

21 NCAC 58A .0108 is readopted as published in 33:14 NCR 1505 as follows:

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;*

1 *Amended Eff. July 1, 2004; September 1, 2002; August 1, 1998; February 1, 1989; February 1,*
2 *1998;*
3 *Temporary Amendment Eff. October 1, 2012;*
4 *Amended Eff. July 1, 2018; July 1, 2016; ~~April 1, 2013.~~ April 1, 2013.*
5 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Real Estate Commission

RULE CITATION: 21 NCAC 58A .0506

DEADLINE FOR RECEIPT: Thursday, May 9, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (b), by "may", do you mean "shall" in "may be supervised by only one broker-in-charge at a time"?

In (c), lines 10, 25, and 29 delete or define "immediately"

Please list out the contents of the form on lines 12-21

In (c), lines 21-31, please consider making this their own paragraph.

In (c), line 21, do you mean "form(s)"? What form other than the provisional broker supervision notification form will be required?

In (c), line 24, when would the request for license activation be appropriate? Please provide a cross-reference.

In (c), what is the date shown on the form? The way that I'm reading this, the supervisor and supervisee complete the form and send it to you. Then, they can engage in the supervisory relationship, but if they don't hear back from y'all within 30 days (of what is the question), they have to end that relationship until they get an acknowledgement. So what is the date on the form? Is it the date they began their supervisory relationship?

In (d), delete or define "actively", "directly", and "reasonably"

In (d), is there a cross-reference regarding the disciplinary action?

In (e), consider changing "said" to "the" in "said termination"

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Thursday, April 25, 2019

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

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

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

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

(c) 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. Upon the mailing or delivery of the required form(s), 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 broker-in-charge shall immediately terminate the provisional broker's real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the provisional broker and broker-in-charge are notified that the provisional broker is not eligible for license activation due to a continuing education or postlicensing education deficiency, the broker-in-charge shall cause the provisional broker to immediately cease all activities requiring a real estate license until such time as the continuing education or postlicensing education deficiency is satisfied and a new provisional broker supervision notification and request for license activation is submitted to the Commission.

(d) A broker-in-charge who certifies to the Commission that he or she will supervise a provisional broker shall actively and directly supervise the provisional broker in a manner that reasonably 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 Commission.

1 (e) Upon the termination of the supervisory relationship between a provisional broker and his or her broker-in-
2 charge, the provisional broker and the broker-in-charge shall provide written notification of the date of termination
3 to the Commission not later than 10 days following said termination.
4

5 *History Note: Authority G.S. 93A-2(b); 93A-3; 93A-9;*
6 *Eff. February 1, 1976;*
7 *Readopted Eff. September 30, 1977;*
8 *Amended Eff. April 1, 2013; April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; August 1,*
9 *1998; July 1, 1996; July 1, 1995; ~~July 1, 1993;~~ July 1, 1993;*
10 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Real Estate Commission

RULE CITATION: 21 NCAC 58A .0601

DEADLINE FOR RECEIPT: Thursday, May 9, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please consider providing some additional information regarding a "complaint" Is this intended to get to a member of the public wishing to file a complaint against a broker? To whom and when might this apply?

In (e), what is a letter of inquiry? Would it be helpful to keep some of the information in the now deleted (e) to provide some clarity?

In (e)(1), delete "full"

Please type the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Thursday, April 25, 2019

21 NCAC 58A .0601 is amended 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. 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 response shall include:

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

1 (2) copies of all requested documents.

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

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

5
6 *History Note: Authority G.S. ~~93A-3(d)~~; 93A-3(c); 93A-6(a); 150B-38(h);*

7 *Eff. February 1, 1976;*

8 *Readopted Eff. September 30, 1977;*

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

10 *November 1, 1987;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1,*
12 *2018.*

1 21 NCAC 58A .0612 is readopted as published in 33:14 NCR 1505 as follows:

2
3 **21 NCAC 58A .0612 PRESIDING OFFICER**

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

10
11 *History Note:* *Authority G.S. 93A-3(c); 150B-40(b);*
12 *Eff. May 1, 1992;*
13 *Amended Eff. ~~October 1, 2000.~~ October 1, 2000;*
14 *Readopted Eff. July 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Real Estate Commission

RULE CITATION: 21 NCAC 58A .1902

DEADLINE FOR RECEIPT: Thursday, May 9, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), what is "the 90-hour postlicensing education program?" Is this as required by 93A-4(a1)? If so, consider providing that cross-reference for clarity.

In (a), by "prescribed by the Commission", do you mean "as set forth in this Rule"?

In (d), what is meant by "within the previous two years described in Paragraph (a)"? I don't see anything about two years in (a).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Thursday, April 25, 2019

21 NCAC 58A .1902 is amended 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, prescribed by the Commission, shall consist of the following three 30 instructional hour courses:

(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 within the previous two years described in Paragraph (a)
6 of this Rule;

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.

10
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.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Real Estate Commission

RULE CITATION: 21 NCAC 58A .1905

DEADLINE FOR RECEIPT: Thursday, May 9, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a)(1), what is meant by "the topics and timings described in the Commission's Postlicensing course syllabi"? Is this information otherwise set forth in rule or statute?

In (a)(1)(E), (a)(2)(H), and (a)(3)(F), delete "detailed"

In (a)(2) and (a)(3), is "full-time" defined elsewhere in rule or statute?

In (a)(3), delete or define "primarily"

In (a)(3)(G), what if there's not a manager or supervising attorney? I assume they just wouldn't provide this information?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Thursday, April 25, 2019

21 NCAC 58A .1905 is amended 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 the Commission's Postlicensing course syllabi. 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 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 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.

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

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

7
8 *History Note: Authority G.S. 93A-4(a1);*

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

10 *Amended Eff. July 1, 2019.*

1 21 NCAC 58A .2002 is readopted as published in 33:14 NCR 1506 as follows:

2
3 **21 NCAC 58A .2002 ESCROW ACCOUNT**

4 (a) The Commission shall establish an escrow account or accounts with a financial institution or institutions
5 lawfully doing business in this ~~state~~ State into which the Commission shall deposit and hold fees tendered during
6 any period of time when, pursuant to ~~G.S. 93B-2(d).~~ The G.S. 93B-2(d), the Commission's authority to expend
7 funds has been suspended. The Commission shall keep funds deposited into its escrow account or accounts
8 segregated from other assets, monies, and receipts for the duration of the suspension of the Commission's authority
9 to expend funds.

10 (b) The Commission may deposit into and maintain in its escrow account such monies as may be required to avoid
11 or eliminate costs associated with the account or accounts.

12
13 *History Note:* Authority G.S. 93B-2(d);
14 Eff. ~~July 1, 2010.~~ July 1, 2010;
15 Readopted Eff. July 1, 2019.

21 NCAC 58H .0203 is amended as published in 33:14 NCR 1506 as follows:

**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):

- (1) the physical, website, and email addresses and telephone number of the principal office of the school;
- (2) the proposed school director's legal name, real estate license number, if any, email and mailing address, and telephone number;
- (3) 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;
- (4) the North Carolina Secretary of State Identification Number;
- (5) the criminal history and history of occupational license disciplinary actions of individual school owner(s);
- (6) the physical address of each proposed school location;
- (7) the source of real estate examinations to be used for each course offered;
- ~~(8) a copy of a current fire inspection report;~~
- ~~(9)~~ (8) a copy of a criminal background check for the previous seven years on the proposed school director;
- ~~(10)~~ (9) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- ~~(11)~~ (10) the Prelicensing or Postlicensing courses to be offered by the school;
- ~~(12)~~ (11) the Update courses to be offered by the school; and
- ~~(13)~~ (12) 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.

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

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

5
6 *History Note: Authority G.S. 93A-4; 93A-33; 93A-34;*

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

8 *Amended Eff. July 1, 2019.*

21 NCAC 58H .0209 is amended as published in 33:14 NCR 1506 as follows:

21 NCAC 58H .0209 ~~PRELICENSING AND POSTLICENSING COURSE ENROLLMENT~~

~~(a) 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 if that individual has not passed the license examination. _____ course; or~~

~~(b) A school shall not enroll an individual in a Postlicensing course if~~

~~(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.~~ July 1, 2017;

Amended Eff. July 1, 2019.

21 NCAC 58H .0214 is amended as published in 33:14 NCR 1507 as follows:

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) proof of a current fire inspection; and~~
- ~~(12)~~(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~~; July 1, 2017;

Amended Eff. July 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: North Carolina Real Estate Commission

RULE CITATION: 21 NCAC 58H .0302

DEADLINE FOR RECEIPT: Thursday, May 9, 2019

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (b)(4), delete "prescribed by the Commission" Does this just mean that they have to go to one that you're conducting?

In (c)(2), what is meant by "in a manner consistent with the Commission's Prelicensing Syllabi"? Would this not meet the definition of a Rule as set forth in 150-2(8a)? Please provide some additional information as to what is being required.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Thursday, April 25, 2019

21 NCAC 58H .0302 is amended 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, 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.
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.*