

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;
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