21 NCAC 58A .0101 PROOF OF LICENSURE
(a) The pocket card issued by the Commission annually to each broker shall be retained by the broker as evidence of licensure. Each broker shall produce a legible form of the card as proof of licensure whenever requested while engaging in real estate brokerage.
(b) Every licensed real estate business entity or firm shall prominently display its license certificate or a copy of its license certificate in each office maintained by the entity or firm. A broker-in-charge shall also display his or her license certificate in the office where he or she is broker-in-charge.
(c) A replacement real estate license or pocket card may be obtained by:
   (1) submitting a written request to the Commission that includes the broker or firm’s:
      (A) legal name;
      (B) license number;
      (C) physical and mailing address;
      (D) phone number;
      (E) email address;
      (F) proof of legal name change pursuant to Rule .0103 of this Section, if applicable; and
      (G) signature; and
   (2) paying a five dollar ($5.00) duplicate license fee.

History Note: Authority G.S. 93A-3(c); 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2017; July 1, 2005; April 1, 2004; October 1, 2000; September 1, 1998;
August 1, 1998; April 1, 1997; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0102 BRANCH OFFICE

History Note: Authority G.S. 93A-3(c);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. September 1, 1983;

21 NCAC 58A .0103 BROKER NAME AND ADDRESS
(a) Upon initial licensure, every broker shall notify the Commission of the broker’s current personal name, firm name, trade name, residence address, firm address, telephone number, and email address. All addresses provided to the Commission shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.
(b) Every broker shall notify the Commission in writing of each change of personal name, firm name, trade name, residence address, firm address, telephone number, and email address within 10 days of said change. A broker notifying the Commission of a change of legal name or firm name shall also provide evidence of a legal name change for either the individual or firm, such as a court order or name change amendment from the Secretary of State’s Office.
(c) In the event that any broker shall advertise or operate in any manner using a name different from the name under which the broker is licensed, the broker shall first file an assumed name certificate in compliance with G.S. 66–71.4 and shall notify the Commission in writing of the use of such a firm name or assumed name. An individual broker shall not advertise or operate in any manner that would mislead a consumer as to the broker’s actual identity or as to the identity of the firm with which he or she is affiliated.
(d) A broker shall not include the name of a provisional broker or an unlicensed person in the legal or assumed name of a sole proprietorship, partnership, or business entity other than a corporation or limited liability company. No broker shall use a business name that includes the name of any current or former broker without the permission of that broker or that broker’s authorized representative.
(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing and signed by the parties thereto. Every agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction shall be in writing and signed by the parties at the time of its formation. Every agreement for brokerage services between a broker and a buyer or tenant shall be express and shall be in writing and signed by the parties thereto not later than the time one of the parties makes an offer to purchase, sell, rent, lease, or exchange real estate to another. However, every agreement between a broker and a buyer or tenant that seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and signed by the parties thereto from its formation. A broker shall not continue to represent a buyer or tenant without a written, signed agreement when such agreement is required by this Rule. Every written agreement for brokerage services of any kind in a real estate transaction shall be for a definite period of time, shall include the broker's license number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any subsequent renewals. Every written agreement for brokerage services that includes a penalty for early termination shall set forth such a provision in a clear and conspicuous manner that shall distinguish it from other provisions of the agreement. For the purposes of this Rule, an agreement between brokers to cooperate or share compensation shall not be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not be memorialized in writing.

(b) Every listing agreement, written buyer agency agreement, or other written agreement for brokerage services in a real estate transaction shall contain the following provision: "The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap, or familial status of any party or prospective party." The provision shall be set forth in a clear and conspicuous manner that shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, "familial status" shall be defined as it is in G.S. 41A-3(1b).

(c) In every real estate sales transaction, a broker shall, at first substantial contact with a prospective buyer or seller, provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information. The "Working with Real Estate Agents" publication may be obtained on the Commission's website at www.ncrec.gov or upon request to the Commission.

(d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the transaction without the written authority of each party. The written authority shall be obtained upon the formation of the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency shall be reduced to writing not later than the time that one of the parties represented by the broker makes an offer to purchase, sell, rent, lease, or exchange real estate to another party.

(e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or subagent shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer that the broker represents the interests of the seller. The written disclosure shall include the broker's license number.
If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker shall immediately disclose by similar means whom he or she represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of first substantial contact with the buyer.
(f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he or she represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall include the broker's license number.
(g) The provisions of Paragraphs (c), (d) and (e) of this Rule do not apply to real estate brokers representing sellers in auction sales transactions.
(h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he or she represents the interests of the buyer. The written confirmation may be made in the written agreement.
(i) A firm that represents more than one party in the same real estate transaction is a dual agent and, through the brokers associated with the firm, shall disclose its dual agency to the parties.
(j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to represent only the interests of the seller and one or more other individual brokers associated with the firm to represent only the interests of the buyer in the transaction. The authority for designated agency shall be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under his or her supervision will act as a designated broker for another party with a competing interest.
(k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker designated to represent the buyer:
(1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
(2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
(3) any information about the seller that the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.
(l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker designated to represent the seller:
(1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by the seller;
(2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
(3) any information about the buyer that the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.
(m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.
(n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:
(1) that a party may agree to a price, terms, or any conditions of sale other than those offered;
the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and

any information about a party that the party has identified as confidential, unless disclosure is otherwise required by statute or rule.

(o) A broker who is selling property in which the broker has an ownership interest shall not undertake to represent a buyer of that property except that a broker who is selling commercial real estate as defined in Rule .1802 of this Subchapter in which the broker has less than 25 percent ownership interest may represent a buyer of that property if the buyer consents to the representation after full written disclosure of the broker's ownership interest. A firm listing a property owned by a broker affiliated with the firm may represent a buyer of that property so long as any individual broker representing the buyer on behalf of the firm does not have an ownership interest in the property and the buyer consents to the representation after full written disclosure of the broker's ownership interest.

(p) A broker or firm with an existing listing agreement for a property shall not enter into a contract to purchase that property unless, prior to entering into the contract, the listing broker or firm first discloses in writing to their seller-client that the listing broker or firm may have a conflict of interest in the transaction and that the seller-client may want to seek independent counsel of an attorney or another licensed broker. Prior to the listing broker entering into a contract to purchase the listed property, the listing broker and firm shall either terminate the listing agreement or transfer the listing to another broker affiliated with the firm. Prior to the listing firm entering into a contract to purchase the listed property, the listing broker and firm shall disclose to the seller-client in writing that the seller-client has the right to terminate the listing and the listing broker and firm shall terminate the listing upon the request of the seller-client.

History Note: Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-6(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2015; July 1, 2014; July 1, 2009; July 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; July 1, 1997; August 1, 1996; July 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0105 ADVERTISING

(a) Authority to Advertise.

(1) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate for another or others without the consent of his or her broker-in-charge and without including in the advertisement the name of the firm or sole proprietorship with which the broker is affiliated.

(2) A broker shall not advertise or display a "for sale" or "for rent" sign on any real estate without the written consent of the owner or the owner's authorized agent.

(b) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent, or lease of real estate for others in a manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the broker's principal only. Every such advertisement shall indicate that it is the advertisement of a broker or firm and shall not be confined to publication of only contact information, such as a post office box number, telephone number, street address, internet web address, or e-mail address.

(c) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina broker.

History Note: Authority G.S. 93A-2(a1); 93A-3(c); 93A-9;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2015; April 1, 2013; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
21 NCAC 58A .0106  DELIVERY OF INSTRUMENTS
(a) Except as provided in Paragraph (b) of this Rule, every broker shall deliver a copy of any written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to their customer or client within three days of the broker's receipt of the executed document.
(b) A broker may be relieved of the duty to deliver copies of leases or rental agreements to a property owner pursuant to Paragraph (a) of this Rule if the broker:
   (1) obtains the prior written authority of the property owner to enter into and retain copies of leases or rental agreements on behalf of the property owner;
   (2) executes the lease or rental agreement on a pre-printed form, the material terms of which may not be changed by the broker without prior approval by the property owner, except as may be required by law; and
   (3) delivers to the property owner an accounting within 45 days following the date of execution of the lease or rental agreement that identifies:
      (A) the leased property;
      (B) the name, phone number, and home address of each tenant; and
      (C) the rental rates and rents collected.
(c) Paragraph (b) of this Rule notwithstanding, upon the request of a property owner, a broker shall deliver a copy of any lease or rental agreement within five days.

History Note:  Authority G.S. 93A-3(c);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2017; July 1, 2005; July 1, 2001; October 1, 2000; May 1, 1990; July 1, 1989; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58A .0107  HANDLING AND ACCOUNTING OF FUNDS

History Note:  Authority G.S. 93A-3(c); 93A-9;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. January 1, 2012; April 1, 2006; July 1, 2005; July 1, 2004; July 1, 2003; September 1, 2002; August 1, 2000; August 1, 1998; July 1, 1996; July 1, 1993; May 1, 1990.
Repealed Eff. April 1, 2013.

21 NCAC 58A .0108  RETENTION OF RECORDS
(a) Brokers shall retain records of all sales, rental, and other transactions conducted in such capacity, whether the transaction is pending, completed, or terminated. The broker shall retain records for three years after all funds held by the broker in connection with the transaction have been disbursed to the proper party or parties or the conclusion of the transaction, whichever occurs later. If the broker's agency agreement is terminated prior to the conclusion of the transaction, the broker shall retain such records for three years after the termination of the agency agreement or the disbursement of all funds held by or paid to the broker in connection with the transaction, whichever occurs later.
(b) Records shall include copies of the following:
   (1) contracts of sale;
   (2) written leases;
   (3) agency contracts;
   (4) options;
   (5) offers to purchase;
   (6) trust or escrow records;
   (7) earnest money receipts;
   (8) disclosure documents;
   (9) closing statements;
   (10) brokerage cooperation agreements;
(11) declarations of affiliation;
(12) broker price opinions and comparative market analyses prepared pursuant to G.S. 93A, Article 6, including any notes and supporting documentation;
(13) sketches, calculations, photos, and other documentation used or relied upon to determine square footage;
(14) advertising used to market a property; and
(15) any other records pertaining to real estate transactions.

(c) All records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

(d) Brokers shall provide a copy of the written agency disclosure and acknowledgement thereof when applicable, written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to the firm or sole proprietorship with which they are affiliated within three days of receipt.

History Note: Authority G.S. 93A-3(c);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2004; September 1, 2002; August 1, 1998; February 1, 1989; February 1, 1998;
Temporary Amendment Eff. October 1, 2012;
Amended Eff. July 1, 2018; July 1, 2016; April 1, 2013;

21 NCAC 58A .0109 BROKERAGE FEES AND COMPENSATION

(a) A licensee shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration of more than nominal value from a vendor or a supplier of goods and services for an expenditure made on behalf of the licensee's principal in a real estate transaction without the written consent of the licensee's principal.

(b) A licensee shall not receive, either directly or indirectly, any commission, rebate, or other valuable consideration of more than nominal value for services which the licensee recommends, procures, or arranges relating to a real estate transaction for a party, without full and timely disclosure to such party.

(c) In a real estate sales transaction, a broker shall not receive any compensation, incentive, bonus, rebate, or other consideration of more than nominal value:

(1) from his principal unless the compensation, incentive, bonus, rebate, or other consideration is provided for in a written agency contract prepared in conformity with the requirements of 21 NCAC 58A .0104.

(2) from any other party or person unless the broker provides full and timely disclosure of the incentive, bonus, rebate, or other consideration, or the promise or expectation thereof to the broker's principal. The disclosure may be made orally, but must be confirmed in writing before the principal makes or accepts an offer to buy or sell.

(d) Full disclosure shall include a description of the compensation, incentive, bonus, rebate, or other consideration including its value and the identity of the person or party by whom it will or may be paid. A disclosure is timely when it is made in sufficient time to aid a reasonable person's decision-making.

(e) Nothing in this rule shall be construed to require a broker to disclose to a person not his principal the compensation the broker expects to receive from his principal or to disclose to his principal the compensation the broker expects to receive from the broker's employing broker. For the purpose of this Rule, nominal value means of insignificant, token, or merely symbolic worth.

(f) The Commission shall not act as a board of arbitration and shall not compel parties to settle disputes concerning such matters as the rate of commissions, the division of commissions, pay of brokers, and similar matters.

(g) Except as provided in (h) of this rule, a licensee shall not undertake in any manner, any arrangement, contract, plan or other course of conduct, to compensate or share compensation with unlicensed persons or entities for any acts performed in North Carolina for which licensure by the Commission is required.

(h) A broker may pay or promise to pay consideration to a travel agent in return for procuring a tenant for a vacation rental as defined by the Vacation Rental Act if:

(1) the travel agent only introduces the tenant to the broker, but does not otherwise engage in any activity which would require a real estate license;

(2) the introduction by the travel agent is made in the regular course of the travel agent's business; and
the travel agent has not solicited, handled or received any monies in connection with the vacation rental.

For the purpose of this Rule, a travel agent is any person or entity who is primarily engaged in the business of acting as an intermediary between persons who purchase air, land, and ocean travel services and the providers of such services. A travel agent is also any other person or entity who is permitted to handle and sell tickets for air travel by the Airlines Reporting Corporation (ARC). Payments authorized hereunder shall be made only after the conclusion of the vacation rental tenancy. Prior to the creation of a binding vacation rental agreement, the broker shall provide a tenant introduced by a travel agent a written statement advising him or her to rely only upon the agreement and the broker's representations about the transaction. The broker shall keep for a period of three years records of a payment made to a travel agent including records identifying the tenant, the travel agent and their addresses, the property and dates of the tenancy, and the amount paid.

(i) Nothing in this Rule shall be construed to permit a licensee to accept any fee, kickback or other valuable consideration that is prohibited by the Real Estate Settlement Procedures Act (12 USC 2601 et. seq.) or any rules and regulations promulgated by the United States Department of Housing and Urban Development pursuant to said Act or to fail to make any disclosure required by said Act or rules.

History Note: Authority G.S. 93A-3(c); 93A-6(a)(1); 93A-6(a)(4); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. October 1, 2008; April 1, 2006; July 1, 2005; September 1, 2002; August 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; November 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate one BIC for its principal office and one BIC for each of its branch offices. No office of a firm shall have more than one designated BIC. A BIC shall not serve as BIC for more than one office unless each of those offices share the same physical office space and delivery address.

(b) Every broker who is a sole proprietor shall designate himself or herself as a BIC if the broker:
   (1) engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account;
   (2) engages in advertising or promoting his or her services as a broker in any manner; or
   (3) has one or more other brokers affiliated with him or her in the real estate business.

(c) A licensed real estate firm shall not be required to have a BIC if it:
   (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
   (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;
   (3) has no principal or branch office; and
   (4) has no licensed person associated with it other than its qualifying broker.

(d) A broker who maintains a trust or escrow account for the sole purpose of holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not be required to be a BIC.

(e) In order for a broker to designate as a BIC for a sole proprietor, real estate firm, or branch office, a broker shall apply for BIC Eligible status by submitting an application on a form available on the Commission's website. The BIC Eligible status form shall include the broker's:
   (1) name;
   (2) license number;
   (3) telephone number;
   (4) email address;
   (5) criminal history and history of occupational license disciplinary actions;
   (6) certification of compliance with G.S. 93A-4.2, including that:
      (A) his or her broker license is on active status;
      (B) the broker possesses at least two years of full-time or four years of part-time real estate brokerage experience within the previous five years or shall be a North Carolina licensed
attorney with a practice that consisted primarily of handling real estate closings and related matters in North Carolina for three years immediately preceding application; and

(C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior to application and no later than 120 days after application; and

(7) signature.

(f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor, real estate firm, or branch office. The BIC designation form shall include:

(1) the broker's:
   (A) name;
   (B) license number;
   (C) telephone number;
   (D) email address; and
   (E) criminal history and history of occupational license disciplinary actions; and

(2) the firm's:
   (A) name; and
   (B) license number, if applicable;

(g) A designated BIC shall:

(1) assure that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;

(2) notify the Commission of any change of firm's business address or trade name and the registration of any assumed business name adopted by the firm for its use;

(3) be responsible for the conduct of advertising by or in the name of the firm at such office;

(4) maintain the trust or escrow account of the firm and the records pertaining thereto;

(5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including those required to be retained pursuant to Rule .0108 of this Section;

(6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;

(7) supervise all brokers employed at the office with respect to adherence to agency agreement and disclosure requirements; and

(8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office within 10 days following any such change.

(h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.

(i) A broker's BIC Eligible status shall terminate if the broker:

(1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;

(2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;

(3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's license has been suspended, revoked, or surrendered; or

(4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.

(j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to Paragraph (e) of this Rule.

(k) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

**History Note:** Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9;

*Eff. September 1, 1983*;

*Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2018.*
21 NCAC 58A .0111  DRAFTING LEGAL INSTRUMENTS
(a) A broker acting as an agent in a real estate transaction shall not draft offers, sales contracts, options, leases, promissory notes, deeds, deeds of trust or other legal instruments by which the rights of others are secured; however, a broker may complete preprinted offers, option contracts, sales contracts or lease forms in a real estate transaction when authorized or directed to do so by the parties.
(b) A broker may use electronic, computer, or word processing equipment to store preprinted offer and sales contract forms which comply with Rule .0112, as well as preprinted option and lease forms, and may use such equipment to complete and print offer, contract and lease documents. Provided, however, a broker shall not alter the preprinted form before it is presented to the parties. If the parties propose to delete or change any word or provision in the form, the form must be marked to indicate the change or deletion made. The language of the form shall not be modified, rewritten, or changed by the broker or their clerical employees unless directed to do so by the parties.
(c) Nothing contained in this Rule shall be construed to prohibit a broker from making written notes, memoranda or correspondence recording the negotiations of the parties to a real estate transaction when such notes, memoranda or correspondence do not themselves constitute binding agreements or other legal instruments.

History Note:  Authority G.S. 93A-3(c);
Eff. July 1, 1988;
Amended Eff. April 1, 2013; April 1, 2006; October 1, 2000; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0112  OFFERS AND SALES CONTRACTS
(a) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form describes or specifically requires the entry of the following information:

1. the names of the buyer and seller;
2. a legal description of the real property sufficient to identify and distinguish it from all other property;
3. an itemization of any personal property to be included in the transaction;
4. the purchase price and manner of payment;
5. any portion of the purchase price that will be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and any other terms contained in the promissory note deemed material by the parties;
6. any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by the buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;
7. the amount of earnest money, if any, the method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agent, and the criteria for determining disposition of the earnest money, including disputed earnest money, consistent with Commission Rule .0116 of this Subchapter;
8. any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, and who shall pay loan closing costs, and a condition that the buyer shall make every reasonable effort to obtain the loan;
9. a general statement of the buyer's intended use of the property and a condition that such use must not be prohibited by private restriction or governmental regulation;
10. the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;
11. the date for closing and transfer of possession;
12. the signatures of the buyer and seller;
13. the date of offer and acceptance;
14. a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances specifically approved by the buyer or a provision otherwise describing the estate to be conveyed with encumbrances, and the form of conveyance;
15. the items to be prorated or adjusted at closing;
who shall pay closing expenses;

(17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and improvements, if any;

(18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing;

(19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents; and

(20) any other provisions or disclosures required by statute or rule.

(b) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing:

(1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker or firm; or

(2) any provision that attempts to disclaim the liability of a broker for his or her representations in connection with the transaction.

A broker or anyone acting for or at the direction of the broker shall not insert or cause such provisions or terms to be inserted into any such preprinted form, even at the direction of the parties or their attorneys.

(c) The provisions of this Rule shall apply only to preprinted offer and sales contract forms which a broker acting as an agent in a real estate transaction proposes for use by the buyer and seller. Nothing contained in this Rule shall be construed to prohibit the buyer and seller in a real estate transaction from altering, amending or deleting any provision in a form offer to purchase or contract nor shall this Rule be construed to limit the rights of the buyer and seller to draft their own offers or contracts or to have the same drafted by an attorney at law.

History Note: Authority G.S. 93A-3(c);
Eff. July 1, 1988;
Amended Eff. July 1, 2014; July 1, 2010; July 1, 2009; April 1, 2006; October 1, 2000; July 1, 1995; July 1, 1989; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

Any broker who is convicted of any felony or misdemeanor, or who is disciplined by or enters into a conciliation agreement or consent order with any governmental agency in connection with any occupational license, or whose notarial commission is restricted, suspended, or revoked, shall file with the Commission a Criminal Conviction Disciplinary Action Reporting Form of such conviction or action within 60 days of the final judgment, order, or disposition in the case. The Criminal Conviction Disciplinary Action Reporting Form is available on the Commission's website at www.ncrec.gov or upon request to the Commission. In the Form, the broker shall set forth the broker's:

(1) full legal name;
(2) physical and mailing address;
(3) real estate license number;
(4) telephone number;
(5) email address;
(6) social security number;
(7) date of birth; and
(8) description of the criminal conviction and disciplinary action, including the jurisdiction and file number.

History Note: Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2);
Eff. August 1, 1996;
Amended Eff. July 1, 2016; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2003; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.
(a) Every owner of real property subject to a transfer of the type governed by Chapter 47E of the General Statutes shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy of the complete statement to a buyer in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.

2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (√) in the appropriate box. In responding to questions, you are only obligated to disclose information about which you have actual knowledge.

a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.

b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.

c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.

d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the buyer a corrected Disclosure Statement or correct the problem.

3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.

4. You must give the completed Disclosure Statement to the buyer no later than the time the buyer makes an offer to purchase your property. If you do not, the buyer can, under certain conditions, cancel any resulting contract (See "Note to Buyers" below). You should give the buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the buyer for your records.
Note to Buyers

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

<table>
<thead>
<tr>
<th>Property Address: _____________________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner's Name(s): _____________________________________</td>
</tr>
<tr>
<td>Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.</td>
</tr>
<tr>
<td>Owner Signature:_______________________________________ Date _________, __</td>
</tr>
<tr>
<td>Buyer Signature:_______________________________________ Date ________, __</td>
</tr>
</tbody>
</table>

Property Address/Description:__________________________________________

The following questions address the characteristics and condition of the property identified above about which the owner has actual knowledge. Where the question refers to "dwelling," it is intended to refer to the dwelling unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any structure intended for human habitation.

1. In what year was the dwelling constructed?  ________________ ☐
   Explain if necessary: ________________________________________

2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them? ☐ ☐ ☐

3. The dwelling's exterior walls are made of what type of material? ☐ Brick Veneer ☐ Wood ☐ Stone ☐ Vinyl ☐ Synthetic Stucco ☐ Composition/Hardboard ☐ Concrete ☐ Fiber Cement ☐ Aluminum ☐ Asbestos ☐ Other __________________________ (Check all that apply)

4. In what year was the dwelling's roof covering installed?  ________________ ☐
5. Is there any leakage or other problem with the dwelling's roof? □ □ □

6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab? □ □ □

7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)? □ □ □

8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)? □ □ □

9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning? □ □ □

10. What is the dwelling's heat source? □ Furnace □ Heat Pump □ Baseboard □ Other ______________________ (Check all that apply)
Age of system: ________________ □ □ □

11. What is the dwelling's cooling source? □ Central Forced Air □ Wall/Window Unit(s) □ Other ______________________ (Check all that apply)
Age of system: ________________ □ □ □

12. What is the dwelling's fuel sources? □ Electricity □ Natural Gas □ Propane □ Oil □ Other ______________________ (Check all that apply)
If the fuel source is stored in a tank, identify whether the tank is □ above ground or □ below ground, and whether the tank is □ leased by seller or □ owned by seller. (Check all that apply)

13. What is the dwelling's water supply source? □ City/County □ Community System □ Private Well □ Shared Well □ Other ______________________ (Check all that apply)

14. The dwelling's water pipes are made of what type of material? □ Copper □ Galvanized □ Plastic □ Polybutylene □ Other ______________________ (Check all that apply)

15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)? □ □ □

16. What is the dwelling's sewage disposal system? □ Septic Tank □ Septic Tank with Pump □ Community System □ Connected to City/County System □ City/County System available □ Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates State law]) □ Other ______________________ (Check all that apply)

17. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "Yes," how many bedrooms are allowed? ____________ □ No records available.

18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system? □ □ □
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems? □ □ □

20. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)? □ □ □

21. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired? □ □ □

22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property? □ □ □

23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property? □ □ □

24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)? □ □ □

25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property? □

26. Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property? □ □ □

27. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property? □ □ □

28. Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property? □ □ □

29. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? □ □ □

30. Does the property abut or adjoin any private road(s) or street(s)? □ □ □

31. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street? □ □ □

If you answered "yes" to any of the questions listed above (1-31) please explain (attach additional sheets if necessary):

____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.
The following questions pertain to the property identified above, including the lot to be conveyed and any dwelling unit(s), sheds, detached garages, or other buildings located thereon.

32. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?  
If you answered "yes" to the question above, please explain (attach additional sheets if necessary):

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

33. Is the property subject to regulation by one or more owners' association(s) including, but not limited to, obligations to pay regular assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]:

(specify name) ___________________________________________ whose regular assessments ("dues") are $ ____________ per ____________. The name, address and telephone number of the president of the owners' association or the association manager are ____________________________________________________________________

(specify name) ___________________________________________ whose regular assessments ("dues") are $ ____________ per ____________. The name, address and telephone number of the president of the owners' association or the association manager are ____________________________________________________________________

* If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.

34. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees:

________________________________________________________________________
________________________________________________________________________

35. As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to which the property is subject:

________________________________________________________________________

36. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments
against or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:

______________________________________________________________________________________________
______________________________________________________________________________________________

37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:

______________________________________________________________________________________________
______________________________________________________________________________________________

38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply.)

<table>
<thead>
<tr>
<th>Service/Amenity</th>
<th>Yes</th>
<th>No</th>
<th>No Representation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exterior Building Maintenance of Property to be Conveyed</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Master Insurance</td>
<td></td>
<td></td>
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<tr>
<td>Exterior Yard/Landscaping Maintenance of Lot to be Conveyed</td>
<td></td>
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<tr>
<td>Common Areas Maintenance</td>
<td></td>
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<tr>
<td>Trash Removal</td>
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<tr>
<td>Recreational Amenity Maintenance (specify amenities covered)</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Pest Treatment/Extermination</td>
<td></td>
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<tr>
<td>Street Lights</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Water</td>
<td></td>
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<td></td>
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<tr>
<td>Sewer</td>
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<td></td>
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<tr>
<td>Storm Water Management/Drainage/Ponds</td>
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<tr>
<td>Internet Service</td>
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<tr>
<td>Cable</td>
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<tr>
<td>Private Road Maintenance</td>
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<tr>
<td>Parking Area Maintenance</td>
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<td></td>
</tr>
<tr>
<td>Gate and/or Security</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other: (specify)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Buyer Initials and Date ________________________        Owner Initials and Date _______________________
Buyer Initials and Date ________________________        Owner Initials and Date _______________________

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the text of the form shall not be altered or amended in any way.
(c) The form described in Paragraph (a) of this Rule as amended effective July 1, 2018, applies to all properties placed on the market on or after July 1, 2018. The form described in Paragraph (a) of this Rule as amended effective July 1, 2014, applies to all properties placed on the market prior to July 1, 2018. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after July 1, 2018, for a property placed on the market prior to July 1, 2018, the form described in Paragraph (a) of this Rule as amended effective July 1, 2018, shall be used.
21 NCAC 58A .0115 DISCLOSURE OF OFFERS PROHIBITED
A broker shall not disclose the price or other material terms contained in a party's offer to purchase, sell, lease, rent, or to option real property to a competing party without the express authority of the offering party.

21 NCAC 58A .0116 HANDLING OF TRUST MONEY
(a) Except as provided in Paragraph (b) of this Rule, all monies received by a broker acting in his or her fiduciary capacity (hereinafter "trust money") shall be deposited in a trust or escrow account as defined in Rule .0117(b) of this Section no later than three banking days following the broker's receipt of such monies.

(b) Exceptions to the requirements of Paragraph (a):
(1) All monies received by a provisional broker shall be delivered upon receipt to the broker with whom he or she is affiliated.
(2) All monies received by a non-resident commercial broker shall be delivered as required by Rule .1808 of this Subchapter.
(3) Earnest money or tenant security deposits paid by means other than currency and received by a broker in connection with a pending offer to purchase or lease shall be deposited in a trust or escrow account no later than three days following acceptance of the offer to purchase or lease; the date of acceptance of the offer or lease shall be set forth in the purchase or lease agreement.
(4) A broker may accept custody of a check or other negotiable instrument made payable to the seller of real property as payment for an option or due diligence fee, or to the designated escrow agent in a sales transaction, but only for the purpose of delivering the instrument to the seller or designated escrow agent. While the instrument is in the custody of the broker, the broker shall, according to the instructions of the buyer, either deliver it to the named payee or return it to the buyer. The broker shall safeguard the instrument and be responsible to the parties on the instrument for its safe delivery as required by this Rule. A broker shall not retain an instrument for more than three business days after the acceptance of the option or other sales contract.

(c) Prior to depositing trust money into a trust or escrow account that bears interest, the broker having custody over the money shall first secure written authorization from all parties having an interest in the money. Such authorization shall specify and set forth in a conspicuous manner how and to whom the interest shall be disbursed.

(d) In the event of a dispute between buyer and seller or landlord and tenant over the return or forfeiture of any deposit other than a residential tenant security deposit held by the broker, the broker shall retain the deposit in a trust or escrow account until the broker has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, the broker may deposit the disputed monies with the appropriate Clerk of Superior Court in accordance with the provisions of G.S. 93A-12. If it appears that one of the parties has abandoned his or her claim to the funds, the broker may disburse the money to the other claimant according to the written agreement. Before doing so, however, the broker must first make a reasonable effort to notify the absent party and provide that party with an opportunity to renew his or her claim to the funds. Tenant security deposits shall be disposed of in accordance with G.S. 42-50 through 56 and G.S. 42A-18.

(e) A broker may transfer an earnest money deposit from his or her trust or escrow account to the closing attorney or other settlement agent no more than 10 days prior to the anticipated settlement date. A broker shall not disburse prior to settlement any earnest money in his or her possession for any other purpose without the written consent of the parties.
(f) A broker shall not disburse trust money to or on behalf of a client in an amount exceeding the balance of trust money belonging to the client and held in the trust account.

(g) Every broker shall safeguard any money or property of others that comes into the broker's possession in a manner consistent with the Real Estate License Law and Commission rules. A broker shall not convert the money or property of others to his or her own use, apply such money or property to a purpose other than that it was intended for, or permit or assist any other person in the conversion or misapplication of such money or property.

**History Note:** Authority G.S. 93A-3(c); 93A-6;
Eff. April 1, 2013;
Amended Eff. July 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .0117 ACCOUNTING FOR TRUST MONEY**

(a) A broker shall create, maintain and retain records sufficient to identify the ownership of all funds belonging to others. Such records shall be sufficient to show proper deposit and disbursement of such funds into and from a trust or escrow account and to verify the accuracy and proper use of the trust or escrow account.

(b) A trust or escrow account shall satisfy the requirements of G.S. 93A-6(g) and shall be designated as a "Trust Account" or "Escrow Account." All bank statements, deposit tickets and checks drawn on said account shall bear the words "Trust Account" or "Escrow Account." A trust account shall provide for the full withdrawal of funds on demand without prior notice and without penalty or deduction to the funds.

(c) A broker shall create, maintain or retain, as required by Rule .0108 of this Section, the following records:

1. bank statements;
2. canceled checks and other evidence or memoranda of payments from the trust or escrow account, whether by transfer between accounts, wire payments, or payments by electronic means, that shall be referenced to the corresponding journal entry or check stub entries and to the corresponding sales transaction ledgers or for rental transactions, the corresponding property or owner ledgers. Checks and other evidence or memoranda of payments from the account shall identify the payee by name and shall bear a notation identifying the purpose of the disbursement. When a payment is used to disburse funds for more than one sales transaction, owner, or property, the check or other evidence or memoranda of payment shall bear a notation identifying each sales transaction, owner, or property for which disbursement is made, including the amount disbursed for each, and the corresponding sales transaction, property, or owner ledger entries. When necessary, the check notation may refer to the required information recorded on a supplemental disbursement worksheet that shall be cross-referenced to the corresponding check or payment. In lieu of retaining canceled checks, a broker may retain digitally imaged copies of the canceled checks or substitute checks provided that such images are legible reproductions of the front and back of such instruments with no smaller images than 1.1875 x 3.0 inches and provided that the broker's bank retains for a period of at least five years the original checks, "substitute checks" as described in 12 C.F.R. 229.51 or the capacity to provide substitute checks as described in 12 C.F.R. 229.51 and makes the original or substitute checks available to the broker and the Commission upon request. The description of "substitute checks" contained in 12 C.F.R. 229.51 is incorporated by referencing, including subsequent amendments and additions. The regulation may be accessed at www.gpo.gov at no charge.

3. deposit tickets or other evidence or memoranda of deposits or payments into the account, whether by transfer between accounts, wire payments, or payments by electronic means:

   A. for a sales transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the property, the parties involved, and a reference to the corresponding sales transaction ledger;

   B. for a rental transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the tenant, and the corresponding property or owner ledger;

   C. for deposits of funds belonging to or collected on behalf of a property owner association, the deposit ticket or other evidence or memoranda of deposits or payments into the
account shall identify the property or property interest for which the payment is made, the property or interest owner, the remitter, and the purpose of the payment;

(D) when a single deposit ticket or payment is used to deposit funds collected for more than one sales transaction, property owner, or property, the required information may either be recorded on the ticket or other evidence or memoranda of deposits or payments into the account for each sales transaction, owner, or property, or it may refer to the same information recorded on a supplemental deposit worksheet that shall be cross-referenced to the corresponding deposit ticket;

(4) a separate ledger for each sales transaction, for each property or owner of property managed by the broker and for company funds held in the trust account:

(A) the ledger for a sales transaction shall identify the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry;

(B) the ledger for a rental transaction shall identify the particular property or owner of property, the tenant, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry. Monies held as tenant security deposits in connection with rental transactions may be accounted for on a separate tenant security deposit ledger for each property or owner of property managed by the broker. For each security deposit, the tenant security deposit ledger shall identify the remitter, the date the deposit was paid, the amount, the tenant, landlord, and subject property as well as the check number, amount, date, payee, purpose and a running balance for each disbursement. When tenant security deposit monies are accounted for on a separate ledger as provided in this Rule, deposit tickets, canceled checks and supplemental worksheets shall reference the corresponding tenant security deposit ledger entries;

(C) a broker may maintain a maximum of one hundred dollars ($100.00) in company funds in a trust account for the purpose of paying service charges incurred by the account. In the event that the services charges exceed one hundred dollars ($100.00) monthly, the broker may deposit an amount each month sufficient to cover the service charges. A broker shall maintain a separate ledger for company funds held in the trust account identifying the date, amount and running balance for each deposit and disbursement;

(a) the ledger for a sales transaction shall identify the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry;

(b) the ledger for a rental transaction shall identify the particular property or owner of property, the tenant, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to whom paid, and the running balance of funds on deposit for each deposit and disbursement entry. Monies held as tenant security deposits in connection with rental transactions may be accounted for on a separate tenant security deposit ledger for each property or owner of property managed by the broker. For each security deposit, the tenant security deposit ledger shall identify the remitter, the date the deposit was paid, the amount, the tenant, landlord, and subject property as well as the check number, amount, date, payee, purpose and a running balance for each disbursement. When tenant security deposit monies are accounted for on a separate ledger as provided in this Rule, deposit tickets, canceled checks and supplemental worksheets shall reference the corresponding tenant security deposit ledger entries;

(c) a broker may maintain a maximum of one hundred dollars ($100.00) in company funds in a trust account for the purpose of paying service charges incurred by the account. In the event that the services charges exceed one hundred dollars ($100.00) monthly, the broker may deposit an amount each month sufficient to cover the service charges. A broker shall maintain a separate ledger for company funds held in the trust account identifying the date, amount and running balance for each deposit and disbursement;

(d) Records of all receipts and disbursements of trust or escrow monies shall be maintained in such a manner as to create an audit trail from deposit tickets and canceled checks to check stubs or journals and to the ledger sheets.
(e) Brokers shall reconcile their trust or escrow accounts monthly. The trust account reconciliation shall be performed in the following manner as of a specific cutoff date selected by the broker:

1. A trial balance shall be prepared showing a list of the property or owner ledgers, their balances, and the total of all of the property or owner ledger balances as of the cutoff date;
2. A bank statement shall be reconciled by deducting from the statement's ending balance the amount of any outstanding checks and then adding to the balance the amount of any deposits-in-transit as of the cutoff date; and
3. The trial balance, reconciled bank statement balance, and the journal balance shall be compared as of the cutoff date. If the amounts on the trial balance, journal balance and reconciled bank balance do not agree, the broker shall investigate the reason for any variation between the balances and make the necessary corrections to bring the balances into agreement.

A broker shall maintain and retain a worksheet for each monthly trust account reconciliation showing the balance of the journal or check stubs, the trial balance and the reconciled bank statement balance to be in agreement as of the cutoff date.

(f) In addition to the records required by Paragraph (c) of this Rule, a broker acting as agent for the landlord of a residential property used for vacation rentals shall create and maintain either a subsidiary ledger sheet for each property or owner of such properties on which all funds collected and disbursed are identified in categories by purpose or an accounts payable ledger for each owner or property and each vendor to whom trust monies are due. If a broker maintains a subsidiary ledger, the broker shall reconcile the subsidiary ledgers to the corresponding property or property owner ledger on a monthly basis. If a broker maintains an accounts payable ledger, the broker shall record on the ledger monies collected on behalf of the owner or property identifying the date of receipt of the trust monies, from whom the monies were received, rental dates, and the corresponding property or owner ledger entry including the amount to be disbursed for each and the purpose of the disbursement. The broker may also maintain an accounts payable ledger in the format described above for vacation rental tenant security deposit monies and vacation rental advance payments.

(g) Upon the written request of a client, a broker shall, no later than ten days after receipt of the request, furnish the client with copies of any records retained as required by Rule .0108 of this Section that pertain to the transaction to which the client was a party.

(h) All trust or escrow account records shall be made available for inspection by the Commission or its authorized representatives in accordance with Rule .0108 of this Section.

History Note: Authority G.S. 93A-3(c); 93A-6;
Eff. April 1, 2013;
Amended Eff. July 1, 2014;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0118 TRUST MONEY BELONGING TO PROPERTY OWNERS’ ASSOCIATIONS

(a) The funds of a property owners’ association, when collected, maintained, disbursed or otherwise controlled by a broker, are trust money and shall be treated as such in the manner required by Rules .0116 and .0117 of this Section. Such trust money shall be deposited into and maintained in a trust or escrow account dedicated exclusively for trust money belonging to a single property owners’ association and shall not be commingled with funds belonging to other property owners’ associations or other persons or parties. A broker who undertakes to act as manager of a property owners’ association or as the custodian of trust money belonging to a property owners’ association shall provide the association with periodic statements that report the balance of association trust money in the broker's possession or control and account for the trust money the broker has received and disbursed on behalf of the association. Such statements must be made in accordance with the broker's agreement with the association, but not less frequently than every 90 days.

(b) A broker who receives trust money belonging to a property owners’ association in his or her capacity as an officer of the association in a residential development in which the broker is a property owner and for which the broker receives no compensation is exempt from the requirements of Rules .0116 and .0117 of this Section. However, the broker shall not convert trust money belonging to the association to his or her own use, apply such money or property to a purpose other than that for which it was intended or permit or assist any other person in the conversion or misapplication of such money or property.

History Note: Authority G.S. 93A-3(c); 93A-6;
21 NCAC 58A .0119 MINERAL AND OIL AND GAS RIGHTS MANDATORY DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type governed by G.S. 47E-1 and 47E-2(b) shall complete a disclosure statement form prescribed by the Commission and designated "Mineral and Oil and Gas Rights Mandatory Disclosure Statement," and shall furnish a copy of the completed form to a purchaser as required by G.S. 47E-4.1. The form shall bear the seal of the North Carolina Real Estate Commission and shall include the following:

1. instructions to property owners regarding transactions when the disclosure statement is required;
2. the text and format of the disclosure statement form as required by G.S. 47E-4.1(a);
3. a note to purchasers regarding their rights under G.S. 47E-5 in the event they are not provided with a disclosure statement as required by G.S. 47E-4.1;
4. the identification of the subject property and the parties to the transaction;
5. an acknowledgment by the owner(s) that the disclosure statement is true and correct as of the date signed; and
6. an acknowledgment by the buyer(s) of the receipt of a copy of the disclosure statement.

(b) The disclosure statement form described in Paragraph (a) of this Rule shall be available on the Commission’s website at www.ncrec.gov or upon request to the Commission.

(c) The disclosure statement form described in Paragraph (a) of this Rule may be reproduced, but the text of the form shall not be altered or amended in any way.

(d) Every broker representing a party in a real estate transaction governed by G.S. 47E-1 and 47E-2(b) shall inform each client of the client's rights and obligations under G.S. Chapter 47E.

(e) The disclosure statement form described in Paragraph (a) of this Rule applies to all contracts executed on or after January 1, 2015.

History Note: Authority G.S. 47E-4.1; 47E-4.1(b); 47E-5; 47E-8; 93A-3(c); 93A-6; Temporary Adoption Eff. January 1, 2015; Eff. July 1, 2015.

SECTION .0200 - GENERAL PROVISIONS

21 NCAC 58A .0201 DEFINITIONS
21 NCAC 58A .0202 BOARD: DESCRIPTION: OFFICES
21 NCAC 58A .0203 MAILING ADDRESS
21 NCAC 58A .0204 PURPOSE

History Note: Authority G.S. 93A-3(a),(c),(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 11, 1980; September 1, 1979; Repealed Eff. June 1, 1981.

SECTION .0300 – APPLICATION FOR LICENSE

21 NCAC 58A .0301 FORM

An individual or business entity who wishes to file an application for a broker license shall make application on a form prescribed by the Commission and may obtain the required form upon request to the Commission. The application form for an individual calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior real estate licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure. The application form for a business entity is described in Rule .0502 of this Section.
21 NCAC 58A .0302  LICENSE APPLICATION AND FEE
(a) The fee for an original application of a broker or firm license shall be one hundred dollars ($100.00).
(b) An applicant shall update information provided in connection with a license application in writing to the Commission or submit a new application form that includes the updated information without request by the Commission to ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a broker or firm in accordance with G.S. 93A-6(b)(1). Upon the request of the Commission, an applicant shall submit updated information or provide additional information necessary to complete the application within 90 days of the request or the license application shall be canceled.
(c) The license application of an individual shall be canceled if the applicant fails to:
   (1) pass a scheduled license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or
   (2) appear for and take any scheduled examination without having the applicant's examination postponed or absence excused pursuant to Rule .0401 of this Subchapter.

History Note:  Authority G.S. 93A-4; 93A-6(b)(1); 93A-9;
Eff. February 1, 1976;
Amended Eff. April 1, 2004; July 1, 2000; December 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0303  PAYMENT OF APPLICATION FEES

History Note:  Authority G.S. 93A-3(c); 93A-4(a),(d);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2004; July 1, 2000; December 1, 1985;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.

21 NCAC 58A .0304  WAIVER OF 75-HOUR PRELICENSING EDUCATION REQUIREMENT
The Commission shall grant a waiver of the 75-hour education program pursuant to G.S. 93A-4(a) if an applicant submits:
   (1) an application pursuant to Rule .0301 of this Section;
   (2) a written request for a waiver of the 75-hour education program; and either
   (3) a transcript and copy of a baccalaureate or higher degree in the field of real estate, real estate brokerage, real estate finance, real estate development, or a law degree conferred on the applicant from any college or university accredited by a college accrediting body recognized by the U. S. Department of Education; or
   (4) a course completion certificate or transcript evidencing the completion of a prelicensing education program in another state that:
      (a) consisted of at least 75-hours of instruction;
      (b) was completed within one year prior to license application while the applicant was a resident of said state; and
      (c) is parallel to the topics and timings described in the Commission's Prelicensing course syllabus.
**Petition for Predetermination**

(a) An individual who wishes to file a petition for a predetermination of whether the individual's criminal history will likely disqualify the individual from obtaining a real estate license shall submit a petition on the Commission's website.

(b) The petition shall include the petitioner's:

1. legal name;
2. mailing, physical, and email addresses;
3. social security number;
4. date of birth;
5. telephone number;
6. places of residence for the past seven years;
7. employment history during the last three years or since the date of the petitioner's last criminal conviction, whichever is greater;
8. criminal record report prepared by the Commission's approved independent vendor pursuant to G.S. 93B-8.1 no more than 60 days prior to the date of petition;
9. written statement describing the circumstances surrounding the commission of the crime(s);
10. written statement of any rehabilitation efforts, if applicable;
11. rehabilitative drug or alcohol treatments, if applicable;
12. Certificate of Relief granted pursuant to G.S. 15A-173.2, if applicable;
13. affidavits or other written documents, including character references;
14. certification that the information is true and accurate; and
15. signature.

(c) The fee for a petition for predetermination shall be forty-five dollars ($45.00).

**Scheduling Examinations**

(a) An applicant who is required and qualified to take the licensing examination shall be provided a notice of examination eligibility that shall be valid for a period of 180 days and for a single administration of the licensing examination. Upon receipt of the notice of examination eligibility, the applicant shall contact the Commission's authorized testing service to pay for and schedule the examination in accordance with procedures established by the testing service. The testing service will schedule applicants for examination by computer at their choice of one of the testing locations and will notify applicants of the time and place of their examinations.

(b) An applicant may postpone a scheduled examination provided the applicant makes the request for postponement directly to the Commission's authorized testing service in accordance with procedures established by the testing service. An applicant's examination shall not be postponed beyond the 180 day period allowed for taking the examination without first refiling another complete application with the Commission. A request to postpone a scheduled licensing examination without complying with the procedures for re-applying for examination described in Rule .0403 of this Section shall be granted only once unless the applicant satisfies the requirements for obtaining an excused absence stated in Paragraph (c) of this Rule.

(c) An applicant may be granted an excused absence from a scheduled examination if the applicant provides evidence that the absence was the direct result of an emergency situation or condition which was beyond the applicant's control and which could not have been reasonably foreseen by the applicant. A request for an excused absence must be promptly made in writing and must be supported by documentation verifying the reason for the absence. The request must be submitted directly to the testing service in accordance with procedures established by the testing service. A request for an excused absence from an examination shall be denied if the applicant cannot be
rescheduled and examined prior to expiration of the 180 day period allowed for taking the examination without first refiling another complete application with the Commission.

**History Note:** Authority G.S. 93A-4(b),(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. April 1, 2004; October 1, 2000; July 1, 1996; July 1, 1989; February 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

### 21 NCAC 58A .0402 EXAMINATION SUBJECT MATTER, FORMAT, AND PASSING SCORES

(a) The real estate licensing examination shall test applicants on the following general subject areas:

1. real estate law;
2. real estate brokerage law and practices;
3. the Real Estate License Law, rules of the Commission, and the Commission's trust account guidelines;
4. real estate finance;
5. real estate valuation (appraisal);
6. real estate mathematics; and
7. related subject areas.

(b) The real estate licensing examination shall consist of two sections, a "national" section on general real estate law, principles, and practices and a "state" section on North Carolina real estate law, principles, and practices. Unless the "national" section is waived by the Commission for an applicant based on its authority under G.S. 93A-9, an applicant shall pass both sections of the examination in order to pass the examination.

(c) In order to pass the real estate licensing examination, an applicant shall attain a score for each required section of the examination that is at least equal to the passing score established by the Commission for each section of the examination in compliance with psychometric standards for establishing passing scores for occupational licensing examinations as set forth in the "Standards for Educational and Psychological Testing" jointly promulgated by the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education. The "Standards for Educational and Psychological Testing" are incorporated by referencing, including subsequent amendments and editions. A copy of the "Standards for Educational and Psychological Testing" is available for inspection at the North Carolina Real Estate Commission's office, whose address is posted on its website at www.ncrec.gov. Copies of the "Standards for Educational and Psychological Testing" may be ordered from the American Education Research Association through its website at www.aera.net at a charge of sixty-nine dollars and ninety-five cents ($69.95) per copy plus shipping.

(d) An applicant who passes one or both sections of the examination will receive only a score of "pass" for the section(s) passed; however, an applicant who fails one or both sections of the examination shall be informed of their actual score for the section(s) failed. An applicant who is required to pass both sections of the examination shall do so within his or her 180-day examination eligibility period, and if the applicant passes only one section during his or her 180-day examination eligibility period, then that passing score shall not be recognized if the applicant subsequently re-applies to the Commission for a license.

(e) A passing examination score obtained by a license applicant for both sections of the examination, or for the "state" section if that is the only section an applicant is required to pass, shall be recognized as valid for a period of one year from the date the examination was passed. During this time, the applicant shall satisfy any remaining requirements for licensure that were pending at the time of examination. The running of the one-year period shall be tolled upon mailing the applicant the letter set forth in 21 NCAC 58A .0616(c) informing the applicant that his or her moral character is in question, and shall resume running when the applicant's application is either approved for license issuance, denied, or withdrawn. The application of an applicant with a passing examination score who fails to satisfy all remaining requirements for licensure within one year shall be canceled and the applicant shall be required to reapply and satisfy all requirements for licensure, including retaking and passing the license examination, in order to be eligible for licensure.

**History Note:** Authority G.S. 93A-3(c); 93A-4(b); 93A-4(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2015; January 1, 2012; April 1, 2006; July 1, 2000; July 1, 1996; July 1, 1989; December 1, 1985; May 1, 1982; April 11, 1980; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0403 RE-APPLYING FOR EXAMINATION

(a) An individual whose license application has been canceled pursuant to Rule .0302(c) of this Subchapter and whose 180 day examination eligibility period has expired who wishes to be rescheduled for the real estate license examination must re-apply to the Commission by filing a complete license application as described in Rule .0301 of this Subchapter and paying the prescribed application fee. Subsequent examinations shall then be scheduled in accordance with Rule .0401 of this Section.

(b) An individual whose license application has been canceled pursuant to Rule .0302(c) of this Subchapter who wishes to be rescheduled for the license examination before the expiration of his or her 180 day examination eligibility period may utilize an abbreviated electronic license application and examination rescheduling procedure by directly contacting the Commission's authorized testing service, paying both the license application fee and the examination fee to the testing service, and following the testing service's established procedures.

(c) An applicant who fails one or both sections of the license examination shall not be allowed to retake the failed section(s) of the examination for at least 10 calendar days.

History Note: Authority G.S. 93A-4(b),(d); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. February 1, 1988; December 1, 1985; April 11, 1980; Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. January 1, 2012; April 1, 2004; October 1, 2000; August 1, 1995. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0404 EXAMINATION RELATED CONDUCT

(a) When taking a license examination, an applicant shall not:

1. cheat or attempt to cheat on the examination by any means, including giving or receiving assistance or using notes of any type;
2. communicate with any person other than an examination supervisor for any purpose in any manner;
3. have in his or her possession or utilize in any manner study materials or notes or any device that may be used to:
   (A) communicate with others;
   (B) access information; or
   (C) record or store photographs, visual images, audio or other information about the examination;
4. have in his or her possession or utilize a calculator that:
   (A) permits the storage, entry or retrieval of alphabetic characters; or
   (B) is not silent, hand-held and either battery-powered or solar-powered;
5. have in his or her possession a wallet, pocketbook, bag or similar item that can be used to store materials prohibited by this Rule;
6. refuse to demonstrate to the examination supervisor that pockets on any item of clothing do not contain materials prohibited by this Rule;
7. leave or attempt to leave the testing area with any materials provided for the purpose of taking the examination or with any information, notes or other information about the content of the examination; or
8. refuse to comply with the instructions of the Commission and the Commission's test provider for taking the examination; or
9. disrupt in any manner the administration of the examination.
(b) Violation of this Rule shall result in dismissal from an examination, invalidation of examination scores, forfeiture of examination and application fees and denial of a real estate license, as well as for disciplinary action if the applicant has been issued a license.

**History Note:**
Authority G.S. 93A-4(d);
Eff. December 1, 1985;
Amended Eff. July 1, 2014; April 1, 2006; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantitive public interest Eff. May 1, 2018.

**21 NCAC 58A .0405  CONFIDENTIALITY OF EXAMINATIONS**
Licensing examinations are confidential. No applicant or licensee shall obtain, attempt to obtain, receive, or communicate to other persons examination questions or answers. Violation of this Rule is grounds for denial of a real estate license if the violator is an applicant and disciplinary action if the violator is a licensee or becomes a licensee prior to the discovery of the violation by the Commission.

**History Note:**
Authority G.S. 93A-3(c); 93A-4(d); 93A-6;
Eff. December 1, 1985;
Amended Eff. January 1, 2012; July 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantitive public interest Eff. May 1, 2018.

**21 NCAC 58A .0406  EXAMINATION REVIEW**

**History Note:**
Authority G.S. 93A-4(d);
Eff. December 1, 1985;
Amended Eff. April 1, 2006; October 1, 2000; July 1, 1989; February 1, 1989;

**SECTION .0500 - LICENSING**

**21 NCAC 58A .0501  CHARACTER**

**History Note:**
Authority G.S. 93A-4(b),(d);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 1, 2000; July 1, 1989; February 1, 1989; May 1, 1984; September 1, 1979;

**21 NCAC 58A .0502  FIRM LICENSING**
(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker.
(b) An entity that changes its business form other than by conversion shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes shall not be required to apply for a new license. However, such converted entity shall provide the information required by this Rule in writing to the Commission within 10 days of the conversion and shall include the duplicate license fee pursuant to Rule .0101(c) of this Subchapter.
(c) Firm license application forms shall be available on the Commission's website or upon request to the Commission and shall require the applicant to set forth:

1. the legal name of the entity;
2. the name under which the entity will do business;
3. the type of business entity;
4. the address of its principal office;
5. the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
(6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;

(7) the name, real estate license number, and signature of the proposed qualifying broker for the firm;

(8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge designation form described in Rule .0110(f) of this Subchapter for each proposed broker-in-charge;

(9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;

(10) any past revocation, suspension, or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;

(11) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the partners, and the name of each partner. If a partner is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;

(12) if a limited liability company, a description of the applicant entity, including a copy of its written operating agreement or if no written agreement exists, a written description of the rights and duties of the managers, and the name of each manager. If a manager is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;

(13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;

(14) if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued by the NC Secretary of State and an executed consent to service of process and pleadings; and

(15) any other information required by this Rule.

(d) When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the firm license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons, and similar information. For purposes of this Rule, the term "principal," when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner, or who holds any other comparable position.

(e) After filing a firm license application with the Commission, the entity shall be licensed provided that it:

(1) has one principal holding a broker license on active status in good standing who will serve as the qualifying broker; and

(2) employs and is directed by personnel licensed as a broker in accordance with this Chapter.

The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure to the Commission the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(f) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(g) The qualifying broker of a business entity shall assume responsibility for:

(1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;

(2) renewing the real estate broker license of the entity;

(3) retaining the firm's current pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;

(4) notifying the Commission of any change of business address or legal or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;

(5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;

(6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the
trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;

(7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time records are required to be retained by Rule .0108 of this Subchapter;

(8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and

(9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.

(h) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.

(i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. 55-11A-04; 93A-3(c); 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2017; July 1, 2015; July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0503 LICENSE RENEWAL

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration and shall submit a renewal fee of forty-five dollars ($45.00).

(b) During the renewal process, every individual broker shall provide an email address to be used by the Commission. The email address may be designated by the broker as private in order to be exempt from public records disclosures pursuant to G.S. 93A-4(b2). A broker who does not have an email address is not required to obtain an email address to comply with this Rule.

(c) During the renewal process, every designated broker-in-charge shall disclose:

(1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and

(2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-6;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;
Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. May 1, 2018;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
(a) Except for licenses that have expired or that have been revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. Subject to compliance with Rule .0110 of this Subchapter, the holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status shall not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate broker or any other party. A broker holding a license on inactive status must renew the license and pay the prescribed license renewal fee in order to continue to hold the license. The Commission may take disciplinary action against a broker holding a license on inactive status for any violation of G.S. 93A or any rule adopted by the Commission, including the offense of engaging in an activity for which a license is required.

(b) A license issued to a provisional broker shall, upon initial licensure, be assigned to inactive status. A license issued to a firm or a broker other than a provisional broker shall be assigned to active status. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker may change the status of his or her license from active to inactive status by submitting a written request to the Commission. A provisional broker's license shall be assigned by the Commission to inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge. A firm's license shall be assigned by the Commission to inactive status when the firm does not have a qualifying broker with an active license. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A provisional broker with an inactive license who desires to have the license placed on active status must comply with the procedures prescribed in Rule .0506 of this Section.

(d) A broker, other than a provisional broker, with an inactive license who desires to have the license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the broker, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the name and address of any broker-in-charge, the date of the request, and the signature of the broker. Upon the mailing or delivery of this form, the broker's status will be considered to be active. If the broker is eligible for license activation, the Commission shall send a written acknowledgement of the license activation to the broker and his or her affiliated broker-in-charge, if any. If neither the broker nor his or her affiliated broker-in-charge receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his or her real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If either the broker or his or her affiliated broker-in-charge, if any, is notified that he or she is not eligible for license activation due to a continuing education deficiency, the broker shall terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) Upon an active, non-provisional broker's affiliation with a firm and broker-in-charge, the broker-in-charge of the office where the broker will be engaged in the real estate business shall notify the Commission of the affiliation on a form provided by the Commission containing identifying information about the affiliating broker and the broker-in-charge, and the signature of the broker-in-charge. If neither the broker nor the broker-in-charge receive from the Commission a written acknowledgment of the license affiliation within 30 days of the date shown on the form, the broker and his or her broker-in-charge shall cease representing the broker as being affiliated with such broker-in-charge pending receipt of the written acknowledgment from the Commission.

(f) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation containing identifying information about the firm and its qualifying broker and satisfy the requirements of Rule .0110 of this Subchapter. If the qualifying broker has an inactive license, he or she must satisfy the requirements of Paragraph (d) of this Subchapter. If the qualifying broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the qualifying broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the qualifying broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.
(g) A person licensed as a broker under Section .1800 of this Subchapter shall maintain his or her license on active status at all times as required by Rule .1804 of this Subchapter.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-4.1; 93A-6; 93A-9;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2013; February 1, 2012; January 1, 2012; July 1, 2009; April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; April 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; February 1, 1989; December 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

(a) The fee for reinstatement of a license that has been expired, revoked, or surrendered for less than two years shall be an amount equal to two times the current renewal license fee pursuant to Rule .0503 of this Section.

(b) The reinstatement application form is available on the Commission's website and shall include the applicant's:

1. legal name;
2. mailing, physical, and email address;
3. telephone number;
4. previous license number;
5. Secretary of State identification number, if applicable;
6. social security number and date of birth, if applicable;
7. qualifying broker and broker-in-charge's legal name and license number, if applicable;
8. criminal record report prepared within six months of application;
9. certification; and
10. signature.

(c) An individual seeking reinstatement of a license that has been expired for less than six months shall:

1. submit the reinstatement fee pursuant to Paragraph (a) of this Rule;
2. disclose any criminal conviction or disciplinary action pursuant to Rule .0113 of this Section, including any conviction or disciplinary action incurred while the individual's license was expired; and
3. satisfy the license activation requirements of Rule .1703 of this Subchapter, if applicable.

(d) An individual seeking reinstatement of a license that has been expired for six months but no more than two years or revoked or surrendered for no more than two years shall:

1. submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;
2. submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and
3. pass:
   (A) one Postlicensing course within six months prior to submitting his or her reinstatement application;
   (B) the "National" and "State" sections of the current license examination within 180 days after submitting his or her reinstatement application; or
   (C) the "State" section of the current license examination within 180 days after submitting his or her reinstatement application if the individual possesses an active broker license in another state.

(e) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for more than two years shall submit an original license application and fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.

(f) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1).

(g) A business entity seeking reinstatement of a license shall submit:

1. the reinstatement fee pursuant to Paragraph (a) of this Rule if the license has been expired for less than six months;
the reinstatement fee and a complete reinstatement application pursuant to Paragraphs (a) and (b) of this Rule if the license has been expired for six months but no more than two years or revoked or surrendered for no more than two years;

(3) an original firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter if the license has been expired, revoked, or surrendered for more than two years.

(h) A broker seeking reinstatement of a license shall satisfy to the Commission that he or she possesses the character requisites pursuant to G.S. 93A-4(b).

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. July 1, 2017; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2018.

21 NCAC 58A .0506 PROVISIONAL BROKER TO BE SUPERVISED BY BROKER-IN-CHARGE

(a) A provisional broker may engage in or hold himself or herself out as engaging in activities requiring a real estate license only while his or her license is on active status pursuant to Rule .0504 of this Section and he or she is supervised by the broker-in-charge of the real estate firm or office with which the provisional broker is affiliated. A provisional broker shall be supervised by only one broker-in-charge at a time.

(b) Upon a provisional broker's affiliation with a real estate broker or brokerage firm, the broker-in-charge of the office where the provisional broker will be engaged in the real estate business shall file with the Commission a License Activation and Broker Affiliation form that sets forth the:

(1) provisional broker's:
(A) name;
(B) license number, type of license, and current license status;
(C) physical, mailing, and emailing addresses;
(D) public and private phone numbers;
(E) completed Postlicensing courses, if necessary;
(F) completed continuing education courses, if necessary; and
(G) signature.

(2) broker-in-charge's:
(A) name;
(B) license number;
(C) firm's name and license number;
(D) physical, mailing, and emailing addresses;
(E) public and private phone numbers; and
(F) signature.

(c) Upon the submission of the License Activation and Broker Affiliation form, the provisional broker may engage in real estate brokerage activities requiring a license under the supervision of the broker-in-charge; however, if the provisional broker and broker-in-charge do not receive from the Commission a written acknowledgment of the provisional broker supervision notification and, if appropriate, the request for license activation, within 30 days of the date shown on the form, the provisional broker shall cease all real estate brokerage activities pending receipt of the written acknowledgment from the Commission.

(d) A broker-in-charge shall supervise the provisional broker in a manner that assures that the provisional broker performs all acts for which a real estate license is required in accordance with the Real Estate License Law and Commission rules. A supervising broker who fails to supervise a provisional broker as prescribed in this Rule may be subject to disciplinary action by the pursuant to Rule .0110 of this Subchapter.

(e) Upon the termination of the supervisory relationship between a provisional broker and his or her broker-in-charge, the provisional broker and the broker-in-charge shall provide written notification of the date of termination to the Commission not later than 10 days following the termination.
21 NCAC 58A .0507    PAYMENT OF FEES
Checks, credit cards, and other forms of payment given the Commission for fees due which are returned unpaid shall be considered cause for license denial, suspension, or revocation.

21 NCAC 58A .0508    DUPLICATE LICENSE FEE

21 NCAC 58A .0509    DUPLICATE LICENSE FEE

21 NCAC 58A .0510    CANCELLATION OF SALESPERSON LICENSE UPON BROKER LICENSURE

21 NCAC 58A .0511    LICENSING OF PERSONS LICENSED IN ANOTHER JURISDICTION
(a) For purposes of this Rule, "Jurisdiction" shall mean a state, territory, or possession of the United States or Canada.
(b) An individual seeking a real estate license who, at the time of application, holds a current real estate salesperson or broker license in another jurisdiction that has been on active status in good standing within the three years prior to application may satisfy the 75-hour prelicensing education program and examination requirements prescribed in G.S. 93A-4 by electing to either:
   (1) pass the "State" section of that examination. A person qualifying for licensure under this provision shall be issued a North Carolina broker license on a status comparable to the category of license held by the person in the jurisdiction where the qualifying license is held; or
   (2) be issued a North Carolina broker license on provisional status only and then comply with the provisions of G.S. 93A-4(a1).
(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, revoked, or surrendered pursuant to G.S. 93A-6, so long as the license is renewed or is reinstated pursuant to Rule .0505 of this Section.
(d) A military-trained or military spouse applicant seeking a temporary practice permit shall submit an application on a form available on the Commission's website. The military-trained or military spouse temporary permit application shall include applicant's:

(1) legal name;
(2) mailing, physical, and email address;
(3) telephone number;
(4) social security number;
(5) date of birth;
(6) criminal background report prepared within six months of application;
(7) occupational licensing history, including any disciplinary actions;
(8) pending liens or judgements;
(9) certification of equivalent training or experience, by submission of either a:
   (A) military occupational specialty certificate that is substantially equivalent to or exceeds the requirements for licensure;
   (B) certification that the applicant has engaged in the active practice of brokerage for at least two of the five years preceding the date of the application; or
   (C) certification, issued within six months of application, of a current real estate salesperson or broker license in another jurisdiction that has been on active status within 3 years of application;
(10) certification; and
(11) signature.

(e) An applicant who is issued a temporary practice permit pursuant to Paragraph (d) of this Rule shall remain a provisional broker for the duration of the permit.

History Note: Authority G.S. 93A-3(c), 93A-4; 93A-4.1; 93A-9(a); 93B-15.1; Eff. January 1, 2012; Amended Eff. April 1, 2013; February 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2018.

21 NCAC 58A .0512 DEATH OR INCAPACITY OF SOLE PROPRIETOR
(a) If a licensed real estate broker engaged in business as a sole proprietor pursuant to G.S. 93A-2(a) dies or becomes incapacitated, the Commission shall issue a temporary license to the executor or administrator of the estate of the deceased sole proprietor broker or to the court-appointed fiduciary of the incapacitated sole proprietor broker upon receipt of the following:

(1) a written notification to the Commission of the date of the broker's death or disability; and
(2) a certified copy of the court order appointing the executor, administrator, or fiduciary.

(b) A temporary license shall be valid only for the purpose of distributing trust money held or paying commissions owed by the sole proprietor broker at the time of death or incapacity, but shall not otherwise entitle the holder to undertake any action for which a real estate license is required.

(c) The temporary license shall be valid for one year from issuance.

History Note: Authority G.S. 93A-2; Eff. July 1, 2018.

SECTION .0600 – REAL ESTATE COMMISSION HEARINGS

21 NCAC 58A .0601 COMPLAINTS/INQUIRIES/MOTIONS/OTHER PLEADINGS
(a) Any individual may file a complaint against a broker at any time. A complaint shall:

(1) be in writing;
(2) identify the respondent broker or firm; and
(3) apprise the Commission of the facts which form the basis of the complaint.

(b) A complaint may be amended by submitting the revised complaint in writing to the Commission.

(c) When investigating a complaint, the scope of the Commission’s investigation shall not be limited only to matters alleged in the complaint.
(d) All answers, motions, or other pleadings relating to contested cases before the Commission shall be:
   (1) in writing or made during the hearing as a matter of record; and
   (2) apprise the Commission of the matters it alleges or answers.

(e) During the course of an investigation, any broker that receives a Letter of Inquiry from the Commission shall submit a written response within 14 days of receipt. The Commission, through its legal counsel or other staff, may send a broker a Letter of Inquiry requesting a response. The Letter of Inquiry, or attachments thereto, shall set forth the subject matter being investigated. The response shall include:
   (1) a disclosure of all requested information; and
   (2) copies of all requested documents.

(f) Persons who make complaints are not parties to contested cases, but may be witnesses.

History Note: Authority G.S. 93A-3(c); 93A-6(a); 150B-38(h);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2000; August 1, 1998; May 1, 1992; February 1, 1989; November 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58A .0602 PRIMA FACIE CASE

History Note: Authority G.S. 93A-3(c); 93A-6(a); 150A-11;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Repealed Eff. September 1, 1983.

21 NCAC 58A .0603 REQUEST FOR HEARING
21 NCAC 58A .0604 NOTICE OF HEARING
21 NCAC 58A .0605 WHO SHALL HEAR CONTESTED CASES
21 NCAC 58A .0606 FAILURE TO APPEAR

History Note: Authority G.S. 93A-3(c); 150A-11; 150A-25(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;

21 NCAC 58A .0607 PETITION TO REOPEN PROCEEDING

(a) After a final decision has been reached by the Commission in a contested case, a party may petition the Commission to reconsider a case. Petitions will not be granted except when the petitioner can show that the reasons for reconsidering the case are to introduce newly discovered evidence which was not presented at the initial hearing because of some justifiable, excusable or unavoidable circumstance. Upon the running of the 30 day period for seeking judicial review, such petitions will have no effect.

(b) Decisions on petitions to reopen cases are within the discretion of the Commission.

History Note: Authority G.S. 150B-38(h);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. February 1, 1989; May 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0608 ANSWER

History Note: Authority G.S. 93A-3(c); 150A-11; 150A-25(b);
Eff. February 1, 1976;

21 NCAC 58A .0609 INTERVENTION

History Note: Authority G.S. 93A-3(c); 150A-11; 150A-23(d);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. May 1, 1984;

21 NCAC 58A .0610 SUBPOENAS
(a) Subpoenas issued in preparation for, or in the conduct of, a contested case pending before the Commission shall be issued in the name of the Commission and shall be signed by the Commission's legal counsel, chairman, vice chairman, the officer presiding at the hearing if a member of the Commission other than the chairman or vice chairman has been designated to preside.
(b) After a notice of hearing in a contested case has been issued and served upon a respondent or, in a case concerning an application for licensure, the applicant, the respondent, or the attorney for the respondent or applicant may request subpoenas for the attendance of witnesses and the production of evidence. The subpoenas may be signed by the respondent or applicant, or the respondent's or applicant's attorney.
(c) All subpoenas issued in connection with a contested case pending before the Commission shall be on a form approved by the Commission. Subpoena forms shall be provided by the Commission without charge upon request.
(d) Motions to quash a subpoena issued in preparation for, or in connection with, a contested case pending before the Commission shall be submitted to the Commission in writing and shall clearly state the grounds therefor. The disposition of any motion to quash a subpoena shall be made by the chairman of the Commission in his or her discretion. If the chairman is unavailable, then the vice chairman or other Commission member designated to preside over the hearing may dispose of such a motion in the chairman's place.

History Note: Authority G.S. 93A-6(a); 150B-38(h); 150B-39(c); 150B-40;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. October 1, 2000; August 1, 1996; May 1, 1992; February 1, 1989; May 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0611 ANSWERS AND OTHER PLEADINGS

History Note: Authority G.S. 93A-3(c); 150B-11;
Eff. July 1, 1988;

21 NCAC 58A .0612 PRESIDING OFFICER
The Commission may designate any of its members to preside over the hearing in a contested case. When no designation is made, the Chairman of the Commission shall preside, or, in his or her absence, the Vice Chairman shall preside. The presiding officer shall rule on motions or other requests made in a contested case prior to the conduct of the hearing in that case except when the ruling on the motion would be dispositive of the case. When the ruling on a motion or request would be dispositive of the case, the presiding officer shall make no ruling and the motion or request shall be determined by a majority of the Commission.

History Note: Authority G.S. 93A-3(c); 150B-40(b);
Eff. May 1, 1992;
Amended Eff. October 1, 2000;

21 NCAC 58A .0613 SCOPE

History Note: Authority G.S. 93A-3(c);
21 NCAC 58A .0614 SUMMARY SUSPENSION

(a) If the Commission finds that the public health, safety, or welfare requires emergency action, it may, pursuant to G.S. 150B-3(c), summarily suspend a license without a hearing or opportunity for the licensee to be heard. A motion for summary suspension shall be presented to the Chairman of the Commission by counsel for the State and may be presented ex parte. The motion shall be supported by an affidavit of a person with first-hand knowledge of the facts alleged which require emergency action.

(b) The Commission shall, when it summarily suspends a license, immediately schedule a hearing, to occur at the earliest practicable date, on the merits of the charges set out in a notice of hearing issued contemporaneously with the order of summary suspension. The motion, supporting affidavit, order for summary suspension and notice of hearing shall be served on the licensee as soon as possible and the summary suspension shall be effective no earlier than the date of service of the summary suspension order on the licensee. The order of summary suspension shall remain in effect until the Commission vacates it.

(c) A summarily suspended licensee may petition the Commission to vacate the summary suspension order. If the Chairman of the Commission finds that the summary suspension order was issued in error or on insufficient factual grounds to justify emergency action, the Chairman of the Commission may vacate the summary suspension order.

(d) Neither an order of summary suspension nor a denial of a motion to vacate an order of summary suspension is a final agency decision.

History Note: Authority G.S. 93A-6(a); 150B-3(c);
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0615 SETTLEMENTS

The Commission may consider disposing of any contested matter before it by consent order or upon stipulation of the respondent and the Commission's legal counsel. The Commission may approve or reject any proposal to dispose of a contested matter by consent or stipulation, however, any matter to which a respondent and the Commission's legal counsel have stipulated which is rejected by the Commission shall not thereafter bind the parties or the Commission. Except as may be otherwise allowed by the presiding officer, all proposals to dispose of a contested matter must be in written form and signed by the respondent not later than two days prior to the date set for the hearing of the matter, excluding any days during which the Commission's offices are closed.

History Note: Authority G.S. 93A-3(d); 93A-6(a); 150B-38(h);
Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0616 PROCEDURES FOR REQUESTING HEARINGS WHEN APPLICANT'S CHARACTER IS IN QUESTION

(a) When the moral character of an applicant for licensure or approval is in question, the applicant shall not be licensed or approved until the applicant has affirmatively demonstrated that the applicant possesses the requisite honesty, truthfulness, integrity, good moral character, and general fitness, including mental and emotional fitness, necessary to protect the public interest and promote public confidence in the real estate brokerage business. For the purposes of this Rule, applicant means any person or entity making application for licensure as a real estate broker or for licensure or approval as a prelicensing or continuing education instructor, director, coordinator, school or sponsor.

(b) When the applicant is an entity, it shall be directed and controlled by persons who possess the requisite honesty, truthfulness, integrity, good moral character, and general fitness, including mental and emotional fitness, necessary to protect the public interest and promote public confidence in the real estate brokerage business.

(c) When the character of an applicant is in question, the Commission shall defer action upon the application until the applicant is notified by letter. The letter informing the applicant that his or her moral character is in question shall be sent by certified mail, return receipt requested, to the address shown upon the application. The applicant shall have 60 days from the date of receipt of this letter to request a hearing before the Commission. If the applicant
fails to request a hearing within this time or if a properly addressed letter is returned to the Commission undelivered, applicant's right to a hearing shall be considered waived and the application shall be deemed denied. If the applicant makes a timely request for a hearing in accordance with the provisions of this Rule, the Commission shall provide the applicant with a Notice of Hearing and hearing as required by G.S. 150B, Article 3A.

(d) Nothing in this Rule shall be interpreted to prevent an unsuccessful applicant from reapplying for licensure or approval if such application is otherwise permitted by law.

History Note: Authority G.S. 93A-4; Eff. September 1, 2002; Amended Eff. April 1, 2013; January 1, 2012; April 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0700 - PETITIONS FOR RULES

21 NCAC 58A .0701 PETITION FOR RULE-MAKING HEARINGS
(a) Any person wishing to file a petition requesting the adoption, amendment or repeal of a rule by the Commission shall file a written petition with the executive director.
(b) The petition shall include the following information:
   (1) name, address and occupation of petitioner;
   (2) a summary of the proposed action (adoption, amendment, or repeal of a rule or rules);
   (3) a draft of the proposed rule or other action;
   (4) a complete statement of the reason for the proposed action; and
   (5) an identification of the persons or class of persons most likely to be affected by the proposed action.
(c) The Commission shall decide whether to allow or deny a rule-making petition.

History Note: Authority G.S. 150B-16; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. February 1, 1989; May 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0702 DISPOSITION OF PETITIONS
21 NCAC 58A .0703 ADDITIONAL INFORMATION

History Note: Authority G.S. 93A-3(c); 150A-12; 150A-16; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Repealed Eff. May 1, 1984.

SECTION .0800 - RULE MAKING

21 NCAC 58A .0801 REQUEST TO PARTICIPATE

History Note: Authority G.S. 93A-3(c); 150A-11; 150A-12(e); Eff. February 1, 1976; Readopted Eff. September 30, 1977; Repealed Eff. May 1, 1984.

21 NCAC 58A .0802 WRITTEN SUBMISSIONS
21 NCAC 58A .0803 PRESIDING OFFICER: POWERS AND DUTIES

History Note: Authority G.S. 93A-3(c); 150B-12;
21 NCAC 58A .0804 STATEMENT OF REASONS FOR DECISION

History Note: Authority G.S. 93A-3(c); 150A-11; 150A-12(e);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;

21 NCAC 58A .0805 RECORD OF PROCEEDINGS

History Note: Authority G.S. 93A-3(c); 150B-12;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. February 1, 1989; November 1, 1987;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .0900 - DECLARATORY RULINGS

21 NCAC 58A .0901 SUBJECTS OF DECLARATORY RULINGS

History Note: Authority G.S. 93A-3(c); 150A-17;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;

21 NCAC 58A .0902 REQUESTS FOR RULINGS: DISPOSITION OF REQUESTS (a) All requests for declaratory rulings shall be written and filed with the Commission. The request must contain the following information:

   (1) the name, address and signature of petitioner;
   (2) a concise statement of the manner in which petitioner is aggrieved by the rule or statute in question, or its potential application to him or her;
   (3) a statement of the interpretation given the statute or rule in question by petitioner;
   (4) a statement of the reasons, including any legal authorities, in support of the interpretation given the statute or rule by petitioner.

(b) The Commission shall either deny the request, stating the reasons therefore, or issue a declaratory ruling. The Commission may deny a request for a declaratory ruling when the Commission determines that:

   (1) the petition does not comply with the requirements of Paragraph (a) of this Rule;
   (2) the subject matter is one concerning which the Commission is without authority to make a decision binding the agency or the petitioner;
   (3) the petitioner is not aggrieved by the rule or statute in question or otherwise has insufficient interest in the subject matter of the request;
   (4) there is reason to believe that the petitioner or some other person or entity materially connected to the subject matter of the request is acting in violation of the real estate license law or the rules adopted by the Commission; or
   (5) the subject matter of the request is the subject of litigation, legislation, or rulemaking.

(c) The Commission shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, an investigation by the Real Estate Commission or contested case before the Commission.

History Note: Authority G.S. 93A-3(c); 150B-4(a);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2006; October 1, 2000; May 1, 1992; February 1, 1989; May 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .0903 DISPOSITION OF REQUESTS

21 NCAC 58A .0904 APPLICABILITY OF RULING

History Note: Authority G.S. 93A-3(c); 150A-17;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;

21 NCAC 58A .0905 RECORD OF RULING

History Note: Authority G.S. 93A-3(c); 150B-17;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. November 1, 1987;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.

SECTION .1000 - SCHOOLS

This Section .1000 of Title 21 Subchapter 58A of the North Carolina Administrative Code (T21.58A .1000); SCHOOLS; has been transferred and recodified to Section .0100 of Title 21 Subchapter 58C of the North Carolina Administrative Code (T21.58C .0100), effective November 27, 1989.

SECTION .1100 - REAL ESTATE PRE-LICENSING COURSES

21 NCAC 58A .1101 PURPOSE AND APPLICABILITY

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984;

21 NCAC 58A .1102 PROGRAM STRUCTURING

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984; September 1, 1983; January 1, 1981;

21 NCAC 58A .1103 COURSE DURATION

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;

21 NCAC 58A .1104 COURSE CONTENT

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; November 1, 1987; May 1, 1987; September 1, 1984;
21 NCAC 58A .1105  COURSE COMPLETION STANDARDS

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. April 1, 1987; September 1, 1984;
Recodified Paragraphs (d) and (e) to Rule 58A .1113 (a) and (b) Eff. January 6, 1989;
Amended Eff. February 1, 1989;

21 NCAC 58A .1106  EXAMINATIONS

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. September 1, 1983;

21 NCAC 58A .1107  COURSE SCHEDULING

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; August 1, 1980;

21 NCAC 58A .1108  TEXTBOOKS

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984; September 1, 1983;

21 NCAC 58A .1109  INSTRUCTORS

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981;

21 NCAC 58A .1110  CHANGES IN COURSE DURATION: TEXTBOOKS: PRIMARY INSTRUCTORS

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;

21 NCAC 58A .1111  CERTIFICATION OF COURSE COMPLETION

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981;

21 NCAC 58A .1112  COURSES PRIOR TO SEPTEMBER 1, 1979

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
21 NCAC 58A .1113 COURSE RECORDS

History Note: Authority G.S. 93A-4(a),(d); Eff. September 1, 1984;
Recodified from Rule 58A .1105 (d) and (e) Eff. January 6, 1989;

SECTION .1200 - CERTIFICATION OF REAL ESTATE INSTRUCTORS

21 NCAC 58A .1201 APPLICABILITY: REQUIREMENT FOR CERTIFICATION
21 NCAC 58A .1202 APPLICATION FOR INSTRUCTOR CERTIFICATION
21 NCAC 58A .1203 CRITERIA FOR CERTIFICATION
21 NCAC 58A .1204 DURATION OF CERTIFICATION
21 NCAC 58A .1205 DENIAL: REVOCATION: SUSPENSION OF INSTRUCTOR CERTIFICATION

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1979;
Amended Eff. November 1, 1987; April 1, 1987; September 1, 1984; January 1, 1981;

21 NCAC 58A .1206 CHANGES IN SCHOOL AFFILIATION OR ADDRESS

History Note: Authority G.S. 93A-4(a),(d);
Eff. January 1, 1981;
Amended Eff. November 1, 1987;

SECTION .1300 - PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58A .1301 APPLICABILITY

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; December 1, 1987;

21 NCAC 58A .1302 APPLICATION FOR ORIGINAL LICENSE

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;

21 NCAC 58A .1303 SCHOOL NAME

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. September 1, 1984;

21 NCAC 58A .1304 COURSES

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980; 
Amended Eff. February 1, 1989; September 1, 1984; 

21 NCAC 58A .1305 ADDITIONAL COURSE OFFERINGS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
Amended Eff. February 1, 1989; November 1, 1987; 

21 NCAC 58A .1306 ADMINISTRATION

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
Amended Eff. April 1, 1987; 

21 NCAC 58A .1307 FACILITIES AND EQUIPMENT

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
Amended Eff. February 1, 1989; November 1, 1987; September 1, 1984; 

21 NCAC 58A .1308 BULLETINS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
Amended Eff. December 1, 1987; 

21 NCAC 58A .1309 ENROLLMENT CONTRACTS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 

21 NCAC 58A .1310 ADMISSIONS POLICY AND PRACTICE

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 

21 NCAC 58A .1311 RECORDS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
Amended Eff. February 1, 1989; September 1, 1984; 

21 NCAC 58A .1312 ENFORCEMENT OF INSTITUTIONAL STANDARDS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; 
Eff. October 1, 1980; 
21 NCAC 58A .1313 PERFORMANCE BOND

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. December 1, 1987;

21 NCAC 58A .1314 ADVERTISING AND RECRUITMENT ACTIVITIES

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; April 1, 1987; September 1, 1984;

21 NCAC 58A .1315 QUARTERLY REPORTS

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. September 1, 1984;

21 NCAC 58A .1316 CHANGES DURING THE LICENSING PERIOD

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; September 1, 1984;

21 NCAC 58A .1317 RENEWAL OF LICENSES

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; December 1, 1987;

21 NCAC 58A .1318 LICENSING EXAM CONFIDENTIALITY: SCHOOL PERFORM/LICENSEING

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. April 1, 1987; September 1, 1984;

SECTION .1400 – REAL ESTATE EDUCATION AND RECOVERY FUND

21 NCAC 58A .1401 APPLICATION FOR PAYMENT
(a) Any person or entity desiring to obtain payment from the Real Estate Education and Recovery Fund shall file an application with the Commission on a form provided by the Commission. The form shall require the following information concerning the applicant and the claim: the applicant's name and address, the amount of the claim, a description of the acts of the broker which constitute the grounds for the claim and a statement that all court proceedings are concluded. With the form, the applicant shall submit copies of the civil complaint, judgment, and the return of execution marked as unsatisfied. If the application is incomplete or not filed in correct form, or if the Commission is without jurisdiction over the claim or the parties, counsel for the Commission may file a motion to dismiss the application. The Commission shall conduct a hearing on the motion at which the only issues to be determined shall be whether the application is complete or in correct form or whether the Commission has jurisdiction over the claim or the parties.
(b) Forms for application for payment from the Real Estate Education and Recovery Fund shall be available from the Commission on request.

History Note: Authority G.S. 93A-3(c); 93A-17; Eff. February 1, 1988; Amended Eff. April 1, 2013; September 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1402  MULTIPLE CLAIMS
(a) If at any time the Commission has notice of more than one application or potential claim for payment from the Real Estate Education and Recovery Fund arising out of the conduct of a single broker, the Commission may, in its discretion, direct that all applications filed before a date determined by the Commission be consolidated for hearing and payment.
(b) Upon directing that claims be consolidated as provided in Paragraph (a) of this Rule, the Commission shall issue to the broker and the applicants and potential claimants an Order of Consolidation setting forth the deadline for filing all applications to be consolidated. Upon the passing of the deadline, the Commission may, in its discretion, either extend the deadline or issue to the broker and all applicants a notice of the time, date and place set for the hearing on the consolidated applications.
(c) In exercising its discretion as provided in Paragraphs (a) and (b) of this Rule, the Commission shall consider the following factors:
   (1) the number of claim applications or potential claims of which it has notice;
   (2) the amount of each claim;
   (3) the status of the underlying civil action in each claim;
   (4) the length of time each claim has been pending since the Commission first received notice of the claim; and
   (5) whether consolidation of such claims or the extension of the deadline for filing applications to be consolidated will promote the fair and efficient administration and payment of monies from the Real Estate Education and Recovery Fund.

History Note: Authority G.S. 93A-16(d); 93A-17; 93A-20; Eff. February 1, 1988; Amended Eff. May 1, 2013; July 1, 2000; February 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1403  NOTICE OF HEARING: ORDER/PAYT FROM/REAL ESTATE EDUCATION AND RECOVERY FUND
(a) The Commission shall give notice of the time, place and date of a hearing on a claim for payment from the Real Estate Education and Recovery Fund to any applicant and the broker.
(b) After conducting a hearing, the Commission shall issue an order either authorizing payment or denying the claim, in whole or in part. This order shall be served upon the broker and any applicant.
(c) The existence of subsequent notices of potential claims or subsequent applications shall not be considered by the Commission in the issuance of an Order for Payment in those cases where the award is allowable but must be reduced pursuant to the provisions of G.S. 93A-21.

History Note: Authority G.S. 93A-16(d); 93A-20; Eff. February 1, 1988; Amended Eff. April 1, 2013; February 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1404  EXHAUSTED LIABILITY LIMITS
Applications for payment from the Real Estate Education and Recovery Fund received or considered by the Commission after the liability of the Real Estate Education and Recovery Fund as described in G.S. 93A-21 has been exhausted shall be dismissed.
SECTION .1500 - FORMS

21 NCAC 58A .1501 Licensing and General Brokerage Forms

History Note: Authority G.S. 93A-3(c); 93A-21;
Eff. February 1, 1988;
Amended Eff. April 1, 2013; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .1600 - Discriminatory Practices Prohibited

21 NCAC 58A .1601 Fair Housing

Conduct by a licensee which violates the provisions of the State Fair Housing Act constitutes improper conduct in violation of G.S. 93A-6(a)(10).

History Note: Authority G.S. 41A-4; 41A-5; 41A-6; 93A-3(c);
Eff. July 1, 1989;
Amended Eff. April 1, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .1700 – Mandatory Continuing Education

21 NCAC 58A .1701 Purpose and Applicability

This Section describes the continuing education requirement for real estate brokers authorized by G.S. 93A-4.1, establishes the continuing education requirement to change a license from inactive status to active status, establishes attendance requirements for continuing education courses, establishes the criteria and procedures relating to obtaining an extension of time to complete the continuing education requirement, establishes the criteria for obtaining continuing education credit for an unapproved course or related educational activity, and addresses other similar matters.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. April 1, 2006; October 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1702 Continuing Education Requirement

(a) Except as provided in Rules .1708 and .1711 of this Section, a broker shall complete eight credit hours of real estate continuing education courses approved pursuant to 21 NCAC 58H within one year prior to the expiration of the license as follows:

(1) four credit hours of elective courses; and
(2) four hours of either:
(A) the "General Update Course;" or
(B) for a broker with BIC Eligible status, the "Broker-In-Charge Update Course" in lieu of the "General Update Course."

(b) A BIC or broker who takes the General Update Course rather than the Broker-In-Charge Update Course shall receive continuing education credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the Broker-In-Charge Update Course in order to retain his or her BIC Eligible status.

c) Continuing education courses shall be completed upon the second renewal following the initial licensure and upon each subsequent annual renewal.

d) The broker shall provide the course completion certificate upon request of the Commission.

e) No continuing education shall be required to renew a broker license on inactive status. In order to change a license from inactive status to active status, the broker shall satisfy the continuing education requirement described in Rule .1703 of this Section.

(f) No continuing education shall be required for a broker who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

(g) For purposes of this Rule, the terms "active status" and "inactive status" shall have the same definition as those in Rule .0504 of this Subchapter.

(h) For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. July 1, 2017; July 1, 2014; April 1, 2006; July 1, 2005; April 1, 2004; October 1, 2000; August 1, 1998; July 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58A .1703 CONTINUING EDUCATION FOR LICENSE ACTIVATION
(a) A broker requesting to change an inactive license to active status on or after the broker's second license renewal following his or her initial licensure shall have completed the continuing education as described in Paragraph (b) or (c) of this Rule, whichever is appropriate.

(b) If the inactive broker's license has not been on active status since the preceding July 1 and the broker has a deficiency in his or her continuing education record for the previous license period, the broker shall make up the deficiency and satisfy the continuing education requirement pursuant to Rule .1702 of this Section for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours.

(c) If a broker's license has been on inactive status for more than two years and the broker has a deficiency in his or her continuing education record, the broker shall:

(1) cure the continuing education deficiency for the current license year; and
(2) complete two Postlicensing courses no more than six months prior to activation.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. July 1, 2017; April 1, 2006; July 1, 2000; July 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58A .1704 NO CREDIT FOR PRELICENSING OR POSTLICENSING COURSES
No credit toward the continuing education requirement shall be awarded for completing a real estate prelicensing or postlicensing course.

**History Note:** Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. April 1, 2006. Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS**

(a) In order to receive credit for completing an approved continuing education course, a broker shall:

1. attend at least 90 percent of the scheduled instructional hours for the course;
2. provide his or her legal name and license number to the course sponsor;
3. present his or her pocket card or photo identification card, if necessary; and
4. personally perform all work required to complete the course.

(b) With the instructor or the sponsor's permission, a 10 percent absence allowance may be permitted at any time during the course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

1. approved by the instructor; and
2. for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
   A. an illness;
   B. a family emergency; or
   C. acts of God.

**History Note:** Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. July 1, 2017; July 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. January 1, 2020.

**21 NCAC 58A .1706 REPETITION OF COURSES**

A continuing education course may be taken only once for continuing education credit within a single license period.

**History Note:** Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .1707 ELECTIVE COURSE CARRY-OVER CREDIT**

A maximum of four hours of continuing education credit for an approved elective course taken during the current license period may be carried over to satisfy the continuing education elective requirement for the next following license period if the licensee receives no continuing education elective credit for the course toward the elective requirement for the current license period or the previous license period. However, if a continuing education elective course is used to wholly or partially satisfy the elective requirement for the current or previous license period, then any excess hours completed in such course which are not needed to satisfy the four-hour elective requirement for that license period may not be carried forward and applied toward the elective requirement for the next following license period.

**History Note:** Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994; Amended Eff. July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.
21 NCAC 58A .1708   EQUIVALENT CREDIT

(a) The Commission shall award a broker continuing education credit for teaching a Commission Update Course. A broker seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the broker to set forth the:

1. broker's name, license number, instructor number, address, telephone number, and email address;
2. Update Course number;
3. sponsor's name and number;
4. sponsor's address; and
5. date the course was taught.

(b) The Commission shall award a broker continuing education elective credit for teaching a Commission approved continuing education elective for the first time any given continuing education elective is taught. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

1. broker's name, license number, address, telephone number, and email address;
2. course title;
3. course number;
4. sponsor's name and number;
5. sponsor's address; and
6. date the course was taught.

(c) The Commission may award continuing education elective credit for completion of an unapproved course that the Commission finds equivalent to the elective course component of the continuing education requirement set forth in 21 NCAC 58H .0407(a). The broker shall submit a course completion certificate issued by the course sponsor, a copy of the course description or course outline, and a fifty dollar ($50.00) fee for each course for which the broker seeks credit. A broker seeking continuing education credit for a course that is not approved by the Commission shall submit a form, available on the Commission's website, that requires the broker to set forth the:

1. broker's name, license number, address, telephone number, and email address;
2. course title;
3. number of instructional hours;
4. course instructor's name; and
5. course sponsor's name, address, telephone number, and email address.

(d) The Commission may award continuing education elective credit for developing a continuing education elective course that is approved by the Commission pursuant to 21 NCAC 58H .0400. However, a broker shall only receive credit for the year in which the continuing education elective is approved. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar ($50.00) fee for each course for which the broker seeks credit.

(e) The Commission may award continuing education elective credit for authoring a real estate textbook. However, a broker shall receive credit for any single textbook only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the title page of the textbook, showing the title, publisher, and publication date, the table of contents, and a fifty dollar ($50.00) fee for each textbook for which the licensee seeks credit.

(f) The Commission may award continuing education elective credit for authoring of a scholarly article on a real estate topic published in a professional journal or periodical. A broker shall receive credit for any single article only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit a copy of the article, proof of publication, and a fifty dollar ($50.00) fee for each article for which the broker seeks credit.

(g) In order for any application for equivalent credit to be considered and credits applied to the current licensing period, a complete application, the appropriate fee, and all supporting documents shall be received by the Commission no later than 5:00 p.m. on June 10.

History Note:   Authority G.S. 93A-3(c); 93A-4.1;  
Eff. July 1, 1994;
21 NCAC 58A .1709 EXTENSIONS OF TIME TO COMPLETE CONTINUING EDUCATION
(a) A broker on active status may request an extension of time to satisfy the continuing education requirement for the current license period if the broker was unable to obtain the necessary education due to an incapacitating illness, military deployment, or other circumstance that existed for a portion of the license period and that constituted a severe hardship.
(b) Requests for an extension of time shall be submitted on a form available on the Commission's website that requires the broker to set out the broker's name, mailing address, license number, telephone number, email address, and a description of the incapacitating illness or other circumstance. The requesting broker shall submit, along with the form, supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, demonstrating that compliance with the continuing education requirement would have been impossible or burdensome.
(c) All requests for an extension of time shall be received by the Commission by 5:00 p.m. on June 10 of the licensing period for which the extension is sought.
(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status. The broker's license shall automatically change to inactive status if the broker fails to satisfy the continuing education requirement prior to the end of the extension period.
(e) In no event shall an extension of time be granted that extends the continuing education requirement deadline beyond June 10 of the license year following the license year in which the request is made.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. July 1, 2017; August 1, 2014; October 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1710 DENIAL OR WITHDRAWAL OF CONTINUING EDUCATION CREDIT
(a) The Commission shall deny continuing education credit claimed by a broker or reported by a course sponsor for a broker, and shall withdraw continuing education credit previously awarded by the Commission to a broker upon finding that the broker:
   (1) or course sponsor provided incorrect or incomplete information to the Commission concerning continuing education completed by the broker;
   (2) failed to comply with the attendance requirement established by Rule .1705 of this Section; or
   (3) was mistakenly awarded continuing education credit due to an administrative error.
(b) If an administrative error or an incorrect report by a course sponsor results in the denial or withdrawal of continuing education credit for a broker, the Commission shall, upon the written request of the broker, grant the broker an extension of time to satisfy the continuing education requirement.
(c) A broker who obtains or attempts to obtain continuing education credit through misrepresentation of fact, dishonesty, or other improper conduct shall be subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. July 1, 2017; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS
(a) To be considered a nonresident for continuing education purposes, a real estate broker licensed in North Carolina shall not have a North Carolina business address, mailing address, or residence address at the time he or she applies for license renewal if he or she seeks to renew his or her license on active status. A nonresident North Carolina broker who wishes to renew his or her license on active status may satisfy the continuing education requirement by any one of the following means:
A nonresident broker may, at the time of license renewal, hold a real estate license on active status in another state and certify on a form prescribed by the Commission that the broker holds such license. If at any time after renewal there is a change in the status of the out-of-state license, the nonresident broker shall notify the Commission within 10 days and request that his or her North Carolina license be placed on inactive status, or provide evidence to the Commission that he or she has satisfied either Subparagraph (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.

A nonresident broker may, within one year preceding license expiration, complete the Commission-prescribed Update course plus one Commission-approved continuing education elective course, or complete two Commission-approved continuing education elective courses.

A nonresident broker may, within one year preceding license expiration, complete eight classroom hours in courses approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken. To obtain credit for a continuing education course completed in another state and not approved by the Commission, the broker must submit a written request for continuing education credit accompanied by a fee of fifty dollars ($50.00) per request and evidence that the course was completed and that the course was approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken.

A nonresident broker may obtain eight hours equivalent credit for a course or courses not approved by the Commission or for related educational activities as provided in Rule .1708 of this Section. The maximum amount of continuing education credit the Commission will award a nonresident broker for an unapproved course or educational activity shall be eight hours.

(b) When requesting to change an inactive license to active status, or when applying for reinstatement of a license expired for not more than six months, a nonresident broker may satisfy the continuing education requirements described in Rules .0505 and .1703 of this Subchapter by complying with any of the options described in Paragraph (a) of this Rule, except that the requirements in Subparagraphs (a)(2) and (a)(3) of this Rule restricting the taking of courses to one year preceding license expiration shall not be applicable.

(c) No carry-over credit to a subsequent license period shall be awarded for a course taken in another state that has not been approved by the North Carolina Real Estate Commission as an elective course pursuant to 21 NCAC 58H .0406.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1, 2000; March 1, 1996; July 1, 1995; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2018.

21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE

(a) The Broker-in-Charge Course is a 12-hour educational course that is required for all brokers designating as broker-in-charge under Rule .0110 of this Subchapter. The 12-hour course is divided into an 8-hour module and a 4-hour module. A broker shall complete the 8-hour module before beginning the 4-hour module.

(b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

1. attend at least 90 percent of the scheduled instructional hours for the course;
2. provide his or her legal name and license number to the course provider;
3. present his or her pocket card or photo identification card, if necessary;
4. personally perform all work required to complete the course; and
5. complete the 12-hour Broker-in-Charge Course no later than 120 days after the broker registers for the course.

(c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-hour Broker-in-Charge Course.

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4.2;

SECTION .1800 - LIMITED NONRESIDENT COMMERCIAL LICENSING

21 NCAC 58A .1801 GENERAL PROVISIONS
(a) Any person resident in a state or territory of the United States other than North Carolina may perform the acts or services of a real estate broker in North Carolina in transactions involving commercial real estate if said person first applies for and obtains a limited nonresident commercial real estate broker license as provided in this Section.
(b) Corporations, business associations and entities shall be ineligible for licensure under this Section.
(c) Nothing in this Section shall be construed to limit the rights of any person duly licensed as a real estate broker in North Carolina under the provisions of G.S. 93A-4 or 93A-9(a).

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1802 DEFINITIONS
For the purposes of this Section:
(1) "Commercial Real Estate" means any real property or interest therein, whether freehold or non-freehold, which at the time the property or interest is made the subject of an agreement for brokerage services:
   (a) is lawfully used primarily for sales, office, research, institutional, warehouse, manufacturing, industrial or mining purposes or for multifamily residential purposes involving five or more dwelling units;
   (b) may lawfully be used for any of the purposes listed in Subitem (1)(a) of this Rule by a zoning ordinance adopted pursuant to the provisions of G.S. 153A, Article 18 or G.S. 160A, Article 19 or which is the subject of an official application or petition to amend the applicable zoning ordinance to permit any of the uses listed in Subitem (1)(a) of this Rule which is under consideration by the government agency with authority to approve the amendment; or
   (c) is in good faith intended to be immediately used for any of the purposes listed in Subitem (1)(a) of this Rule by the parties to any contract, lease, option, or offer to make any contract, lease, or option.

(2) "Qualifying state" means the state or territory of the United States where an applicant for, and the holder of, a limited nonresident commercial license issued under this Section is licensed in good standing as a real estate broker or salesperson. The qualifying state must be the state or territory where the applicant or limited nonresident commercial licensee maintains his or her primary place of business as a real estate broker or salesperson. Under no circumstances may North Carolina be a qualifying state.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1803 REQUIREMENTS FOR LICENSURE; APPLICATION AND FEE
(a) A person desiring to obtain a broker license under this Section shall demonstrate to the Real Estate Commission that:
   (1) he or she is a resident of a state or territory of the United States other than North Carolina;
   (2) he or she is licensed as a real estate broker or salesperson in a qualifying state and that said license is on active status and not in abeyance for any reason. If licensed as a salesperson, he or she shall also demonstrate that he or she is acting under the supervision of a broker in accordance with the applicable governing statutes or regulations in the qualifying state; and
(3) he or she possesses the requisite honesty, truthfulness, integrity, and moral character for licensure as a broker in North Carolina.

A person applying for licensure under this Section shall not be required to show that the state or territory where he or she is currently licensed offers reciprocal licensing privileges to North Carolina brokers.

(b) A person desiring to be licensed under this Section shall submit an application on a form prescribed by the Commission and shall show the Commission that he or she has satisfied the requirements set forth in Paragraph (a) of this Rule. In connection with his or her application a person applying for licensure under this Rule shall provide the Commission with a certification of license history from the qualifying state where he or she is licensed. He or she shall also provide the Commission with a report of his or her criminal history from the service designated by the Commission. An applicant for licensure under this Section shall be required to update his or her application as required by Rule .0302(c) of this Subchapter.

(c) The fee for persons applying for licensure under this Section shall be one hundred dollars ($100.00) and shall be paid in the form of a certified check, bank check, cashier's check, money order, or by credit card. Once paid, the application fee shall be non-refundable.

(d) If the Commission has received a complete application and the required application fee and if the Commission is satisfied that the applicant possesses the moral character necessary for licensure, the Commission shall issue to the applicant a limited nonresident commercial real estate broker license.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1804 ACTIVE STATUS

Broker licenses issued under this Section shall be issued on active status and shall remain valid only so long as the licensee's license in the qualifying state remains valid and on active status. In addition, a license issued to a salesperson under this Section shall remain valid only while the salesperson is acting under the supervision of a real estate broker in accordance with the applicable laws and rules in the qualifying state. Individuals licensed under this Section shall immediately notify the Commission if his or her license in the qualifying state lapses or expires, is suspended or revoked, made inactive, or is placed in abeyance for any reason.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1805 RENEWAL

(a) A license issued under this Section shall expire on June 30 following issuance unless it is renewed in accordance with the provisions of Rule .0503 and .1711 of this Subchapter.

(b) The Commission shall not renew a license issued under this Section unless the licensee has demonstrated that he or she has complied with the requirements of Paragraph (a) of this Rule and that his or her license in the qualifying state is on active status in good standing and is not lapsed, expired, suspended, revoked, or in abeyance for any reason.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1806 LIMITATIONS

(a) A person licensed under this Section may act as a real estate broker in this state only if:

(1) he or she does not reside in North Carolina;
the real property interest which is the subject of any transaction in connection with which he or she acts as a broker in this state is commercial real estate as that term is defined in Rule .1802 of this Section; and

he or she is affiliated with a resident North Carolina real estate broker as required in Rule .1807 of this Section.

(b) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1807 AFFILIATION WITH RESIDENT BROKER

(a) No person licensed under G.S. 93A-9(b) shall enter North Carolina to perform any act or service for which licensure as a real broker is required unless he or she has first entered into a brokerage cooperation agreement and declaration of affiliation with an individual who is a resident in North Carolina licensed as a North Carolina real estate broker.

(b) A brokerage cooperation agreement as contemplated by this Rule shall be in writing and signed by the resident North Carolina broker and the non-resident commercial licensee. It shall contain:

(1) the material terms of the agreement between the signatory licenses;

(2) a description of the agency relationships, if any, which are created by the agreement among the nonresident commercial licensee, the resident North Carolina broker, and the parties each represents;

(3) a description of the property or the identity of the parties and other information sufficient to identify the transaction which is the subject of the affiliation agreement; and

(4) a definite expiration date.

c) A declaration of affiliation shall be written and on the form provided by the Commission and shall identify the nonresident commercial licensee and the affiliated resident North Carolina licensee. It shall also contain a description of the duties and obligations of each as required by the North Carolina Real Estate License Law and rules adopted by the Commission. The declaration of affiliation may be a part of the brokerage cooperation agreement or separate from it.

d) A nonresident commercial licensee may affiliate with more than one resident North Carolina broker at any time. However, a nonresident commercial licensee may be affiliated with only one resident North Carolina broker in a single transaction.

e) A resident North Carolina broker who enters into a brokerage cooperation agreement and declaration of affiliation with a nonresident commercial licensee shall:

(1) verify that the nonresident commercial licensee is licensed in North Carolina;

(2) actively and directly supervise the nonresident commercial licensee in a manner which reasonably insures that the nonresident commercial licensee complies with the North Carolina Real Estate License Law and rules adopted by the Commission;

(3) promptly notify the Commission if the nonresident commercial licensee violates the Real Estate License Law or rules adopted by the Commission;

(4) insure that records are retained in accordance with the requirements of the Real Estate License Law and rules adopted by the Commission; and

(5) maintain his or her license on active status continuously for the duration of the brokerage cooperation agreement and the declaration of affiliation.

(f) The nonresident commercial licensee and the affiliated resident North Carolina broker shall each retain in his or her records a copy of brokerage cooperation agreements and declarations of affiliation from the time of their creation and for at least three years following their expiration. Such records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

History Note: Authority G.S. 93A-4; 93A-9; Eff. July 1, 2004; Amended Eff. April 1, 2006; July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1808 TRUST MONIES
A nonresident commercial broker acting as real estate broker in North Carolina shall deliver to the North Carolina resident broker with whom he or she is affiliated all money belonging to others received in connection with the nonresident commercial broker's acts or services as a broker. Upon receipt of the funds, the resident North Carolina broker shall cause the funds to be deposited in a trust account in accordance with the provisions of Rule .0116 of this Subchapter.

History Note: Authority G.S. 93A-4; 93A-6(d); 93A-6(g); 93A-9;
Eff. July 1, 2004;
Amended Eff. July 1, 2014; April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1809 ADVERTISING
In all advertising involving a nonresident commercial licensee's conduct as a North Carolina real estate broker and in any representation of such person's licensure in North Carolina, the advertising or representation shall conspicuously identify the nonresident commercial licensee as a "Limited Nonresident Commercial Real Estate Broker".

History Note: Authority G.S. 93A-4; 93A-9;
Eff. July 1, 2004;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1810 PAYMENT OF FEES
Commissions, fees, or other compensation earned by a nonresident commercial licensee shall not be paid directly to the licensee if said licensee is employed by or working for a real estate broker or firm. Instead, such fees or compensation shall be paid to the licensee's employing broker or firm.

History Note: Authority G.S. 93A-4; 93A-9;
Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .1900 – POST-LICENSENING EDUCATION

21 NCAC 58A .1901 PURPOSE AND APPLICABILITY
This Section prescribes specific procedures relating to the postlicensing education requirement for real estate brokers as prescribed by G.S. 93A-4(a1).

History Note: Authority G.S. 93A-4;
Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1902 POSTLICENSING EDUCATION REQUIREMENT
(a) The 90-hour Postlicensing education program pursuant to G.S. 93A-4(a1) shall consist of the following three instructional hour courses prescribed by the Commission:
   (1) Postlicensing Course 301;
   (2) Postlicensing Course 302; and
   (3) Postlicensing Course 303.
(b) A provisional broker as described in G.S. 93A-4(a1) shall complete all Postlicensing courses pursuant to Paragraph (a) of this Rule within 18 months following the date of initial licensure.

(c) If a provisional broker fails to complete the required Postlicensing courses pursuant to Paragraph (b) of this Rule, the provisional broker's license shall be placed on inactive status.

(d) A provisional broker seeking to activate a license that was placed on inactive status pursuant to Paragraph (c) of this Rule shall:

1. complete all three Postlicensing Courses described in Paragraph (a) of this Rule within the previous two years;
2. satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter; and
3. file an activation form with the Commission pursuant to Rule .0504 of this Subchapter.

History Note: Authority G.S. 93A-4; 93A-4(a1); Eff. April 1, 2006; Amended Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2020.

21 NCAC 58A .1903 EXTENSIONS OF TIME TO COMPLETE POSTLICENSING EDUCATION

A provisional broker as described in G.S. 93A-4(a1) or G.S. 93A-4.3(d) may request and be granted an extension of time to satisfy the postlicensing education requirement for any of the first three years following the date of his or her initial licensure as a broker if the licensee provides evidence satisfactory to the Commission that he or she was unable to obtain the necessary education due to an incapacitating illness or other circumstance which existed for a substantial portion of the year in question and which constituted a severe and verifiable hardship such that to comply with the education requirement would have been impossible or unreasonably burdensome. The Commission shall not grant an extension of time when the reason for the request is a business or personal conflict or when, in the opinion of the Commission, the principal reason for the provisional broker's failure to obtain the required education in a timely manner was unreasonable delay on the part of the provisional broker in obtaining such education. If an extension of time is granted, the provisional broker may retain his or her license on active status until expiration of the extension period, but the license shall be automatically changed to inactive status at the end of the extension period unless the licensee obtains the required postlicensing education prior to that time. If an extension of time is not granted, the provisional broker's license shall be treated as described in Rule .1902(b) or (c) of this Section. A request for an extension of time must be submitted on a form provided by the Commission.

History Note: Authority G.S. 93A-4; Eff. April 1, 2006; Amended Eff. January 1, 2012; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1904 DENIAL OR WITHDRAWAL OF POSTLICENSING EDUCATION CREDIT

(a) The Commission may deny Postlicensing education credit claimed by a provisional broker or reported by a school for a provisional broker, and may withdraw Postlicensing education credit previously awarded by the Commission to a provisional broker and make appropriate license status changes for that broker upon finding that:

1. the provisional broker or school provided incorrect or incomplete information to the Commission concerning Postlicensing education completed by the provisional broker;
2. the provisional broker was mistakenly awarded Postlicensing education credit due to an administrative error; or
3. the provisional broker attended a Postlicensing course while concurrently attending a different Postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in Postlicensing course sessions for more than 30 instructional hours in any given seven-day period.

(b) When Postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker shall remain responsible for satisfying the Postlicensing education requirement in G.S. 93A-4(a1).
(c) A broker who obtains or attempts to obtain Postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct is subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-4; Eff. April 1, 2006; Amended Eff. July 1, 2017; July 1, 2009; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .1905 WAIVER OF 90-HOUR POSTLICENSING EDUCATION REQUIREMENT
(a) A provisional North Carolina real estate broker may apply for a waiver of one or more of the three 30-hour Postlicensing courses described in Rule .1902 of this Section in the following circumstances:
   (1) the broker has obtained equivalent education to the Commission’s Postlicensing course(s) pursuant to Rule .1902 of this Section. In this case, the waiver request shall include the course(s):
      (A) jurisdiction of delivery;
      (B) title;
      (C) credit hours earned;
      (D) beginning and end dates; and
      (E) subject matter description.
   (2) the broker has obtained experience equivalent to 40 hours per week as a licensed broker or salesperson in another state for at least five of the seven years immediately prior to application for waiver, which shall include the applicant’s:
      (A) employer;
      (B) title at employer;
      (C) dates of employment;
      (D) hours per week devoted to brokerage;
      (E) approximate number of transactions;
      (F) areas of practice;
      (G) approximate percentage of time devoted to each area of practice;
      (H) description of applicant’s role and duties;
      (I) managing broker’s name, telephone number, and email address; and
      (J) official certification of licensure issued within the six months preceding application from a jurisdiction within a state, territory, or possession of the United States or Canada in which the applicant holds a current real estate license that has been active within the three years prior to application.
   (3) the broker has obtained experience equivalent to 40 hours per week as a licensed North Carolina attorney practicing in real estate matters for the two years immediately preceding application, which shall include the applicant’s:
      (A) firm or practice name;
      (B) law license number;
      (C) dates of employment;
      (D) hours per week devoted to real estate law practice;
      (E) approximate number of closings conducted;
      (F) description of practice; and
      (G) manager or supervising attorney’s name, telephone number, and email address, if applicable.

(b) The Commission shall not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 90-hour postlicensing education requirement.
(c) A broker shall be ineligible for a waiver of the 90-hour postlicensing education requirement if the broker was issued a license pursuant to Rule .0511(b)(2) of this Section.

History Note: Authority G.S. 93A-4(a1); Eff. July 1, 2017; Amended Eff. July 1, 2019.

SECTION .2000 - ANNUAL REPORTS
21 NCAC 58A .2001 FILING

History Note: Authority G.S. 93B-2(d);
Eff. July 1, 2010;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.

21 NCAC 58A .2002 ESCROW ACCOUNT
(a) The Commission shall establish an escrow account or accounts with a financial institution or institutions lawfully doing business in this State into which the Commission shall deposit and hold fees tendered during any period of time when, pursuant to G.S. 93B-2(d), the Commission's authority to expend funds has been suspended. The Commission shall keep funds deposited into its escrow account or accounts segregated from other assets, monies, and receipts for the duration of the suspension of the Commission's authority to expend funds.
(b) The Commission may deposit into and maintain in its escrow account such monies as may be required to avoid or eliminate costs associated with the account or accounts.

History Note: Authority G.S. 93B-2(d);
Eff. July 1, 2010;

SECTION .2100 - BROKERS IN MILITARY SERVICE

21 NCAC 58A .2101 APPLICABILITY
This Section shall apply to every broker whose license is not revoked, suspended, or surrendered, or who is otherwise the subject of a disciplinary order, and who is eligible for an extension of time to file a tax return under the provisions of G.S. 105-249.2 and 26 U.S.C. 7508.

History Note: Authority G.S. 93A-3(c); 93B-15(b);
Eff. July 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58A .2102 POSTPONEMENT OF FEES
(a) A Broker described in 21 NCAC 58A .2101 shall not be required to pay renewal fees accrued during the time to be disregarded described in 26 U.S.C. 7508 until the June 30 immediately following the end of such time. The provisions of 21 NCAC 58A .0504 notwithstanding, during such time and until the June 30 immediately thereafter, the license of a broker other than a provisional broker shall remain on active status. During such time, the license of a provisional broker shall not expire, but shall remain on active status only if the provisional broker remains under the supervision of a broker-in-charge.
(b) All fees postponed by operation of this subsection shall be due and payable on June 30 immediately following the time to be disregarded as described in 26 U.S.C. 7508.

History Note: Authority G.S. 93A-3(c); 93B-15(b);
Eff. July 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58A .2103 POSTPONEMENT OF CONTINUING EDUCATION
(a) A broker described by 21 NCAC 58A .2101 shall not be required to complete the continuing education required as a condition of license renewal for any June 30 license expiration date if that date falls during the time to be disregarded described in 26 U.S.C. 7508 until the June 10 immediately following the end of such time to be disregarded. If such time ends on or after May 1, the broker shall have until September 1 of the same year to complete the required continuing education.
(b) If a broker entitled to a postponement of continuing education under this Rule accumulates a deficiency in his or her continuing education of 16 or more hours because of the length of the time to be disregarded under 26 U.S.C.
7508, the broker may satisfy the deficiency by satisfying the requirements of 21 NCAC 58A .1703(c) established for an inactive broker returning to active status.

c) The license of a broker entitled to postponement of continuing education under this Rule shall not be placed on inactive status for failure to complete continuing education until the deadline for completion set out in Paragraph (a) of this Rule has passed.

_History Note:_ Authority G.S. 93A-3(c); 93B-15(b); 
Eff. July 1, 2010; 
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .2104 POSTPONEMENT OF POSTLICENSING EDUCATION**

A broker described by Rule .2101 of this Section who is a provisional broker shall not be required to complete any postlicensing education during the period to be disregarded under 26 U.S.C. 7508 until the 180th day following the ending of such period. The broker’s license shall not be placed on inactive status or cancelled for his or her failure to complete the required postlicensing education prior to the deadline established in this Rule.

_History Note:_ Authority G.S. 93A-3(c); 93B-15(b); 
Eff. July 1, 2010; 
Amended Eff. July 1, 2016; 
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .2105 PROOF OF ELIGIBILITY**

It shall be the responsibility of every broker eligible for the postponement of fees and education requirements established by this Section to demonstrate his or her eligibility and the beginning and ending of the time to be disregarded as described in 26 U.S.C. 7508.

_History Note:_ Authority G.S. 93A-3(c); 93B-15(b); 
Eff. July 1, 2010; 
Amended Eff. July 1, 2016; 
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**SECTION .2200 - BROKER PRICE OPINIONS AND COMPARATIVE MARKET ANALYSES**

**21 NCAC 58A .2201 APPLICABILITY**

This Section applies to broker price opinions and comparative market analyses provided for a fee by a real estate broker whose license is not on provisional status pursuant to Article 6, Chapter 93A of the General Statutes.

_History Note:_ Authority G.S. 93A-83(d); 
Temporary Adoption Eff. October 1, 2012; 
Eff. April 1, 2013; 
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

**21 NCAC 58A .2202 STANDARDS**

(a) A broker performing a broker price opinion or comparative market analysis for a fee shall comply with all the requirements in G.S. 93A-83 and in this Rule.

(b) A broker shall only accept an assignment to provide a broker price opinion or comparative market analysis for a property if the broker has knowledge of the real estate market, direct access to real estate market sales or leasing data, and brokerage or appraisal experience in the subject property’s geographic location.

(c) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the broker can exercise objective, independent judgment free of any influence from any interested party in the performance of his or her analysis of the facts relevant to determination of a probable selling or leasing price.
(d) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the broker has personally inspected the exterior and interior of that property, provided, however, that an inspection of the exterior or interior is not required if this is waived in writing by the party for whom the opinion or analysis is being performed.

(e) When developing a broker price opinion or comparative market analysis for a property or interest therein, a broker shall utilize methodology such as analysis of sales or income of sold or leased properties comparable to the subject property or capitalization as is appropriate for the assignment and type of subject property.

(f) When analyzing sales or income of properties comparable to the property that is the subject of a broker price opinion or comparative market analysis assignment, a broker shall comply with the following standards:

1. The broker shall select from reliable information sources a minimum of three sold or leased comparable properties for use in his or her analysis that are similar to the subject property with regard to characteristics such as property type, use, location, age, size, design, physical features, amenities, utility, property condition and conditions of sale. The comparable properties selected shall reflect the prevailing factors or market conditions influencing the sale or lease prices of similar properties in the subject property's local market; and

2. The broker shall make adjustments to the selling or leasing price of selected comparable properties for differences between the characteristics of the comparable properties and the subject property as necessary to produce a credible estimate of the probable selling or leasing price. Adjustments shall be considered for differences in property characteristics such as location, age, size, design, physical features, amenities, utility, condition, economic or functional obsolescence and conditions of sale. The amounts of adjustments shall reflect the values that the local real estate market places on the differences in the characteristics in question.

(g) A broker price opinion or comparative market analysis provided to the party for whom the opinion or analysis is being performed shall address, in addition to matters required to be addressed by G.S. 93A-83 and other provisions of this Rule, the following items:

1. a description of the comparable properties used in the analysis (including any unsold properties listed for sale or rent that were used as comparable properties);
2. the adjustments made to the selling or leasing prices of comparable properties;
3. local real estate market conditions;
4. if the date on which the sale or lease of a comparable property became final is more than six months prior to the effective date of the broker price opinion or comparative market analysis, an explanation of why the comparable property was used in the analysis and a description of the market conditions affecting the comparable property at the time the sale or lease became final; and
5. each method used in deriving the estimate of probable selling or leasing price.

(h) In connection with a broker price opinion or comparative market analysis, an estimated probable leasing price may be reported by a broker as a lease rate and an estimated probable selling or leasing price may be reported by a broker either as a single figure or as a price range. When the estimated probable selling or leasing price is stated as a price range and the higher figure exceeds the lower figure by more than 10 percent, the broker shall include an explanation of why the higher figure exceeds the lower figure by more than 10 percent.

History Note: Authority G.S. 93A-83(d); Temporary Adoption Eff. October 1, 2012; Eff. April 1, 2013; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.
information concerning the developer's title or right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within 30 days preceding the date of application;

(2) information concerning owners of time shares at the project other than the developer;

(3) a description of the improvements and amenities located at the project, including a description of the number and type of time share units;

(4) a description of the time share estate to be sold or conveyed to purchasers;

(5) information concerning the developer and his or her financial ability to develop the project (including the developer's most recent audited financial statement, any loan commitments for completion of the proposed time share project, a projected budget for the construction, marketing and operation of the time share project until control by purchasers is asserted, and details of any source of funding for the time share project other than consumer sales proceeds), and information concerning the marketing and managing entities and their relationship to the developer;

(6) the developer's name and address, past real estate development experience and such other information necessary to determine the moral character of those selling and managing the project;

(7) copies of all documents to be distributed to time share purchasers at the point of sale or immediately thereafter; and

(8) such information as may be required by G.S. 93A-52.

The form shall also describe the standards for its proper completion and submission.

(b) In accordance with G.S. 93A-52, an application for time share registration shall be considered to be properly completed when it is wholly and accurately filled out and when all required documents are appended to it and appear to be in compliance with the provisions of the Time Share Act, and, where the project is a condominium, the Condominium Act or Unit Ownership Act.

(c) An entity which owns time shares at a time share project where there are one or more existing registered developers may also apply to the Commission for registration of its time shares, provided that the entity does not control a registered developer, is not controlled by a registered developer, and is not in common control of the project with a registered developer.

History Note: Authority G.S. 47A; 47C; 93A-51; 93A-52(a);

Eff. March 1, 1984;
Amended Eff. July 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0102 REGISTRATION FEE

(a) For the initial registration or subsequent registration of a time share project by a developer proposing to sell or develop 16 or more time shares, the fee shall be one thousand dollars ($1,000). For an initial or subsequent registration of a time share project in which the developer proposes to sell 15 or fewer time shares, the fee shall be seven hundred dollars ($700.00). For any time share registration by a homeowner association for the purpose of re-selling time shares in its own project which it has acquired in satisfaction of unpaid assessments by prior owners, the fee shall be four hundred fifty dollars ($450.00).

(b) Payment of application fees for time share registration shall be made to the Commission by certified check, money order, debit card, or credit card. Applications for registration not accompanied by the appropriate fee shall not be considered by the Commission.

(c) In the event a properly completed application filed with the Commission is denied for any reason, or if an incomplete application is denied by the Commission or abandoned by the developer prior to a final decision by the Commission, the amount of two hundred fifty dollars ($250.00) shall be retained by the Commission from the application fee and the balance refunded to the applicant developer.

History Note: Authority G.S. 93A-51; 93A-52;

Eff. March 1, 1984;
Amended Eff. July 1, 2016; April 1, 2013; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0103 RENEWAL OF TIME SHARE PROJECT REGISTRATION
(a) A developer seeking a renewal of a time share project registration shall submit a complete renewal application form during the month of June. A renewal application form is available on the Commission's website at www.ncrec.gov. In the renewal application form, the developer shall set forth:

1. the time share's project name, registration number, and mailing address;
2. the developer's name, telephone number, and email address;
3. the full legal name of brokers that are associated with the time share project and their real estate license numbers;
4. the name of all exchange programs associated with the time share project along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
5. the name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for each of the following:
   A. the managing entity;
   B. the marketing entity;
   C. the registrar, pursuant to G.S. 93A-58(a);
   D. the independent escrow agent, pursuant to G.S. 93A-42(a); and
   E. the project broker, pursuant to 93A-58(c);
6. a certification that the information contained in the registration filed with the Commission is accurate and current on the date of the renewal application; and
7. the developer's attorney or project broker's signature.

(b) The developer shall submit a nonrefundable fee of eight hundred dollars ($800.00) payable to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card.

(c) A complete renewal application shall be accompanied by the prescribed fee and shall be received at the Commission's office prior to the expiration of the certificate of registration as described in G.S. 93A-52(d).

(d) Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission.

History Note: Authority G.S. 93A-51; 93A-52(d);
Eff. March 1, 1984;
Temporary Amendment Eff. May 23, 1985;
Amended Eff. July 1, 2016; April 1, 2013; February 1, 1989; September 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;

21 NCAC 58B .0104 AMENDMENTS TO TIME SHARE PROJECT REGISTRATION

(a) A developer shall notify the Commission immediately, but in no event later than 15 days, after any material change in the information contained in the time share project registration.

(b) A material change shall be any change which reflects a difference in:

1. the nature, quality or availability of the purchaser's ownership or right to use the time share;
2. the nature, quality or availability of any amenity at the project;
3. the developer's title, control or right to use the real property on which the project is located;
4. the information concerning the developer, the managing or marketing entities, or persons connected therewith, previously filed with the Commission;
5. the purchaser's right to exchange his or her unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change; or
6. the project or time share as originally registered which would be significant to a reasonable purchaser.

(c) Amendments to time share project registrations shall be submitted in the form of substitute pages for material previously filed with the Commission. New or changed information shall be conspicuously indicated by underlining in red ink. Every amendment submitted shall be accompanied by a cover letter signed by the developer or the developer's attorney containing a summary of the amendment and a statement of reasons for which the amendment has been made. The cover letter shall state:

1. the name and address of the project and its registration number;
2. the name and address of the developer;
3. the document or documents to which the amendment applies;
(4) whether or not the changes represented by the amendment required the assent of the time share owners and, if so, how the assent of the time share owners was obtained; and
(5) the recording reference in the office of the register of deeds for the changes, if applicable.

Developers of multiple projects must submit separate amendments and cover letters for each project for which amendments are submitted.

(d) The Commission may, in its discretion, require the developer to file a new time share project registration application in the place of an amendment form. Such refiling shall be without fee.

History Note: Authority G.S. 93A-51; Eff. March 1, 1984; Amended Eff. October 1, 2000; February 1, 1989; April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0105 NOTICE OF TERMINATION
(a) A developer of a registered time share project which, for any reason, terminates its interest, rights, ownership or control of the project or any significant part thereof shall immediately notify the Commission in writing on a form prescribed by the Commission for that purpose. Notice of termination to the Commission shall include the date of termination, the reasons therefor, the identity of the developer's successor, if any, and a report on the status of time share sales to purchasers on the date of termination.

(b) Upon receipt of a properly executed notice of termination of the developer's interest in a time share project, the Commission shall enter a notation of cancellation of registration in the file of the project, and shall notify the developer of cancellation. A developer's failure to give notice of termination as provided herein shall not prevent cancellation of the project's registration under G.S. 93A-52.

History Note: Authority G.S. 93A-51; 93A-52(a); Eff. April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0200 - PUBLIC OFFERING STATEMENT

21 NCAC 58B .0201 GENERAL PROVISIONS
(a) Information contained in a public offering statement shall be accurate on the day it is supplied to a purchaser. Before any public offering statement is supplied to a purchaser, the developer shall file a copy of the statement with the Commission.

(b) In addition to the information required to be contained in a public offering statement by G.S. 93A-44, every public offering statement shall disclose to the purchaser of a time share complete and accurate information concerning:

(1) the real property type of the time share program, whether tenancy-in-common, condominium or other, and a description of the estate the purchaser will own, the term of that estate and the remainder interest, if any, once the term has expired;

(2) the document creating the time share program, a statement that it is the document which governs the program and a reference to the location where the purchaser may obtain or examine a copy of the document;

(3) whether or not the property is being converted to a time share from some other use and, if so, a statement to that effect and disclosure of the prior use of the property;

(4) the maximum number of time shares in the project, each recreational and other commonly used facility offered, and who or what will own each facility, if the project is to be completed in one development or construction phase;

(5) if the project is planned in phased construction or development, the complete plan of phased offerings, including the maximum number of time shares which may be in the project, each recreational and other commonly used facility, who or what will own each facility, and the developer's representations regarding his or her commitment to build out the project;

(6) the association of owners or other entity which will ultimately be responsible for managing the time share program, the first date or event when the entity will convene or commence to conduct
business, each owner's voting right, if any, and whether and for how long the developer, as time share owner, will control the entity;

(7) the location where owners may inspect the articles and bylaws of the owners association, or other organizational documents of the entity and the books and records it produces;

(8) whether the entity has lien rights against time share owners for failure to pay assessments;

(9) whether or not the developer has entered into a management contract on behalf of the managing entity, the extent to which the managing entity's powers are delegated to the manager and the location where a copy of the management contract may be examined;

(10) whether or not the developer will pay assessments for time shares which it owns and a statement that the amount of assessments due the managing entity from owners will change over time, as circumstances may change;

(11) whether or not the developer sponsors or will sponsor a rental or resale program and, if so, a summary of the program or programs; and

(12) the developer's role at the project, if the developer is a separate entity from any other registered developer of the time share project.

(c) The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary action by the Commission.

History Note:  Authority G.S. 93A-44(8); 93A-51;
Eff. March 1, 1984;
Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY

Every public offering statement shall contain a one page cover prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary. The Public Offering Statement Summary shall read as follows:

PUBLIC OFFERING STATEMENT

SUMMARY

NAME OF PROJECT:

NAME AND REAL ESTATE LICENSE NUMBER OF BROKER:

This Public Offering Statement contains information which deserves your careful study, as you decide whether or not to purchase a time share.

The Public Offering Statement includes general information about the real estate type, the term, and the size of this time share project. It also includes a general description of the recreational and other facilities existing now, or to be provided in the future. The Public Offering Statement will tell you how maintenance and management of the project will be provided and how the costs of these services will be charged to purchasers. From the Public Offering Statement, you will also learn how the project will be governed and whether purchasers will have a voice in that government. You will also learn that a time share instrument will be recorded to protect your real estate interest in your time share.

The Public Offering Statement contains important information, but is not a substitute for the detailed information contained in the contract of purchase and the legal documents which create and affect the time share program at this project.

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesperson or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

NOTICE
UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIME SHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIME SHARE PURCHASE, YOU MUST MAIL OR HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

History Note: Authority G.S. 93A-44; 93A-51; Eff. March 1, 1984; Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; April 1, 1987; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0203 RECEIPT FOR PUBLIC OFFERING STATEMENT
(a) Prior to the execution of any contract to purchase a time share, a time share developer or a time share salesperson shall obtain from the purchaser a written receipt for the public offering statement, which shall display, directly over the buyer signature line in type in all capital letters, no smaller than the largest type on the page on which it appears, the following statement: DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE RECEIVED A COMPLETE COPY OF THE PUBLIC OFFERING STATEMENT TO TAKE WITH YOU.
(b) Receipts for public offering statements shall be maintained as part of the records of the sales transaction.

History Note: Authority G.S. 93A-45(a); 93A-51; Eff. February 1, 1988; Amended Eff. October 1, 2000; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0300 - CANCELLATION

21 NCAC 58B .0301 PROOF OF CANCELLATION
(a) The postmark date affixed to any written notice of a purchaser's intent to cancel his or her time share purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending to rebut this presumption shall be admissible at a hearing before the Commission.
(b) Upon receipt of a purchaser's written notice of his or her intent to cancel his or her time share purchase, the developer, or his or her agent or representative, shall retain the notice and any enclosure, envelope or other cover in the developer's files at the project, and shall produce the file upon the Commission's request.
(c) When there is more than one registered developer at a time share project and a purchaser gives written notice of his or her intent to cancel his or her time share purchase that is received by a developer or sales staff other than the one from whom his or her time share was purchased, the developer or sales staff receiving such notice shall promptly deliver it to the proper developer who shall then honor the notice if it was timely sent by the purchaser.

History Note: Authority G.S. 93A-51; 93A-54(d); Eff. September 1, 1984; Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0400 - TIME SHARE SALES OPERATION

21 NCAC 58B .0401 RETENTION OF TIME SHARE RECORDS
A time share developer and a time share salesperson shall retain or cause to be retained for a period of three years complete records of every time share sale, rental, or exchange transaction made by or on behalf of the developer. Records required to be retained shall include but not be limited to offers, applications and contracts to purchase, rent or exchange time shares; records of the deposit, maintenance and disbursement of funds required to be held in trust;
receipts; notices of cancellation and their covers if mailed; records regarding compensation of salespersons; public offering statements; and any other records pertaining to time share transactions. Such records shall be made available to the Commission and its representatives upon request.

History Note: Authority G.S. 93A-51; 93A-54(d);
Eff. September 1, 1984;
Amended Eff. October 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

21 NCAC 58B .0402 TIME SHARE AGENCY AGREEMENTS AND DISCLOSURE
Time share sales transactions conducted by licensees on behalf of a time share developer are subject to 21 NCAC 58A .0104.

History Note: Authority G.S. 93A-3(c); 93A-51;
Eff. August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0500 – HANDLING AND ACCOUNTING OF FUNDS

21 NCAC 58B .0501 TIME SHARE TRUST FUNDS
(a) Except as otherwise permitted by G.S. 93A-45(c), all monies received by a time share developer or a time share salesperson in connection with a time share sales transaction shall be deposited into a trust or escrow account not later than three banking days following receipt and shall remain in such account for ten days from the date of sale or until cancellation by the purchaser, whichever first occurs.
(b) All monies received by a person licensed as a broker in connection with a time share transaction shall be delivered immediately to his or her project broker.
(c) When a time share purchaser timely cancels his or her time share purchase, the developer shall refund to the purchaser all monies paid by the purchaser in connection with the purchase. The refund shall be made no later than 30 days following the date of execution of the contract. Amounts paid by the purchaser with a bankcard or a credit card shall be refunded by a cash payment or by issuing a credit voucher to the purchaser within the 30-day period.
(d) Every project broker shall obtain and keep a written representation from the developer as to whether or not lien-free or lien-subordinated time share instruments can be recorded within 45 days of the purchaser's execution of the time share purchase agreement. When a lien-free or lien-subordinated instrument cannot be recorded within said time period, on the business day following the expiration of the ten day time share payment escrow period, a project broker shall transfer from his or her trust account all purchase deposit funds or other payments received from a purchaser who has not cancelled his or her purchase agreement, to the independent escrow agent in a check made payable to the independent escrow agent. Alternatively, the check may be made payable to the developer with a restrictive endorsement placed on the back of the check providing “For deposit to the account of the independent escrow agent for the (name of time share project) only.”

History Note: Authority G.S. 93A-42(c); 93A-51;
Eff. September 1, 1984;
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; July 1, 1988; February 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

SECTION .0600 - PROJECT BROKER

21 NCAC 58B .0601 DESIGNATION OF PROJECT BROKER
The developer of a registered timeshare project shall designate for each project subject to the developer's control a project broker by filing with the Commission an affidavit on the form prescribed. The developer may from time to time change the designated project broker by filing a new designation form with the Commission within 10 days following the change. A broker licensed under the provisions of Section .1800 of Subchapter 58A shall not be designated as a project broker. Provisional brokers shall not be designated as a project broker.
21 NCAC 58B .0602   DUTIES OF THE PROJECT BROKER
(a) The broker designated by the developer of a time share project to be project broker shall assume responsibility for:

   (1) The display of the time share project certificate registration and the license certificates of the real estate brokers associated with or engaged on behalf of the developer at the project;
   (2) The determination of whether each licensee employed has complied with Rules .0503 and .0506 of Subchapter 58A;
   (3) The notification to the commission of any change in the identity or address of the project or in the identity or address of the developer or marketing or managing entities at the project;
   (4) The deposit and maintenance of time share purchase or rental monies in a trust or escrow account until proper disbursement is made; and
   (5) The proper maintenance of accurate records at the project including all records relating to the handling of trust monies at the project, records relating to time share sales and rental transactions and the project registration and renewal.
(b) The project broker shall review all contracts, public offering statements and other documents distributed to the purchasers of time shares at the project to ensure that the documents comport with the requirements of the Time Share Act and the rules adopted by the commission, and to ensure that true and accurate documents have been given to the purchasers.
(c) The project broker shall not permit time share sales to be conducted by any person not licensed as a broker and shall not delegate or assign his or her supervisory responsibilities to any other person, nor accept control of his or her supervisory responsibilities by any other person.
(d) The project broker shall notify the commission in writing of any change in his or her status as project broker within ten days following the change.

SECTION .0700 - TIME SHARE FORMS

21 NCAC 58B .0701   FORMS FOR TIME SHARE PROJECTS

SUBCHAPTER 58C - REAL ESTATE PRELICENSING EDUCATION

This Section .0100 of Title 21 Subchapter 58C of the North Carolina Administrative Code (T21.58C .0101 - .0107); SCHOOLS; has been transferred and recodified from Section .1000 of Title 21 Subchapter 58A of the North Carolina Administrative Code (T21.58A .1001 - .1007), effective November 27, 1989.
21 NCAC 58C .0102 APPLICATION FOR APPROVAL
21 NCAC 58C .0103 CRITERIA FOR APPROVAL
21 NCAC 58C .0104 SCOPE, DURATION AND RENEWAL OF APPROVAL

History Note: Authority G.S. 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2010; April 1, 2006; July 1, 1996; July 1, 1994; May 1, 1990; February 1, 1989; November 1, 1987; September 1, 1984;

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

History Note: Authority G.S. 93A-4; 93A-6;
Eff. September 1, 1979;
Amended Eff. July 1, 2009; April 1, 2006; July 1, 2000; July 1, 1994; May 1, 1990; February 1, 1989; November 1, 1987;

21 NCAC 58C .0106 PROGRAM CHANGES

History Note: Authority G.S. 93A-4(a),(d);
Eff. January 1, 1981;
Amended Eff. July 1, 2000; February 1, 1989; November 1, 1987;

21 NCAC 58C .0107 USE OF EXAMINATION PERFORMANCE DATA

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1984;
Amended Eff. July 1, 2000; July 1, 1994; May 1, 1990;

21 NCAC 58C .0108 STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE

History Note: Authority G.S. 93A-4(a),(d);
Amended Eff. July 1, 2000;

SECTION .0200 - PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58C .0201 APPLICABILITY

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; December 1, 1987;
Transferred and Recodified from 21 NCAC 58A .1301 Eff. November 27, 1989;

21 NCAC 58C .0202 ORIGINAL APPLICATION FEE

History Note: Authority G.S. 93A-33; 93A-34(b);
Eff. July 1, 1990;
Amended Eff. April 1, 2006; July 1, 1994;
21 NCAC 58C .0203  SCHOOL NAME
21 NCAC 58C .0204  COURSES
21 NCAC 58C .0205  ADDITIONAL COURSE OFFERINGS
21 NCAC 58C .0206  ADMINISTRATION
21 NCAC 58C .0207  FACILITIES AND EQUIPMENT
21 NCAC 58C .0208  BULLETINS
21 NCAC 58C .0209  ENROLLMENT PROCEDURES AND CONTRACTS
21 NCAC 58C .0210  ADMISSIONS POLICY AND PRACTICE
21 NCAC 58C .0211  RECORDS
21 NCAC 58C .0212  ENFORCEMENT OF INSTITUTIONAL STANDARDS
21 NCAC 58C .0213  PERFORMANCE BOND
21 NCAC 58C .0214  ADVERTISING AND RECRUITMENT ACTIVITIES

History Note:  Authority G.S. 93A-4; 93A-4(a),(d); 93A-33; 93A-34;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; December 1, 1987; November 1, 1987; April 1, 1987; September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1303 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1304 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1305 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1306 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1307 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1308 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1309 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1310 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1311 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1312 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1313 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1314 Eff. November 27, 1989;
Amended Eff. July 1, 2014; January 1, 2012; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2001; July 1, 2000; July 1, 1994; July 1, 1993; July 1, 1990;

21 NCAC 58C .0215  QUARTERLY REPORTS

History Note:  Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;
Amended Eff. September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1315 Eff. November 27, 1989;

21 NCAC 58C .0216  CHANGES DURING THE LICENSING PERIOD
21 NCAC 58C .0217  LICENSE RENEWAL AND FEES
21 NCAC 58C .0218  LICENSING EXAM CONFIDENTIALITY: SCHOOL PERFORM/LICENSEING

History Note:  Authority G.S. 93A-4; 93A-4(a),(d); 93A-33; 93A-34(b); 93A-35(b);
Eff. October 1, 1980;
Amended Eff. February 1, 1989; April 1, 1987; December 1, 1987; September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1316 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1317 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1318 Eff. November 27, 1989;
Amended Eff. July 1, 2009; April 1, 2006, September 1, 2002; July 1, 2000; July 1, 1994; July 1, 1990;

21 NCAC 58C .0219  VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT
21 NCAC 58C .0220 STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE

21 NCAC 58C .0221 TRANSFER OF SCHOOL OWNERSHIP

SECTION .0300 - PRELICENSING AND POSTLICENSING COURSES

21 NCAC 58C .0301 PURPOSE AND APPLICABILITY
21 NCAC 58C .0302 PROGRAM STRUCTURING AND ADMISSION REQUIREMENTS
21 NCAC 58C .0303 COURSE CONTENT
21 NCAC 58C .0304 COURSE COMPLETION STANDARDS
21 NCAC 58C .0305 COURSE SCHEDULING
21 NCAC 58C .0306 TEXTBOOKS
21 NCAC 58C .0307 INSTRUCTORS

21 NCAC 58C .0308 APPRAISAL INSTRUCTORS

History Note: Authority G.S. 93A-3(c); 93A-33; Eff. July 1, 1993; Repealed Eff. July 1, 2017.

21 NCAC 58C .0309  COURSE COMPLETION REPORTING

History Note: Authority G.S. 93A-4(a); 93A-4(a2); 93A-4(d); 93A-33; Eff. September 1, 1979; Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981; Transferred and Recodified from 21 NCAC 58A .1111 Eff. November 27, 1989; Amended Eff. July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 1994; May 1, 1990; Repealed Eff. July 1, 2017.

21 NCAC 58C .0310  COURSE RECORDS

History Note: Authority G.S. 93A-4(a),(d); 93A-33; Eff. September 1, 1984; Recodified from Rule 58A .1105 (d) and (e) Eff. January 6, 1989; Transferred and Recodified from 21 NCAC 58A .1113 Eff. November 27, 1989; Amended Eff. July 1, 2014; October 1, 2000; May 1, 1990; Repealed Eff. July 1, 2017.

21 NCAC 58C .0311  INSTRUCTIONAL DELIVERY METHODS

The principal instructional delivery method utilized in real estate prelicensing and postlicensing courses must provide for the instructor to interact with students either in person in a traditional classroom setting or through an interactive television system or comparable system which permits continuous mutual audio and visual communication between the instructor and all students and which provides for monitoring and technical support at each site where the instructor or students are located. The use of media-based instructional delivery systems such as videotape or digital video disc (DVD), remote non-interactive television, computer-based instructional programs or similar systems not involving continuous mutual audio and visual communication between instructor and students may be employed only to enhance or supplement personal teaching by the instructor. Such delivery systems may not be used to substitute for personal teaching by the instructor. No portion of a course may consist of correspondence instruction.

History Note: Authority G.S. 93A-3(c); 93A-4(a); 93A-34; Eff. July 1, 1996; Amended Eff. April 1, 2006; April 1, 2004; July 1, 2000; Repealed Eff. July 1, 2017.

21 NCAC 58C .0312  EXCEPTION FOR PERSONS WITH DISABILITIES

Schools may deviate from Commission rules concerning student attendance, course scheduling, instructional methods, instructional materials, facilities or similar matters as may be necessary in order for a school to comply with the Americans With Disabilities Act or other laws requiring such schools to accommodate persons with disabilities; provided that no deviations from Commission rules are permitted by this Rule with regard to program structuring, course content, academic course completion standards, or instructors. When considering a request for special accommodation under the Americans With Disabilities Act or other similar laws, a school shall make a reasonable inquiry to determine that the person making the request is a qualified individual with a disability and that the requested accommodation is appropriate for the particular disability. A school providing a special accommodation for a student with a disability that requires the school to deviate from Commission rules shall notify...
the Commission in writing of the accommodation within ten days of the start of the course in which the student is enrolled or, if the accommodation is requested after the start of the course, within ten days of the date the accommodation is first provided.

History Note: Authority G.S. 93A-3(c); 93A-34;
Eff. July 1, 1996;

21 NCAC 58C .0313 NOTICE OF SCHEDULED COURSES

History Note: Authority G.S. 93A-4(a1),(d); 93A-33;
Eff. January 1, 2008;
Amended Eff. July 1, 2009;

SECTION .0400 - APPRAISAL TRADE ORGANIZATION COURSES

21 NCAC 58C .0401 PURPOSE AND APPLICABILITY
21 NCAC 58C .0402 APPLICATION AND FEE
21 NCAC 58C .0403 CRITERIA FOR COURSE RECOGNITION
21 NCAC 58C .0404 CHANGES DURING THE RECOGNITION PERIOD
21 NCAC 58C .0405 ADVERTISING OF RECOGNITION AND EXAMINATION PERFORMANCE
21 NCAC 58C .0406 RENEWAL OF COMMISSION RECOGNITION: FEE
21 NCAC 58C .0407 WITHDRAWAL OR DENIAL OF COMMISSION RECOGNITION

History Note: Authority G.S. 93A-75(a) and (b);
Eff. May 1, 1990;
Amended Eff. July 1, 1993;

SECTION .0500 - APPRAISAL CONTINUING EDUCATION COURSES

21 NCAC 58C .0501 PURPOSE AND APPLICABILITY
21 NCAC 58C .0502 APPLICATION AND FEE
21 NCAC 58C .0503 CRITERIA FOR COURSE APPROVAL
21 NCAC 58C .0504 PRE-LICENSE AND PRE-CERTIFICATION COURSES
21 NCAC 58C .0505 CONTINUING EDUCATION CREDIT HOURS
21 NCAC 58C .0506 COURSE OPERATIONAL REQUIREMENTS
21 NCAC 58C .0507 CERTIFICATION OF COURSE COMPLETION
21 NCAC 58C .0508 SUBMISSION OF COURSE ROSTER
21 NCAC 58C .0509 CHANGES DURING THE APPROVAL PERIOD
21 NCAC 58C .0510 COURSE RECORDS
21 NCAC 58C .0511 RENEWAL OF APPROVAL AND FEES
21 NCAC 58C .0512 WITHDRAWAL OR DENIAL OF APPROVAL

History Note: Authority G.S. 93A-75(c), (d); 93A-77;
Eff. July 1, 1991;
Amended Eff. May 1, 1992;

SECTION .0600 –PRELICENSING AND POSTLICENSING INSTRUCTORS

21 NCAC 58C .0601 PURPOSE AND APPLICABILITY
21 NCAC 58C .0602 NATURE AND SCOPE OF INSTRUCTOR APPROVAL
21 NCAC 58C .0603 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL
21 NCAC 58C .0604 INSTRUCTOR PERFORMANCE
21 NCAC 58C .0605 REQUEST FOR EXAMINATIONS AND VIDEO RECORDINGS
21 NCAC 58C .0606 POSTLICENSING COURSE REPORTS
21 NCAC 58C .0607 EXPIRATION, RENEWAL, AND REINSTATMENT OF APPROVAL
21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

History Note: Authority G.S. 93A-4; 93A-4(a),(d); 93A-33; 93A-34;
Eff. October 1, 2000;
Amended Eff. July 1, 2015; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; September 1, 2002;

SUBCHAPTER 58D - REAL ESTATE APPRAISERS

SECTION .0100 - APPLICATION FOR APPRAISER LICENSE OR CERTIFICATE

21 NCAC 58D .0101 FORM
21 NCAC 58D .0102 FILING AND FEES

History Note: Filed as a Temporary Amendment Eff. July 5, 1990, for a Period of 180 Days to Expire on January 1, 1991;
Statutory Authority G.S. 93A-73(a),(b); 93A-77;
Eff. May 1, 1990;
Amended Eff. January 1, 1992; January 1, 1991;

SECTION .0200 - APPRAISER LICENSING AND CERTIFICATION

21 NCAC 58D .0201 QUALIFICATIONS FOR APPRAISER LICENSURE AND CERTIFICATION
21 NCAC 58D .0202 CHARACTER
21 NCAC 58D .0203 LICENSE AND CERTIFICATE RENEWAL
21 NCAC 58D .0204 CONTINUING EDUCATION
21 NCAC 58D .0205 INACTIVE STATUS
21 NCAC 58D .0206 EXPIRED LICENSE OR CERTIFICATE
21 NCAC 58D .0207 PAYMENT OF LICENSE AND CERTIFICATE FEES
21 NCAC 58D .0208 REPLACEMENT LICENSE OR CERTIFICATE FEE
21 NCAC 58D .0209 FEDERAL APPRAISER REGISTRY

History Note: Filed as a Temporary Amendment Eff. May 9, 1991, For a Period of 146 Days to Expire on October 2, 1991;
Filed as a Temporary Amendment Eff. April 5, 1991, For a Period of 180 Days to Expire on October 2, 1991;
Filed as a Temporary Amendment Eff. July 5, 1990, For a Period of 180 Days to Expire on January 1, 1991;
Authority G.S. 93A-73(c); 93A-74(a),(b),(c),(d); 93A-75(d); 93A-77; 93A-79(e);
12 U.S.C. 3332, 3345, and 3347; 12 C.F.R. 34.42;
Eff. May 1, 1990;
Amended Eff. April 1, 1994; July 1, 1993; May 1, 1992; January 1, 1992;
21 NCAC 58D .0210  TEMPORARY PRACTICE

History Note: Authority G.S. 93A-77; Title XI, Section 1122 (a); 12 U.S.C. 3351(a);
Eff. January 1, 1992;
Amended Eff. July 1, 1993;

SECTION .0300 - APPRAISER EXAMINATIONS

21 NCAC 58D .0301  TIME AND PLACE
21 NCAC 58D .0302  SUBJECT MATTER AND PASSING SCORES
21 NCAC 58D .0303  RE-EXAMINATION
21 NCAC 58D .0304  CHEATING AND RELATED MISCONDUCT
21 NCAC 58D .0305  CONFIDENTIALITY OF EXAMINATIONS
21 NCAC 58D .0306  EXAMINATION REVIEW

History Note: Filed as a Temporary Amendment Eff. July 5, 1990, For a Period of 180 Days to Expire on January 1, 1991;
Authority G.S. 93A-73(c); 93A-77;
Eff. May 1, 1990;
Amended Eff. February 1, 1991; January 1, 1991;

SECTION .0400 - GENERAL APPRAISAL PRACTICE

21 NCAC 58D .0401  USE OF TITLES
21 NCAC 58D .0402  DISPLAY OF LICENSES AND CERTIFICATES
21 NCAC 58D .0403  ADVERTISING
21 NCAC 58D .0404  CHANGE OF NAME OR ADDRESS
21 NCAC 58D .0405  CERTIFIED APPRAISALS
21 NCAC 58D .0406  APPRAISAL REPORTS
21 NCAC 58D .0407  MANAGING APPRAISER
21 NCAC 58D .0408  SUPERVISION OF UNLICENSED AND UNCERTIFIED ASSISTANTS
21 NCAC 58D .0409  SUPERVISION OF LICENSED AND CERTIFIED RESIDENTIAL APPRAISERS

History Note: Filed as a Temporary Amendment Eff. July 5, 1990, For a Period of 180 Days to Expire on January 1, 1991;
Authority G.S. 93A-71(d),(f),(g); 93A-77;
Eff. May 1, 1990;
Amended Eff. February 1, 1991; January 1, 1991;

SECTION .0500 - STANDARDS OF APPRAISAL PRACTICE

21 NCAC 58D .0501  APPRAISAL STANDARDS

History Note: Authority G.S. 93A-77;
Eff. May 1, 1990;
Amended Eff. July 1, 1991;

SECTION .0600 - APPRAISAL BOARD HEARINGS

21 NCAC 58D .0601  SCOPE
SECTION .0600 - FORM OF COMPLAINTS AND OTHER PLEADINGS

SECTION .0601 - PRESIDING OFFICER

SECTION .0602 - SUBPOENAS

SECTION .0603 - FINAL DECISIONS

SECTION .0604 - PETITION TO REOPEN PROCEEDING

History Note: Authority G.S. 93A-77; 150B-38(h);
Eff. May 1, 1992;

SECTION .0700 - DECLARATORY RULINGS

SECTION .0701 - REQUESTS FOR RULINGS: DISPOSITION OF REQUESTS

History Note: Authority G.S. 93A-77; 150B-4;
Eff. May 1, 1992;

SUBCHAPTER 58E - REAL ESTATE CONTINUING EDUCATION

SECTION .0100 - UPDATE COURSE

SECTION .0200 - UPDATE COURSE INSTRUCTORS

SECTION .0300 - ELECTIVE COURSES
21 NCAC 58E .0304 CRITERIA FOR ELECTIVE COURSE APPROVAL
21 NCAC 58E .0305 ELECTIVE COURSE SUBJECT MATTER
21 NCAC 58E .0306 ELECTIVE COURSE INSTRUCTORS
21 NCAC 58E .0307 ELECTIVE COURSE CREDIT HOURS
21 NCAC 58E .0308 REQUEST FOR A VIDEO RECORDING
21 NCAC 58E .0309 STUDENT FEES FOR ELECTIVE COURSES

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2015; July 1, 2014; July 1, 2010; April 1, 2006; July 1, 2005; April 1, 2004;
September 1, 2002; October 1, 2000; July 1, 1996; September 1, 1996; March 1, 1996; July 1, 1995;

21 NCAC 58E .0310 DISTANCE EDUCATION COURSES

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1996;
Amended Eff. July 1, 2009; July 1, 2005; July 1, 2000;

SECTION .0400 - GENERAL SPONSOR REQUIREMENTS

21 NCAC 58E .0401 PURPOSE AND APPLICABILITY
21 NCAC 58E .0402 SPONSOR ELIGIBILITY
21 NCAC 58E .0403 SPONSOR NAME
21 NCAC 58E .0404 ADVANCE APPROVAL REQUIRED
21 NCAC 58E .0405 CONTINUING EDUCATION COORDINATOR
21 NCAC 58E .0406 COURSE COMPLETION REPORTING

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. April 1, 2006; July 1, 2005; September 1, 2002; October 1, 2000; July 1, 1996; July 1, 1995;

SECTION .0400 - GENERAL SPONSOR REQUIREMENTS

21 NCAC 58E .0401 PURPOSE AND APPLICABILITY
This Section contains miscellaneous general provisions relating to the approval of sponsors to conduct either the
update course or elective courses and to the responsibilities of approved sponsors. Matters addressed include:
Sponsor names and eligibility; designation of a continuing education coordinator; renewal of course and sponsor
approval; records and reports; grounds for denial or withdrawal of approval, and other related matters.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

21 NCAC 58E .0402 SPONSOR ELIGIBILITY
Any legal entity is eligible to seek approval as a sponsor of continuing education courses, provided that the entity
seeking approval of a course as a continuing education elective course is either the owner of the proprietary rights to
the course or has lawfully acquired from the course owner the right to seek course approval from the Commission
and to conduct such course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
21 NCAC 58E .0403 SPONSOR NAME

(a) The official name to be used by any course sponsor in connection with the offering of an approved continuing education course must clearly distinguish the sponsor from any other previously approved continuing education course sponsor. Unless the sponsor is a licensed private real estate school proposing to operate continuing education courses in its own name, the official name also must clearly distinguish the sponsor from any licensed private real estate school. Sponsor applicants proposing to use a sponsor name which does not comply with this standard may be required to adopt a different name as a condition of approval.

(b) Any advertisement or promotional material utilized by an approved course sponsor must include the course sponsor's official name and shall not include any other name for the sponsor.

History Note: Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994.

21 NCAC 58E .0404 ADVANCE APPROVAL REQUIRED

Prospective sponsors of an update course or elective course must obtain written approval from the Commission to conduct such course prior to conducting the course and prior to advertising or otherwise representing that the course is or may be approved for continuing education credit in North Carolina. No retroactive approval to conduct an update course will be granted for any reason. Retroactive approval of an elective course may be granted by the Commission if the course sponsor can provide evidence satisfactory to the Commission that the course was not offered for purposes of satisfying the real estate continuing education requirement and that the sponsor could not reasonably have been expected to anticipate in advance that students would want to receive continuing education elective credit for the course.

History Note: Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994.

21 NCAC 58E .0405 CONTINUING EDUCATION COORDINATOR

A sponsor of an update course or elective course must designate one person to serve as the continuing education coordinator for all Commission-approved continuing education courses offered by the sponsor. The designated coordinator shall serve as the official contact person for the sponsor and shall be responsible for the following:

1. Supervising the conduct of all the sponsor's Commission-approved continuing education courses;
2. Signing the course completion certificates provided by the sponsor to licensees completing courses; and
3. Submitting to the Commission all required fees, rosters, reports and other information.

History Note: Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994; Amended Eff. July 1, 1995.

21 NCAC 58E .0406 COURSE COMPLETION REPORTING

(a) Course sponsors must prepare and submit to the Commission, along with the per student fee required by G.S. 93A-4.1(d), reports verifying completion of a continuing education course for each licensee who satisfactorily completes the course according to the criteria in 21 NCAC 58A .1705 and who desires continuing education credit for the course. Such reports shall include students' names, students' license numbers, course date, sponsor and course codes and course information presented in the format prescribed by the Commission, and sponsors shall be held accountable for the completeness and accuracy of all information in such reports. Such reports shall be transmitted electronically via the Internet. Sponsors must submit these reports to the Commission in a manner that will assure receipt by the Commission within seven calendar days following the course, but in no case later than June 15 of any approval period for courses conducted during that approval period.

(b) At the request of the Commission, course sponsors must provide licensees enrolled in each continuing education course an opportunity to complete an evaluation of each approved continuing education course on a form provided by the Commission. Sponsors must submit the completed evaluation forms to the Commission with the reports verifying completion of a continuing education course.

(c) Course sponsors shall provide each licensee who satisfactorily completes an approved continuing education course according to the criteria in 21 NCAC 58A .1705 a course completion certificate on a form provided by the
Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course, but in no case later than June 15 for any course completed prior to that date. The certificate shall be retained by the licensee as his or her proof of having completed the course.

(d) When a licensee in attendance at a continuing education course does not comply with the student participation standards, the course sponsor shall advise the Commission of this matter in writing at the time reports verifying completion of continuing education for the course are submitted. A sponsor who determines that a licensee failed to comply with either the Commission's attendance or student participation standards shall not provide the licensee with a course completion certificate nor shall the sponsor include the licensee's name on the reports verifying completion of continuing education.

(e) Notwithstanding the provisions of Paragraphs (a) and (c) of this Rule, approved course sponsors who are national professional trade organizations and who conduct Commission-approved continuing education elective courses out of state shall not be obligated to submit reports verifying completion of continuing education courses by electronic means, provided that such sponsors submit to the Commission a roster which includes the names and license numbers of North Carolina licensees who completed the course in compliance with the criteria in 21 NCAC 58A .1705 and who desire continuing education credit for the course. A separate roster must be submitted for each class session and must be accompanied by a per student fee required by G.S. 93A-4.1(d), payable to the North Carolina Real Estate Commission. Rosters must be submitted in a manner which assures receipt by the Commission within 15 calendar days following the course, but not later than the last course reporting dates for an approval period specified in Paragraph (a) of this Rule. Such sponsors may also provide each licensee who completes an approved course in compliance with the criteria in 21 NCAC 58A .1705 a sponsor-developed course completion certificate in place of a certificate on a form provided by the Commission. Sponsors must provide the certificates to licensees within fifteen calendar days following the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994; Amended Eff. April 1, 2006; July 1, 2005; September 1, 2002; October 1, 2000; July 1, 1996; July 1, 1995.

21 NCAC 58E .0407 PER STUDENT FEE

History Note: Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1994; Amended Eff. July 1, 2005; August 1, 1998; July 1, 1996; July 1, 1995; Repealed Eff. April 1, 2006.

21 NCAC 58E .0408 CHANGE IN SPONSOR OWNERSHIP
21 NCAC 58E .0409 CHANGES DURING APPROVAL PERIOD
21 NCAC 58E .0410 COURSE RECORDS
21 NCAC 58E .0411 RENEWAL OF COURSE AND SPONSOR APPROVAL
21 NCAC 58E .0412 DENIAL OR WITHDRAWAL OF APPROVAL

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A; 93A-6(a)(15); Eff. July 1, 1994; Amended Eff. July 1, 2015; July 1, 2014; July 1, 2010; April 1, 2004; July 1, 2000; July 1, 1996; Repealed Eff. July 1, 2017.

SECTION .0500 - COURSE OPERATIONAL REQUIREMENTS

21 NCAC 58E .0501 PURPOSE AND APPLICABILITY
21 NCAC 58E .0502 SCHEDULING
21 NCAC 58E .0503 MINIMUM CLASS SIZE
21 NCAC 58E .0504 NOTICE OF SCHEDULED COURSES
21 NCAC 58E .0505 ADVERTISING; PROVIDING COURSE INFORMATION
21 NCAC 58E .0506 CLASSES OPEN TO ALL LICENSEES
21 NCAC 58E .0507 CLASSROOM FACILITIES
21 NCAC 58E .0508 STUDENT CHECK-IN
21 NCAC 58E .0509 INSTRUCTOR CONDUCT AND PERFORMANCE
21 NCAC 58E .0510 MONITORING ATTENDANCE
21 NCAC 58E .0511 STUDENT PARTICIPATION STANDARDS
21 NCAC 58E .0512 SOLICITATION OF STUDENTS
21 NCAC 58E .0513 CANCELLATION AND REFUND POLICIES
21 NCAC 58E .0514 COURSE INSPECTIONS BY COMMISSION REPRESENTATIVE

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2015; January 1, 2012; July 1, 2010; July 1, 2009; April 1, 2004; July 1, 2001; October 1, 2000; July 1, 1996; July 1, 1995;

21 NCAC 58E .0515 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

History Note: Authority G.S. 93A-3(c); 93A-4A;
Eff. July 1, 1995;
Amended Eff. July 1, 2000;

SECTION .0600 – BROKER-IN-CHARGE ANNUAL REVIEW

21 NCAC 58E .0601 PURPOSE AND APPLICABILITY
21 NCAC 58E .0602 COURSE DESCRIPTION
21 NCAC 58E .0603 AUTHORITY TO CONDUCT COURSE
21 NCAC 58E .0604 COURSE OPERATIONAL REQUIREMENTS

History Note: Authority G.S. 93A-2; 93A-3; 93A-3(c); 93A-4.1; 93A-4.2;
Eff. July 1, 2010;

SUBCHAPTER 58F - BROKER TRANSITION COURSE

SECTION .0100 – REQUIREMENTS

21 NCAC 58F .0101 BASIC REQUIREMENT
21 NCAC 58F .0102 COURSE CONTENT
21 NCAC 58F .0103 COURSE SPONSORS AND INSTRUCTORS
21 NCAC 58F .0104 COURSE OPERATIONAL REQUIREMENTS
21 NCAC 58F .0105 COURSE COMPLETION REPORTING AND PER STUDENT FEE
21 NCAC 58F .0106 WITHDRAWAL OF SPONSOR AND INSTRUCTOR APPROVAL

History Note: Authority G.S. 93A-4; 93A-4.3;
Eff. April 1, 2006;

SUBCHAPTER 58G – NORTH CAROLINA REAL ESTATE COMMISSION

SECTION .0100 – GENERAL

21 NCAC 58G .0101 PER DIEM
A member of the Real Estate Commission shall receive a per diem payment of two hundred dollars ($200.00) for each day during which the member is engaged in business for or on behalf of the Real Estate Commission.
21 NCAC 58G .0102 LOCATION

(a) The office of the North Carolina Real Estate Commission is located at 1313 Navaho Drive, Raleigh, North Carolina. The mailing address is Post Office Box 17100, Raleigh, North Carolina 27619-7100.

(b) Forms and information about the office may be obtained from the Commission's website at www.ncrec.gov.

21 NCAC 58G .0103 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter:

1. "Branch Office" means any office in addition to the principal office of a broker that is operated in connection with the broker's real estate business.

2. "BIC" means a broker-in-charge pursuant to G.S. 93A-2(a1).

3. "BIC Eligible" means a broker's license status who has satisfied the broker-in-charge qualification requirements and filed application pursuant to G.S. 93A-4.2 and 21 NCAC 58A .0110.


6. "Day" means calendar day unless the rule expressly states otherwise. The first day counted is the day following the act, event, or transaction that triggered the tolling of the designated time period.

7. "Fee" means a payment made to the Commission by a bank check, certified check, money order, debit card, credit card, or other electronic means and is nonrefundable once the payment has been processed.

8. "Firm" means a partnership, corporation, limited liability company, association, or other business entity, except for a sole proprietorship.

9. "Form" means an original form template provided by the Commission and completed by the submitting party.

10. "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained.

11. "Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker-in-charge of a sole proprietorship.

21 NCAC 58G .0104 LIMITED EDUCATION REQUIREMENTS FOR PUBLIC HEALTH EMERGENCY

(a) Schools and course sponsors shall cancel or suspend all in-person courses until April 30, 2020.

(b) Until June 10, 2020, schools and course sponsors may offer synchronous distance-learning for continuing education courses. Until June 30, 2020, schools and course sponsors may offer synchronous distance-learning for prelicensing and postlicensing courses. "Synchronous distance-learning" means the instructor and students are separated only by distance and not time, allowing for real-time monitoring of student participation.

(c) Schools shall allow students to make-up prelicensing and postlicensing course hours by attending another course of the same type offered by the same school. The make-up hours attended by the student shall be for the same content that the student missed.

(d) An applicant who is unable to take the licensing examination within 180 days pursuant to 21 NCAC 58A .0401 due to illness or the testing service locations being closed shall make a written request using the Commission's website. The Commission shall grant each applicant an extension to take the licensing examination.
(e) A broker requiring an extension of time to complete the 12-hour Broker-in-Charge Course pursuant to 21 NCAC 58A.0110(e) and .1712(b)(5) shall make a written request using the Commission's website prior to the licensee's original 120 day deadline. The Commission shall grant each broker an extension to complete the 12-hour Broker-in-Charge Course.

(f) The Commission shall grant all brokers an extension of time to complete postlicensing or continuing education courses.

(g) The Commission shall waive the prelicensing and postlicensing course examination requirements of 21 NCAC 58H.0210(a)(2), .0210(b)(2) and .0210(c).

History Note: Authority G.S. 93A-3(c); 93A-4.1(c);

21 NCAC 58G .0105 LIMITED INSTRUCTOR EDUCATION REQUIREMENTS FOR PUBLIC HEALTH EMERGENCY
Instructors shall not be required to comply with 21 NCAC 58H .0306(b)(4) prior to June 30, 2020, to renew instructor approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1(c);

21 NCAC 58G .0106 SYNCHRONOUS DISTANCE-LEARNING FOR PUBLIC HEALTH EMERGENCY
(a) Schools and course sponsors shall cancel or suspend all in-person courses until June 30, 2020.
(b) Schools, course sponsors, and education providers may offer synchronous distance-learning for continuing education courses except for the period between June 11, 2020 and June 30, 2020, inclusive. Schools and education providers may offer synchronous distance-learning for prelicensing and postlicensing courses. "Synchronous distance-learning" means the instructor and students are separated only by distance and not time, allowing for real-time monitoring of student participation.
(c) The Update Course shall be offered by schools, course sponsors, or education providers only as an in-person and synchronous distance-learning course.

History Note: Authority G.S. 93A-3(c); 93A-4.1(c);

SUBCHAPTER 58H - REAL ESTATE EDUCATION

SECTION .0100 – GENERAL

21 NCAC 58H .0101 DEFINITIONS
The following definitions apply throughout this Subchapter and to all forms prescribed pursuant to this Chapter:

(1) "Instructional hour" means 50 minutes of instruction and 10 minutes of break time.
(2) "Distance education" means a method of instruction accomplished through the use of media whereby teacher and student are separated by distance or time.
(3) "End-of-course evaluation" means a student evaluation of the course and the instructor's performance that shall be administered during the class period before administration of the end-of-course examination.
(4) "End-of-course examination" means an examination administered at the conclusion of a course that tests students' knowledge and mastery of all course subjects mandated by the Commission prescribed course syllabus.
(5) "Mid-course evaluation" means a student evaluation of the course and the instructor's performance given at the midpoint of the course.
(6) "Instructor development program" means courses of instruction designed to assist real estate instructors in the performance of Prelicensing, Postlicensing, or Continuing Education instructor duties or in the development of teaching skills.
"License Examination Performance Record" means the percentage of an instructor's or school's students who, within 30 days of completing a Prelicensing course pursuant to 21 NCAC 58H .0210(a), take and pass the license examination, as defined in 21 NCAC 58A .0402, on their first attempt.

"Postlicensing course" means any one of the courses comprising the 90 hour Postlicensing education program pursuant to G.S. 93A-4(a1) and 21 NCAC 58A .1902.

"Prelicensing course" means a single course consisting of at least 75 hours of instruction on subjects prescribed by the Commission pursuant to G.S. 93A-4(a).

"Private real estate school" means any real estate educational entity that is privately owned and operated by an individual, partnership, corporation, limited liability company, or association, and that conducts, for a profit or tuition charge, Prelicensing or Postlicensing courses.

"Public real estate school" means any proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 or approved by the Board of Governors of the University of North Carolina that conducts Prelicensing or Postlicensing courses.

"Schools" mean licensed private and approved public real estate schools.

"Update Courses" mean the General Update Course and the Broker-in-Charge Update Course.

History Note: Authority G.S. 93A-4; 93A-4.1; 93A-32; 93A-33; Eff. July 1, 2017.

SECTION .0200 - REAL ESTATE SCHOOLS

21 NCAC 58H .0201 APPLICABILITY
This Section applies to all real estate schools offering approved Prelicensing and Postlicensing courses. Public real estate schools offering approved Prelicensing and Postlicensing courses shall be exempt from rules in this Section unless a Rule specifically requires compliance.

History Note: Authority G.S. 93A-4; 93A-33; Eff. July 1, 2017.

21 NCAC 58H .0202 APPLICATION FOR ORIGINAL APPROVAL OF A PUBLIC REAL ESTATE SCHOOL
(a) Any entity seeking original approval as a public real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the:

(1) school name;
(2) school director name and contact information;
(3) school address;
(4) school telephone number;
(5) school website address;
(6) type of public institution;
(7) Prelicensing or Postlicensing courses to be offered by the school;
(8) Update courses to be offered by the school; and
(9) a signed certification by the school director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Public real estate schools offering Prelicensing or Postlicensing courses pursuant to Paragraph (a) of this Rule shall be eligible to offer Update courses and continuing education courses.

(c) Approval shall extend only to the courses included in the application for school approval.

History Note: Authority G.S. 93A-4; Eff. July 1, 2017.

21 NCAC 58H .0203 APPLICATION FOR ORIGINAL LICENSURE OF A PRIVATE REAL ESTATE SCHOOL
(a) Any entity seeking original licensure as a private real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b):
the physical, website, and email addresses and telephone number of the principal office of the school;
the proposed school director's legal name, real estate license number, if any, email and mailing address, and telephone number;
the type of school ownership entity and the name, title, real estate license number, if any, mailing address, and ownership percentage of each individual or entity holding at least 10% ownership in the entity;
the North Carolina Secretary of State Identification Number;
the criminal history and history of occupational license disciplinary actions of individual school owner(s);
the physical address of each proposed school location;
the source of real estate examinations to be used for each course offered;
a copy of a criminal background check for the previous seven years on the proposed school director;
a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
the Prelicensing or Postlicensing courses to be offered by the school;
the Update courses to be offered by the school; and
the signature and certification of the school owner(s).

(b) Private real estate school names shall contain the words "Real Estate" and other words identifying the entity as a school, such as "school," "academy," or "institute" that are distinguishable from other licensed private real estate schools and from continuing education course sponsors approved by the Commission.

c) The school name shall be used in all school publications and advertising.

d) Each school shall certify that its facilities and equipment are in compliance with all applicable local, state and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

e) The original license application fee shall be two hundred dollars ($200.00) for each proposed school location.

(f) The initial fee for a school to offer a Prelicensing or Postlicensing course at any of its locations during the licensing period shall be forty dollars ($40.00) per Prelicensing or Postlicensing course.

(g) Private real estate schools offering Prelicensing or Postlicensing courses pursuant to Paragraph (a) of this Rule shall be eligible to offer Update courses and continuing education courses.

(h) If a school relocates any location during any licensing period, the school owner shall submit an original application for licensure of that location pursuant to this Rule.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;
Eff. July 1, 2017;

21 NCAC 58H .0204 SCHOOL DIRECTOR

(a) All schools shall designate a school director, who shall

(1) supervise all school operations related to the conduct of Prelicensing and Postlicensing courses;
(2) ensure compliance with all statutory and rule requirements governing the licensing and operation of the school; and
(3) act as the school's liaison to the Commission.

(b) Public real estate schools shall designate one permanent employee to serve as the school director.

(c) The school director for a private real estate school shall satisfy one of the following qualification standards:

(1) hold a baccalaureate or higher degree;
(2) have at least two years full-time experience within the past 10 years as an instructor or school administrator; or
(3) possess qualifications that the Commission finds to be equivalent to those described in Subparagraph (1) or (2) of this Rule, such as:

(A) a transcript demonstrating completion of 120 semester hours of education at an institution accredited by any college accrediting body recognized by the U. S. Department of Education;
(B) currently holding or having held within the past 15 years a military pay grade of an E-8 level, O-1 level, or higher; or
(C) a current Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators' Association.

(d) The school director shall approve a guest lecturer prior to the guest lecturer teaching a course session. School directors shall ensure that all guest lecturers possess experience related to the particular subject area the guest lecturer is teaching. Guest lecturers may be utilized to teach collectively up to one-fourth of any Prelicensing or Postlicensing course.

(e) The school director shall ensure that each instructor meets the requirements of Rule .0302 of this Subchapter.

(f) The school director shall ensure each course utilizes a textbook currently approved by the Commission pursuant to Rule .0206 of this Section.

(g) Schools shall notify the Commission within 10 days of any change in school director during the licensing period.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0205 PRIVATE REAL ESTATE SCHOOL BULLETIN

(a) A private real estate school shall publish a single bulletin addressing Prelicensing and Postlicensing courses offered. The same bulletin shall be used by all locations of a private real estate school.

(b) In addition to the information required by G.S. 93A-34(c)(5), a school's bulletin shall:

1. describe the purpose of Prelicensing and Postlicensing courses;
2. describe the school's policies and procedures;
3. include the name and address of the Commission, along with a statement that any complaints concerning the school or its instructors should be directed to the Commission;
4. include a statement that the school shall not discriminate in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion;
5. contain the following prescribed text: "NOTICE: Pursuant to North Carolina Real Estate Commission Rule 21 NCAC 58A .1904, the Commission may deny or withdraw credit for a Postlicensing course that a provisional broker begins taking while already enrolled in another Postlicensing course at the same school or a different school if participating in the two courses concurrently results in the provisional broker attending Postlicensing course sessions that total more than 30 instructional hours in any given seven-day period;" and
6. include a signed certification that a student received a copy of the bulletin prior to payment of any portion of tuition or registration fee without the right to a full refund.

(c) A private real estate school may provide in its bulletin information about courses that are not approved by the Commission and shall state that such courses are not approved or sanctioned by the Commission.

(d) A private real estate school may not include in its bulletin any promotional information for a particular real estate broker, firm, franchise, or association, even if the entity being promoted owns the school.

(e) A private real estate school shall retain the signed certification required by Paragraph (b)(6) of this Rule pursuant to Rule .0212 of this Section. The certification shall include:

1. the student's name;
2. the date;
3. the title of the course(s) for which the student is enrolling;
4. the course schedule, including the beginning and end date, and meeting days and times;
5. the amount of tuition and other required fees being paid by the particular student;
6. a provision whereby the school certifies that the school's bulletin has been provided to the student and that the student acknowledges receipt of the bulletin;
7. any provisions needed to address special accommodations or arrangements applicable to a particular student; and
8. the signatures of both the student and a school official.

History Note: Authority G.S. 93A-4(a); 93A-4(d); 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0206 APPROVAL OF TEXTBOOKS
(a) A request for approval of a proposed textbook shall be submitted in writing to the Commission along with two copies of the proposed textbook. The criteria for approval shall be:
   (1) the textbook shall cover current North Carolina real estate related laws, rules, and practices;
   (2) the text shall be grammatically correct; and
   (3) the nature and depth of subject matter coverage shall be consistent with the competency and instructional levels prescribed by the Commission for the course for which approval is sought.

(b) Approval of a textbook shall only apply to the edition reviewed by the Commission. A request for approval of a new or updated edition of a previously approved textbook shall be submitted in writing to the Commission, along with two copies of the proposed textbook, and shall include a list with specific page references of all significant changes from the previously approved edition.

(c) Approval of a textbook shall terminate four years after the initial approval or upon the approval of a new edition of a previously approved textbook.

History Note: Authority G.S. 93A-4; 93A-33; Eff. July 1, 2017.

21 NCAC 58H .0207 SCHOOL ADVERTISING AND RECRUITMENT ACTIVITIES
(a) Any school utilizing its license examination performance record for advertising or promotional purposes shall only use data that:
   (1) are limited to the annual examination performance data for the particular school and for all examination candidates in the State;
   (2) include the time period covered, the number of first-time candidates examined, and either the number or percentage of first-time candidates passing the examination; and
   (3) are presented in a manner that is not misleading or false.

(b) Schools shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that school or acquisition of a real estate license.

(c) Schools shall not use endorsements or recommendations of any person or organization of advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Schools may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(e) Instructional time and materials may be utilized for instructional purposes only.

(f) Schools shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or association, even if the entity whose affiliated brokers would benefit from the closed course is the school owner.

History Note: Authority G.S. 93A-4(d); 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0208 PRELICENSING AND POSTLICENSING COURSE SCHEDULING AND NOTIFICATION
(a) All Prelicensing and Postlicensing courses shall have fixed beginning and ending dates. Schools shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0210 of this Section.

(b) Schools shall notify the Commission of all scheduled Prelicensing and Postlicensing course offerings not later than 10 days prior to a scheduled course beginning date.

(c) The notice required by Paragraph (b) of this Rule shall include:
   (1) the school name;
   (2) the school code number; and
   (3) for each scheduled course:
      (A) the name and course code number;
      (B) the scheduled beginning and ending dates;
(C) the course meeting days and times, including any scheduled lunch breaks; and
(D) the name of the instructor and instructor number.

(d) If there is a change or cancellation within five days of the scheduled course date, then the school director shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) Class meetings shall not exceed seven and a half instructional hours per day and shall not exceed 30 instructional hours over any seven day period.

History Note: Authority G.S. 93A-4;

21 NCAC 58H .0209  POSTLICENSING COURSE ENROLLMENT

A school shall not enroll an individual in a Postlicensing course if:

(1) the first day of the Postlicensing course occurs while the individual is enrolled in a Prelicensing course; or
(2) the first day of the Postlicensing course occurs while the individual is taking another Postlicensing course at the same school or a different school if such enrollment results in the individual being in class for more than 30 instructional hours in any given seven day period.

History Note: Authority G.S. 93A-4(a1); 93A-33;
Eff. July 1, 2017;

21 NCAC 58H .0210  PRELICENSING AND POSTLICENSING COURSE COMPLETION STANDARDS

(a) To complete a Prelicensing course, a student shall, at a minimum:

(1) attend at least eighty percent of all scheduled credit hours for the course; and
(2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(b) To complete a Postlicensing course, a student shall, at a minimum:

(1) attend at least ninety percent of all scheduled credit hours for the course; and
(2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(c) The end-of-course examination shall be completed in the classroom and proctored by the instructor or another school staff member. Students shall not use textbooks or notes on the end-of-course examination.

(d) Prelicensing end-of-course examinations may be provided by the Commission for use by a licensed or approved school. If the Commission does not provide such end-of-course examination, or if a school elects not to use a Commission-provided examination, the school shall use an examination that tests students' knowledge and mastery of the course subject matter. Upon the request of the Commission during an application or investigation, the school shall provide a copy of its end-of-course examination.

(e) Postlicensing end-of-course examinations shall be provided by the Commission for use by a licensed or approved school.

(f) A school may, within 30 days of the course ending date, allow a Prelicensing or Postlicensing course student opportunities to make-up a missed end-of-course examination or to retake a failed end-of-course examination without repeating the course. Postlicensing students shall be allowed at least one retake examination opportunity. Any make-up or repeat end-of-course examination shall consist of a different form of the examination than any previously administered in the student's course. If the examination used is not provided by the Commission, at least seventy-five percent of the questions shall be different from those previously included on any end-of-course examination used earlier in the student's course.

(g) Schools, school directors, and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

(1) maintaining examinations and answer keys in a secure place, such as a locked area, accessible only to the instructor or school officials;
(2) prohibiting students from retaining copies of examinations, answer sheets, and scratch paper containing notes or calculations, or any material that may jeopardize examination security;
(3) monitoring students at all times when examinations are being administered; and
(4) prohibiting students from reviewing examinations, answer sheets, scratch paper, or any material used during the examination after students have completed the examination.
Any student who is found to have cheated in any manner on any course examination shall be dismissed from the course and shall not be awarded a passing grade for the course or any credit for partial completion of the course. The school shall report the cheating incident in writing to the Commission within 10 days.

History Note:  Authority G.S. 93A-4; 93A-33;  

21 NCAC 58H .0211 PRELICENSING AND POSTLICENSING ROSTER REPORTING
(a) A school shall provide a course completion certificate to each student who completes a Prelicensing or Postlicensing course under Rule .0210 of this Section. Each course completion certificate shall identify the course, date of completion, student, and instructor. The certificate shall be signed by the school director.
(b) For each Prelicensing or Postlicensing course taught, a school shall submit a Roster Report electronically within seven days following the course as follows:

(1) The Prelicensing Roster Report shall include:
   (A) each student's legal name;
   (B) each student's email address and telephone number;
   (C) each student's unique identification number;
   (D) the course completion date pursuant to Rule .0210 of this Section;
   (E) the school's name and number;
   (F) the course's number; and
   (G) the instructor's name and number.

(2) The Postlicensing Roster Report shall include:
   (A) each student's legal name;
   (B) each broker's license number;
   (C) the course completion date pursuant to Rule .0210 of this Section;
   (D) the school's name and number;
   (E) the course's name and number; and
   (F) the instructor's name and number.

(c) Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S 93A-4(a2).

History Note:  Authority G.S. 93A-4; 93A-33;  
Eff. July 1, 2017;  

21 NCAC 58H .0212 SCHOOL RECORDS
All school records shall be retained for three years by the school and be made available to the Commission during an investigation or application process. School records shall include:

(1) enrollment and attendance records;
(2) each student's end-of-course examination with grade and graded answer sheet;
(3) a master copy of each end-of-course course examination with its answer key, course title, course dates, and name of the instructor;
(4) all student evaluations pursuant to Rule .0213(a) of this Section;
(5) all instructor evaluations pursuant to Rule .0213(c) of this Section;
(6) class schedules;
(7) advertisements;
(8) bulletins, catalogues, and other official publications; and
(9) statements of consent required by Rule .0207(c) of this Section.

History Note:  Authority G.S. 93A-4; 93A-33;  

21 NCAC 58H .0213 EVALUATIONS OF INSTRUCTOR PERFORMANCE
(a) A school shall provide each student an opportunity to complete a mid-course evaluation and an end-of-course evaluation of the instructor in each Prelicensing course and to complete an end-of-course evaluation of the instructor
in each Postlicensing course. Each student's evaluation shall be on a form provided by the Commission, include a section for the student's comments, and shall evaluate the instructor's:

1. knowledge of the subject matter;
2. teaching skills; and
3. classroom management.

(b) The school director shall submit a Summary Report electronically within 30 days after course completion pursuant to Rule .0210 of this Section. The Summary Report form shall require the school director to set forth:

1. the full name of the instructor being evaluated;
2. title of course;
3. the number of students who initially enrolled in the course;
4. the number of students who met all course requirements pursuant to Rule .0210 of this Section;
5. the number of students who met all course requirements except Rule .0210(a)(2) and (b)(2) of this Section;

(c) In addition to the student evaluations in Paragraph (a) of this Rule, school directors shall also ensure all school-affiliated instructors are observed at least once annually for a minimum of one hour of live uninterrupted instruction by either the school director or a Commission-approved Prelicensing or Postlicensing instructor present in the classroom. School directors who are also instructors may, upon written request to the Commission, be evaluated by a Commission monitor. The evaluation shall be based on the instructor's teaching abilities pursuant to Rule .0304 of this Subchapter. The instructor shall receive the written evaluation of his or her instructional performance within 30 days of observation.

History Note: Authority G.S. 93A-4; 93A-33;

21 NCAC 58H .0214 EXPIRATION AND RENEWAL OF A SCHOOL APPROVAL OR LICENSE

(a) All Commission approvals and licenses issued to real estate schools shall expire annually on June 30 following issuance of approval or licensure.

(b) A school shall file an electronic application for renewal of its approval or license within 45 days immediately preceding expiration of approval or licensure on a form available on the Commission's website. The school renewal application form shall include:

1. the school name;
2. the school number;
3. the school director's name;
4. the school's mailing address, telephone number, and web address, if applicable;
5. all Commission approved courses offered by the school;
6. any change in the school's business entity;
7. court records of any conviction, guilty plea, or plea of no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction against the school owner(s) and school director since the last renewal;
8. records pertaining to any disciplinary action taken against the school owner(s) and school director by an occupational licensing board since the last renewal;
9. a copy of the current bulletin;
10. proof of bond as required in G.S. 93A-36; and
11. the school director's signature.

(c) The private school license renewal fee shall be one hundred dollars ($100.00) for each school location.

(d) The renewal fee for a private real estate school to offer a Prelicensing or Postlicensing course at any of its locations during the licensed period shall be twenty-five dollars ($25.00) per Prelicensing or Postlicensing course.

(e) If a school approval or license has expired, the school shall submit an application for original approval or licensure.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36;
Eff. July 1, 2017;

21 NCAC 58H .0215 DENIAL, WITHDRAWAL, OR TERMINATION OF SCHOOL APPROVAL OR LICENSE
(a) The Commission may deny or withdraw approval of any public real estate school or suspend, revoke, or deny renewal of the license of any private real estate school upon finding that:

1. any school official employed by the school has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
2. any school official found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
3. a school made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
4. a school provided false, incomplete, or incorrect information in connection with any report the school is required to submit to the Commission;
5. a school presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;
6. a school refused at any time to permit authorized representatives of the Commission to inspect the school or audit its courses;
7. a school director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
8. a school obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
9. a school compiled a license examination performance record for first-time examination candidates that is below sixty percent passing for two or more of the previous five annual reporting periods;
10. a school failed to provide to the Commission a written plan describing the changes the school made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following a school's attainment of a licensing examination record for first-time examination candidates that is below 60 percent passing for the previous annual reporting period;
11. a school provided the Commission a fee that was dishonored by a bank or returned for insufficient funds; or
12. a school refused or failed to comply with the provisions of this Subchapter.

(b) When ownership of a licensed private real estate school is transferred and the school ceases to operate as the licensed entity, the school license is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original private real estate school license for each location where the school will conduct courses as required by G.S. 93A-34 and Rule .0203 of this Section prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any school operations.

(c) If a licensed private real estate school transfers an aggregate of 50 percent or more of the ownership interest, the school shall notify the Commission in writing within 10 days of the transfer.

History Note: Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38; Eff. July 1, 2017.

SUBCHAPTER 58H - REAL ESTATE EDUCATION

SECTION .0300 – APPROVED INSTRUCTORS

21 NCAC 58H .0301 PRELICENSING, POSTLICENSING, AND UPDATE COURSE INSTRUCTOR APPROVAL

(a) Approval of an instructor to teach Prelicensing and Postlicensing courses shall authorize the instructor to teach courses only in conjunction with and at schools approved or licensed by the Commission pursuant to Rule .0202 or .0203 of this Subchapter to conduct such courses.

(b) An instructor approved to teach Prelicensing and Postlicensing courses may elect to also teach Update courses upon initial approval, renewal, or any time while holding such approval.
(c) Approved instructors may teach Update courses for any approved Update course sponsor pursuant to Rule .0402 of this Subchapter. An approved instructor may not independently conduct an Update course unless the instructor has also obtained approval as an Update course sponsor.

History Note:  Authority G.S. 93A-4(d); 93A-33; 93A-34;

21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR ORIGINAL PRELICENSING, POSTLICENSING, OR UPDATE COURSE INSTRUCTOR APPROVAL

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's website that shall require the instructor applicant to indicate the course(s) for which he or she is seeking approval and set forth the instructor applicant's:

(1) legal name, address, email address, and telephone number;
(2) real estate license number and instructor number, if any, assigned by Commission;
(3) criminal and occupational licensing history, including any disciplinary actions;
(4) education background, including specific real estate education;
(5) experience in the real estate business;
(6) real estate teaching experience, if any;
(7) a signed Consent to Service of Process and Pleadings for nonresident applicants; and
(8) signature.

(b) An instructor applicant shall demonstrate that he or she possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:

(1) a North Carolina real estate broker license that is not on provisional status;
(2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1702;
(3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education;
(4) completed the New Instructor Seminar within the previous six months; and
(5) within the previous seven years has either:
   (A) two years full-time experience in real estate brokerage with at least one year in North Carolina;
   (B) three years of instructor experience at a secondary or post-secondary level;
   (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
   (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate transactions or representation of real estate brokers or firms.

(c) In order to complete the New Instructor Seminar, a broker shall:

(1) attend at least ninety percent of all scheduled hours; and
(2) demonstrate the ability to teach a 15-minute block of a single Prelicensing topic in a manner consistent with the course materials.

(d) Instructors approved prior to July 1, 2019 shall be exempt from the New Instructor Seminar requirement pursuant to Paragraph (b)(4) of this Rule.

(e) Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update Instructor Seminar for the current license period. The Update Instructor Seminar shall not be used to meet the requirement in Rule .0306(b)(4) of this Section.

History Note:  Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;
Eff. July 1, 2017;

21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL

The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

(1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;

(3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;

(4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;

(5) taught a Prelicensing course and compiled a license examination performance record for first-time examination candidates that is below 60 percent passing for two or more of the previous five annual reporting periods;

(6) taught a Prelicensing course and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following an instructor's attainment of a licensing examination record for first-time examination candidates that is below sixty percent passing for the previous annual reporting period;

(7) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;

(8) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;

(9) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;

(10) has failed to take appropriate steps to protect the security of end-of-course examinations pursuant to Rule .0210(g) of this Subchapter;

(11) failed to take any corrective action set out in the plan described in Item (5) of this Rule or as otherwise requested by the Commission;

(12) engaged in any other improper, fraudulent, or dishonest conduct; or

(13) failed to comply with any other provisions of this Subchapter.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0304 INSTRUCTOR CONDUCT AND PERFORMANCE
(a) All instructors shall ensure that class sessions are conducted at the scheduled time and for the full amount of time that is scheduled or required. Instructors shall conduct courses in accordance with the Commission's rules, and any applicable course syllabi, instructor guide, or course plan. Instructors shall conduct classes demonstrating the ability to:

(1) state student learning objectives at the beginning of the course and present accurate and relevant information;

(2) communicate correct grammar and vocabulary;

(3) utilize a variety of instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture and demonstration, and student-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;

(4) utilize instructional aids, such as:
(A) whiteboards;
(B) sample forms and contracts;
(C) pictures;
(D) charts; and
(E) videos.

(5) utilize assessment tools, such as:
(A) in-class or homework assignments, and
(B) quizzes and midterm examinations for Prelicensing and Postlicensing courses.

(6) avoid criticism of any other person, agency, or organization;

(7) identify key concepts and correct student misconceptions; and

(8) maintain control of the class.
Instructors teaching Prelicensing, Postlicensing, or Update courses shall interact with students either in person in a classroom setting or through an interactive telecommunication system, or comparable system, that permits continuous mutual audio and visual communication between the instructor and students. The school shall provide monitoring and technical support for the instructors or students.

(c) Instructors teaching Prelicensing or Postlicensing courses shall:
   (1) safeguard and protect the security of course examinations;
   (2) not allow students to review or retain copies of end-of-course examinations and any materials used during the examination; and
   (3) only use guest lecturers that have been approved by the school director pursuant to Rule .0204(d) of this Section.

(d) Instructors shall not obtain, use, or attempt to obtain or use, in any manner or form, North Carolina real estate license examination questions.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0305 DIGITAL VIDEO RECORDINGS
(a) Upon request of the Commission during an investigation, an approved instructor shall submit a digital video recording of the instructor teaching specified topics of a course, as identified by the Commission which the instructor is approved to teach.
(b) Upon the request of the Commission during an investigation, a continuing education sponsor shall submit a digital video recording depicting a particular Update Course instructor, as designated by the Commission, teaching the Update course.
(c) Any digital video recording submitted to the Commission shall:
   (1) have been made within 12 months of the date of submission;
   (2) be recorded either on a digital video disc (DVD), USB drive, or similar medium;
   (3) be unedited;
   (4) display a visible date and time stamp during the entire video recording;
   (5) include a label identifying the instructor, the course title, subject being taught, student materials used, and dates of the video instruction;
   (6) have visual and sound quality to allow reviewers to see and hear the instructor; and
   (7) show at least a portion of the students present in a live audience.
(d) The deadline for any digital video recording requested during an investigation shall be 30 days after the date of the next scheduled course, but no later than 120 days after the Commission's request.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0306 RENEWAL AND EXPIRATION OF INSTRUCTOR APPROVAL
(a) Commission approval of instructors shall expire annually on June 30 following issuance of approval.
(b) Any approved instructor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The instructor renewal application shall set forth the instructor's:
   (1) legal name, address, email address, and telephone number;
   (2) real estate license number and instructor number assigned by Commission;
   (3) any criminal convictions and occupational license disciplinary actions within the past year;
   (4) proof of attendance since approval or last renewal of a real estate instructor educational program of at least six hours, such as the:
      (A) Commission's Spring Educators Conference or New Instructor Seminar;
      (B) NC Real Estate Educators Association's conference or instructor development workshop;
      or
      (C) Real Estate Educators Association's conference or instructor development workshop.
   (5) courses for which he or she is seeking approval as an instructor; and
   (6) signature.
(c) In order to reinstate an instructor approval that has been expired for less than six months, the former instructor shall meet the requirements set forth in Paragraph (b) of this Rule.
(d) If an instructor approval has been expired for more than six months, the former instructor shall file an application for original approval pursuant to Rule .0302 of this Section.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

SECTION .0400 - CONTINUING EDUCATION

21 NCAC 58H .0401 APPLICABILITY
This Section shall apply to the application, renewal, and conduct of continuing education sponsors, continuing education elective courses, and Update Courses.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0402 APPLICATION FOR ORIGINAL APPROVAL OF CONTINUING EDUCATION SPONSOR
(a) Only continuing education sponsors approved by the Commission shall be eligible to offer continuing education courses, including elective courses and Update Courses.
(b) Any entity seeking original approval to be a continuing education sponsor shall make application on a form available on the Commission's website that requires the applicant to set forth:
   (1) the legal name of applicant and any assumed business name;
   (2) the applicant's mailing address, telephone number, and email address;
   (3) the legal name of the individual who will serve as the applicant's continuing education coordinator as defined in Rule .0403 of this Section;
   (4) the applicant's form of business entity;
   (5) the SOSID issued by the NC Secretary of State, if applicable;
   (6) the legal name(s) of the sponsor's owner(s);
   (7) a record of any criminal convictions for all individuals listed as owner(s), manager(s), or partner(s);
   (8) a record of any discipline related to a professional license for all individuals listed as owner(s), manager(s), or partner(s); and
   (9) the signature of the applicant.
(c) Any foreign or out-of-state entity or person applying for original approval shall submit a signed Consent to Service of Process and Pleadings form as required by G.S. 93A-10.
(d) The name of any course sponsor shall not be identical to the name of any other approved continuing education course sponsor or licensed private real estate school.
(e) Continuing education sponsors shall notify the Commission in writing within 10 days of any change in business name, ownership interest, continuing education coordinator, address, business telephone number, or email address.

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-10; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0403 CONTINUING EDUCATION COORDINATOR
(a) Continuing education sponsors shall designate in writing to the Commission one person to serve as the continuing education coordinator. The continuing education coordinator shall serve as the official contact person for the sponsor and shall be responsible for:
   (1) supervising the sponsor's continuing education courses;
   (2) ensuring continuing education elective courses are taught by instructors complying with Rule .0407 of this Section;
   (3) ensuring elective courses are taught according to the course materials approved by the Commission;
   (4) ensuring only approved instructors who have taken the Update Course Seminar for the current license period teach Update Courses;
   (5) ensuring students are furnished with the approved course materials pursuant to Rule .0406 of this Section;
(6) signing course completion certificates;
(7) submitting to the Commission all required fees, rosters, reports, and other information; and
(8) submitting to the Commission the name and the instructor number of each elective course instructor within 10 days of employment.

(b) Each continuing education coordinator shall view the Commission's Continuing Education Coordinator video electronically within 30 days of initial designation and annually within 45 days immediately preceding expiration of sponsor approval.

History Note: Authority G.S. 93A-3; 93A-4.1; Eff. July 1, 2017.

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL
(a) Commission approval of all continuing education sponsors shall expire annually on June 30 following issuance of approval.
(b) In order to ensure continuous sponsor approval, an approved sponsor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The sponsor approval renewal application shall require the sponsor to set forth:

(1) the legal name of sponsor and any assumed business name;
(2) the sponsor number assigned by the Commission;
(3) the sponsor's mailing address, telephone number, and email address;
(4) the continuing education coordinator's legal name;
(5) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;
(6) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew;
(7) a certification that the continuing education coordinator has completed the Commission's video training pursuant to Rule .0403(b) of this Section;
(8) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and
(9) the signature of the sponsor.
(c) A continuing education sponsor also licensed or approved as a school may renew its continuing education sponsor approval on its school renewal form pursuant to Rule .0214 of this Subchapter.
(d) Continuing education sponsors shall submit a fifty dollar ($50.00) fee for each continuing education elective course the sponsor wishes to renew. No fee is required if the entity making application is a public school or is an agency of federal, state or local government.
(e) Continuing education sponsors shall submit a one hundred dollar ($100.00) materials fee if the sponsor wishes to renew approval to offer Update courses. No fee is required if the entity making application is a public real estate school or is an agency of federal, state, or local government.

History Note: Authority G.S. 93A-3; 93A-4.1; Eff. July 1, 2017; Amended Eff. July 1, 2018.

21 NCAC 58H .0405 DENIAL OR WITHDRAWAL OF SPONSOR APPROVAL
(a) The Commission may deny or withdraw approval of any continuing education sponsor upon finding that the sponsor or the continuing education coordinator in the employ of the sponsor:

(1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or sponsor approval or renewal;
(2) provided false, incomplete, or incorrect information in connection with any reports the continuing education sponsor is required to submit to the Commission;
(3) provided the Commission a check for required fees that was dishonored by a bank or returned for insufficient funds;
(4) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
(5) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
(6) has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction;
(7) collected money from brokers for a continuing education course but refused or failed to provide the promised instruction;
(8) intentionally provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
(9) failed to submit the CE Roster Reports as required by Rule .0412 of this Section;
(10) failed to submit the per student fee as required by G.S. 93A-4.1(d); or
(11) failed to comply with any other provision of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of a continuing education course sponsor if that broker:

(1) has an ownership interest in the course sponsor;
(2) is the designated continuing education coordinator for the course sponsor; or
(3) is an instructor for the course sponsor.

(c) When ownership of an approved continuing education sponsor is transferred to a separate legal entity, the sponsor's approval is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original continuing education sponsor approval as required by Rule .0402 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any sponsor operations.

(d) If an approved continuing education sponsor transfers an aggregate of 50 percent or more of the ownership interest, the sponsor shall notify the Commission in writing within 10 days of the transfer.

History Note:  Authority G.S. 93A-3(c); 93A-4.1; 93A-6(a)(15);

21 NCAC 58H .0406  APPROVAL AND RENEWAL OF ELECTIVE COURSE

(a) Prior to obtaining the Commission's written approval of a continuing education elective course, sponsors shall not offer, advertise, or otherwise represent that any continuing education elective course is, or may be, approved for continuing education credit in North Carolina.

(b) A sponsor seeking original approval of a proposed elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

(1) title of the proposed elective course;
(2) continuing education sponsor's legal name, address, and telephone number;
(3) continuing education coordinator's legal name;
(4) continuing education sponsor's sponsor code, if previously approved;
(5) credit hours awarded for completing the course;
(6) subject matter of the course;
(7) identity of the course owner;
(8) written permission of the course owner, if other than the applicant;
(9) identity of prospective instructors; and
(10) continuing education sponsor's signature.

(c) The application for original approval shall be accompanied by a copy of the course guide, which shall include course objectives, learning objectives for each topic, a timed outline, instructional methods and aids to be employed, and all materials that will be provided to students.

(d) If the elective course will be taught by any method other than live, in-person, in-class instruction, the applicant shall submit, along with the application for original approval:

(1) a full copy of the course on the medium to be utilized for instruction;
(2) a description of the method by which the sponsor will verify and record student attendance;
(3) a list of hardware and software or other equipment necessary to both offer and complete the course;
(4) the contact information for the technical support service for the course; and
(5) a copy of the student orientation and course tutorial information.
(e) If the course will be taught by any method other than live, in-person, in-class instruction, the applicant shall, if requested, make available, at a date and time satisfactory to the Commission and at the applicant's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an Internet-based course, the Commission shall be provided access to the course at a date and time set by the Commission and shall not be charged any fee for such access.

(f) A sponsor seeking approval to offer an already approved elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

1. title of the elective course;
2. applicant's legal name, address, and telephone number;
3. applicant's continuing education coordinator's legal name;
4. applicant's continuing education sponsor code, if previously approved;
5. identity of the course owner;
6. written permission of the course owner, if other than the applicant;
7. identity of prospective instructors; and
8. continuing education sponsor's signature.

(g) All applicants shall submit a fee of one hundred dollars ($100.00) per elective course. No fee shall be required if the applicant is a public real estate school or is an agency of federal, state, or local government.

(h) Applications submitted pursuant to Paragraph (f) of this Rule shall be deemed approved ten business days after the Commission has received both a complete application and the required one hundred dollar ($100.00) per course fee, unless the Commission notifies the applicant otherwise.

(i) Commission approval of all continuing education elective courses shall expire on June 30.

(j) In order to ensure continuous approval, a course sponsor shall include the name and course number of each previously approved continuing education elective it wishes to renew, along with the required fifty dollar ($50.00) fee, in the sponsor approval renewal application pursuant to Rule .0404 of this Section.

(k) In order to obtain approval for an expired continuing education elective, a course sponsor shall submit an application for original approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1

21 NCAC 58H .0407  CONTINUING EDUCATION ELECTIVE COURSE REQUIREMENTS

(a) Continuing education elective courses shall:

1. cover subject matter related to real estate brokerage practice and offer knowledge or skills that will enable brokers to better serve real estate consumers and the public interest;
2. consist of at least four hours of instruction;
3. offer four continuing education credit hours;
4. include handout materials for students that provide the information to be presented in the course; and
5. be taught only by an instructor who possesses at least one of the following:
   (A) a baccalaureate or higher degree in a field directly related to the subject matter of the course;
   (B) three years' full-time work experience within the previous 10 years that is directly related to the subject matter of the course;
   (C) three years' full-time experience within the previous 10 years teaching the subject matter of the course; or
   (D) education or experience or both found by the Commission to be equivalent to one of the above standards.

(b) Sponsors shall obtain approval from the Commission before making any changes in the content of an elective course. Requests for approval of changes shall be in writing. However, changes in course content that are technical in nature do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

21 NCAC 58H .0408  COMMISSION CREATED UPDATE COURSES
The Commission shall annually develop Update courses and shall produce instructor and student materials for use by sponsors.

Only approved continuing education sponsors shall offer Update courses. Only approved instructors pursuant to Rule .0302 of this Subchapter shall instruct Update courses.

Continuing education sponsors shall obtain written approval from the Commission prior to offering, advertising, or otherwise representing that any Update course is being offered for continuing education credit in North Carolina.

A continuing education sponsor seeking approval to offer Update courses shall submit an application form available on the Commission's website that shall require the applicant to set forth the:

1. continuing education sponsor's legal name, address, and telephone number;
2. continuing education coordinator's legal name;
3. continuing education sponsor's number assigned by the Commission;
4. name and instructor number of prospective instructors; and
5. continuing education sponsor's signature.

A continuing education sponsor seeking approval to offer a modified Update course pursuant to Paragraph (k) of this Rule shall also submit the written permission of each of the course owners, if other than the applicant.

A licensed or approved school may obtain approval from the Commission to offer an Update Course by requesting it on the application or renewal of the school license or approval.

The applicant shall submit a one hundred dollar ($100.00) materials fee. No fee shall be required if the applicant is a public school or is an agency of federal, state, or local government.

Sponsors shall use the Commission-developed course materials to conduct Update courses. Sponsors shall provide a copy of the course materials to each broker taking an Update course.

Commission approval to offer Update courses shall expire annually on June 30 following issuance of approval. Sponsors shall apply for renewal of approval to offer Update courses each year along with the renewal of sponsor approval required in Rule .0404 of this Section.

All Update course materials developed by the Commission are the sole property of the Commission and are subject to the protection of federal copyright laws. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permitted by law.

With advance approval from the Commission, course sponsors and approved instructors may make modifications to the Update course when the Update course is being promoted to and conducted for a group of brokers that specialize in a particular area of real estate brokerage. Such modifications shall relate to the same general subject matter addressed in the prescribed Update course and the Update course as modified shall achieve the same educational objectives as the unmodified Update course. Where certain subject matter addressed in the prescribed Update course is not directly applicable to the group of brokers who specialize in the particular area of real estate brokerage being targeted, different subject matter and education objectives may be substituted with the prior written consent of the Commission. All modified Update course materials shall be the joint property of the Commission and the course sponsor or approved instructor approved to make such modifications, or as otherwise determined by written agreement. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permitted by law.

History Note: Authority G.S. 93A-3; 93A-4.1; Eff. July 1, 2017.

21 NCAC 58H .0409 RECORDS AND COMMISSION REVIEW

All continuing education sponsors shall retain on file for three years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Commission upon request during an investigation.

Continuing education sponsors shall admit any Commission authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 2017.

21 NCAC 58H .0410 CONTINUING EDUCATION COURSE SCHEDULING AND NOTIFICATION

All continuing education courses shall be scheduled and conducted in a manner that limits class sessions to a maximum of eight instructional hours in any given day. The maximum permissible class session without a break
shall be 90 minutes. Courses scheduled for more than four instructional hours in any given day shall include a meal break of at least one hour.

(b) Continuing education sponsors shall not offer, conduct, or allow a student to complete any course and offer continuing education credit between June 11 and June 30, inclusive.

(c) Sponsors shall provide the Commission written notice of all scheduled course offerings at least 10 days prior to the scheduled course date. The notice shall include:

   1. the sponsor name;
   2. the sponsor number assigned by the Commission;
   3. the legal name and instructor number of the course instructor;
   4. the course number;
   5. the scheduled course date and start time; and
   6. the course location.

(d) Continuing education sponsors shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a change or cancellation occurs within five days of the scheduled course date, then the continuing education sponsor shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) The sponsor of any distance education course shall require students to complete the course within 30 days of the date of registration or the date the student is provided the course materials and permitted to begin work, whichever is the later date. The sponsor shall not offer, conduct, or allow a student to complete any course for continuing education credit between June 11 and June 30, inclusive. The sponsor shall advise all students registering for a distance education course, prior to accepting payment for any course, of the deadlines for course completion.

(f) Each sponsor shall certify that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 2017.

21 NCAC 58H .0411 CONTINUING EDUCATION COURSE ATTENDANCE

(a) Continuing education sponsors shall require each student who is a licensed broker to provide his or her name and license number at the initial check in for a class session.

(b) A student shall not be issued a Course Completion Certificate, and shall not be reported to the Commission as having completed a course unless the student satisfies the attendance requirement in 21 NCAC 58A .1705.

(c) Sponsors and instructors shall not make any exceptions to this Rule.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 2017.

21 NCAC 58H .0412 CONTINUING EDUCATION ROSTER REPORTS AND CERTIFICATES

(a) At the conclusion of any continuing education course, elective or Update, the sponsor shall submit to the Commission a CE Roster Report verifying each broker's completion of the course pursuant to Rule .0411 of this Section. The CE Roster Report shall contain the:

   1. sponsor's name;
   2. sponsor's number assigned by the Commission;
   3. course instructor's name and number;
   4. course's name and number;
   5. course completion date; and
   6. name and license number of each student who completed the course.

(b) Sponsors shall submit the CE Roster Report electronically within seven calendar days following the end of any course, but in no case later than June 15.

(c) Sponsors shall submit the ten dollar ($10.00) per student fee required by G.S. 93A-4.1(d), along with the CE Roster Report.

(d) Sponsors shall provide a course completion certificate to each student who completes an approved continuing education course pursuant to Rule .0411 of this Section. Sponsors shall provide a printed or electronic certificate within 15 days following the course, but in no case later than June 15, for any course completed prior to that date.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
21 NCAC 58H .0413 CONTINUING EDUCATION COURSE COST, CANCELLATION, AND REFUNDS
(a) Sponsors shall establish an all-inclusive cost to be charged to students taking any continuing education course. No separate or additional costs shall be charged to students.
(b) Sponsors shall establish written course cancellation and refund policies. In the event a sponsor cancels a scheduled course, registered students shall be notified within 24 hours. Sponsors shall refund all prepaid payments received from registered students within 30 days of the date of cancellation, or with the student's written permission apply the refund toward another course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

21 NCAC 58H .0414 ADVERTISING
(a) Sponsors shall not utilize advertising that is false or misleading.
(b) All course advertisement and promotional materials shall specify the number of continuing education credit hours to be awarded by the Commission for the course.
(c) All continuing education course promotional materials shall describe the course costs, the cancellation policy, and refund policies.
(d) Sponsors shall not use endorsements or recommendations of any person or organization, in advertising or otherwise, unless the person or organization:
   (1) has consented in writing to the use of the endorsement or recommendation; and
   (2) is not compensated for such use.

History Note: Authority G.S. 93A-3(c); 93A-4.1;