

1 21 NCAC 58A .0105 is amended with changes as published in 35:12 NCAC 1390 as follows:

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3 **21 NCAC 58A .0105 ADVERTISING**

4 (a) Authority to Advertise.

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

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

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

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

18 ~~[(d) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate,~~
19 ~~conduct brokerage services, promote their status as a real estate broker, or engage in other real estate related activities~~
20 ~~in any manner which is predicated by bias or ideology as to race, color, religion, national origin, sex, familial status,~~
21 ~~or disability.]~~

22
23 *History Note: Authority G.S. 93A-2(a1); 93A-3(c); 93A-9;*
24 *Eff. February 1, 1976;*
25 *Readopted Eff. September 30, 1977;*
26 *Amended Eff. July 1, 2015; April 1, 2013; July 1, 2009; January 1, 2008; April 1, 2006; July 1,*
27 *2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989;*
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*
29 *Amended Eff. July 1, 2021; July 1, 2018.*

1 21 NCAC 58A .0110 is amended with changes as published in 35:12 NCAC 1390 as follows:

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3 **21 NCAC 58A .0110 BROKER-IN-CHARGE**

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

8 (b) Every sole proprietorship shall designate a BIC if the sole proprietorship:

- 9 (1) engages in any transaction where a broker is required to deposit and maintain monies belonging to
10 others in a trust account;
- 11 (2) engages in advertising or promoting services as a broker in any manner; or
- 12 (3) has one or more other brokers affiliated with the sole proprietorship in the real estate business.

13 (c) A licensed real estate firm shall not be required to have a BIC if it:

- 14 (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its
15 qualifying broker through another firm or broker;
- 16 (2) is treated for tax purposes as a pass-through business by the United States Internal Revenue Service;
- 17 (3) has no principal or branch office; and
- 18 (4) has no licensed person associated with it other than its qualifying broker.

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

22 (e) In order for a broker to designate as a BIC for a sole proprietor, real estate firm, or branch office, a broker shall
23 apply for BIC Eligible status by submitting an application on a form available on the Commission's website. The BIC
24 Eligible status form shall include the broker's:

- 25 (1) name;
- 26 (2) license number;
- 27 (3) telephone number;
- 28 (4) email address;
- 29 (5) criminal history and history of occupational license disciplinary actions;
- 30 (6) certification of compliance with G.S. 93A-4.2, including that:
- 31 (A) his or her broker license is on active status;
- 32 (B) the broker has obtained at least two years of real estate brokerage experience equivalent to
33 40 hours per week within the previous five years or shall be a North Carolina licensed
34 attorney with a practice that consisted primarily of handling real estate closings and related
35 matters in North Carolina for three years immediately preceding application; and
- 36 (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior
37 to application and no later than 120 days after application; and

- 1 (7) signature.
- 2 (f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor,
 3 real estate firm, or branch office. The BIC designation form shall include:
- 4 (1) the broker's:
- 5 (A) name;
- 6 (B) license number;
- 7 (C) telephone number;
- 8 (D) email address; and
- 9 (E) criminal history and history of occupational license disciplinary actions; and
- 10 (2) the firm's:
- 11 (A) name; and
- 12 (B) license number, if applicable;
- 13 (g) A designated BIC shall:
- 14 (1) assure that each broker ~~employed~~ affiliated at the office has complied with Rules .0503, .0504, and
 15 .0506 of this Subchapter;
- 16 (2) notify the Commission of any change of firm's business address or trade name and the registration
 17 of any assumed business name adopted by the firm for its use;
- 18 (3) be responsible for the conduct of advertising by or in the name of the firm at such office;
- 19 (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
- 20 (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including
 21 those required to be retained pursuant to Rule .0108 of this Section;
- 22 (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in
 23 accordance with the requirements of Rule .0506 of this Subchapter;
- 24 (7) supervise all brokers ~~employed~~ affiliated at the office with respect to adherence to agency agreement
 25 and disclosure requirements;
- 26 (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office
 27 within 10 days following any such change; ~~and~~
- 28 (9) complete the Commission's Basic Trust Account Procedures Course within 120 days of ~~opening~~
 29 assuming responsibility for a trust account in accordance with G.S. 93A-6(g). 93A-6(g), however
 30 the BIC shall not be required to complete the course more than once in three years; and
- 31 (10) supervise all unlicensed individuals employed at the office and ensure that unlicensed individuals
 32 comply with G.S. 93A-2(c)(6).
- 33 (h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of
 34 designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.
- 35 (i) A broker's BIC Eligible status shall terminate if the broker:
- 36 (1) made any false statements or presented any false, incomplete, or incorrect information in connection
 37 with an application;

- 1 (2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;
2 (3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's
3 license has been suspended, revoked, or surrendered; or
4 (4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course
5 pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.

6 (j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the
7 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to
8 Paragraph (e) of this Rule.

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

11 (l) A broker shall not be granted BIC Eligible status or designated as BIC of a firm if there is a pending Commission
12 investigation against the broker.

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14 *History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9; 93A-38.5;*

15 *Eff. September 1, 1983;*

16 *Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006;*
17 *July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August*
18 *1, 1998; April 1, 1997; July 1, 1995; July 1, 1994;*

19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*
20 *Amended Eff. July 1, 2021; July 1, 2020; July 1, 2018.*

1 21 NCAC 58A .0114 is amended with changes as published in 35:12 NCAC 1391 as follows:

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3 **21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE**
4 **STATEMENT**

5 (a) Every owner of real property subject to a transfer of the type governed by Chapter 47E of the General Statutes
6 shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy
7 of the complete statement to a buyer in accordance with the requirements of G.S. 47E-4. The form shall bear the seal
8 of the North Carolina Real Estate Commission and shall read as follows:

9
10 **[N.C. REAL ESTATE COMMISSION SEAL]**

11
12 **STATE OF NORTH CAROLINA**
13 **RESIDENTIAL PROPERTY AND OWNERS' Association DISCLOSURE STATEMENT**

14
15 **Instructions to Property Owners**

- 16
17 1. The Residential Property Disclosure Act (G.S. 47E)("Disclosure Act") requires owners of residential real
18 estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to
19 four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement
20 ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must
21 be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase
22 where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for
23 some transactions, including the first sale of a dwelling which has never been inhabited and transactions of
24 residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to
25 occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
26
27 2. You must respond to each of the questions on the following pages of this form by filling in the requested
28 information or by placing a check (√) in the appropriate box. In responding to questions, you are only
29 obligated to disclose information about which you have actual knowledge.
30
31 a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach
32 a report from an attorney, engineer, contractor, pest control operator or other expert or public agency
33 describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information
34 contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
35
36 b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and
37 you know there is a problem, you may be liable for making an intentional misstatement.

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- 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.

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- 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.

Property Address: _____
Owner's Name(s): _____

Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____

Owner Signature: _____ Date _____, ____

Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Buyers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.

Buyer Signature: _____ Date _____, ____

Buyer Signature: _____ Date _____, ____

1
2 Property Address/Description: _____
3 _____
4

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

9
10 **No Repre-**
11 **Yes No sentation**

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? _____
 (Approximate if no records are available.) Explain if necessary:

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. What is the dwelling's water heater fuel type? Natural Gas Propane Fuel Oil

Electricity Other _____ (Check all that apply)

Age of system: _____

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

~~16. Does the property have available internet service?~~

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

16.~~18.~~ 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.~~19.~~ 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.~~20.~~ Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?

19.~~21.~~ 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.~~22.~~ 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.[23.] 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.[24.] Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?
- 23.[25.] Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?
- 24.[26.] 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.[27.] 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?~~ located on or which otherwise affect the property?
- 26.[28.] Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property?
- 27.[29.] Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?
- 28.[30.] 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.[31.] Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area?
- 30.[32.] Does the property abut or adjoin any private road(s) or street(s)?

31.~~33.~~ 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?

1 **If you answered "yes" to any of the questions listed above (1-31) [~~1-33~~] please explain (attach additional sheets**
2 **if necessary):**

3 _____
4 _____
5 _____

6
7 In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public
8 agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or
9 other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

10
11 **The following questions pertain to the property identified above, including the lot to be conveyed and any**
12 **dwelling unit(s), sheds, detached garages, or other buildings located thereon.**

13
14
15

	Yes	No	No Repre-
			sentation
32. 34. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you answered "yes" to the question above, please explain (attach additional sheets if necessary):

33.~~35.~~ 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 _____

1 * If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement.
 2 If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining
 3 questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.
 4

5 No Repre-
 6 Yes No sentation

34.[36.] 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.[37.] 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.[38.] 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.[39.] 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:

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 2 **38.[40.]** Which of the following services and amenities are paid for by the owners' association(s) identified above out
 3 of the association's regular assessments ("dues")? (Check all that apply.)
 4

	No Repre-		
	Yes	No	sentation
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed			
Master Insurance			
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7
 8 Buyer Initials and Date _____ Owner Initials and Date _____
 9 Buyer Initials and Date _____ Owner Initials and Date _____
 10

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

3 (c) The form described in Paragraph (a) of this Rule as amended effective ~~July 1, 2018~~, July 1, 2021, applies to all
4 properties placed on the market on or after ~~July 1, 2018~~. July 1, 2021. The form described in Paragraph (a) of this
5 Rule as amended effective ~~July 1, 2014~~, July 1, 2018, applies to all properties placed on the market prior to ~~July 1,~~
6 ~~2018~~. July 1, 2021. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after ~~July 1, 2018~~,
7 July 1, 2021, for a property placed on the market prior to ~~July 1, 2018~~, July 1, 2021, the form described in Paragraph
8 (a) of this Rule as amended effective ~~July 1, 2018~~, July 1, 2021, shall be used.

9
10 *History Note: Authority G.S. 47E-4(b); 47E-4(b1); 93A-3(c); 93A-6;*
11 *Eff. October 1, 1998;*
12 *Amended Eff. July 1, 2014; January 1, 2013; January 1, 2012; July 1, 2010; July 1, 2009; January*
13 *1, 2008; July 1, 2006; September 1, 2002; July 1, 2000;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*
15 *Amended Eff. July 1, 2021; July 1, 2018.*
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1 21 NCAC 58A .0120 is adopted with changes as published in 35:12 NCAC 1397 as follows:

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3 **21 NCAC 58A .0120 PROHIBITED ACTS**

4 (a) A broker shall not require or demand of any escrow agent or attorney that a broker's commission be split with or
5 paid to another person or entity.

6 (b) **A An affiliated** broker shall not be paid a commission or referral fee directly by anyone other than their current
7 BIC or the person who served as their BIC at the time of the transaction.

8 (c) A broker shall not coerce, extort, collude, instruct, induce, bribe, or intimidate a service provider in a real estate
9 transaction in order to influence or attempt to influence their findings, **report report,** or decision. **Such service Service**
10 providers include, but are not limited to, appraisers, attorneys, inspectors, financial lenders, and contractors.

11 (d) A broker shall not conduct brokerage **or other real estate related activities, activities** or otherwise promote their
12 status as a real estate broker in any manner **which is predicated by bias or ideology as to that discriminates on the basis**
13 **of** race, color, religion, national origin, sex, familial status, or disability.

14

15 *History Note: Authority G.S. 93A-3(c); 93A-6;*

16 *Eff. July 1, 2021.*

1 21 NCAC 58A .0503 is adopted with changes as published in 35:12 NCR 1397 as follows:

2

3 **21 NCAC 58A .0503 LICENSE RENEWAL**

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

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

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

- 12 (1) each federally insured depository institution lawfully doing business in this State where the trust
- 13 account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held,
- 14 if applicable; and
- 15 (2) any criminal conviction or occupational license disciplinary action that occurred within the previous
- 16 year.

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18 *History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-6; 93A-38.5;*
 19 *Eff. February 1, 1976;*
 20 *Readopted Eff. September 30, 1977;*
 21 *Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;*
 22 *Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule*
 23 *becomes effective, whichever is sooner;*
 24 *Amended Eff. July 1, 2017; July 1, 2014; April 1, 2013; April 1, 2006; January 1, 2006; July 1,*
 25 *2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995;*
 26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*
 27 *Amended Eff. July 1, 2021; July 1, 2018.*

1 21 NCAC 58H .0210 is adopted with changes as published in 35:12 NCR 1398 as follows:

2
3 **21 NCAC 58H .0210 DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER**
4 **CERTIFICATION**

5 (a) The Commission may deny or withdraw certification of an education provider or suspend, revoke, or deny renewal
6 of the certification of an education provider upon finding that an education provider:

- 7 (1) ~~official~~ was found by a court or government agency of competent jurisdiction to have violated any
8 state or federal law;
- 9 (2) made any false statements or presented any false, incomplete, or incorrect information in connection
10 with an application;
- 11 (3) failed to provide or provided false, incomplete, or incorrect information in connection with any
12 report the education provider is required to submit to the Commission;
- 13 (4) presented to its students or prospective students false or misleading information relating to its
14 instructional program, to the instructional programs of other institutions, or related to employment
15 opportunities;
- 16 (5) collected money from students but refused or failed to provide the promised instruction;
- 17 (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or ~~93A-38.5(d)~~; ~~93A-38.5(e)~~;
- 18 (7) refused at any time to permit authorized representatives of the Commission to inspect the education
19 provider's facilities or audit its courses;
- 20 (8) or education director violated the rules of this Subchapter or was disciplined by the Commission
21 under G.S. 93A-6;
- 22 (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate
23 license examination questions;
- 24 (10) failed to provide to the Commission a written plan describing the changes the education provider
25 made or intends to make in its instructional program including instructors, course materials, methods
26 of student evaluation, and completion standards to improve the performance of the education
27 provider's students on the license examination within 30 days of the Commission's request during
28 an investigation or application process;
- 29 (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- 30 (12) Certificate of Authority was revoked, subject to a revenue suspension, or subject to administrative
31 dissolution by the NC Secretary of State;
- 32 (13) failed to utilize course materials pursuant to Rule .0205 of this Section;
- 33 (14) failed to submit reports pursuant to Rule .0207 of this Section;
- 34 (15) provided false, incomplete, or misleading information relating to real estate licensing, education
35 matters, or the broker's education needs or license status; ~~or~~
- 36 (16) discriminated in its admissions policy or practice against any person on the basis of age, sex, race,
37 color, national origin, familial status, handicap status, or religion; or

1 ~~(16)~~(17) refused or failed to comply with the provisions of this Subchapter.

2 (b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or
3 improper conduct in connection with the operations of an education provider if that broker:

4 (1) has an ownership interest in the education provider;

5 (2) is the education director; or

6 (3) is an instructor for an education provider.

7 (c) The Commission shall withdraw an education provider's certification when its annual License Examination
8 Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the
9 education provider shall be ineligible to apply for certification for a period of one year.

10 (d) When ownership of a certified education provider is transferred and the education provider ceases to operate as
11 the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All
12 courses shall be completed by the effective date of the transfer. The transferring owner shall report course
13 completion(s) to the Commission. The new entity shall obtain an original certification for each location where the
14 education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising
15 courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider
16 operations.

17
18 *History Note:* *Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;*

19 *Eff. July 1, 2017;*

20 *Amended Eff. July 1, 2021; July 1, 2020.*

1 21 NCAC 58H .0303 is amended as published in 35:12 NCR 1399 as follows:

2
3 **21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL**

4 (a) The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding
5 that the instructor or instructor applicant:

- 6 (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for
7 renewal of approval described in Rule .0306 of this Section at the time of application or at any time
8 during an approval period;
- 9 (2) made any false statements or presented any false, incomplete, or incorrect information in connection
10 with an application for approval or renewal of approval or any report that is required to be submitted
11 to the Commission;
- 12 (3) has failed to submit to the Commission any report, course examination, or video recording required
13 by these Rules;
- 14 (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a
15 manner consistent with the course materials;
- 16 (5) taught a Prelicensing course and failed to provide to the Commission a written plan describing the
17 changes the instructor has made or intends to make in his or her instructional program to improve
18 the performance of the instructor's students on the license examination within 30 days of the
19 Commission's request during an investigation or application process;
- 20 (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation
21 of state or federal law by a court of competent jurisdiction;
- 22 (7) has been found by a court or government agency of competent jurisdiction to have violated any state
23 or federal regulation prohibiting discrimination;
- 24 (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate
25 license examination questions;
- 26 (9) has failed to take steps to protect the security of end-of-course examinations;
- 27 (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule
28 or as otherwise requested by the Commission;
- 29 (11) engaged in any other improper, fraudulent, or dishonest conduct;
- 30 (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- 31 (13) has taught or conducted a course in any manner that discriminated against any person on the basis
32 of age, sex, race, color, national origin, familial status, handicap status, or religion; or
33 ~~(13)~~(14) failed to comply with any other provisions of this Subchapter.

34 (b) The Commission shall withdraw an instructor's approval when their annual License Examination Performance
35 Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the instructor shall
36 be ineligible to apply for approval for a period of one year.

- 1 *History Note:* *Authority G.S. 93A-4; 93A-33; 93A-34;*
- 2 *Eff. July 1, 2017;*
- 3 *Amended Eff. July 1, 2021; July 1, 2020.*