Q. The first schedule of a title policy shows standard things such as an insurance policy, name, number and so forth, but the second schedule lists exceptions. What are some of the standard exceptions?

   A. Easements, encroachments, encumbrances which are not a matter of public record, taxes or assessments not shown on existing liens, discrepancies in boundaries, or the shortage in area, water, and mineral rights.

13. Q. If there are certain items that are spelled out such as discovered liens and encumbrances, which of course will not be insured against, what are these called?

   A. Specific exceptions.

14. Q. What does a third schedule cover?

   A. The third schedule of the policy is the legal description of the property, Exhibit A of Schedule A-4.

15. Q. Is there a broader form policy issued for title insurance?

   A. Sometimes extended coverage policies are issued to include insurance over specific known or potential risks.

16. Q. What is the length of an owner’s title insurance policy?

   A. The term of the title insurance is perpetual.

17. Q. How is the premium paid on title insurance?

   A. Single premium for the life of the policy is payable at inception, and covers in one sum the fee for title insurance.
18. Q. Can a title policy be transferred?
   A. No. As a rule, a new policy is issued each time there is a new owner of the property to be insured. One exception exists if the policy is written for a mortgagee that changes its status from mortgagee to title holder, under a foreclosure or some other legal procedure. The mortgagee may then continue to be insured.

19. Q. What is considered the liability of the company for title insurance?
   A. The company will in no case pay more than the policy coverage amount, plus cost of attorney fees.

20. Q. How do you determine the measure of damage if an easement is discovered?
   A. If an easement is discovered, the measure of damage is the difference between the value of property with the easement and without the easement.

21. Q. Is subrogation right included in title insurance?
   A. Yes. The normal subrogation rights exist.

22. Q. Who can become an agent?
   A. Anyone possessing a license and an appointment from a licensed insurance company.

23. Q. If any person acts as a principal agent without the legally required license what penalties could be imposed?
   A. It is a misdemeanor to act as an agent without a license and can be punishable by a fine and imprisonment.

24. Q. May an agent write insurance at the request of another agent and share the fee?
   A. Yes.

25. Q. What is the purpose of the unfair trade practices section of the Insurance Commission?
   A. To deter unfair methods of competition.

26. Q. What is required to create a contract?
   A. Agreement, consideration, competent parties and legal purpose.
27. Q. What is competency?
   A. The ability to understand the nature of the transaction.

28. Q. What is the effect of a contract entered into by one who is incompetent?
   A. The contract is voidable at the maker's option, i.e.: A minor, upon reaching majority, may affirm or disaffirm his contract.

29. Q. What is a conditional contract?
   A. One requiring each party to perform certain acts before enforceable.

30. Q. What is an insurance agent?
   A. One authorized by an insurance company to solicit, create, modify and terminate contracts of insurance between the Company and the public. The agent has the power to bind the Company.

31. Q. What is concealment?
   A. Failure to disclose known facts.

32. Q. The Department of Insurance is composed of how many members?
   A. The Director of Insurance may appoint persons at his pleasure to serve to carry out the objectives and duties of the department.

33. Q. How is the South Carolina Director of Insurance chosen?
   A. The Governor appoints the Director, upon advice and consent of the Senate and the Director serves at the pleasure of the Governor.

34. Q. What are the duties of the Director of Insurance?
   A. 1. Enforce all the insurance laws of the State.
   2. Develop rules and regulations to augment and implement the laws.
   3. Institute civil actions relative to the business of insurance.
   4. Report violations of the insurance laws to the State Attorney General for appropriate legal action.
   5. Make recommendations to the General Assembly concerning insurance laws.
35. Q. What are some of the powers of the Department of Insurance Director?

   A. Has authority to conduct examinations, investigations hearings.

36. Q. What types of power does the Director have?

   A. He has the power of a circuit judge and can subpoena and punish witnesses for contempt by failing to respond or who commit perjury.

37. Q. Where should an appeal of the Director’s orders be filed, and what is the deadline for a review?

   A. Any orders of the Director or his designee are subject to judicial review in accordance with the appellate procedures of administrative law. An appeal must be heard in the Administrative Law Judge Division. An appeal needs to be filed within thirty (30) days from the date of delivery of copy of the order.

38. Q. How many persons can issue licenses to companies to enter into the insurance business and persons to act as agents, adjusters, appraisers and brokers?

   A. Only the Director or his designee.

39. Q. What is a company’s license called?

   A. A Certificate of Authority. If they have been granted a “Certificate of Authority”, they are called “Admitted”, otherwise, they are “Non-Admitted”.

40. Q. What is a general classification of an insurance agent?

   A. A person authorized by an insurance company to represent it and to offer to the public, insurance contracts, and the service pertaining to that contract. Every person who acts in any capacity of an agent must be licensed for the particular kind of insurance transacted and for each insurer represented.

41. Q. What is the definition of a General Agent?

   A. A General Agent is a person assigned to a given territory defined by his contract to represent a company; can appoint local agents, or sub-agents and special agents.
42. Q. What is a special agent or state agent, sometimes referred to as “sub”?
   A. A person employed by an insurance company or a general agency for a specified territory to deal with agents or local agents and to supervise and train them for their duties.

43. Q. To whom can the Director issue a temporary ninety (90) days license without examination?
   A. The next of kin, executor, or administrator of the estate of a deceased licensed without examination?

44. Q. Who must have an agent’s contract?
   A. Every person who acts in the capacity of an agent, or local agent, including a stockholder, officer, director, member, employee, or associate of an agency, that performs any act of an agent. The license must be on their person.

45. Q. Who is classified as a broker?
   A. A person licensed by the insurance commissioner who represents citizens of the state for the purpose of placing insurance through insurers’ licensed in this state or any other state or country.

46. Q. What are the qualifications of the broker?
   A. He must be a licensed resident agent of South Carolina for two years before becoming a broker, and has paid the broker’s license fee and represents the Citizens of the State. He is required to post a Security Bond in the amount of $10,000 in favor of the State of South Carolina. He can only be a broker for those insurance lines for which he was licensed as an agent.

47. Q. Who is an adjuster?
   A. A person who adjusts losses for any insurance company who is licensed to do business in the state. He must pass an exam and be licensed by the Commissioner.

48. Q. Even though South Carolina now has a permanent type license, revoked only by the Insurance Company or the Director, when is the annual renewal date for payment of the license fee for agents?
   A. All agents’ license expire on September 30th of each year without regard to original issue date of the license. All fees are due and payable on October 1st.
49. Q. Who may file for a waiver from taking the license examination?
   A. All applicants who hold CLU or CPCU designations may apply for a waiver.
      A baggage agent (trip, travel, transportation agent) is exempt from the exam.

50. Q. How does a non-resident license applicant qualify for a non-resident license in South Carolina?
   A. 1. He must submit a personal application form and supplemental application for non-residents.
       2. An appointment form from a licensed insurance company of same line as his resident line.
       3. Verification from the Insurance Department of the applicant’s resident state, verifying that he holds the current license to the one being applied for in South Carolina.
       4. The required fee must accompany the application.
       5. The agent’s state must have a reciprocal agreement.
       6. Exemption; Agents residing within a 12-mile radius of Augusta, Georgia and North Augusta, South Carolina may use their Non-resident license as a resident agent in this area only. This is a separate reciprocal agreement for this area only.

52. Q. Who should a non-resident agent place his business through?
   A. 1. He cannot enter the state to solicit policies but must place business through a local resident licensed agent of the same line.
       2. All policies except life insurance must be countersigned by a local agent.

53. Q. No insurance policy is in effect unless it is countersigned except life and health insurance. Who must countersign these policies?
   A. An authorized resident agent of the company licensed by the State of South Carolina.

54. Q. An Insurance agency is defined as a corporation, partnership, association, or other aggregation of individuals transacting the business of an insurance agent under a corporate or trade name. What are some of their requirements?
   A. 1. An insurance agency must be licensed.
       2. Each employee or associate of such agency, performing any act as an agent, must possess a current agent’s license.
       3. An insurance agency is a separate entity.
55. Q. An agent or adjuster acting as an agent without the legally required license is guilty of misdemeanor, and upon conviction is subject to what fine?

A. A fine of not more than $5,000 or imprisonment of not more than two years or both.

56. Q. On what grounds can the Director revoke any license?

A. The Director can revoke any license after a ten day notice, or refuse to re-issue a license when it appears that the license has:
   a) violated the laws of the state but not minor traffic violations.
   b) willfully deceived or dealt unjustly with citizens of the state,
   c) if obtained license by fraud or misrepresentation – he may then immediately be suspended without notice.

57. Q. Premiums returned to the agent by the company must be paid to the insurer within a reasonable time but no later than how many days?

A. 30 days. The agent’s fiduciary capacity (hold in trust) is 30 days.

58. Q. South Carolina Code deals with Unfair Trade Practices in what instances?

A. 1. Misrepresentation or false advertising of policies.
   2. Fraudulently inducing insured to change, alter or retain insurance (twisting)
   3. Misrepresentation in adjusting of claims.
   4. False financial statements.
   5. Any intent to deceive or defamation.
   7. Unfair discrimination in life insurance, annuities and disabilities. (You cannot discriminate between classes or equal expectation of life, but women live longer than men, therefore, there is discrimination between sex).
   8. Misrepresentations of special inducements and rebates prohibited on all insurance contracts.
   9. “Free” insurance or advertisements thereof, prohibited.

59. Q. What constitutes rebating?

A. Rebating is when a reduction is allowed in the authorized rate or premium of any policy of insurance, or when anything of value, not stated in the policy, is given or offered as an inducement to the insured to accept or alter an insurance policy. Nothing in excess of $5.00 (perhaps in advertisements) affecting the agent’s commission can be given as rebating is prohibited by the Unfair Trade Practice Law.
60. Q. What are the purposes of the Code dealing with Unfair Trade practices?
   A. 1. To regulate trade practices.
        2. To define those which constitute unfair methods of competition
        3. Define deceptive acts.

61. Q. Coercion of business by a seller or lender is what? (Coercion means to repress, curb, or restrain by force).
   A. Prohibited by the Unfair Trade Practices Laws.

62. Q. In promoting the sale of insurance, a Company or agent can compare by what method?
   A. By the use of ledger statements or computer printouts – but they must be correct.

63. Q. What is considered Twisting?
   A. Fraudulently inducing insured to change an existing policy.

64. Q. What obligation has an insurance agent to the client?
   A. He should have sufficient knowledge of insurance to enable him to advise properly and accurately his policyholders on insurance matters.

65. Q. What is an “admitted” company?
   A. This refers to the insurance company which is licensed to transact business under the provisions of the laws of this state.

66. Q. What are the reasons for not selling insurance for a company not licensed within this state?
   A. 1. It is unlawful
        2. Results in making the agent personally liable for limits of coverage provided by such policy if the agent fails to comply with the provisions of the Code for unlicensed companies.

67. Q. What do the words “unauthorized company” and non-admitted” company, have in common?
   A. An insurance company is unauthorized within any state for which it is not licensed to do business.
68. Q. An agent's license may not be renewed based on premiums of his own coverage, how is this?

A. If premiums written on policies for the general public did not exceed those premiums written on his personal coverage, or coverage for members of his family, his employer and his employees during the prior license term.

69. Q. All insurance, written in the state, as defined in the Code, must be written or submitted through what kind of agent?

A. Transacted by a regular authorized agent residing in the state, or through the submission of an application by such an agent.

70. Q. As an unlimited licensed agent for Life, Accident and Health, can you sell limited Life, Accident and Health plans?

A. The unlimited licensee for Life, Accident and Health does have the authority to sell limited, such as credit life and credit accident and health insurance.

71. Q. What does “in-force” mean?

A. Insurance on which the premiums are being paid or have been fully paid. In life insurance, usually refers to insurance by face amount. In health, usually refers to premium volume being paid to insurance company or companies in aggregate.

72. Q. Should an agent sign a policy in advance?

A. No, an agent should not sign anything in blank as it would make him personally liable for limit of liability. The trip/travel policy is an exception.

73. Q. Any agent who sells an insurance policy, written or issued by an insurance company, not licensed, (non-admitted) to do business in this state, shall be personally liable for what limits?

A. Liable for the limits of the coverage, provided in such policy, if the agent fails to comply with the provisions of the code, relating to policies issued by companies not licensed to do business in the state.

74. Q. How is “free” insurance advertisement controlled?

A. Section 38-57-170 of the South Carolina Code prohibits the use of the word “free” to describe life, accident, and health insurance in connection with advertising, or offering for sale, any kind of goods, merchandise, or services.
75. Q. In Credit Insurance, how is the insurance cost to be specified?

A. The charges shall be identified separately. Where the premium or charge for insurance is included in the overall purchase price of merchandise or property, the vendor or lender shall separately state and identify the amount charged and to be paid for the insurance.

76. Q. On what basis should you study credits?

A. Basically, credit insurance is sold on group basis and the term goes along with the debt. You never can insure more than the debt and it usually runs out with the debt. The creditor is the policyholder and it pays the debts of the debtor’s debts are cancelled in the process.

77. Q. Can an agent share commissions with another agent?

A. Yes, with a licensed, local, resident agent of the same line or type of license involved up to one-half on the business written.

78. Q. What is the ruling on “free” insurance?

A. No person shall advertise, offer or provide free insurance as an inducement to the purchase. “Free” insurance is insurance for which no identifiable and additional charge is made to the purchaser.

79. Q. What is the schedule of biennial license renewal fees?

A. Agents, Local Agents, Agencies and Adjusters - $40.00
   Brokers - $200.00
   State or Special Agent and General Agent - $100.00
SAMPLE EXAM

1. Every individual who “sells, procures or negotiates title insurance” must have a license to engage in the title insurance business.
   a. true
   b. false
   c. applies to attorneys only
   d. applies to non-attorneys only

2. Title insurance agents’ licenses are renewed
   a. on an annual basis
   b. every two years
   c. automatically, unless revoked by the Insurance Administration
   d. on non-attorney held licenses only.

3. Attorneys must pass the pre-licensing exam in order to qualify for a title insurance agent’s license.
   a. true
   b. false
   c. only if the attorney has been admitted to the Bar for less than a year
   d. Attorneys are exempt from licensing requirements

4. The effective date of a commitment should be:
   a. the date in which the commitment is prepared
   b. the date in which the settlement is to take place
   c. the “good through” date indicated on the title report
   d. the date the lender obtains a copy of the commitment

5. The cost of title insurance in any given transaction is limited to:
   a. the rates the title insurance underwriter, who is assuming the risk, has filed with the SC Department of Insurance
   b. the rates the agent wishes to charge based on the estimated amount of work necessary to complete the closing
   c. the amount the lender set forth for title insurance as evidenced on the Good Faith Estimate
   d. an ongoing bid system.
6. A title insurance policy is:
   a. a contract between the insurer and the insured
   b. a contract of specific indemnity which contains no guarantees—only promises to reimburse for actual loss suffered as the result of any one or more of the Title defects recited in the insuring clause, not excluded from coverage in other parts of the policy and not cured by the insurer after notice of claim or tender of defense
   c. a contract which insures against future loss caused by risks already existing as of the date of the policy
   d. all of the above

7. An owners title insurance policy protects purchasers of residential and commercial properties for a single premium; usually issued at the time of closing on a sale, which remains in effect as long as the insured or the insured’s heirs/devisee retain an interest in the land and the amount of coverage is the full assessed value of the property
   a. true
   b. false

8. A lenders title insurance policy:
   a. protects the party who lends money and takes an interest in real property as collateral and is usually required by the insured lender, as a condition for making the loan.
   b. Typically insures Mortgages and the coverage amount is usually the amount of the mortgage loan
   c. Liability increases as the loan/debt is repaid
   d. A and B

9. The “commitment” for title insurance:
   a. is sometimes called a “binder”
   b. is a document delivered to the insured prior to closing which constitutes an offer by the insurer to insure the estate or interest of the parties listed as the proposed insureds in schedule A
   c. commits the insurer to issue an ALTA owners and/or lenders title insurance policy
   d. all of the above

10. The typical lenders title insurance policy has a terms and provisions section found on the policy jacket wherein the insurer undertakes to insure the insured against actual loss (including attorneys fees) sustained by the insured by reason of:
   a. the invalidity or unenforceability of the lien of the insured mortgage upon the title
   b. the priority of any lien or encumbrance over the lien of the insured mortgage
   c. lack of the priority of the lien of the insured mortgage over any statutory lien for services, labor or material arising from an improvement or work related to the land which is contracted for or commenced prior to the date of the policy or arising from an im-
provenment or work related to the land which is contracted for or commenced subsequent to the date of the policy and which is financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at the date of the policy, the insured has advanced or is obligated to advance

d. the invalidity or unenforceability of any assignment of the insured mortgage provided the assignment is shown in Schedule A
e. the inability or failure of the insured lender to comply with applicable state laws for conducting business in the state
f. all of the above
g. A, B, C and D only

11. Those matters which are specifically not covered by a title insurance policy and for which the insurer will neither pay losses nor defend the insured against causes of action which allege them are called:

a. Alterations
b. Deletions
c. Assignments
d. Exclusions

12. Both lenders and owners title insurance policies specifically do cover loss by the insured with regard to:

a. Governmental police power
b. rights of eminent domain unless notice of the exercise has been recorded in the public records at the date of the policy
c. defects, liens, encumbrances or adverse claims known by the insured claimant but not disclosed by the insured claimant and not recorded in the public records at the date of the policy
d. none of the above

13. Insurance in the nature of “Fidelity Coverage” applies to which of the following examples:

a. a theft of $1,000.00 by a secretary of the firm from the escrow accounts
b. a theft of $1,000.00 by an independent contractor of the firm
c. a theft of $1,000.00 by the owner of the insurance business
d. none of the above

14. The concept of “reinsurance” is best described as:

a. an agreement of the insurer to re-write an existing policy for an additional term
b. substituting an identical policy of insurance within the first annual year of a policy term
c. sharing of risk by the original insurer with other insurers
d. none of above
15. A “binder” in the insurance industry is:

   a. the insurance policy jacket cover containing the State registry number
   b. a temporary contract of insurance
   c. coverage of a generally uninsurable risk
   d. none of the above

16. Which of the following is not an example of a permitted Errors and Omission claim:

   a. an easement is omitted from a title insurance policy by mistake
   b. a survey exception in a title insurance policy is deleted without first obtaining a survey
   c. a gas line easement is omitted from a lender’s policy after the title agent discovers that
      the transaction will fail if the gas line easement is known to the lender
   d. none of the above

17. The right of subrogation under title insurance policies is best described by which of the following:

   a. the right of the insurer to recovery against the party causing the loss after payment to the
      injured party
   b. the right of the insurer to seek additional “risk premiums” from the insured after claims
      are paid under the base policy
   c. the right of the insurer to require insured to pay a deductible prior to payment of the
      claim
   d. none of the above

18. Which of the following matters would not appear in a title report?

   a. easements
   b. chain of title
   c. judgements
   d. location plan

19. Restrictive covenants that affect the title are an example of

   a. a condition to be removed before the policy is issued
   b. an exception to coverage by the policy
   c. a document that does not need to be included in the title report
   d. none of the above

20. An attorney’s opinion letter or certificate of title does the following:

   a. offers legal opinion certifying the marketability of the title
   b. guarantees and insures the title
   c. is a temporary contract of insurance
   d. both “a” and “b”
21. A difference between title insurance and other lines of insurance is that the premium is paid
   a. annually from the escrow account held by the lender at settlement
   b. on the anniversary of the policy’s effective date
   c. **one time, usually at settlement**
   d. semi-annually (as regulated by the state)

22. The following could prove to be a defect in title
   a. forged deed
   b. undisclosed heirs
   c. incorrect notary acknowledgement
   d. **all of the above**

23. If the grantor covenants that he/she will warrant forever the property to the grantee against any claim while he/she was in title only, the grantor is providing a:
   a. leasehold deed
   b. **special warranty deed**
   c. general warranty deed
   d. quit claim deed

24. If the grantor covenants the he/she will warrant forever the property to the grantee against any claim forever, the grantor is providing a:
   a. leasehold deed
   b. **special warranty deed**
   c. **general warranty deed**
   d. quit claim deed

25. The legal description of the property as it appears in the deed is known as
   a. a lot on a subdivision plat
   b. a metes and bounds description
   c. “a” only is correct
   d. **both “a” and “b” are correct**

26. A surveyor would look for which of the following to determine the best boundary marker of a property
   a. the neighbor’s driveway
   b. **monuments**
   c. telephone or electric poles
   d. hedgerow
27. Which of the following would be an example of an “exception” to the policy because it permanently gives up some rights/interests in the land?

a. road widening easement  
b. restrictive covenant  
c. right of way  
d. all of the above

28. The ALTA approved form of the Commitment includes:

b. Schedule A and Schedule B, Part I and II  
c. Schedule A and Schedule B  
d. Schedule A, B and C

29. The satisfaction of an open mortgage is listed as a requirement of closing on the Commitment. Such a requirement is shown as part of:

a. Schedule B, Part I and II  
b. Schedule B, Part I  
c. Schedule A  
d. Schedule A and B, Part I

30. After settlement is complete and all post-closing processes are complete, Schedule B of the Owners Policy will _______ include an exception for a simultaneously acquired loan.

a. never  
b. sometimes  
c. always

31. The legal description attached to both the Commitment and to the Policy is considered complete as long as it discloses:

a. the property address, including the zip code  
b. the property address  
c. the full legal description carried forward from the last vesting instrument the assessment address, such as the county section, block and lot, assigned by the county in which the property lies

32. A Closing Protection Letter can be issued by the underwriter for the benefit of:

a. the borrower(s)  
b. the seller(s)  
c. the insured lender  
d. all of the above
33. In the case wherein the loan qualifies for a Reissue rate, the discounted rate is given on:
   a. the full amount of the new policy
   b. the full amount of the prior loan policy
   c. the amount of the new loan not exceeding the coverage provided in the prior policy
   d. none of the above

State whether the following statements are TRUE or FALSE.

1. **False** An intentional theft of escrow funds by the owner of a business will be covered by the firm’s Errors and Omissions policy of insurance.

2. **False** A Foreign insurance company is a company whose corporate charter is registered outside the continental United States.

3. **True** A Mutual Insurance company is an example of a business enterprise wholly owned by the policy holders of that insurer.

4. **True** A contract of insurance is required by law to be in written form.

5. **False** The evolution of the concept of insuring risk began in the United States during the Industrial Revolution.

6. **True** The promise by the insured to pay the premium for insurance to the insurer is an example of consideration.

7. **True** An insured must be at least 18 years of age to procure a policy of insurance.