

21 NCAC 58A .0110 is amended with changes as published in 34:15 NCR 1357 as follows:

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0110 BROKER-IN-CHARGE

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

(b) Every ~~broker who is a sole proprietor~~ proprietorship shall designate ~~himself or herself~~ as a BIC if the ~~broker~~: sole proprietorship:

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

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

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

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

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

- (1) name;
- (2) license number;
- (3) telephone number;
- (4) email address;
- (5) criminal history and history of occupational license disciplinary actions;
- (6) certification of compliance with G.S. 93A-4.2, including that:
 - (A) his or her broker license is on active status;

- 1 (B) the broker ~~possesses at least two years of full-time or four years of part-time~~ has obtained
2 real estate brokerage experience equivalent to 40 hours per week real estate brokerage
3 experience within the previous five years or shall be a North Carolina licensed attorney
4 with a practice that consisted primarily of handling real estate closings and related matters
5 in North Carolina for three years immediately preceding application; and
6 (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior
7 to application and no later than 120 days after application; and
8 (7) signature.

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

- 11 (1) the broker's:
12 (A) name;
13 (B) license number;
14 (C) telephone number;
15 (D) email address; and
16 (E) criminal history and history of occupational license disciplinary actions; and
17 (2) the firm's:
18 (A) name; and
19 (B) license number, if applicable;

20 (g) A designated BIC shall:

- 21 (1) assure that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of
22 this Subchapter;
23 (2) notify the Commission of any change of firm's business address or trade name and the registration
24 of any assumed business name adopted by the firm for its use;
25 (3) be responsible for the conduct of advertising by or in the name of the firm at such office;
26 (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
27 (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including
28 those required to be retained pursuant to Rule .0108 of this Section;
29 (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in
30 accordance with the requirements of Rule .0506 of this Subchapter;
31 (7) supervise all brokers employed at the office with respect to adherence to agency agreement and
32 disclosure requirements; ~~and~~
33 (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office
34 within 10 days following any such ~~change~~ change; and
35 (9) [shall] complete the Commission's Basic Trust Account Procedures Course within 120 days of
36 opening a trust account in accordance with G.S. 93A-6(g).

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

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

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

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

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

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

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

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

16
17 *History Note:* Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9;

18 *Eff. September 1, 1983;*

19 *Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006;*
20 *July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August*
21 *1, 1998; April 1, 1997; July 1, 1995; July 1, 1994;*

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

23 *Amended Eff. July 1, 2020; July 1, 2018.*
24

21 NCAC 58A .0506 is amended with changes as published in 34:15 NCR 1359 as follows:

SECTION .0500 - LICENSING

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

(a) A provisional broker may engage in or hold himself or herself out as engaging in activities requiring a real estate license only while his or her license is on active status pursuant to Rule .0504 of this Section and he or she is supervised by the broker-in-charge of the real estate firm or office with which the provisional broker is affiliated. A provisional broker shall be supervised by only one broker-in-charge at a ~~time~~. time except that a provisional broker may be supervised by no more than two brokers-in-charge of two licensed affiliated firms located in the same physical location and acting as co-listing or co-selling agents in real estate transactions. When a provisional broker is supervised by more than one broker-in-charge, both brokers-in-charge shall bear all supervision responsibility at all times.

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

(1) provisional broker's:

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

(2) broker-in-charge's:

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

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

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

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

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9 *History Note:* Authority G.S. ~~93A-2(b)~~; 93A-2(a1); 93A-2(a2); 93A-3; 93A-9;

10 *Eff. February 1, 1976;*

11 *Readopted Eff. September 30, 1977;*

12 *Amended Eff. April 1, 2013; April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; August 1,*
13 *1998; July 1, 1996; July 1, 1995; July 1, 1993;*

14 *Readopted Eff. ~~July 1, 2019~~; July 1, 2019;*

15 *Amended Eff. July 1, 2020.*
16

21 NCAC 58A .1904 is amended as published in 34:15 NCR 1343 as follows:

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

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

(1) ~~the provisional broker or school~~ education provider provided incorrect or incomplete information to the Commission concerning Postlicensing education completed by the provisional broker;

(2) failed to comply with the attendance requirement pursuant to 21 NCAC 58H .0207; or

~~(2)(3) the provisional broker~~ was mistakenly awarded Postlicensing education credit due to an administrative error; or error.

(3) ~~the provisional broker attended a Postlicensing course while concurrently attending a different Postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in Postlicensing course sessions for more than 30 instructional hours in any given seven day period.~~

(b) When Postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker shall remain responsible for satisfying the Postlicensing education requirement in G.S. 93A-4(a1).

(c) A broker who obtains or attempts to obtain Postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct is subject to disciplinary action pursuant to G.S. 93A-6.

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

Eff. April 1, 2006;

Amended Eff. July 1, 2017; July 1, 2009;

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

May 1, 2018;

Amended Eff. July 1, 2020.

21 NCAC 58H .0202 is amended with changes as published in 34:15 NCR 1344 as follows:

21 NCAC 58H .0202 APPLICATION FOR ORIGINAL APPROVAL OF A PUBLIC REAL ESTATE SCHOOL EDUCATION PROVIDER CERTIFICATION

~~(a) Any entity seeking original approval as a public real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the:~~

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

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

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

(a) Any community college, junior college, or university located in this State and accredited by the Southern Association of Colleges and Schools seeking education provider certification shall apply to the Commission on a form available on the Commission's website and shall set forth the:

- (1) education provider's name;
- (2) education director's name and contact information;
- (3) education director's email address;
- (4) education provider's address;
- (5) education provider's telephone number;
- (6) education provider's website address;
- (7) type of public institution;
- (8) Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant; and
- (9) a signed certification by the education director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Any other person or entity seeking education provider certification 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(b1):

- (1) the website, physical and mailing address, and telephone number of the principal office of the education provider;

- 1 (2) the education director's license number, if applicable, email and mailing address, and telephone
2 number;
3 (3) the North Carolina Secretary of State Identification Number, if applicable;
4 (4) the physical address of each proposed branch location, if applicable;
5 (5) the type of ownership entity;
6 (6) a signed Consent to Service of Process and Pleadings form available on the Commission's website,
7 if a foreign entity;
8 (7) the Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant;
9 and
10 (8) a signed certification by the education director that courses shall be conducted in compliance with
11 the Rules of this Subchapter.

12 (c) The certification application fee for an education provider applying under Paragraph (b) of this Rule shall be two
13 hundred dollars (\$200.00) for each proposed education provider location. Provided however, education providers shall
14 not be required to obtain a certification for every location a Continuing Education course is offered.

15 (d) If any education provider relocates any location or opens additional branch locations during any licensing period,
16 the education director shall submit an original application for certification of that location pursuant to this Rule.

17 (e) In the event that any education provider ~~shall advertise or operate~~ **advertises or operates** in any manner using a
18 name different from the name under which the education provider is certified, the education provider shall first file an
19 assumed name certificate in compliance with G.S. 66-71.4 and shall notify the Commission in writing of the use of
20 such an assumed name. An education provider shall not advertise or operate in any manner that would mislead a
21 consumer as to the education provider's actual identity.

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23 *History Note: Authority G.S. 93A-4; 93A-34;*

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

25 *Amended Eff. July 1, 2020.*
26

21 NCAC 58H .0205 is amended with changes as published in 34:15 NCR 1346 as follows:

21 NCAC 58H .0205 ~~PRIVATE REAL ESTATE SCHOOL BULLETIN~~ COURSE MATERIALS

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

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

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

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

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

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

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

1 (a) Course materials shall cover current North Carolina real estate related laws, rules, and practices. The nature and
2 depth of subject matter coverage shall be consistent with the competency and instructional levels prescribed by the
3 [Commission] syllabus for the course for which approval is sought.

4 (b) Postlicensing courses shall utilize the current edition of the North Carolina Real Estate Manual. The North
5 Carolina Real Estate Manual may be purchased on the Commission's website in electronic format for \$25 per license
6 year and as a print publication for \$50.

7
8 *History Note:* Authority G.S. ~~93A-4(a)~~; 93A-4(d); 93A-33; 93A-34;
9 Eff. ~~July 1, 2017~~; July 1, 2017;
10 Amended Eff. July 1, 2020.
11

21 NCAC 58H .0207 is amended with changes as published in 34:15 NCR 1348 as follows:

21 NCAC 58H .0207 ~~SCHOOL ADVERTISING AND RECRUITMENT ACTIVITIES~~ COURSE
COMPLETION CERTIFICATES AND REPORTS

~~(a) Any school utilizing its license examination performance record for advertising or promotional purposes shall only use data that:~~

- ~~(1) are limited to the annual examination performance data for the particular school and for all examination candidates in the State;~~
- ~~(2) include the time period covered, the number of first time candidates examined, and either the number or percentage of first time candidates passing the examination; and~~
- ~~(3) are presented in a manner that is not misleading or false.~~

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

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

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

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

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

(a) For each Prelicensing course taught, an education provider shall provide a course completion certificate within 180 days of enrollment that is signed by the education director to each student that: [that within 180 days of enrollment:]

- (1) attends at least 80 percent of all scheduled instructional hours; and
- (2) obtains a grade of at least a 75 percent on the end-of-course examination.

(b) For each Postlicensing course taught, an education provider shall provide a course completion certificate signed by the education director to each student that:

- (1) attends at least ninety percent of all scheduled instructional hours; and
- (2) obtains a grade of at least a 75 percent on the end-of-course examination.

(c) The end-of-course examination shall be [proctored. Students] proctored and students shall not use textbooks or [notes] other materials on the end-of-course examination. End-of-course examinations administered in a distance education, blended learning, or synchronous distance-learning course shall include proctoring or other security

1 measures designed to verify the identity of the student taking the examination and ensure that students are not using
2 textbooks or other materials on the end-of-course examination.

3 (d) For each Continuing Education course taught, an education provider shall provide a course completion certificate
4 signed by the education director to each student that meets the requirements of 21 NCAC 58A .1705.

5 (e) The course completion certificate shall identify the course, date of completion, student, and instructor.

6 (f) An education director shall submit a Course Completion Report within seven calendar days of any student
7 completing any real estate course pursuant to the education provider's Policies and Procedures Disclosure. The Course
8 Completion Report shall include:

9 (1) each student's legal name;

10 (2) each student's email address and telephone number;

11 (3) each student's unique identification number, if reporting a Prelicensing course;

12 (4) each student's real estate broker license number, if applicable;

13 (5) the course completion date;

14 (6) the education provider's name and number;

15 (7) the course number; and

16 (8) the instructor's name and number;

17 (g) For each Prelicensing or Postlicensing course taught, an education director shall submit a Summary Report no
18 later than the fifth day of the month. The Summary Report shall contain the previous month's data. The Summary
19 Report shall include the:

20 (1) name of the instructor(s);

21 (2) title of course(s);

22 (3) number of students who paid tuition in each course and did not receive a refund;

23 (4) number of students who met all course requirements pursuant to Paragraph (a) and (b) of this Rule;
24 and

25 (5) number of students who satisfied Subparagraph (a)(1) and (b)(1) of this Rule but did not satisfy
26 Subparagraph (a)(2) and (b)(2) of this Rule.

27 (h) Education providers shall electronically submit the per student fee prescribed by G.S. 93A-4(a2) and G.S. 93A-
28 38.5(d).

30 *History Note: Authority G.S. 93A-4(d); 93A-33; 93A-34;*

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

32 *Amended Eff. July 1, 2020.*

21 NCAC 58H .0209 is amended with changes as published in 34:15 NCR 1349 as follows:

21 NCAC 58H .0209 POSTLICENSING COURSE ENROLLMENT EXPIRATION AND RENEWAL OF
EDUCATION PROVIDER CERTIFICATION

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

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

(a) All education provider and public education provider certifications shall expire annually on June 30 following certification.

(b) [An education provider or a public education provider shall file an electronic application for renewal of its certification within 45 days immediately preceding expiration of certification on a form available on the Commission's website. The certification renewal application form shall include:] An education provider or public education provider seeking renewal of its certification shall submit an electronic application which shall include the following information:

- (1) the education provider or public education provider's:
 - (A) name;
 - (B) number;
 - (C) mailing address;
 - (D) telephone number; and
 - (E) website address, if applicable; and
- (2) the education director's name and signature;
- (3) all approved real estate courses offered;
- (4) a copy of the education provider's Policies and Procedures Disclosure, if applicable; and
- (5) proof of bond as required in G.S. 93A-36, if applicable.

(c) Public education providers shall not be charged any fees to renew the education provider certification or course renewal.

(d) The education provider certification renewal fee shall be one hundred dollars (\$100.00) for each education provider location.

(e) The renewal fee for an education provider 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.

(f) The renewal fee for an education provider to renew an approved continuing education elective course shall be fifty dollars (\$50.00) per elective course.

(g) The materials fee for an education provider to renew an Update course approval shall be one hundred dollars (\$100.00).

1 (h) If an education provider or public education provider certification has expired, the education provider shall submit
2 an application for original certification pursuant to Rule .0202 of this Subchapter.

3 (i) Commission approval of all Continuing Education courses shall expire on June 30. In order to obtain approval for
4 an expired Continuing Education course, an education provider shall submit an original application pursuant to Rule
5 .0401 of this Subchapter.

6 (j) If an education provider transfers an aggregate of 50 percent or more of the ownership interest, the education
7 provider shall notify the Commission in writing within 10 days of the transfer.

8
9 *History Note:* Authority G.S. ~~93A-4(a1);~~ 93A-3(f); 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36; 93A-38.5(d);

10 *Eff. July 1, 2017;*

11 *Amended Eff. July 1, 2020; July 1, 2019.*

21 NCAC 58H .0301 is amended with changes as published in 34:15 NCR 1351 as follows:

SECTION .0300 – APPROVED INSTRUCTORS

21 NCAC 58H .0301 PRELICENSING, POSTLICENSING, AND UPDATE COURSE INSTRUCTOR APPROVAL

(a) Approval of an instructor to teach Prelicensing and Postlicensing courses shall authorize the instructor to teach courses only in conjunction with and at ~~schools approved or licensed by the Commission~~ certified education providers pursuant to Rule .0202 ~~or .0203~~ of this ~~Subchapter to conduct such courses.~~ Subchapter.

(b) An instructor approved to teach Prelicensing and Postlicensing courses may elect to also teach Update courses upon initial approval, renewal, or any time while holding such approval.

(c) Approved instructors may teach Update courses for any ~~approved Update course sponsor pursuant to Rule .0402~~ certified education provider pursuant to Rule .0202 of this Subchapter. An approved instructor may not independently conduct an Update course unless the instructor has also obtained ~~approval as an Update course sponsor.~~ certification as an education provider.

History Note: Authority G.S. 93A-4(d); 93A-33; 93A-34;

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

Amended Eff. July 1, 2020.

21 NCAC 58H .0303 is amended with changes as published in 34:15 NCR 1352 as follows:

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

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

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;
- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;
- ~~(5) taught a Prelicensing course and compiled a license examination performance record for first time examination candidates that is below 60 percent passing for two or more of the previous five annual reporting periods;~~
- ~~(6)(5)~~ taught a Prelicensing course and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an ~~investigation, application process, or following an instructor's attainment of a licensing examination record for first time examination candidates that is below sixty percent passing for the previous annual reporting period;~~ investigation or application process;
- ~~(7)(6)~~ has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- ~~(8)(7)~~ has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- ~~(9)(8)~~ has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- ~~(10)(9)~~ has failed to take appropriate steps to protect the security of end-of-course examinations pursuant to Rule .0210(g) of this Subchapter; examinations;
- ~~(11)(10)~~ failed to take any corrective action set out in the plan described in Item (5) of this Rule or as otherwise requested by the Commission;
- ~~(12)(11)~~ engaged in any other improper, fraudulent, or dishonest conduct; ~~or~~
- (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- (13) failed to comply with any other provisions of this Subchapter.

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

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

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

7 *Amended Eff. July 1, 2020.*

21 NCAC 58H .0402 is amended with changes as published in 34:15 NCR 1354 as follows:

**21 NCAC 58H .0402 ~~APPLICATION FOR ORIGINAL APPROVAL OF CONTINUING EDUCATION~~
~~SPONSOR CONTINUING EDUCATION ELECTIVE COURSE REQUIREMENTS~~**

~~(a) Only continuing education sponsors approved by the Commission shall be eligible to offer continuing education courses, including elective courses and Update Courses.~~

~~(b) Any entity seeking original approval to be a continuing education sponsor shall make application on a form available on the Commission's website that requires the applicant to set forth:~~

- ~~(1) the legal name of applicant and any assumed business name;~~
- ~~(2) the applicant's mailing address, telephone number, and email address;~~
- ~~(3) the legal name of the individual who will serve as the applicant's continuing education coordinator as defined in Rule .0403 of this Section;~~
- ~~(4) the applicant's form of business entity;~~
- ~~(5) the SOSID issued by the NC Secretary of State, if applicable;~~
- ~~(6) the legal name(s) of the sponsor's owner(s);~~
- ~~(7) a record of any criminal convictions for all individuals listed as owner(s), manager(s), or partner(s);~~
- ~~(8) a record of any discipline related to a professional license for all individuals listed as owner(s), manager(s), or partner(s); and~~
- ~~(9) the signature of the applicant.~~

~~(c) Any foreign or out of state entity or person applying for original approval shall submit a signed Consent to Service of Process and Pleadings form as required by G.S. 93A-10.~~

~~(d) The name of any course sponsor shall not be identical to the name of any other approved continuing education course sponsor or licensed private real estate school.~~

~~(e) Continuing education sponsors shall notify the Commission in writing within 10 days of any change in business name, ownership interest, continuing education coordinator, address, business telephone number, or email address.~~

(a) Continuing education elective courses shall:

- (1) cover subject matter related to real estate brokerage practice and offer knowledge or skills that will enable brokers to better serve real estate consumers and the public interest;
- (2) consist of at least four hours of instruction;
- (3) offer four continuing education credit hours;
- (4) include handout materials for students that provide the information to be presented in the course;
and
- (5) be taught only by an instructor who possesses at least one of the following:
 - (A) a baccalaureate or higher degree in a field [directly] related to the subject matter of the course;
 - (B) three years' full-time work experience within the previous 10 years that is [directly] related to the subject matter of the course;

1 (C) three years' full-time experience within the previous 10 years teaching the subject matter
2 of the course; or

3 (D) education or experience or both found by the [Commission] education director to be
4 equivalent to one of the above standards.

5 (b) Education providers shall [obtain approval from] notify the Commission in writing before making any changes in
6 the content of an elective course. [Requests for approval of changes shall be in writing.] However, changes in course
7 content that are technical in nature do not require [approval] written notification during the approval period, but shall
8 be reported at the time the education provider requests renewal of course approval.

9
10 *History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-10; 93A-34; 93A-38.5;*

11 *Eff. July 1, 2017; July 1, 2017;*

12 *Amended Eff. July 1, 2020.*

21 NCAC 58H .0403 is amended with changes as published in 34:15 NCR 1355 as follows:

21 NCAC 58H .0403 ~~CONTINUING EDUCATION COORDINATOR~~ COMMISSION CREATED
UPDATE COURSES

~~(a) Continuing education sponsors shall designate in writing to the Commission one person to serve as the continuing education coordinator. The continuing education coordinator shall serve as the official contact person for the sponsor and shall be responsible for:~~

- ~~(1) supervising the sponsor's continuing education courses;~~
- ~~(2) ensuring continuing education elective courses are taught by instructors complying with Rule .0407 of this Section;~~
- ~~(3) ensuring elective courses are taught according to the course materials approved by the Commission;~~
- ~~(4) ensuring only approved instructors who have taken the Update Course Seminar for the current license period teach Update Courses;~~
- ~~(5) ensuring students are furnished with the approved course materials pursuant to Rule .0406 of this Section;~~
- ~~(6) signing course completion certificates;~~
- ~~(7) submitting to the Commission all required fees, rosters, reports, and other information; and~~
- ~~(8) submitting to the Commission the name and the instructor number of each elective course instructor within 10 days of employment.~~

~~(b) Each continuing education coordinator shall view the Commission's Continuing Education Coordinator video electronically within 30 days of initial designation and annually within 45 days immediately preceding expiration of sponsor approval.~~

(a) The Commission shall annually develop Update courses and shall produce instructor and student materials for use by education providers.

(b) An education provider shall submit a one hundred dollar (\$100.00) materials fee to offer the Update course.

(c) An education provider seeking approval to offer a modified Update course pursuant to Paragraph (f) of this Rule shall also submit the written permission of each of the course owners, if other than the applicant.

(d) Education providers shall use the Commission-developed course materials to conduct Update courses. Education providers shall provide a copy of the course materials to each broker taking an Update course.

(e) All Update course materials developed by the Commission are the sole property of the Commission and are subject to the protection of [federal] copyright laws. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permissible by law.

(f) With advance approval from the Commission, education providers and approved instructors may make modifications to the Update course when the Update course is being promoted to and conducted for a group of brokers that specialize in a particular area of real estate brokerage. Such modifications shall relate to the same general subject matter addressed in the prescribed Update course and the Update course as modified shall achieve the same educational objectives as the unmodified Update course. Where certain subject matter addressed in the prescribed Update course

1 is not directly applicable to the group of brokers who specialize in the particular area of real estate brokerage being
2 targeted, different subject matter and education objectives may be substituted with the prior written consent of the
3 Commission. All modified Update course materials shall be the joint property of the Commission and the education
4 provider or approved instructor approved to make such modifications, or as otherwise determined by written
5 agreement. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary
6 action or other action as permitted by law.

7 [(e)](g) The Update Course shall be offered by education providers only as an in-person and synchronous distance-
8 learning course.

9
10 *History Note: Authority G.S. 93A-3; ~~93A-4.1~~; 93A-38.5;*
11 *Eff. ~~July 1, 2017~~; July 1, 2017;*
12 *Amended Eff. July 1, 2020.*

21 NCAC 58H .0404 is amended as published in 34:15 NCR 1355 as follows:

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL COURSE SCHEDULING

~~(a) Commission approval of all continuing education sponsors shall expire annually on June 30 following issuance of approval.~~

~~(b) In order to ensure continuous sponsor approval, an approved sponsor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The sponsor approval renewal application shall require the sponsor to set forth:~~

- ~~(1) the legal name of sponsor and any assumed business name;~~
- ~~(2) the sponsor number assigned by the Commission;~~
- ~~(3) the sponsor's mailing address, telephone number, and email address;~~
- ~~(4) the continuing education coordinator's legal name;~~
- ~~(5) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;~~
- ~~(6) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew;~~
- ~~(7) a certification that the continuing education coordinator has completed the Commission's video training pursuant to Rule .0403(b) of this Section;~~
- ~~(8) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and~~
- ~~(9) the signature of the sponsor.~~

~~(c) A continuing education sponsor also licensed or approved as a school may renew its continuing education sponsor approval on its school renewal form pursuant to Rule .0214 of this Subchapter.~~

~~(d) Continuing education sponsors shall submit a fifty dollar (\$50.00) fee for each continuing education elective course the sponsor wishes to renew. No fee is required if the entity making application is a public school or is an agency of federal, state or local government.~~

~~(e) Continuing education sponsors shall submit a one hundred dollar (\$100.00) materials fee if the sponsor wishes to renew approval to offer Update courses. No fee is required if the entity making application is a public real estate school or is an agency of federal, state, or local government.~~

(a) Continuing Education courses shall be scheduled and conducted in a manner that limits class sessions to a maximum of eight instructional hours in any given day. The maximum permissible class session without a break shall be 90 minutes. Courses scheduled for more than four instructional hours in any given day shall include a meal break of at least one hour.

(b) An education provider shall not offer, conduct, or allow a student to complete any continuing education course [and offer continuing education credit] between June 11 and June 30, inclusive.

1 (c) An education provider offering a distance education Continuing Education course shall require students to
2 complete the course within 30 days of the date of registration or the date the student is provided the course materials
3 and permitted to begin work, whichever is the later date. [An education provider shall not offer, conduct, or allow a
4 student to complete any course for continuing education credit between June 11 and June 30, inclusive.]

5 (d) Education providers shall not utilize a scheduling system that allows students to enroll late for a course and then
6 complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling
7 student can satisfy the minimum attendance requirement set forth in Rule .0207 of this Subchapter.

8 (e) Education providers shall notify the Commission of all scheduled course offerings no later than 10 days prior to
9 a scheduled course beginning date.

10 (f) The notice required by Paragraph (e) of this Rule shall include:

11 (1) the education provider name;

12 (2) the education provider number; and

13 (3) for each scheduled course:

14 (A) the name and course number;

15 (B) the scheduled beginning and ending dates, if applicable;

16 (C) the course meeting days and times, including any scheduled lunch breaks; and

17 (D) the name of the instructor and instructor number.

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

20
21 *History Note: Authority G.S. 93A-3; ~~93A-4.1~~; 93A-38.5;*

22 *Eff. July 1, 2017;*

23 *Amended Eff. July 1, 2020; July 1, 2018.*