SLIDE 1 – **Nature of Business Brokerage (Cover Page)**

SLIDE 2

Business Brokerage

Business brokerage is *effecting a sale or exchange of an existing business*. In most cases, the sale of a business entails the simultaneous transfer of an estate in land, whether a leasehold or a fee. Thus to sell businesses, a broker must generally hold a real estate license.

The process of business brokerage is similar to real estate brokerage: a broker secures a listing, procures a purchaser, and facilitates the closing.

Once a ready, willing, and able buyer is found, the broker earns a commission.

SLIDE 3

Business Brokerage Regulation

Licensing – A business broker generally must have an active real estate license. In addition, the broker may need to have a valid securities license since a transaction may entail the sale of securities.

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Business Brokerage vs. Real Property Brokerage

The critical difference between selling a business and selling real estate is that selling a business includes the transfer of *business income, personal property assets*, and, possibly, *liabilities*, in addition to real property. To be competent in this brokerage specialty, a business broker must have specialized skills concerning transactions, accounting, and pricing.

A business broker must also rely on a professional team to complete the transaction. Members of this team would include the client's legal counsel, accountant, and, preferably, a professional appraiser.

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Expertise Required

There are generally two types of business sale transaction for a business broker to be aware of: the *asset sale* and the *stock sale*.

In an asset sale, the purchaser takes possession of some or all of the assets of the business, as well as the real estate, in exchange for the sale price. The purchase usually does not include acquiring the existing business entity or its liabilities. An asset sale is preferred by buyers who want to buy only portions of a business, or to avoid liabilities inherent in a stock purchase.

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In a stock sale, a purchaser acquires complete ownership of a business, including the legal corporate entity, all assets, all financial liabilities, and any current or future legal liabilities arising from incidents that have occurred prior to the sale.

A purchaser may prefer a stock sale to avoid creating a new business entity or to benefit from a possible tax advantage. In addition, a stock sale keeps a business identity intact, which can be very valuable.

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The most common transaction documents in business brokerage are a *sale contract,* an *assignment* or *real estate sale contract,* a *no-compete agreement,* and a *consulting agreement*.

A sale contract sets forth all terms and conditions of the agreement, including exactly what is being sold.

An assignment or real estate sale agreement is an agreement for transferring any and all real property involved in the transaction.

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Transaction Documents

A no-compete agreement is a seller's covenant, for compensation, not to compete with the buyer under prescribed conditions and time periods.

A consulting agreement is an employment agreement that hires the seller to assist the buyer in taking over business operations.

For the most part, transaction documents in business brokerage are not fully standardized. For that reason, a business broker must exercise caution in dealing with document language so as to avoid the unauthorized practice of law.

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Accounting

A broker or agent who wants to undertake business brokerage needs basic proficiency in accounting. In particular, one must know how to read and interpret:

- Income, expenses, and profit on an income statement
- Assets, liabilities, and net worth on a balance sheet

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Income, expenses, and profit

A business's profit is the revenue remaining from gross income after all expenses have been paid. A business broker must evaluate an owner's income and expenses in order to determine what the business may be worth to a buyer. This often involves interpreting which income and expense items will change after the business is sold.

For example, a seller owns a grocery store and uses family members to perform clerical work without pay. If a buyer is a bachelor without children, much of the clerical work will have to be hired out. The additional payroll suddenly changes the store's profitability significantly. Neglecting to consider how income and expenses might change is likely to lead to serious problems in working with buyers.

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Business Assets

The assets of a business include tangible assets and intangible assets.

Tangible assets include:

- Cash and marketable securities
- Inventory
- Trade fixtures and equipment
- Real property
- Accounts receivable

Intangible assets include:

- Company name
- Trademarks
- Copyrights
- Licenses
- Goodwill
- Contracts for future sales of goods or services

In valuing a business, both tangible and intangible assets must be taken into account, even though intangible assets may be very difficult to appraise.

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Business Liabilities

Business liabilities acquired in a corporate stock sale include short-term debt, such as accounts payable, and long-term liabilities, such as mortgages and leases.

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Goodwill

Goodwill is a business brokerage term with two meanings. In one sense, goodwill is an intangible asset consisting of any factor that an owner values in the business, apart from any other specific asset.

For example, goodwill might include reputation, a long history of success in a market, name recognition, a dominant market share, and an excellent business location.

In the second sense, which is more familiar to accountants, goodwill is the difference in value between an owner's price and the value of all other business assets.

For example, if an owner wants $100,000 for a business, and the totality of tangible and intangible assets is valued at $80,000, the goodwill is a $20,000 asset.

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Determining a Price

The most difficult task for a business broker is often finding the proper price range for a business. An owner of a smaller business has probably built the business from scratch and tends to overvalue it.

Such an owner may have incomplete and disorganized accounting records, making the valuation of assets quite difficult.

Finally, a business's true income may be different for one owner than it would be for another because of variations in management style and ability.

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In any case, the value of the business is a function of the following:

- Past, present, and future net profits, and capitalized value of these
- Amount of risk and certainty associated with realizing future profits
- Value of all assets as reflected in the books of account
- Impact of goodwill on the value of the business
- Prices paid for similar businesses
- All other risks associated with the business

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Steps in the Sale of a Business

Business brokers do some (or all) of the following as it relates to the business itself:

- Assist in establishing the value of the business
- Develop a detailed report on the business operations
- Develop a marketing strategy to locate potential buyers
- Screen buyers for the ability to make the purchase
- Maintain absolute confidentiality of the pending sale

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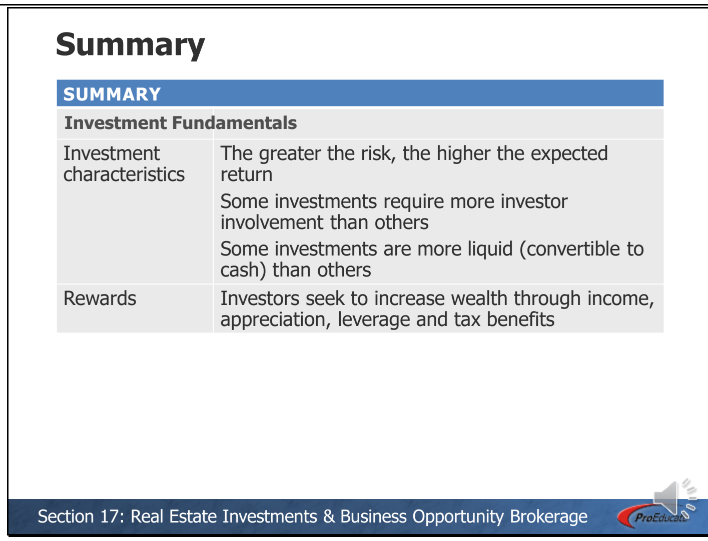

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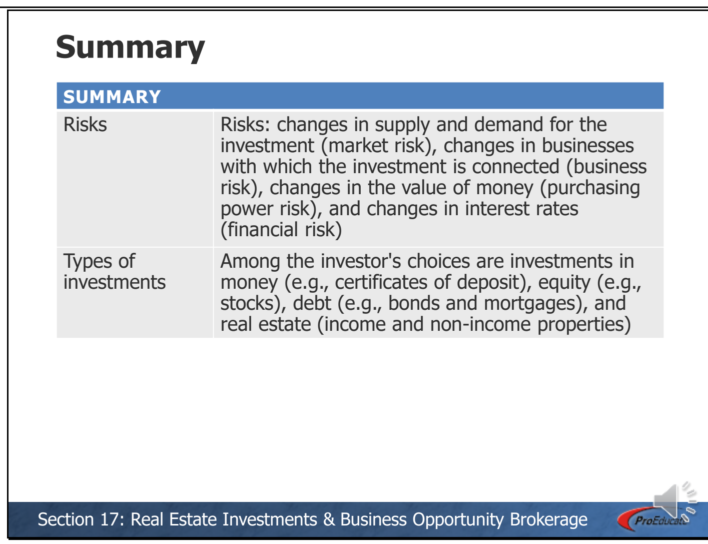

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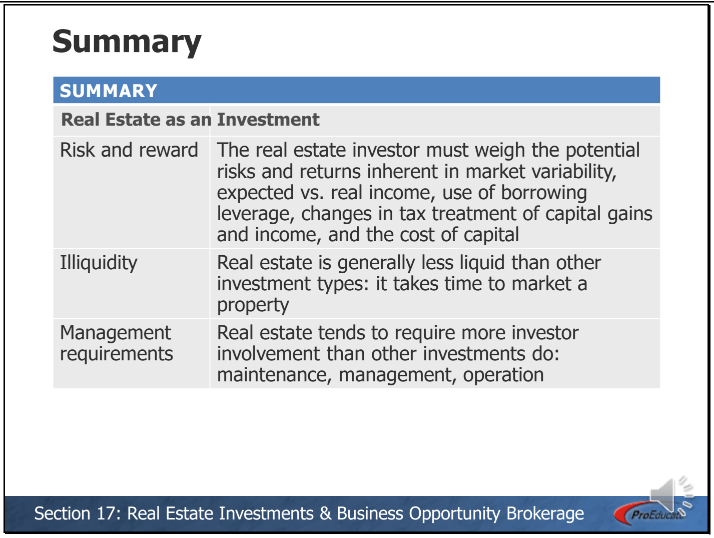

Summary

SUMMARY	
Real Estate as an Investment	
Risk and reward	The real estate investor must weigh the potential risks and returns inherent in market variability, expected vs. real income, use of borrowing leverage, changes in tax treatment of capital gains and income, and the cost of capital
Illiquidity	Real estate is generally less liquid than other investment types: it takes time to market a property
Management requirements	Real estate tends to require more investor involvement than other investments do: maintenance, management, operation

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Summary

SUMMARY	
Function and Organization	
	Sale of existing business and its real estate; opportunity and enterprise brokerage
Business brokerage vs. real estate brokerage	Special skills: transaction knowledge; accounting; determining the price
Transaction knowledge	Types of sale: asset sale and stock sale Documents: sale contract; real estate sale contract or assignment; no-compete agreement; consulting agreement

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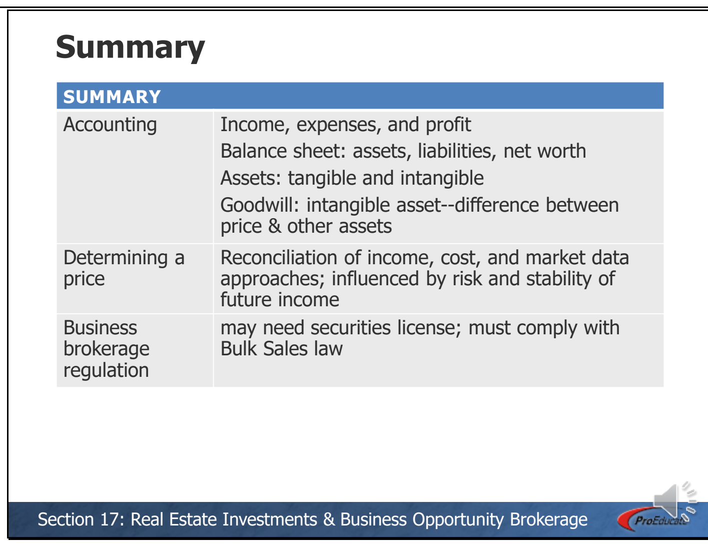

Summary

SUMMARY	
Accounting	Income, expenses, and profit Balance sheet: assets, liabilities, net worth Assets: tangible and intangible Goodwill: intangible asset--difference between price & other assets
Determining a price	Reconciliation of income, cost, and market data approaches; influenced by risk and stability of future income
Business brokerage regulation	may need securities license; must comply with Bulk Sales law