



## The Major Legal Issues Real Estate Pros Need to Know

Although your first priority as a new real estate salesperson is to market yourself and your business skills, work with buyers and sellers, and earn a commission, you also need to be mindful of all the legal issues that affect your work. By staying on top of all the laws that govern your daily real estate activities, you can help ensure that you will have a long and prosperous career with a minimum of legal problems.

To help you get started on your legal education, the NATIONAL ASSOCIATION OF REALTORS®' Legal Affairs Department offers these overviews of important legislative and regulatory issues that affect real estate. Keep in mind that NAR primarily tracks federal legal issues, so this article does not offer information about all of the state laws that affect real estate practices. Therefore, you should contact your state REALTOR® association or a local real estate attorney to learn how best to comply with your state's laws.

Following are the major issues covered:

- **Antitrust.** Antitrust laws are designed to ensure competition and prevent monopolies and agreements to restrain trade. The nature of real estate practice makes real estate professionals particularly susceptible to antitrust challenges. Practitioners vigorously compete to secure property listings to offer for sale, but they also regularly cooperate with one another, as subagents, buyers' representatives, or "facilitators" to identify ready, willing, and able buyers for those listings. This dual tradition of competition and cooperation, which exists in few other professions, presents frequent opportunities for antitrust misconduct, whether intentional or inadvertent. In today's business environment, brokers particularly must be conscious of and abide by the requirements of antitrust law. For more information, login with your member NAR username and password [to read the article entitled "Antitrust and the Real Estate Brokerage."](#)
- **Fair Housing.** Fair housing laws are intended to eliminate discriminatory behavior from the housing market. There are both federal and state fair housing laws, and most of these laws apply equally to the sale and rental of property. The federal fair housing laws prohibit housing discrimination based on race, religion, national origin, sex, handicap, and familial status. The laws prohibit conduct such as the refusal to sell or rent housing for discriminatory reasons; steering, which is designed to influence a person's housing choice toward a certain neighborhood based on a discriminatory purpose; and blockbusting, which is an attempt to create sales by playing on discriminatory fears of a community that people of a certain group are moving into the area. For more information, you can read about fair housing [here](#).

- **Lead-Based Paint.** The federal Residential Lead-Based Paint Hazard Reduction Act of 1992 and the subsequent regulations promulgated by the U.S. Department of Housing and Urban Development and the U.S. Environmental Protection Agency generally apply to sale or lease transactions of residential property constructed before 1978. Sellers and lessors of housing to which the regulations apply must provide a federal pamphlet of information on the risks of lead paint and perform other duties, including disclosing all known lead-based paint on the property and providing all testing reports. Any real estate practitioner hired by a seller or lessor to market the property must ensure that the seller or lessor complies with the requirements of the regulations. Under the Act, a buyer also has the right to conduct lead-based paint testing on the property. To learn more, explore [NAR's resources about lead-based paint](#).
- **RESPA.** The Real Estate Settlement Procedures Act was enacted by Congress in 1974. Its goal is to provide consumers with various protections in the homebuying processes and, ultimately, to reduce the cost of homeownership. RESPA focuses on services provided in connection with the settlement of a federally insured mortgage loan. It regulates “abusive” practices by outlawing unearned fees and kickbacks and requires that consumers be provided with information about the settlement process and full disclosure of associated fees. In addition to the federal law, several states have adopted their own versions of legislation addressing these issues, which often are more stringent than RESPA. To learn more about the Real Estate Settlement Procedures Act and related issues, visit [NAR's RESPA page](#).
- **Federal Marketing Restrictions.** Federal laws regulate the use of e-mail, telephone, and fax for solicitation purposes and so impact the marketing activities of real estate professionals. It is important to remember that state laws continue to govern intrastate communications and you will need to be familiar with any such laws in your state. Your state association can likely help you know if there are nuances in your state's laws which may impact your marketing campaign. Click [here](#) to read a brief discussion from NAR on basic compliance with each set of laws, with links to more thorough discussions.
- **Data Security.** As you collect information from consumers, be aware that there are laws which govern the protection and storage of this information. NAR has created a [Data Security and Privacy Tool Kit](#) as an educational tool discussing the various laws which may impact you, as well as checklists on what you may need to do with this information. The tool kit also includes links to state laws.