

21 NCAC 58A .0506 is readopted with changes as published in 33:14 NCR 1505 as follows:

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

~~(a) This Rule shall apply to all real estate provisional brokers.~~

~~(b)(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 ~~may~~ shall be supervised by only one broker-in-charge at a time.

~~(c)(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 immediately file with the Commission a provisional broker supervision notification on a form provided by the Commission containing identifying information about the provisional broker and the broker in charge, a statement from the broker in charge certifying that he or she will supervise the provisional broker in the performance of all acts for which a license is required, the date that the broker in charge assumes responsibility for such supervision, and the signature of the broker in charge. If the provisional broker is on inactive status at the time of associating with a broker or brokerage firm, the broker in charge shall also file, along with the provisional broker supervision notification, a request for license activation on a form provided by the Commission containing identifying information about the provisional broker, the statement of the broker in charge that he or she has verified that the provisional broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, and the postlicensing education requirements, if applicable, prescribed by Rule .1902 of this Subchapter, the date of the request, and the signature of the proposed broker in charge. 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.

1 (c) Upon the mailing or delivery of the required form(s), submission of the License Activation and Broker
2 Affiliation form, the provisional broker may engage in real estate brokerage activities requiring a license under the
3 supervision of the broker-in-charge; however, if the provisional broker and broker-in-charge do not receive from the
4 Commission a written acknowledgment of the provisional broker supervision notification and, if appropriate, the
5 request for license activation, within 30 days of the date shown on the form, the broker in charge shall immediately
6 terminate the provisional broker's provisional broker shall cease all real estate brokerage activities pending receipt of
7 the written acknowledgment from the Commission. If the provisional broker and broker in charge are notified that
8 the provisional broker is not eligible for license activation due to a continuing education or postlicensing education
9 deficiency, the broker in charge shall cause the provisional broker to immediately cease all activities requiring a real
10 estate license until such time as the continuing education or postlicensing education deficiency is satisfied and a new
11 provisional broker supervision notification and request for license activation is submitted to the Commission.

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

17 (e) Upon the termination of the supervisory relationship between a provisional broker and his or her broker-in-
18 charge, the provisional broker and the broker-in-charge shall provide written notification of the date of termination
19 to the Commission not later than 10 days following said the termination.

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21 *History Note: Authority G.S. 93A-2(b); 93A-3; 93A-9;*

22 *Eff. February 1, 1976;*

23 *Readopted Eff. September 30, 1977;*

24 *Amended Eff. April 1, 2013; April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; August 1,*
25 *1998; July 1, 1996; July 1, 1995; July 1, 1993; July 1, 1993;*

26 *Readopted Eff. July 1, 2019.*

21 NCAC 58A .0601 is amended with changes as published in 33:14 NCR 1505 as follows:

SECTION .0600 – REAL ESTATE COMMISSION HEARINGS

21 NCAC 58A .0601 COMPLAINTS/INQUIRIES/MOTIONS/OTHER PLEADINGS

~~(a) There shall be no specific form required for complaints. To be sufficient, a complaint shall be in writing, identify the respondent licensee and shall reasonably apprise the Commission of the facts which form the basis of the complaint.~~ 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) When investigating a complaint, the scope of the Commission's investigation shall not be limited only to matters alleged in the complaint. In addition, a person making a complaint to the Commission may change his or her complaint by submitting the changes to the Commission in writing. 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.

~~(e) When a complaint has not been submitted in conformity with this Rule, the Commission's legal counsel may initiate an investigation if the available information is sufficient to create a reasonable suspicion that any licensee or other person or entity may have committed a violation of the provisions of the Real Estate License Law or the rules adopted by the Commission.~~

~~(d) There shall be no specific forms required for answers, motions, or other pleadings relating to contested cases before the Commission, except they shall be in writing. To be sufficient, the document must reasonably apprise the Commission of the matters it alleges or answers. To be considered by the Commission, every answer, motion, request or other pleading must be submitted to the Commission in writing or made during the hearing as a matter of record.~~

(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 of a licensee, the Commission, through its legal counsel or other staff, may send the licensee a Letter of Inquiry requesting the licensee to respond. The Letter of Inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of the Letter of Inquiry, the licensee shall respond within 14 calendar days. Such response shall include a full and fair disclosure of all information requested. Licensees shall include with their written response copies of all documents requested in the Letter of Inquiry.~~

(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

1 send a broker a Letter of Inquiry requesting a response. The Letter of Inquiry, or attachments thereto, shall set forth
2 the subject matter being investigated. The response shall include:

3 (1) a [full] disclosure of all requested information; and

4 (2) copies of all requested documents.

5 ~~(f) Hearings in contested cases before the Commission shall be conducted according to the provisions of G.S. 150B,~~
6 ~~Article 3A.~~

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

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9 *History Note: Authority G.S. ~~93A-3(d); 93A-3(c); 93A-6(a); 150B-38(h);~~*

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 30, 1977;*

12 *Amended Eff. July 1, 2019; July 1, 2000; August 1, 1998; May 1, 1992; February 1, 1989;*

13 *November 1, 1987;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*
15 *2018.*

21 NCAC 58A .1902 is amended with changes as published in 33:14 NCR 1509 as follows:

21 NCAC 58A .1902 POSTLICENSING EDUCATION REQUIREMENT

~~(a) The 90 classroom hour postlicensing education program shall consist of three 30 classroom hour courses prescribed by the Commission which may be taken in any sequence. A provisional broker as described in G.S. 93A-4(a1) or G.S. 93A 4.3(d) must satisfactorily complete at least one of the 30 hour courses during each of the first three years following the date of his or her initial licensure as a broker in order to retain his or her eligibility to actively engage in real estate brokerage. Upon completion of all three courses by a provisional broker, the provisional status of the broker's license shall be terminated by the Commission. The three courses shall be devoted to:~~

~~(1) real estate brokerage relationships and responsibilities;~~

~~(2) real estate contracts and transactions; and~~

~~(3) specialized topics, including commercial real estate, rental management, real estate finance, real estate appraisal, real estate development, and real estate regulation.~~

~~(b) If a provisional broker as describe in G.S. 93A 4(a1) or G.S. 93A 4.3(d) fails to complete the required postlicensing education described in Paragraph (a) of this Rule by the end of either the first or second year following the date of his or her initial licensure as a broker, his or her license shall be placed on inactive status. Between the end of the first year after initial licensure and the end of the third year after initial licensure, a provisional broker who is subject of the postlicensing education requirement and who desires to activate a license that is on inactive status shall make up any postlicensing education deficiency as well as satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter, satisfy the requirement for supervision by a broker-in charge described in Rule .0506 of this Subchapter and file with the Commission a request for license activation as described in Rule .0504 of this Subchapter.~~

~~(c) If a provisional broker as described in G.S. 93A 4(a1) or G.S. 93A 4.3(d) fails to complete all three postlicensing courses within three years following the date of his or her initial licensure, his or her license shall be placed on inactive status. In order to activate the license, the provisional broker shall demonstrate completion of all three postlicensing courses within the previous three years, which will terminate the provisional status of the broker's license, and shall satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter.~~

(a) The 90-hour Postlicensing education [program,] program pursuant to G.S. 93A-4(a1) [prescribed by the Commission,] shall consist of the following three 30 instructional hour [courses,] 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.

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

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

5 (1) complete all three Postlicensing Courses described in Paragraph (a) of this Rule within the
6 previous two [years described in Paragraph (a) of this Rule;] years;

7 (2) satisfy the continuing education requirements for license activation described in Rule .1703 of this
8 Subchapter; and

9 (3) file an activation form with the Commission pursuant to Rule .0504 of this Subchapter.

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11 *History Note: Authority G.S. 93A-4; 93A-4(a1);*

12 *Eff. April 1, 2006;*

13 *Amended Eff. January 1, 2012;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1,~~*
15 *~~2018.~~ May 1, 2018;*

16 *Amended Eff. July 1, 2020.*

21 NCAC 58A .1905 is amended with changes as published in 33:14 NCR 1505 as follows:

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 ~~that is parallel to the topics and timings described in~~ to the Commission's Postlicensing course syllabi, 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) ~~detailed~~ subject matter description.

- (2) the broker has obtained ~~full time~~ 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) ~~detailed~~ 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 ~~full time~~ experience equivalent to 40 hours per week as a licensed North Carolina attorney practicing ~~primarily~~ 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;

1 (F) ~~detailed~~ description of practice; and

2 (G) manager or supervising attorney's name, telephone number, and email ~~address.~~ address, if
3 applicable.

4 (b) The Commission shall not consider education or experience obtained in violation of any law or rule as fulfilling
5 the requirements for waiver of the 90-hour postlicensing education requirement.

6 (c) A broker shall be ineligible for a waiver of the 90-hour postlicensing education requirement if the broker was
7 issued a license pursuant to Rule .0511(b)(2) of this Section.

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9 *History Note: Authority G.S. 93A-4(a1);*

10 *Eff. ~~July 1, 2017.~~ July 1, 2017;*

11 *Amended Eff. July 1, 2019.*

21 NCAC 58H .0302 is amended with changes as published in 33:14 NCR 1507 as follows:

**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; ~~and~~
 - (4) completed the New Instructor [Seminar, prescribed by the Commission,] Seminar within the previous six months; and
- (4) (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) Along with their application, an instructor applicant shall submit a digital video recording of themselves teaching a 50 minute block of a single topic in a Prelicensing, Postlicensing, or Update course that demonstrates the ability to teach the subject in a manner consistent with the course materials. The digital video recording shall comply with Rule .0305(e) of this Section.~~

~~(d) The digital video recording requirement described in Paragraph (c) of this Rule shall be waived by the Commission if the instructor applicant has a current:~~

- 1 (1) ~~approval as either a General Update Course, Prelicensing, or Postlicensing instructor; or~~
2 (2) ~~Distinguished Real Estate Instructor (DREI) designation that has been awarded to the instructor by~~
3 ~~the Real Estate Educators Association or an equivalent instructor certification.~~
4 ~~(e) Prior to teaching any Prelicensing or Postlicensing course, an approved instructor shall take the Commission's~~
5 ~~New Pre/Postlicensing Instructor Seminar.~~
6 (c) In order to complete the New Instructor Seminar, a broker shall:
7 (1) attend at least ninety percent of all scheduled hours; and
8 (2) demonstrate the ability to teach a 15-minute block of a single Prelicensing topic in a manner
9 consistent with the [Commission's Prelicensing Syllabi] course materials.
10 (d) Instructors approved prior to July 1, 2019 shall be exempt from the New Instructor Seminar requirement
11 pursuant to Paragraph (b)(4) of this Rule.
12 ~~(e)~~ (e) Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update
13 Instructor Seminar for the current license period. The Update Instructor Seminar shall not be used to meet the
14 requirement in Rule .0306(b)(4) of this Section.

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16 *History Note: Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;*
17 *Eff. ~~July 1, 2017~~. July 1, 2017;*
18 *Amended Eff. July 1, 2019.*