

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please review your forms to ensure that the name on the form matches the new name of the Rule.

Please format any changes to adoptions in accordance with 26 NCAC 02C .0405(b)(1).

Please note that any suggestions made throughout these requests are merely suggestions. You are in no way required to use the suggested language. The intent of any suggestion or request is never to change the meaning of your rules, but simply to offer a clearer alternative.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0101

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), is the pocket card called "the annual pocket card" or is it just that the Commission issues these annually? If it is the latter, please consider changing this to "The ~~annual license renewal~~ pocket card issued by the Commission annually to each broker..."

In (b), please delete or define "prominently."

In (c)(1)(G), please add an "and" after the semi-colon.

In (c)(2), is the \$5.00 "replacement fee" the same as the "duplicate license" fee set forth in G.S. 93A-4(c)? Please consider being consistent with statute language.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0101 is amended as published in 31:10 NCR 1023 as follows:

21 NCAC 58A .0101 PROOF OF LICENSURE

(a) The annual ~~license renewal~~ pocket card issued by the Commission to each ~~licensee broker~~ shall be retained by the ~~licensee broker~~ as evidence of licensure. Each ~~licensee broker~~ shall ~~carry his or her pocket card on his or her person at all times while engaging in real estate brokerage and shall~~ produce a legible form of the card as proof of licensure whenever requested while engaging in real estate brokerage.

~~(b) The qualifying broker of a firm shall retain the firm's renewal pocket card at the firm and shall produce it upon request as proof of firm licensure as required by Rule .0502.~~

~~(c)~~(b) Every licensed real estate business entity or firm shall prominently display its license certificate or a copy of its license certificate facsimile thereof in each office maintained by the entity or firm. A broker-in-charge shall also prominently display his or her license certificate in the office where he or she is broker-in-charge.

~~(d) Every licensee shall include his or her license number in agency contracts and disclosures as provided in Rule .0104 of this Subchapter.~~

(c) A replacement real estate license or pocket card may be obtained by:

(1) submitting a written request to the Commission that includes the broker or firm's:

(A) legal name;

(B) license number;

(C) physical and mailing address;

(D) phone number;

(E) email address;

(F) proof of legal name change pursuant to Rule .0103 of this Section, if applicable; and

(G) signature;

(2) paying a five dollar (\$5.00) replacement fee.

History Note: Authority G.S. 93A-3(c); 93A-4;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2005; April 1, 2004; October 1, 2000; September 1, 1998;

August 1, 1998; April 1, 1997; February 1, 1989.

21 NCAC 58A .0103 is amended with changes as published in 31:10 NCR 1024 as follows:

21 NCAC 58A .0103 BROKER NAME AND ADDRESS

(a) Upon initial ~~licensure~~ licensure, every broker shall notify the Commission of the broker's current personal name, firm name, trade name, residence address, firm address, telephone number, and email address. All addresses provided to the Commission shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.

(b) Every broker shall notify the Commission in writing of each change of personal name, firm name, trade name, residence address, firm address, telephone number, and email address within 10 days of said change. A broker notifying the Commission of a change of [personal] legal name or firm name shall also provide evidence of a legal name change for either the individual or firm, such as a court order or name change amendment from the Secretary of State's Office. ~~All addresses shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.~~

~~(b)(c)~~ In the event that any broker shall advertise or operate in any manner using a name different from the name under which the broker is licensed, the broker shall first file ~~the appropriate~~ an assumed name certificate ~~with the office of the county register of deeds in each county in which the broker intends to engage in brokerage activities in~~ compliance with ~~G.S. 66-68~~ G.S. 66 – 71.4 and shall notify the Commission in writing of the use of such a firm name or assumed name. An individual broker shall not advertise or operate in any manner that would mislead a consumer as to the broker's actual identity or as to the identity of the firm with which he or she is affiliated.

~~(c)(d)~~ A broker shall not include the name of a provisional broker or an unlicensed person in the legal or assumed name of a sole proprietorship, partnership, [assumed name, trade name,] or business entity other than a corporation or limited liability company. No broker shall use a business name that includes the name of any ~~active, inactive, or cancelled-current or former~~ broker without the permission of that broker or that broker's authorized representative.

History Note: Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-6(a)(1);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2016; April 1, 2013; August 1, 1998; February 1, 1989; May 1, 1984.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0106

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), what is considered to be a "pertinent document"?

What is the intent of (b)(2)? By pre-printed form, do you mean a lease agreement that the property owner and broker have agreed to ahead of time or do you truly mean any pre-printed form that may include any form of the broker's choosing?

In (b)(2), what is "except as may be required by law" referring to? Is it referring to the change of material terms without the prior approval of the property owner? Is your regulated public familiar when this may occur? You may want to consider adding some clarifying language to this Sub-Paragraph.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0106 is amended as published in 31:10 NCR 1024 as follows:

21 NCAC 58A .0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Paragraph (b) of this Rule, every broker shall ~~immediately, but in no event later than five days from the date of execution,~~ deliver a copy to the parties thereto copies of any ~~required~~ written agency agreement, contract, offer, lease, ~~rental agreement, or option affecting real property.~~ option, or other pertinent document to their client within five days of the document's execution.

(b) A broker may be relieved of ~~his or her~~ the duty to deliver copies of leases or rental agreements to a property owner ~~under pursuant to Paragraph (a) of this Rule to deliver copies of leases or rental agreements to the property owner,~~ if the broker:

(1) obtains the ~~prior express~~ written authority of the property owner to enter into and retain copies of leases or rental agreements on behalf of the property owner;

(2) executes the lease or rental agreement on a pre-printed form, the material terms of which may not be changed by the broker without prior approval by the property ~~owner~~ owner, except as may be required by law; and

~~(3) promptly provides a copy of the lease or rental agreement to the property owner upon reasonable request; and~~

~~(4) delivers to the property owner within 45 days following the date of execution of the lease or rental agreement, an accounting which identifies the leased property and which sets forth the names of the tenants, the rental rates and rents collected.~~

(3) delivers to the property owner an accounting within 45 days following the date of execution of the lease or rental agreement that identifies:

(A) the leased property;

(B) the name, phone number, and home address of each tenant; and

(C) the rental rates and rents collected.

(c) Paragraph (b) of this Rule notwithstanding, upon the request of a property owner, a broker shall deliver a copy of any lease or rental agreement within five days.

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

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; ~~April 1, 2006~~; July 1, 2005; July 1, 2001; October 1, 2000; May 1, 1990; July 1, 1989; February 1, 1989.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0302

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I see that 93A-4(a)(effective July 1, 2017) gives you the authority to charge a \$100 application fee for brokers. Specifically, 91A-4 references "any person, partnership, corporation, LLC, association, or other business entity...", are you using the term "firm" instead of "partnership, corporation, LLC, association, or other business entity? Please consider either defining "firm" (if not already done so elsewhere in Rule.)

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0302 is amended as published in 31:10 NCR 1024 as follows:

21 NCAC 58A .0302 FILING AND FEES LICENSE APPLICATION AND FEE

(a) ~~An applicant shall file a complete and accurate application and, except as provided by Rule .0403 of this Subchapter, shall submit his or her application to the Commission's office accompanied by the application fee. Examination scheduling of applicants who are required to pass the real estate licensing examination shall be accomplished in accordance with Rule .0401 of this Subchapter. The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).~~

~~(b) Except for persons applying for licensure under the provisions of Section .1800 of this Subchapter, the license application fee shall be thirty dollars (\$30.00). In addition to the license application fee, applicants for licensure who are required to take the license examination must pay the examination fee charged by the Commission's authorized testing service in the form and manner acceptable to the testing service. Persons applying for licensure under Section .1800 of this Subchapter shall pay the application fee set forth in Rule .1803 of this Subchapter.~~

~~(c) (b) An applicant shall update information provided in connection with an a license application in writing to the Commission or submit a newly completed new application form that includes the updated information without request by the Commission to assure ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a licensee broker or firm in accordance with G.S. 93A-6(b)(1). In the event that the Commission requests Upon the request of the Commission, an applicant to shall submit updated information or to provide additional information necessary to complete the application and the applicant fails to submit such information within 90 days following the Commission's request, the Commission shall cancel the applicant's application. days of the request or the license application shall be canceled.~~

~~(c) The license application of an individual found by the Commission to be qualified for the licensing examination shall be immediately canceled if the applicant fails to to:~~

~~(1) _____ pass a scheduled licensing examination, license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or~~

~~(2) _____ fails to appear for and take any scheduled examination for which the applicant has been scheduled without having the applicant's examination postponed or absence excused in accordance with Rule .0401(b) and (c) pursuant to Rule .0401 of this Section, Subchapter, or fails to take and pass the examination within 180 days of filing a complete application as described in Rule .0301 of this Section and having the application entered into the Commission's examination applicant file. Except as permitted otherwise in Rule .0403 of this Subchapter, an applicant whose license application has been canceled and who wishes to obtain a real estate license must start the licensing process over by filing a complete application to the Commission and paying all required fees.~~

History Note: Authority G.S. 93A-4; 93A-6(b)(1); 93A-9;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

1 *Amended Eff. July 1, 2017; April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1,*
2 *2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0304

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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Overall, I think that some additional information would be helpful to make this Rule more clear.

what circumstances would it be appropriate to request a waiver of the 75 hour program requirement? I see that 93A-4 provides that it might be appropriate if the Commission finds equivalent education and experience, but how is this determined?

In (a), please change "Rule A .0301 of this Section" to "Rule .0301 of this Section."

In (a), what is to be contained in the application? Rule .0301 does not contain the contents of the required form. Are the contents set forth elsewhere?

In (a), I would suggest breaking the waiver request regarding education out into a separate Paragraph for purposes of clarity. Also, under what circumstances would the waiver request be based upon education? It seems as though some additional information could be given for this. Something like "The Commission shall grant a waiver of the 75-hour education program under the following circumstances: (whatever those circumstances will be). I think that you have this information set out, but it could be much more clear. Then say the additional information that must be submitted in order to make application for the waiver under this circumstances to prove that these requirements are met. Please note that this is only a suggestion.

In (a)(1) and (a)(2), please delete or define "official"

In (a)(2), please delete or define "successful"

Please correct the margins in (a)(1) and (a)(2)

In (b), please change "will not" to "shall not"

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Commission Counsel
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In (b), what is meant by “obtained in violation of any law or rule”?

Please provide the basis and/or the factors that the Commission will use to determine whether the waiver will be granted.

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

21 NCAC 58A .0304 is amended with changes as published in 31:10 NCR 1025 as follows:

21 NCAC 58A .0304 ~~EQUIVALENT EXPERIENCE QUALIFICATIONS FOR APPLICANTS~~

WAIVER OF 75-HOUR PRELICENSING EDUCATION REQUIREMENT

~~Experience obtained by a broker applicant in violation of law or rule shall not be recognized by the Commission as fulfilling the requirements for licensure when the applicant is requesting the Commission to waive the prescribed education requirement based wholly or in part on equivalent experience obtained by the applicant.~~

(a) An applicant for a North Carolina real estate broker license may request a waiver of the 75-hour education program required by G.S. § 93A-4(a) by submitting an application to the Commission pursuant to Rule A .0301 of this Section ~~and~~ and, if the waiver requirement is based on education, shall submit:

(1) an official transcript and copy of a baccalaureate or higher degree in the field of real estate, real estate brokerage, real estate law, real estate finance, real estate development, or similar field, conferred on the applicant from any college or university accredited by a college accrediting body recognized by the U. S. Department of Education; or

(2) an official course completion certificate or transcript evidencing the successful completion of a prelicensing education program in another state that consisted of at least 75-hours of instruction that was completed within one year prior to license application and while the applicant was a resident of said state.

(b) The Commission will not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 75-hour prelicensing education requirement.

History Note: Authority G.S. ~~93A-3(c)~~; 93A-4;

Eff. July 1, 1993;

Amended Eff. July 1, 2017; April 1, 2006; October 1, 2000.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0502

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), line 8, please change "is not" to "shall not be"

In (b), line 9, by "this Paragraph" do you mean "this Rule"? I don't see that this Paragraph sets forth the required information.

In (c)(7), what makes a broker "qualifying" for these purposes? Is this set forth elsewhere in Rule or Statute? I understand that this is not the best place to put additional requirements or information, so I'm not suggesting a change, but I want to be sure that this is clear somewhere.

In (c)(8), what is to be contained in the declaration form? Is this set forth elsewhere in Rule or Statute? If so, it's fine as written.

In (c)(9), is the "criminal conviction of and any pending criminal charge" the same as the criminal report allowed by 93A-4(b)?

Please consider simplifying the first sentence of (e). Perhaps something like

After filing a ~~written~~ firm license application with the Commission, the entity shall be licensed provided that it:

- (1) has one principal holding a broker license on active status in good standing who will serve as the qualifying broker; and
- (2) employs and is directed by personnel licensed as a broker in accordance with this Chapter.

Commission and upon a showing to the Commission that one principal of the business entity holds a broker license on active status and is in good standing who will serve as qualifying broker of the entity, the entity shall be licensed provided it appears to the Commission that the applicant entity

Amber Cronk May
Commission Counsel
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~~employs and is directed by personnel possessed of the requisite character and fitness required of applicants for a broker license by G.S. 93A-4(b).~~

Please note that the above is only a suggestion and you are in no way required to use it. I will say that I have a concern about “employs and is directed by personnel possessed of the requisite character and fitness required of applicants for a broker license required by G.S. 93A-4(b).” Is the intent of this solely for the brokers that a firm employs, or is this intended to extend to everyone in the office (including support personnel)? Also, as written, there is a question as to what it means to be of the “requisite character and fitness.” I realize that the statute allows you to look into character of brokers as part of the licensing process. This is why in my suggested rewrite, I have included the process.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0502 is amended with changes as published in 31:10 NCR 1025 as follows:

21 NCAC 58A .0502 BUSINESS ENTITIES FIRM LICENSING

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker.

(b) An entity that changes its business form other than by conversion shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes is not required to apply for a new license. However, such converted entity shall provide the information required by this Paragraph in writing to the Commission within 10 days of the conversion and shall include the duplicate license replacement fee prescribed in Rule .0509 of this Section pursuant to Rule .0101(c) of this [Subchapter] Subchapter. [to have the firm license reissued in the legal name of the converted entity.] Incomplete applications shall not be acted upon by the Commission.

(c) Application Firm license application forms for partnerships, corporations, limited liability companies, associations, and other business entities required to be licensed as brokers shall be available on the Commission's website at www.ncree.gov or upon request to the Commission and shall require the applicant to set forth:

- (1) the legal name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
- (6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;
- ~~(6)~~ (7) the name, real estate license number, and signature of the proposed qualifying broker for the proposed firm;
- ~~(7)~~ (8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge declaration form for each proposed broker-in-charge;
- ~~(8)~~ (9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- ~~(9)~~ (10) any past revocation, suspension, or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- ~~(10)~~ (11) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the partners, and the name of each partner. If a partner is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;

~~(11)~~ (12) if a limited liability company (LLC), company, a description of the applicant entity, including a copy of its written operating agreement or if no written agreement exists, a written description of the rights and duties of the managers, and the name of each manager. If a manager is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;

~~(12)~~ (13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;

~~(13)~~ (14) if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued by the NC Secretary of State and an executed consent to service of process and pleadings; and

~~(14)~~ (15) any other information required by this Rule.

(d) When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the firm license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons, and similar information. For purposes of this Rule, the term "principal," when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner, or who holds any other comparable position.

~~(b)~~(e) After filing a written firm license application with the Commission and upon a showing to the Commission that one principal of the business entity holds a broker license on active status and is in good standing who will serve as qualifying broker of the entity, the entity shall be licensed provided it appears to the Commission that the applicant entity employs and is directed by personnel possessed of the requisite character and fitness required of applicants for a broker license by G.S. 93A-4(b). [A natural person serving as a qualifying broker of a licensed

entity shall affiliate with a broker-in-charge prior to engaging in brokerage activity in the name of the licensed entity.]

The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure to the Commission the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

~~(e)~~(f) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

~~(f)~~(g) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;
- (2) renewing the real estate broker license of the entity;

- (3) retaining the firm's ~~renewal~~ current pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or legal or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time records are required to be retained by Rule .0108 of this Subchapter;
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and
- (9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.

~~(e)~~(h) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.

(i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. 55-11A-04; 93A-3(c); ~~93A-4(a); 93A-4(b); 93A-4(d); 93A-4;~~

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2015; July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0503

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

What is the process for applying online? Is there an electronic portal required to be used? I see that some of this information was deleted. Is there a specific reason as this information appears to be helpful in notifying your regulated public what is expected of them? Also, is the only information required set forth in (c)(1) and (c)(2)?

Is the criminal conviction required by (c)(2), the same as the "criminal report" allowed by 93A-4(b)?

Please correct the margins in (c)(1) and (c)(2).

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0503 is amended as published in 31:10 NCR 1027 as follows:

**21 NCAC 58A .0503 ~~LICENSE RENEWAL; RENEWAL PENALTY FOR OPERATING WHILE~~
~~LICENSE EXPIRED~~**

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on ~~the 30th day of June~~ 30 following issuance. Any broker desiring renewal of his or her license shall ~~apply for renewal~~ renew on the Commission's website within 45 days prior to license expiration ~~by submitting an electronic renewal application on the Commission's website at www.ncrec.gov and submitting with the electronic application the required~~ and shall submit a renewal fee of forty-five dollars (\$45.00). A broker who does not have the ability to renew online may renew by calling the Commission's office during normal business hours posted on the Commission's website.

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

~~(b) Any person desiring to renew his or her license on active status shall, upon the second renewal of such license following initial licensure, and upon each subsequent renewal, have obtained all continuing education required by G.S. 93A 4.1 and Rule .1702 of this Subchapter.~~

~~(c) A person renewing a license on inactive status shall not be required to have obtained any continuing education in order to renew such license; however, in order to change his or her license from inactive status to active status, the broker must satisfy the continuing education requirement prescribed in Rule .1703 or .1711 of this Subchapter.~~

~~(d) Any person or firm that engages in the business of a real estate broker while his, her, or its license is expired shall be subject to the penalties prescribed in G.S. 93A-6.~~

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

(1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and

(2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

History Note: Authority G.S. 93A-3(c); ~~93A-4(b2); 93A-4(c); 93A-4(d); 93A-4; 93A-4.1; 93A-4.1(a); 93A-4.1(c)(8); 93A-6;~~

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;

Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

1 *Amended Eff. July 1, 2017; July 1, 2014; April 1, 2013; April 1, 2006; January 1, 2006; July 1,*
2 *2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0505

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), please consider changing "The reinstatement application is a Commission prescribed form available..." to "The reinstatement application form is available on the Commission's website and shall include the applicant's:..."

Should "if applicable" be included in (b)(6)?

Please correct the margins in (d)(2)(A) through (C).

In (e) and (f)(3), what is the fee for those whose licenses have been expired for more than 2 years?

Have you considered setting forth the individual requirements as you have for businesses in (f)? The way you've done it for businesses seems more concise.

Please correct the margins for (f)(3).

The new language in (g) providing that licenses reinstated after 3 years will be provisional appears to be a substantial change. Was this information previously set forth elsewhere in rule or statute?

In (g), is there a cross-reference available regarding the provisional license?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0505 is amended with changes as published in 31:10 NCR 1027 as follows:

**21 NCAC 58A .0505 REINSTATEMENT OF ~~EXPIRED LICENSE, REVOKED, SURRENDERED OR~~
~~SUSPENDED~~ A LICENSE**

~~(a) Licenses expired for not more than six months may be reinstated upon the submission of payment of a fifty five dollar (\$55.00) reinstatement fee. In order to reinstate the license on active status, the person requesting reinstatement shall have obtained the continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating a license on inactive status is not required to have obtained any continuing education in order to reinstate the license; however, in order to subsequently change his or her reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this Subchapter, and be supervised by a broker in charge in compliance with the requirements of Rule .0506 of this Section.~~

~~(b) Reinstatement of licenses expired for more than six months shall be considered upon the submission of a complete and accurate application and payment of a fifty five dollar (\$55.00) reinstatement fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to function in the real estate business in a manner that protects and serves the public interest. To demonstrate knowledge, skills and competence, the Commission may require the applicants to complete real estate education or pass the license examination or both.~~

~~(c) Reinstatement of a revoked license shall be considered upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

~~(d) Reinstatement of a license surrendered under the provisions of G.S. 93A-6(e) shall be considered upon termination of the period of surrender specified in the order approving the surrender and upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

~~(e) When a license is suspended by the Commission, the suspended license shall be restored at the end of the period of active suspension provided that any applicable license renewal fees that accrued during the time of the suspension are paid by the licensee within 60 days from the end of the period of license suspension. In order for the license to be restored on active status, the licensee shall demonstrate that the licensee has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this Subchapter and that the licensee is supervised by a broker in charge in compliance with the requirements of Rule .0506 of this Section, if applicable. Failure to pay the accrued license renewal fees within the time set forth in this Paragraph shall result in expiration of the license effective the last day of the suspension period. A former licensee whose license expires under this Paragraph and who thereafter seeks reinstatement must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.~~

(f) ~~Whenever a license is reinstated by the Commission following expiration for more than six months, revocation, or voluntary surrender, the date of licensure for the licensee shall be the date of reinstatement and not the date of original licensure.~~

(a) ~~The fee for reinstatement of a license that has been expired, revoked, ~~or suspended~~ suspended, or surrendered~~ shall be an amount equal to two times the current renewal license fee pursuant to .0503 of this Section.

(b) ~~The reinstatement application is a Commission prescribed form available on the Commission's website and shall set forth the applicant's:~~

(1) ~~legal name;~~

(2) ~~mailing, physical, and email address;~~

(3) ~~telephone number;~~

(4) ~~previous license number;~~

(5) ~~Secretary of State identification number, if applicable;~~

(6) ~~social security number and date of birth, if applicable;~~

(7) ~~qualifying broker and broker-in-charge's legal name and license number, if applicable;~~

(8) ~~certification; and~~

(9) ~~signature.~~

(c) ~~An individual seeking reinstatement of a license that has been expired or revoked for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~

(d) ~~An individual seeking reinstatement of a license that has been ~~expired or revoked~~ expired, revoked, or surrendered~~ for six months but no more than two years shall:

(1) ~~submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;~~

(2) ~~submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and either~~

(A) ~~complete one Postlicensing course within six months prior to submitting his or her reinstatement application;~~

(B) ~~pass both the "National" and "State" sections of the current license examination within ~~six months prior to~~ 180 days after submitting his or her reinstatement application; or~~

(C) ~~pass only the "State" section of the current license examination within ~~six months prior to~~ 180 days after submitting his or her reinstatement application if the individual possesses an active broker license in another state.~~

(e) ~~An individual seeking reinstatement of a license that has been ~~expired or revoked~~ expired, revoked, or surrendered~~ for two years or more shall file an original license application pursuant to G.S. § 93A-4 and Rules .0301 and .0302 of this Subchapter.

(f) ~~A business entity seeking reinstatement of a license that has been expired or revoked:~~

(1) ~~for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~

(2) ~~for six months but no more than two years shall:~~

(A) ~~submit a complete reinstatement application pursuant to Paragraph (b) of this Rule; and~~

(B) ~~submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~

(3) for more than two years ~~[or more]~~ shall file an original firm license application pursuant to G.S. § 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter.

~~[(g) An individual or business entity seeking reinstatement of a license that has been suspended shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.]~~

~~[(h)]~~ (g) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or ~~[suspension]~~ surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status. An individual seeking reinstatement of a license on active status shall satisfy the requirements of Rule .1703 of this Subchapter.

~~[(i) An individual or firm seeking restoration of a license surrendered pursuant to G.S. § 93A-6(e) shall, after the period of surrender specified in the order accepting the surrender, file an original application pursuant to G.S. § 93A-4 and either Rules .0301 and .0302 or Rule .0502 of this Subchapter, as applicable.]~~

History Note: Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4; 93A-4.1;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. July 1, 2017; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995.

1 21 NCAC 58A .0509 is repealed as published in 31:10 NCR 1028 as follows:

2

3 **21 NCAC 58A .0509 DUPLICATE LICENSE FEE**

4

5 *History Note:* *Authority G.S. 93A-4(c),(d);*

6 *Eff. December 1, 1985;*

7 *Amended Eff. ~~February 1, 1989.~~ February 1, 1989;*

8 *Repeal Eff. July 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0511

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), please add "For purposes of this Rule," if that is what is meant.

In (c), please delete or define "continuously"

Please correct the margins in (d)(1) through (d)(4).

In (d), line 24, do you "shall", instead of "may"? The way I read this, you all will issue a temporary license so long as (d)(1) through (d)(4) are met. As such, it appears to me that "shall" is appropriate.

In (d)(1), please change "shall be" to "is" on line 26.

In (d)(2), please change "shall satisfy" to "satisfies"

In (d)(4), please change "shall provide" to "provides"

If you would prefer to keep (d)(1) through (d)(4) as directives, then (d) needs to be reworked.

In (d), please change "shall be granted" and "shall be issued" to "is granted" and "is issued"

I also want to verify that the intent was for this and .0512 to be effective July 18, 2018.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0511 is amended as published in 31:10 NCR 1030 as follows:

21 NCAC 58A .0511 LICENSING OF PERSONS LICENSED IN ANOTHER JURISDICTION

~~(a) Persons applying for a North Carolina broker license who hold a current real estate license that has been on active status within the previous three years in another state of the United States, a United States territory or possession or a Canadian jurisdiction shall meet the licensing requirements prescribed in G.S. 93A-4 except that such persons shall be exempt from the "national" section of the North Carolina real estate license examination, but shall pass the "state" section of that examination. A person qualifying for licensure under this provision shall be issued a North Carolina broker license on a status comparable to the category of license held by the person in the jurisdiction where the qualifying license is held.~~

(a) "Jurisdiction" shall mean a state, territory, or possession of the United States or Canada.

(b) An individual seeking a real estate license who, at the time of application, holds a current real estate license in another jurisdiction that has been on active status within the three years prior to application may request a waiver of the 75-hour education program required by G.S. § 93A-4(a) and the "National" section of the North Carolina real estate license examination, as defined in Rule .0402(b) of this Subchapter, by submitting an official certification of licensure issued within the six months preceding application to the Commission along with their application for licensure pursuant to Rule .0301 of this Subchapter.

~~(b)(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, ~~revoked~~ ~~revoked~~, or surrendered pursuant to G.S. 93A-6, so long as the license is continuously renewed or is reinstated within six months of expiration, pursuant to Rule .0505 of this Section. A person who was previously licensed in North Carolina by reciprocity and who seeks reinstatement of that license after the license has been expired for more than six months, suspended, ~~revoked~~ or surrendered shall satisfy the requirements described in Rule .0505 of this Section.~~

(d) Military-trained applicants or military spouses applying for a North Carolina broker license may be issued a temporary practice permit if they satisfy all of the following:

(1) the military-trained applicant or military spouse shall be licensed, certified, or registered in another jurisdiction;

(2) the military-trained applicant or military spouse shall satisfy the requirements for licensure under G.S. § 93B-15.1 (a) or G.S. § 93B-15.1 (b);

(3) the jurisdiction where the military-trained applicant or military spouse holds licensure, certification, or registration has standards that are equivalent to that of G.S. § 93A-4; and

(4) the military-trained applicant or military spouse shall provide a copy of the official military orders or a written verification signed by the commanding officer of the military-trained spouse.

(d) The military-trained applicant or military spouse may engage in brokerage activity under the temporary practice permit until a license shall be granted or until a notice to deny a license shall be issued, whichever occurs sooner.

(e) A temporary practice permit shall automatically expire after 180 days from issuance. An applicant that is issued a temporary practice permit under this Subchapter shall remain a provisional broker for the duration of the permit.

1

2 *History Note:* Authority G.S. 93A-3(c); ~~93A-4(b),(c),(d)~~; 93A-4; 93A-4.1; 93A-9(a); 93B-15.1;

3 *Eff. January 1, 2012;*

4 *Amended Eff. July 1, 2018; April 1, 2013; February 1, 2012.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0512

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please consider combining (a) and (c) as the use of both "may" and "shall" are confusing. I would suggest something like the following:

- (a) If a licensed real estate broker engaged in business as a sole proprietor dies or becomes incapacitated, the Commission ~~may~~ shall issue a temporary license to the executor or administrator of the estate of the deceased sole proprietor broker or to the court-appointed fiduciary of the incapacitated sole proprietor ~~broker~~. broker upon receipt of the following:
 - (1) a written notification to the Commission of the date of the broker's death or disability; and
 - (2) a certified copy of the court order appointing the executor, administer, or fiduciary.
- (b) A temporary license shall be valid only for the purpose of distributing trust money held or paying commissions owed by the sole proprietor broker at the time of death or incapacity, but shall not otherwise entitle the holder to undertake any action for which a real estate license is required.
- (c) ~~The Commission shall issue the temporary license upon receipt of:~~
 - (1) ~~a written notification to the Commission of the date of the broker's death or disability; and~~
 - (2) ~~a certified copy of the court order appointing the executor, administer, or fiduciary.~~
- (d) The temporary license shall be valid for one year from issuance.

Please provide a cross-reference to those actions that require a real estate license.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .0512 is adopted as published in 31:10 NCR 1030 as follows:

21 NCAC 58A .0512 DEATH OR INCAPACITY OF SOLE PROPRIETOR

(a) If a licensed real estate broker engaged in business as a sole proprietor dies or becomes incapacitated, the Commission may issue a temporary license to the executor or administrator of the estate of the deceased sole proprietor broker or to the court-appointed fiduciary of the incapacitated sole proprietor broker.

(b) A temporary license shall be valid only for the purpose of distributing trust money held or paying commissions owed by the sole proprietor broker at the time of death or incapacity, but shall not otherwise entitle the holder to undertake any action for which a real estate license is required.

(c) The Commission shall issue the temporary license upon receipt of:

(1) a written notification to the Commission of the date of the broker's death or disability; and

(2) a certified copy of the court order appointing the executor, administer, or fiduciary.

(d) The temporary license shall be valid for one year from issuance.

History Note: Authority G.S. 93A-2(c)(4);

Eff. July 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1702

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please consider rewriting (a) to make it more clear.. I would suggest creating a list and breaking this Paragraph out into additional paragraphs. A suggestion would be as follows:

(a) Except as provided in Rules .1708 and .1711 of this Section, the broker shall complete eight credit hours of real estate continuing education courses approved pursuant to Subchapter 58E of these Rules within one year prior to the expiration of the license as follows:

(1) four credit hours of elective courses; and

(2) four hours of either:

(A) the "General Update Course"; or

(B) for a broker-in-charge, the "Broker-In-Charge Update Course" in lieu of the "General Update Course."

Except as provided in Rules .1708 and .1711 of this Section, in order to renew a broker license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight classroom credit hours of real estate continuing education in courses approved by the Commission as provided in Subchapter 58E. Subchapter 58H. Four of the required eight classroom credit hours must shall be obtained each license period by completing a the mandatory update course developed annually by the Commission and known as the "General Update Course," the subject matter of which is described in Rule 58E .0102, except that a broker-in-charge or broker who is broker-in-charge eligible shall complete the "Broker In Charge Update Course" in lieu of the "General Update Course" as set forth in Rule .0110 of this Subchapter. The remaining four credit hours shall be obtained by completing one or more Commission approved elective courses described in Rule .0305 of Subchapter 58E. courses. The broker shall provide upon request of the Commission, evidence of continuing education course completion.

(b) Continuing education courses shall be completed upon the second renewal following the initial licensure and upon each subsequent annual renewal.

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

- (c) The broker shall provide evidence of continuing education course completion such as (provide examples) upon request of the Commission.

Please note that the above is only a suggestion. You are in no way required to use this suggestion. It is not the intent to change the meaning of this Rule, but to simply make it more clear. If you choose to use this suggestion, please renumber the remainder of the Rule accordingly.

In (b), please change "must" to "shall"

In (d), please consider changing the language to

- (d) "For purposes of this Rule, the terms "active status" and "inactive status" shall have the same definition as those are defined in Rule .0504 of this Subchapter.
- (e) For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1702 is amended as published in 31:10 NCR 984 as follows:

21 NCAC 58A .1702 CONTINUING EDUCATION REQUIREMENT

(a) Except as provided in Rules .1708 and .1711 of this Section, in order to renew a broker license on active status, the person requesting renewal of a license shall, upon the second renewal of such license following initial licensure, and upon each subsequent annual renewal, have completed, within one year preceding license expiration, eight ~~classroom credit~~ hours of real estate continuing education in courses approved by the Commission as provided in ~~Subchapter 58E.~~ Subchapter 58H. Four of the required eight ~~classroom credit~~ hours ~~must~~ shall be obtained each license period by completing a the mandatory ~~update course developed annually by the Commission and known as~~ the "General Update Course," ~~the subject matter of which is described in Rule 58E .0102,~~ except that a broker-in-charge or broker who is broker-in-charge eligible shall complete the "Broker-In-Charge Update Course" in lieu of the "General Update Course" as set forth in Rule .0110 of this Subchapter. The remaining four credit hours shall be obtained by completing one or more Commission-approved elective ~~courses described in Rule .0305 of Subchapter 58E.~~ courses. The broker shall provide upon request of the Commission, evidence of continuing education course completion.

(b) No continuing education shall be required to renew a broker license on inactive status. In order to change a license from inactive status to active status, the broker must satisfy the continuing education requirement described in Rule .1703 of this Section.

(c) No continuing education shall be required for a broker who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

(d) The terms "active status" and "inactive status" are defined in Rule .0504 of this Subchapter. For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

History Note: Authority G.S. 93A-3(c); 93A-4.1; ~~93A-4.1(e)(7); 93A-4.1(e)(8);~~

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 2014; April 1, 2006; July 1, 2005; April 1, 2004; October 1, 2000; August 1, 1998; July 1, 1996.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1703

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), how is a broker to demonstrate completion? By submitting some sort of documentation regarding the continuing education?

Is (b) necessary? If the period is through June 30, wouldn't the brokers either be considered active or inactive for purposes of this Rule? It seems as though (b) would be necessary if there was a grey area, but there doesn't appear to be with the June 30 date.

If (b) is determined to be necessary, please delete or define "properly" on line 7. Please also change "is considered" on line 8 and "is required" on line 9 to "shall be considered" and "shall be required"

In (c), please delete or define "properly." By "not properly been on active status", do you mean "inactive status"?

In (c), line 12, please delete or define "fully"

In (c), line 13, please provide a cross-reference to the continuing education requirement. Is it in accordance with the Rules of this Section?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1703 is amended as published in 31:10 NCR 984 as follows:

21 NCAC 58A .1703 CONTINUING EDUCATION FOR LICENSE ACTIVATION

(a) A broker requesting to change an inactive license to active status on or after the ~~licensee's~~ broker's second license renewal following his or her initial licensure shall demonstrate completion of continuing education as described in Paragraph (b) or (c) of this Rule, whichever is appropriate.

(b) If the inactive ~~licensee's~~ broker's license has properly been on active status at any time since the preceding July 1, the ~~licensee~~ broker is considered to be current with regard to continuing education and no additional continuing education is required to activate the license.

(c) If the inactive ~~licensee's~~ broker's license has not properly been on active status since the preceding July 1 and the ~~licensee~~ broker has a deficiency in his or her continuing education record for the previous license period, the ~~licensee must~~ broker shall make up the deficiency and fully satisfy the continuing education requirement for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours. ~~When evaluating the continuing education record of a licensee with a deficiency for the previous license period to determine the licensee's eligibility for active status, the licensee shall be deemed eligible for active status if the licensee has fully satisfied the continuing education requirement for the current license period and has taken any two additional continuing education courses since the beginning of the previous license period, even if the licensee had a continuing education deficiency prior to the beginning of the previous license period.~~

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff July 1, 2017; April 1, 2006; July 1, 2000; July 1, 1995.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1705

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Just to be clear, a broker can only miss 10% of the course **with** the instructor's permission?*

In (a)(2), to whom shall the broker provide this information? The course sponsor?

In (a)(3), when would it be necessary to present their ID?

In (b), please change "is" to "shall be"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1705 is amended with changes as published in 31:10 NCR 984 as follows:

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

(a) In order to receive ~~any~~ credit for ~~satisfactorily~~ completing an approved continuing education course, a ~~licensee~~ ~~must-broker~~ shall:

(1) attend at least 90 percent of the scheduled ~~classroom~~ instructional hours for the ~~course~~, course;
~~regardless of the length of the course, and must comply with student participation standards described in Rule .0511 of Subchapter 58E.~~

(2) provide his or her legal name and license number;

(3) present his or her photo identification card, if necessary; and

(4) personally perform all work required to complete the course.

(b) ~~No credit shall be awarded for attending less than 90 percent of the scheduled classroom hours.~~ The 10 With the
instructor or the sponsor's permission, a 10 percent absence allowance is permitted ~~for any reason~~ at any time during
the ~~course~~ course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

(1) approved by the instructor; and

(2) for circumstances beyond the ~~licensee's~~ broker's control that could not have been reasonably
foreseen by the ~~licensee~~ and is approved by the instructor. broker, such as:

(A) an illness;

(B) a family emergency; or

(C) acts of God.

(c) With regard to the Commission's 12-hour Broker-In-Charge Course that is taught over two days, a ~~licensee~~ must
broker shall attend at least 90 percent of the scheduled ~~classroom~~ instructional hours on each day of the course and
the 10 percent absence allowance ~~cited above~~ referred to in Paragraph (b) of this Rule shall apply to each day of the
course.

History Note: Authority G.S. 93A-3(c); ~~93A-4A~~; 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 2010.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1708

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Overall, are these separate forms, or are they the same form with a box to check? If it's the latter, I would suggest reworking this Rule to indicate that the form is to be used and what is to be included in the form, rather than relisting it each time. I would then suggest including the additional requirements (e.g. "the course completion certificate" referenced in (e)) within the appropriate Paragraph of the Rule.

Please make lower-case "update" in (a)(2).

In (b), please consider combining the first and second sentence so that it reads something like "The Commission shall award a broker continuing education elective credit for teaching a Commission approved education elective for the first time any given continuing education elective is taught." Alternatively, please consider deleting "However,"

In (c), what factors will the Commission use to determine whether an unapproved course is equivalent to an elective course?

Is (d) only applicable to those seeking credit for teaching an unapproved course? Please make this clear.

In (e), (f), (g), and (h), for purposes of the \$50.00 fee, are you considering theses to be "unapproved course or related educational activity"?

In (h), please consider deleting "However,"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1708 is amended as published in 31:10 NCR 985 as follows:

21 NCAC 58A .1708 EQUIVALENT CREDIT

~~(a) A licensee may request that the Commission award continuing education credit for a course taken by the licensee that is not approved by the Commission, or for some other real estate education activity, by making such request on a form prescribed by the Commission and submitting a nonrefundable evaluation fee of thirty dollars (\$30.00) for each request for evaluation of a course or real estate education activity. In order for requests for equivalent credit to be considered and credits to be entered into a licensee's continuing education record prior to the June 30 license expiration date, such requests and all supporting documents must be received by the Commission on or before June 10 preceding expiration of the licensee's current license, with the exception that requests from instructors desiring equivalent credit for teaching Commission approved continuing education courses must be received by June 30. Any equivalent continuing education credit awarded under this Rule shall be applied first to make up any continuing education deficiency for the previous license period and then to satisfy the continuing education requirement for the current license period; however, credit for an unapproved course or educational activity, other than teaching an approved elective course, that was completed during a previous license period shall not be applied to a subsequent license period.~~

~~(b) The Commission may award continuing education elective credit for completion of an unapproved course which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. Completion of an unapproved course may serve only to satisfy the elective requirement and shall not be substituted for completion of the mandatory update course.~~

~~(c) Real estate education activities, other than teaching a Commission approved course, which may be eligible for credit include: developing a Commission approved elective continuing education course; authorship of a published real estate textbook; and authorship of a scholarly article, on a topic acceptable for continuing education purposes, which has been published in a professional journal such as a law journal or professional college or university journal or periodical. The Commission shall award continuing education elective credit for activities which the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Section .0300 of Subchapter 58E. No activity other than teaching a Commission developed mandatory update course shall be considered equivalent to completing the mandatory update course.~~

~~(d) The Commission shall award credit for teaching the Commission developed mandatory update course and for teaching an approved elective course. Credit for teaching an approved elective course shall be awarded only for teaching a course for the first time. Credit for teaching a Commission developed mandatory update course shall be awarded for each licensing period in which the instructor teaches the course. The amount of credit awarded to the instructor of an approved continuing education course shall be the same as the amount of credit earned by a licensee who completes the course. Licensees who are instructors of continuing education courses approved by the Commission shall not be subject to the thirty dollars (\$30.00) evaluation fee when applying for continuing education credit for teaching an approved course. No credit toward the continuing education requirement shall be awarded for teaching a real estate prelicensing or postlicensing course.~~

~~(e) A licensee completing a real estate appraisal prelicensing, precertification or continuing education course approved by the North Carolina Appraisal Board may obtain real estate continuing education elective credit for such course by submitting to the Commission a written request for equivalent continuing education elective credit accompanied by a nonrefundable processing fee of twenty dollars (\$20.00) and a copy of the certificate of course completion issued by the course sponsor for submission to the North Carolina Appraisal Board.~~

(a) The Commission shall award a broker continuing education credit for teaching a Commission Update Course. A broker seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, instructor number, address, telephone number, and email address;
- (2) Update Course number;
- (3) sponsor's name and number;
- (4) sponsor's address; and
- (5) date the course was taught.

(b) The Commission shall award a broker continuing education elective credit for teaching a Commission approved continuing education elective. However, a broker shall only receive credit for the first time they teach a given continuing education elective. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) course number;
- (4) sponsor's name and number;
- (5) sponsor's address; and
- (6) date the course was taught.

(c) The Commission may award continuing education elective credit for completion of an unapproved course that the Commission finds equivalent to the elective course component of the continuing education requirement set forth in Rule .0407 of Subchapter 58H. A broker seeking continuing education credit for a course that is not approved by the Commission shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) number of instructional hours;
- (4) course instructor's name; and
- (5) course sponsor's name, address, telephone number, and email address.

(d) Along with the form described in Paragraph (c), the broker shall submit a course completion certificate issued by the course sponsor, a copy of the course description or course outline, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(e) The Commission may award continuing education elective credit for completion of a real estate appraisal prelicensing, precertification, or continuing education course approved by the North Carolina Appraisal Board. A

1 broker seeking continuing education credit for an Appraisal Board course shall submit a form, available on the
2 Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone
3 number, and email address. Along with the form, the broker shall submit a course completion certificate issued by
4 the course sponsor and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.
5 (f) The Commission may award continuing education elective credit for developing a continuing education elective
6 course that is approved by the Commission pursuant to Section .0400 of Subchapter 58H. However, a broker shall
7 only receive credit for the year in which the continuing education elective is approved. A broker seeking continuing
8 education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the
9 broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the
10 form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar
11 (\$50.00) fee for each course for which the broker seeks credit.
12 (g) The Commission may award continuing education elective credit for authoring a real estate textbook. However,
13 a broker shall receive credit for any single textbook only once. A broker seeking continuing education credit under
14 this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the
15 broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall
16 submit the title page of the textbook, showing the title, publisher, and publication date, the table of contents, and a
17 fifty dollar (\$50.00) fee for each textbook for which the licensee seeks credit.
18 (h) The Commission may award continuing education elective credit for authoring of a scholarly article on a real
19 estate topic published in a professional journal or periodical. However, a broker shall receive credit for any single
20 article only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available
21 on the Commission's website, that requires the broker to set forth the broker's name, license number, address,
22 telephone number, and email address. Along with the form, the broker shall submit a copy of the article, proof of
23 publication, and a fifty dollar (\$50.00) fee for each article for which the broker seeks credit.
24 (i) In order for any application for equivalent credit to be considered and credits applied to the current licensing
25 period, a complete application, the appropriate fee, and all supporting documents shall be received by the
26 Commission no later than 5:00 p.m. on June 10.

27
28 *History Note: Authority G.S. 93A-3(c); 93A-4.1;*

29 *Eff. July 1, 1994;*

30 *Amended Eff. July 1, 2017; April 1, 2006; July 1, 2001; July 1, 2000; March 1, 1996; July 1,*
31 *1995.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1709

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Just so I'm clear, so long as a broker submits evidence that they couldn't meet the CE requirement, then the Commission will grant the extension? I want to be sure that this is not intended to be an approval process that would require that factors be set out.

(a), please delete or define "substantial"

In (d), please change "be change" to "be changed" or "change"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1709 is amended as published in 31:10 NCR 986 as follows:

21 NCAC 58A .1709 EXTENSIONS OF TIME TO COMPLETE CONTINUING EDUCATION

(a) A broker on active status may request ~~and be granted~~ an extension of time to satisfy the continuing education requirement for ~~a particular license~~ the current license period if the broker ~~provides evidence to the Commission that he or she~~ was unable to obtain the necessary education due to an incapacitating illness, military deployment, or other circumstance that existed for a substantial portion of the license period and that constituted a severe ~~hardship~~ hardship, evidenced by supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, such that compliance with the continuing education requirement would have been impossible or burdensome.

~~(b) The Commission shall not grant an extension of time to satisfy the continuing education requirement for reasons of business or personal conflicts.~~

~~(c) The Commission shall not grant such an extension of time when the broker's inability to obtain the required education in a timely manner was unreasonable delay on the part of the broker in obtaining such education.~~

~~(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status but the license shall be automatically changed to inactive status at the end of the extension period unless the broker satisfies the continuing education requirement prior to that time.~~

~~(e) If an extension of time is not granted, the broker may either satisfy the continuing education requirement prior to expiration of the license period or renew his or her license on inactive status.~~

~~(f) In no event shall an extension of time be granted that extends the continuing education deadline beyond June 10 of the license year following the license year in which the request is made.~~

~~(g) The broker's request for an~~ (b) Requests for an extension of time shall be submitted on a form ~~prescribed by the Commission and must be received by the Commission on or before June 10 of the license year for which the extension is sought. The form for requesting an extension of time to satisfy the continuing education requirement shall include~~ available on the Commission's website that requires the broker to set out the broker's name, mailing address, license number, telephone number, email address, and a description of the incapacitating illness or other circumstance circumstance, upon which the request for extension of time is based. The form can be obtained on the Commission's website at www.ncree.gov, or upon request to the Commission. The requesting broker shall submit, along the form, supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, demonstrating that compliance with the continuing education requirement would have been impossible or burdensome.

(c) All requests for an extension of time shall be received by the Commission by 5:00 p.m. on June 10 of the licensing period for which the extension is sought.

(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status. The broker's license shall automatically be change to inactive status if the broker fails to satisfy the continuing education requirement prior to the end of the extension period.

1 (e) In no event shall an extension of time be granted that extends the continuing education requirement deadline
2 beyond June 10 of the license year following the license year in which the request is made.

3
4 *History Note: Authority G.S. 93A-3(c); 93A-4.1;*
5 *Eff. July 1, 1994;*
6 *Amended Eff. July 1, 2017; August 1, 2014; October 1, 2000.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1710

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), should "licensee" on line 5 also be changed to "broker"?

In (b), will the extension always be granted if requested by the broker? If not, please provide the factors as to how the Commission will determine whether to grant the extension.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1710 is amended as published in 31:10 NCR 987 as follows:

21 NCAC 58A .1710 DENIAL OR WITHDRAWAL OF CONTINUING EDUCATION CREDIT

(a) The Commission may deny continuing education credit claimed by a ~~licensee broker~~ or reported by a course sponsor for a licensee, and may withdraw continuing education credit previously awarded by the Commission to a ~~licensee broker~~ upon finding ~~that:~~ that the broker:

(1) ~~The licensee~~ or course sponsor provided incorrect or incomplete information to the Commission concerning continuing education completed by the ~~licensee;~~ broker;

(2) ~~The licensee~~ failed to comply with ~~either~~ the attendance requirement established by Rule .1705 of this ~~Section or the student participation standards set forth in Rule .0511 of Subchapter 58E; Section;~~ or

(3) ~~The licensee~~ was mistakenly awarded continuing education credit due to an administrative error.

(b) ~~When continuing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the licensee remains responsible for satisfying the continuing education requirement. However, when~~ If an administrative error or an incorrect report by a course sponsor results in the denial or withdrawal of continuing education credit for a ~~licensee, broker,~~ the Commission may, upon the written request of the ~~licensee, broker,~~ grant the ~~licensee broker~~ an extension of time to satisfy the continuing education requirement.

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

History Note: Authority G.S. 93A-3(c); ~~93A-4A;~~ 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 1995.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1711

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please delete "fully" on lines 7 and 32.

In (a)(3), line 22, did you intend to also delete the "a" before "nonrefundable"?

In (a)(3), please either delete "satisfactory to the Commission" or provide this language some additional meaning.

In (a)(4), line 30, please change "is" to "shall be."

In (c), please consider providing a cross-reference to the elective course approval rules.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1711 is amended as published in 31:10 NCR 987 as follows:

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

(a) To be considered a nonresident for continuing education purposes, a real estate broker licensed in North Carolina shall not have a North Carolina business address, mailing address, or residence address at the time he or she applies for license renewal if he or she seeks to renew his or her license on active status. A nonresident North Carolina broker who wishes to renew his or her license on active status may fully satisfy the continuing education requirement by any one of the following means:

- (1) A nonresident broker may, at the time of license renewal, hold a real estate license on active status in another state and certify on a form prescribed by the Commission that the broker holds such license. If at any time after renewal there is a change in the status of the out-of-state license, the nonresident broker shall notify the Commission within 10 days and request that his or her North Carolina license be placed on inactive status, or provide evidence to the Commission that he or she has satisfied either Subparagraph (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.
- (2) A nonresident broker may, within one year preceding license expiration, complete the Commission-prescribed Update course plus one Commission-approved continuing education elective course, or complete two Commission-approved continuing education elective courses.
- (3) A nonresident broker may, within one year preceding license expiration, complete eight classroom hours in courses approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken. To obtain credit for a continuing education course completed in another state and not approved by the Commission, the broker must submit a written request for continuing education credit accompanied by a ~~nonrefundable processing fee of twenty dollars (\$20.00)~~ fifty dollars (\$50.00) per request and evidence satisfactory to the Commission that the course was completed and that the course was approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken.
- (4) A nonresident broker may obtain eight hours equivalent credit for a course or courses not approved by the Commission or for related educational activities as provided in Rule .1708 of this Section. The maximum amount of continuing education credit the Commission will award a nonresident broker for an unapproved course or educational activity is eight hours.

(b) When requesting to change an inactive license to active status, or when applying for reinstatement of a license expired for not more than six months, a nonresident broker may fully satisfy the continuing education requirements described in Rules .0505 and .1703 of this Subchapter by complying with any of the options described in Paragraph (a) of this Rule, except that the requirements in Subparagraphs (a)(2) and (a)(3) of this Rule restricting the taking of courses to one year preceding license expiration shall not be applicable.

1 (c) No carry-over credit to a subsequent license period shall be awarded for a course taken in another state that has
2 not been approved by the North Carolina Real Estate Commission as an elective course.

3 (d) A nonresident broker who has renewed his or her license on active status pursuant to Paragraph (a) of this Rule
4 shall notify the Commission within 10 days if he or she subsequently affiliates with an office with a North Carolina
5 business or mailing address, or becomes a resident of this State, and within 30 days provide evidence to the
6 Commission that he or she has satisfied the requirements of either Subparagraphs (a)(2) or (a)(3) of this Rule or the
7 requirements of Rule .1702 of this Section.

8
9 *History Note: Authority G.S. 93A-3(c); 93A-4.1;*

10 *Eff. July 1, 1994;*

11 *Amended Eff. July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1, 2000; March*
12 *1, 1996; July 1, 1995.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1904

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), please change "remains" to "shall remain"

In (b), please define "timely." Is there a cross-reference available?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1904 is amended as published in 31:10 NCR 988 as follows:

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

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

- (1) the provisional broker or school provided incorrect or incomplete information to the Commission concerning ~~postlicensing~~ Postlicensing education completed by the provisional broker;
- (2) the provisional broker was mistakenly awarded ~~postlicensing~~ Postlicensing education credit due to an administrative error; or
- (3) the provisional broker attended a ~~postlicensing~~ Postlicensing course while concurrently attending a different ~~postlicensing~~ 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~~ Postlicensing course sessions for more than ~~24 classroom~~ 30 instructional hours in any given seven-day period.

(b) When ~~postlicensing~~ Postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker remains responsible for satisfying the ~~postlicensing~~ Postlicensing education requirement in a timely manner.

(c) A ~~licensee broker~~ who obtains or attempts to obtain ~~postlicensing~~ 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .1905

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please change "Rule A .1902 of this Section" to "Rule .1902 of this Section"

You may want to consider reworking Paragraph (a) of this Rule to say when the waiver may occur. I understand that (a)(1) through (3) essentially sets that out, but the lead in to that says that you must submit this kind of evidence, it doesn't actually indicate the circumstances upon which the waiver may occur. Perhaps something like:

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 A .1902 of this ~~Section~~. Section in the following circumstances: ~~For each course for which waiver is sought, the provisional broker shall submit evidence of one or more of the following:~~

- (1) ~~the broker has obtained~~ equivalent education ~~obtained~~ in another jurisdiction, ~~jurisdiction. In this case, the waiver which 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.

Please note that this is only a suggestion. You are in no way required to use this suggestion.

In (a)(1), please give some meaning to "equivalent." Is there a cross-reference available?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58A .1905 is adopted with changes as published in 31:10 NCR 1028 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 A .1902 of this Section. For each course for which waiver is sought, the provisional broker shall submit evidence of one or more of the following:

(1) equivalent education obtained in another jurisdiction, which 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) 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) 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;

(F) detailed description of practice; and

(G) manager or supervising attorney's name, telephone number, and email address.

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

1

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

3 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: All repealed rules 21 NCAC 58C .0101-0608 and 58E .0101-.0515

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please format the repeals in accordance with 26 NCAC 02C .0406(b). Specifically, please only combine consecutive rules with the same effective dates. There appear to be some nonconsecutive rules combined with different effective dates.

An example of a formatted repealed rule can be found at <http://www.ncoah.com/rules/examples/Permanent%20Repeal%20of%20consecutive%20rules%20for%20Publication%20in%20the%20NCAC.pdf>.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58C .0101 - .0105 and .0107 - .0108 are repealed as published in 31:10 NCR 988 as follows:

21 NCAC 58C .0101 APPLICABILITY: REQUIREMENT FOR APPROVAL

21 NCAC 58C .0102 APPLICATION FOR APPROVAL

21 NCAC 58C .0103 CRITERIA FOR APPROVAL

21 NCAC 58C .0104 SCOPE, DURATION AND RENEWAL OF APPROVAL

21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF APPROVAL

21 NCAC 58C .0107 USE OF EXAMINATION PERFORMANCE DATA

21 NCAC 58C .0108 STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE

Authority G.S. 93A-4; 93A-33; 93A-34

21 NCAC 58C .0201 - .0214 and .0216 - .0221 are repealed as published in 31:10 NCR 989 as follows:

21 NCAC 58C .0201	APPLICABILITY
21 NCAC 58C .0202	ORIGINAL APPLICATION FEE
21 NCAC 58C .0203	SCHOOL NAME
21 NCAC 58C .0204	COURSES
21 NCAC 58C .0205	ADDITIONAL COURSE OFFERINGS
21 NCAC 58C .0206	ADMINISTRATION
21 NCAC 58C .0207	FACILITIES AND EQUIPMENT
21 NCAC 58C .0208	BULLETINS
21 NCAC 58C .0209	ENROLLMENT PROCEDURES AND CONTRACTS
21 NCAC 58C .0210	ADMISSIONS POLICY AND PRACTICE
21 NCAC 58C .0211	RECORDS
21 NCAC 58C .0212	ENFORCEMENT OF INSTITUTIONAL STANDARDS
21 NCAC 58C .0213	PERFORMANCE BOND
21 NCAC 58C .0214	ADVERTISING AND RECRUITMENT ACTIVITIES
21 NCAC 58C .0216	CHANGES DURING THE LICENSING PERIOD
21 NCAC 58C .0217	LICENSE RENEWAL AND FEES
21 NCAC 58C .0218	LICENSING EXAM CONFIDENTIALITY: SCHOOL PERFORM./LICENSING
21 NCAC 58C .0219	VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT
21 NCAC 58C .0220	STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE
21 NCAC 58C .0221	TRANSFER OF SCHOOL OWNERSHIP

Authority G.S. 93A-4; 93A-33; 93A-34

21 NCAC 58C .0301 - .0307 and .0309 - .0313 are repealed as published in 31:10 NCR 992 as follows:

21 NCAC 58C .0301 PURPOSE AND APPLICABILITY

21 NCAC 58C .0302 PROGRAM STRUCTURING AND ADMISSION REQUIREMENTS

21 NCAC 58C .0303 COURSE CONTENT

21 NCAC 58C .0304 COURSE COMPLETION STANDARDS

21 NCAC 58C .0305 COURSE SCHEDULING

21 NCAC 58C .0306 TEXTBOOKS

21 NCAC 58C .0307 INSTRUCTORS

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

21 NCAC 58C .0310 COURSE RECORDS

21 NCAC 58C .0311 INSTRUCTIONAL DELIVERY METHODS

21 NCAC 58C .0312 EXCEPTION FOR PERSONS WITH DISABILITIES

21 NCAC 58C .0313 NOTICE OF SCHEDULED COURSES

Authority G.S. 93A-4; 93A-33; 93A-34

21 NCAC 58C .0601 - .0608 are repealed as published in 31:10 NCR 995 as follows:

21 NCAC 58C .0601 PURPOSE AND APPLICABILITY

21 NCAC 58C .0602 NATURE AND SCOPE OF INSTRUCTOR APPROVAL

21 NCAC 58C .0603 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

21 NCAC 58C .0604 INSTRUCTOR PERFORMANCE

21 NCAC 58C .0605 REQUEST FOR EXAMINATIONS AND VIDEO RECORDINGS

21 NCAC 58C .0606 POSTLICENSING COURSE REPORTS

21 NCAC 58C .0607 EXPIRATION, RENEWAL, AND REINSTATEMENT OF APPROVAL

21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF APPROVAL

Authority G.S. 93A-4; 93A-33; 93A-34

1 21 NCAC 58E .0101 - .0105 are repealed as published in 31:10 NCR 998 as follows:

2

3 **21 NCAC 58E .0101 PURPOSE AND APPLICABILITY**

4 **21 NCAC 58E .0102 UPDATE COURSE COMPONENT**

5 **21 NCAC 58E .0103 APPLICATION FOR ORIGINAL APPROVAL**

6 **21 NCAC 58E .0104 CRITERIA FOR APPROVAL OF UPDATE COURSE SPONSOR**

7 **21 NCAC 58E .0105 STUDENT FEE FOR UPDATE COURSES**

8

9 *Authority G.S. 93A-3(c); 93A-4.1*

21 NCAC 58E .0201 - .0206 are repealed as published in 31:10 NCR 999 as follows:

21 NCAC 58E .0201 PURPOSE AND APPLICABILITY

21 NCAC 58E .0202 NATURE AND SCOPE OF APPROVAL

21 NCAC 58E .0203 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

21 NCAC 58E .0204 ACTIVE AND INACTIVE STATUS; RENEWAL OF APPROVAL

21 NCAC 58E .0205 DENIAL OR WITHDRAWAL OF APPROVAL

21 NCAC 58E .0206 REQUEST FOR A VIDEO RECORDING

Authority G.S. 93A-3(c); 93A-4.1

21 NCAC 58E .0301 - .0310 are repealed as published in 31:10 NCR 1001 as follows:

21 NCAC 58E .0301	PURPOSE AND APPLICABILITY
21 NCAC 58E .0302	ELECTIVE COURSE COMPONENT
21 NCAC 58E .0303	APPLICATION FOR ORIGINAL APPROVAL
21 NCAC 58E .0304	CRITERIA FOR ELECTIVE COURSE APPROVAL
21 NCAC 58E .0305	ELECTIVE COURSE SUBJECT MATTER
21 NCAC 58E .0306	ELECTIVE COURSE INSTRUCTORS
21 NCAC 58E .0307	ELECTIVE COURSE CREDIT HOURS
21 NCAC 58E .0308	REQUEST FOR A VIDEO RECORDING
21 NCAC 58E .0309	STUDENT FEES FOR ELECTIVE COURSES
21 NCAC 58E .0310	DISTANCE EDUCATION COURSES

Authority G.S. 93A-3(c); 93A-4.1

21 NCAC 58E .0401 - .0406 and .0408 - .0412 are repealed as published in 31:10 NCR 1004 as follows:

21 NCAC 58E .0401	PURPOSE AND APPLICABILITY
21 NCAC 58E .0402	SPONSOR ELIGIBILITY
21 NCAC 58E .0403	SPONSOR NAME
21 NCAC 58E .0404	ADVANCE APPROVAL REQUIRED
21 NCAC 58E .0405	CONTINUING EDUCATION COORDINATOR
21 NCAC 58E .0406	COURSE COMPLETION REPORTING
21 NCAC 58E .0408	CHANGE IN SPONSOR OWNERSHIP
21 NCAC 58E .0409	CHANGES DURING APPROVAL PERIOD
21 NCAC 58E .0410	COURSE RECORDS
21 NCAC 58E .0411	RENEWAL OF COURSE AND SPONSOR APPROVAL
21 NCAC 58E .0412	DENIAL OR WITHDRAWAL OF APPROVAL

Authority G.S. 93A-3(c); 93A-4.1

21 NCAC 58E .0501 - .0515 are repealed as published in 31:10 NCR 1007 as follows:

21 NCAC 58E .0501	PURPOSE AND APPLICABILITY
21 NCAC 58E .0502	SCHEDULING
21 NCAC 58E .0503	MINIMUM CLASS SIZE
21 NCAC 58E .0504	NOTICE OF SCHEDULED COURSES
21 NCAC 58E .0505	ADVERTISING; PROVIDING COURSE INFORMATION
21 NCAC 58E .0506	CLASSES OPEN TO ALL LICENSEES
21 NCAC 58E .0507	CLASSROOM FACILITIES
21 NCAC 58E .0508	STUDENT CHECK-IN
21 NCAC 58E .0509	INSTRUCTOR CONDUCT AND PERFORMANCE
21 NCAC 58E .0510	MONITORING ATTENDANCE
21 NCAC 58E .0511	STUDENT PARTICIPATION STANDARDS
21 NCAC 58E .0512	SOLICITATION OF STUDENTS
21 NCAC 58E .0513	CANCELLATION AND REFUND POLICIES
21 NCAC 58E .0514	COURSE INSPECTIONS BY COMMISSION REPRESENTATIVE
21 NCAC 58E .0515	ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

Authority G.S. 93A-3(c); 93A-4.1

21 NCAC 58G .0102 is adopted as published in 31:10 NCR 1009 as follows:

21 NCAC 58G .0102 LOCATION

(a) The office of the North Carolina Real Estate Commission is located at 1313 Navaho Drive, Raleigh, North Carolina. The mailing address is Post Office Box 17100, Raleigh, North Carolina 27619-7100.

(b) Forms and information about the office may be obtained from the Commission's website at www.ncrec.gov.

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

Eff. July 1, 2017.

21 NCAC 58G .0103 is adopted as published in 31:10 NCR 1009 as follows:

21 NCAC 58G .0103 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter:

(1) “Commission” means the North Carolina Real Estate Commission.

(2) “Commission’s website” means www.ncrec.gov.

(3) “Day” means calendar day unless the rule expressly states otherwise. The first day counted is the day following the act, event, or transaction that triggered the tolling of the designated time period.

(4) “Fee” means a payment made to the Commission by a bank check, certified check, money order, debit card, credit card, or other electronic means and is nonrefundable once the payment has been processed.

(5) “Form” means an original form template provided by the Commission and completed by the submitting party.

History Note: Authority G.S.93A –3(c);

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0101

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Since these are adoptions, please add the Subchapter Name and Section Name.
Please also add Section Names to Rule .0201, .0301, and .0401*

Please correct your margins in Items (1) through (13)

*In (4), where is the requirement elsewhere in Rule that the syllabus be approved?
Please consider deleting "Commission-approved"*

There appears to be a potential substantial change in Item 7 with the change from 180 days to 30 days. Is the 30 day requirement set forth elsewhere in Rule such that your regulated public had notice of this?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0101 is adopted with changes as published in 31:10 NCR 1010 as follows:

21 NCAC 58H .0101 DEFINITIONS

The following definitions apply throughout this Subchapter and to all forms prescribed pursuant to this Chapter:

(1) “Instructional hour” means 50 minutes of instruction and 10 minutes of break time.

(2) “Distance education” means a method of instruction accomplished through the use of media whereby teacher and student are separated by distance or time.

(3) “End-of-course evaluation” means a student evaluation of the course and the instructor’s performance that shall be administered during the class period before administration of the end-of-course examination.

(4) “End-of-course examination” means an examination administered at the conclusion of a course that tests students’ knowledge and mastery of all course subjects mandated by the Commission-approved course syllabus.

(5) “Mid-course evaluation” means a student evaluation of the course and the instructor’s performance given at the midpoint of the course.

(6) “Instructor development program” means courses of instruction designed specifically to assist real estate instructors in the performance of Prelicensing, Postlicensing, or Continuing Education instructor duties or in the development of teaching skills.

(7) “License Examination Performance Record” means the percentage of an instructor’s or school’s students who, within ~~180~~ 30 days of completing a Prelicensing course pursuant to 21 NCAC 58H .0210(a), take and pass the license examination, as defined in 21 NCAC 58A .0402, on their first attempt.

(8) “Postlicensing course” means any one of the courses comprising the 90 hour Postlicensing education program pursuant to G.S. 93A-4(a1) and 21 NCAC 58A .1902.

(9) “Prelicensing course” means a single course consisting of at least 75 hours of instruction on subjects prescribed by the Commission pursuant to G.S. 93A-4(a).

(10) “Private real estate school” means any real estate educational entity that is privately owned and operated by an individual, partnership, corporation, limited liability company, or association, and that conducts, for a profit or tuition charge, Prelicensing or Postlicensing courses.

(11) “Public real estate school” means any proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 or approved by the Board of Governors of the University of North Carolina that conducts Prelicensing or Postlicensing courses.

(12) “Schools” mean licensed private and approved public real estate schools.

(13) “Update Courses” mean the General Update Course and the Broker-in-Charge Update Course.

History Note: Authority G.S. 93A-4; 93A-4.1; 93A-32; 93A-33;

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0201

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please also add Section Names

On line 5, please change "are" to "shall be"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0201 is adopted as published in 31:10 NCR 1010 as follows:

21 NCAC 58H .0201 APPLICABILITY

This Section applies to all real estate schools offering approved Prelicensing and Postlicensing courses. Public real estate schools offering approved Prelicensing and Postlicensing courses are exempt from rules in this Section unless a Rule specifically requires compliance.

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

 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0202

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), how will the approval determination be made? Is there a cross-reference available? If not, please provide the factors that the Commission will use in making this determination.

In (c), please change "extends" to "shall extend"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0202 is adopted as published in 31:10 NCR 1010 as follows:

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

(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) Schools approved to offer Prelicensing or Postlicensing courses shall be eligible to offer Update courses and continuing education courses.

(c) Approval extends only to the courses included in the application for school approval.

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

 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0203

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins in (5) and (9).

In (9), are you requesting this information to be able to assess the character and reputation pursuant to 93A-34(c)(9)?

In (f), please change "is" to "shall be"

In the History Note, please change "93A-34(b)" to "93A-34"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0203 is adopted as published in 31:10 NCR 1010 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 N.C.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) a copy of a criminal background check for the previous seven years on the proposed school director;
- (10) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- (11) the Prelicensing or Postlicensing courses to be offered by the school;
- (12) the Update courses to be offered by the school;
- (13) 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 is forty dollars (\$40.00) per Prelicensing or Postlicensing course.

1 (g) Schools approved to offer Prelicensing or Postlicensing courses shall be eligible to offer Update courses and
2 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(b);
7 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0204

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margin in (a)(2)

In (b), what is considered to be a "professional-level" employee. Please give this language some meaning.

In (c), how shall the director satisfy that he or she "possess good character and reputation"? How will the Commission make this determination?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0204 is adopted with changes as published in 31:10 NCR 1011 as follows:

21 NCAC 58H .0204 SCHOOL DIRECTOR

(a) All schools shall designate a school director, who shall

(1) supervise all school operations related to the conduct of Prelicensing and Postlicensing courses;

(2) ensure compliance with all statutory and rule requirements governing the licensing and operation of the school; and

(3) act as the school's liaison to the Commission.

(b) Public real estate schools shall designate one permanent, professional-level employee to serve as the school director.

(c) The school director for a private real estate school shall satisfy to the Commission that he or she possesses good character and reputation and shall satisfy one of the following qualification standards:

(1) hold a baccalaureate or higher ~~degree~~ degree; ~~in the field of education;~~

(2) have at least two years full-time experience within the past 10 years as an instructor or school administrator; or

(3) possess qualifications that the Commission finds to be equivalent to those described in Subparagraph (1) or (2) of this Rule, such as:

(A) a transcript demonstrating completion of 120 semester hours of education at an institution accredited by any college accrediting body recognized by the U. S. Department of Education;

(B) currently holding or having held within the past 15 years a military pay grade of an E-8 level, O-1 level, or higher; or

(C) a current Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators' Association.

(d) The school director shall approve a guest lecturer prior to the guest lecturer teaching a course session. School directors shall ensure that all guest lecturers possess experience related to the particular subject area the guest lecturer is teaching. Guest lecturers may be utilized to teach collectively up to one-fourth of any Prelicensing or Postlicensing course.

(e) The school director shall ensure that each instructor meets the requirements of Rule .0302 of this Subchapter.

(f) The school director shall ensure each course utilizes a textbook currently approved by the Commission pursuant to Rule .0206 of this Section.

(g) Schools shall notify the Commission within 10 days of any change in school director during the licensing period.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0205

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins in (b) and (e).

In (b)(2), what is meant by "all other matters affecting students"?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0205 is adopted as published in 31:10 NCR 1011 as follows:

21 NCAC 58H .0205 PRIVATE REAL ESTATE SCHOOL BULLETIN

(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 on all other matters affecting students;

(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.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0206

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), what should the request for approval include? Are there any specific requirements to be included in this request? If not, it's fine as written.

(b) References an "application for approval"? Is this a request as referenced in (a) or an application? Please be consistent. Also, is this different than the request in (a)?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0206 is adopted as published in 31:10 NCR 1012 as follows:

21 NCAC 58H .0206 APPROVAL OF TEXTBOOKS

(a) A request for approval of a proposed textbook shall be submitted in writing to the Commission along with two copies of the proposed textbook. The criteria for approval shall be:

(1) the textbook shall cover current North Carolina real estate related laws, rules, and practices;

(2) the text shall be grammatically correct; and

(3) the nature and depth of subject matter coverage shall be consistent with the competency and instructional levels prescribed by the Commission for the course for which approval is sought.

(b) Approval of a textbook shall only apply to the edition reviewed by the Commission. An application for approval of a new or updated edition of a previously approved textbook shall be submitted in writing to the Commission, along with two copies of the proposed textbook, and shall include a list with specific page references of all significant changes from the previously approved edition.

(c) Approval of a textbook shall terminate four years after the initial approval or upon the approval of a new edition of a previously approved textbook.

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

 Eff. July 1, 2017.

21 NCAC 58H .0207 is adopted as published in 31:10 NCR 1012 as follows:

21 NCAC 58H .0207 SCHOOL ADVERTISING AND RECRUITMENT ACTIVITIES

(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.

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

Eff. July 1, 2017.

21 NCAC 58H .0208 is adopted as published in 31:10 NCR 1013 as follows:

**21 NCAC 58H .0208 PRELICENSING AND POSTLICENSING COURSE SCHEDULING AND
NOTIFICATION**

(a) All Prelicensing and Postlicensing courses shall have fixed beginning and ending dates. Schools shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0210 of this Section.

(b) Schools shall notify the Commission of all scheduled Prelicensing and Postlicensing course offerings not later than 10 days prior to a scheduled course beginning date.

(c) The notice required by Paragraph (b) of this Rule shall include:

(1) the school name;

(2) the school code number; and

(3) for each scheduled course:

(A) the name and course code number;

(B) the scheduled beginning and ending dates;

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

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

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

(e) Class meetings shall not exceed seven and a half instructional hours per day and shall not exceed 30 instructional hours over any seven day period.

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

Eff. July 1, 2017.

21 NCAC 58H .0209 is adopted as published in 31:10 NCR 1013 as follows:

21 NCAC 58H .0209 PRELICENSING AND POSTLICENSING COURSE ENROLLMENT

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

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0210

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (g)(1), what is meant by "secure"? Is this a locked area?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0210 is adopted as published in 31:10 NCR 1013 as follows:

21 NCAC 58H .0210 PRELICENSING AND POSTLICENSING COURSE COMPLETION
STANDARDS

(a) To complete a Prelicensing course, a student shall, at a minimum:

(1) attend at least eighty percent of all scheduled credit hours for the course; and

(2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(b) To complete a Postlicensing course, a student shall, at a minimum:

(1) attend at least ninety percent of all scheduled credit hours for the course; and

(2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(c) The end-of-course examination shall be completed in the classroom and proctored by the instructor or another school staff member. Students shall not use textbooks or notes on the end-of-course examination.

(d) Prelicensing end-of-course examinations may be provided by the Commission for use by a licensed or approved school. If the Commission does not provide such end-of-course examination, or if a school elects not to use a Commission-provided examination, the school shall use an examination that tests students' knowledge and mastery of the course subject matter. Upon the request of the Commission during an application or investigation, the school shall provide a copy of its end-of-course examination.

(e) Postlicensing end-of-course examinations shall be provided by the Commission for use by a licensed or approved school.

(f) A school may, within 30 days of the course ending date, allow a Prelicensing or Postlicensing course student opportunities to make-up a missed end-of-course examination or to retake a failed end-of-course examination without repeating the course. Postlicensing students shall be allowed at least one retake examination opportunity. Any make-up or repeat end-of-course examination shall consist of a different form of the examination than any previously administered in the student's course. If the examination used is not provided by the Commission, at least seventy-five percent of the questions shall be different from those previously included on any end-of-course examination used earlier in the student's course.

(g) Schools, school directors, and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

(1) maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;

(2) prohibiting students from retaining copies of examinations, answer sheets, and scratch paper containing notes or calculations, or any material that may jeopardize examination security;

(3) monitoring students at all times when examinations are being administered; and

(4) prohibiting students from reviewing examinations, answer sheets, scratch paper, or any material used during the examination after students have completed the examination.

1 (h) Any student who is found to have cheated in any manner on any course examination shall be dismissed from the
2 course and shall not be awarded a passing grade for the course or any credit for partial completion of the course.
3 The school shall report the cheating incident in writing to the Commission within 10 days.

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

6 *Eff. July 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0211

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), how shall they submit electronically? Is there a portal on your website? Are your schools familiar with this process?

In (b), please delete or define "accurate."

Please consider making "Schools shall electronically submit the student fee prescribed by G.S. 93A-4(a2) with any Postlicensing Roster Reports" a separate paragraph (c).

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0211 is adopted as published in 31:10 NCR 1014 as follows:

21 NCAC 58H .0211 PRELICENSING AND POSTLICENSING ROSTER REPORTING

(a) A school shall provide a course completion certificate to each student who completes a Prelicensing or Postlicensing course under Rule .0210 of this Section. Each course completion certificate shall identify the course, date of completion, student, and instructor. The certificate shall be signed by the school director.

(b) For each Prelicensing or Postlicensing course taught, a school shall submit an accurate Roster Report electronically within 30 days following the course. Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S 93A-4(a2).

(1) The Prelicensing Roster Report shall include:

(A) each student's legal name;

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

(C) each student's unique identification number;

(D) the course completion date pursuant to Rule .0210 of this Section;

(E) the school's name and number;

(F) the course's number; and

(G) the instructor's name and number;

(2) The Postlicensing Roster Report shall include:

(A) each student's legal name;

(B) each broker's license number;

(C) the course completion date;

(D) the school's name and number;

(E) the course's name and number; and

(F) the instructor's name and number.

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

Eff. July 1, 2017.

21 NCAC 58H .0212 is adopted as published in 31:10 NCR 1014 as follows:

21 NCAC 58H .0212 SCHOOL RECORDS

All school records shall be retained for three years by the school and be made available to the Commission during an investigation or application process. School records shall include:

(1) enrollment and attendance records;

(2) each student's end-of-course examination with grade and graded answer sheet;

(3) a master copy of each end-of-course course examination with its answer key, course title, course dates, and name of the instructor;

(4) all student evaluations pursuant to Rule .0213(a) of this Section;

(5) all instructor evaluations pursuant to Rule .0213(c) of this Section;

(6) class schedules;

(7) advertisements;

(8) bulletins, catalogues, and other official publications; and

(9) statements of consent required by Rule .0207(c) of this Subchapter.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0213

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please format any changes in accordance with 26 NCAC 02C .405(b)(1).

In (c), is the "Commission-approved monitor" the same as the "Commission-approved Prelicensing or Postlicensing instructor"?

Is it really optional for the school director to be evaluated by a Commission-approved monitor? May they alternatively be approved by another school director? I'm trying to understand the use of "may" here.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0213 is adopted with changes as published in 31:10 NCR 1014 as follows:

21 NCAC 58H .0213 EVALUATIONS OF INSTRUCTOR PERFORMANCE

(a) A school shall provide each student an opportunity to complete a mid-course evaluation and an end-of-course evaluation of the instructor in each Prelicensing ~~[and Postlicensing course.]~~ course and to complete an end-of-course evaluation of the instructor in each Postlicensing course. Each student's evaluation shall be on a form provided by the Commission, include a section for the student's comments, and shall evaluate the instructor's:

(1) knowledge of the subject matter;

(2) teaching skills; and

(3) classroom management.

(b) The school director shall submit a Summary Report electronically within 30 days after course completion pursuant to Rule .0210 of this Section. The Summary Report form shall require the school director to set forth:

(1) the full name of the instructor being evaluated;

(2) title of course;

(3) the number of students who initially enrolled in the course;

(4) the number of students who met all course requirements pursuant to Rule .0210 of this Section;

(5) the number of students who met all course requirements except Rule .0210(a)(2) and (b)(2) of this Section;

(c) In addition to the student evaluations in Paragraph (a) of this Rule, school directors shall also ensure all school-affiliated instructors are observed at least once annually for a minimum of one hour of live uninterrupted instruction by either the school director or a Commission-approved Prelicensing or Postlicensing instructor present in the classroom. School directors who are also instructors may, upon written request to the Commission, be evaluated by a Commission-approved monitor. ~~[School directors shall evaluate]~~ The evaluation shall be based on the instructor's teaching abilities pursuant to Rule .0304 of this Subchapter. The instructor shall receive the written evaluation of his or her instructional performance within 30 days of observation.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0214

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (c), line 26, please change "is" to "shall be"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0214 is adopted as published in 31:10 NCR 1014 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 N.C.G.S. § 93A-36;

 (11) proof of a current fire inspection; and

 (12) 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 is 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0215

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins in (a)(1) through (12)

Please explain the change made after publication. Was this done in response to public comment?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0215 is adopted with changes as published in 31:10 NCR 1015 as follows:

**21 NCAC 58H .0215 DENIAL, WITHDRAWAL, OR TERMINATION OF SCHOOL APPROVAL OR
LICENSE**

(a) The Commission may deny or withdraw approval of any public real estate school or suspend, revoke, or deny renewal of the license of any private real estate school upon finding that:

(1) any school official employed by the school 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;

(2) any school official found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;

(3) a school made any false statements or presented any false, incomplete, or incorrect information in connection with an application;

(4) a school provided false, incomplete, or incorrect information in connection with any report the school is required to submit to the Commission;

(5) a school presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;

(6) a school refused at any time to permit authorized representatives of the Commission to inspect the school or audit its courses;

(7) a school director violated the rules of this Subchapter or was disciplined by the Commission under N.C.G.S. § 93A-6;

(8) a school obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;

(9) a school compiled a license examination performance record for first-time examination candidates that is below sixty percent passing for two or more of the previous five annual reporting periods;

(10) a school failed to provide to the Commission a written plan describing the changes the school made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following a school's attainment of a licensing examination record for first-time examination candidates that is below sixty percent passing for the previous annual reporting period;

(11) a school provided the Commission a fee that was dishonored by a bank or returned for insufficient funds; or

(12) a school refused or failed to comply with the provisions of this Subchapter.

(b) If, at any time after the original licensing of a private real estate school, an aggregate of fifty percent or more of the ownership interest is transferred to natural persons or entities other than those having an ownership interest at the time of the original application for licensure, the school's license shall terminate. Termination shall be effective on

1 the date of the transaction resulting in the aggregate transfer of fifty percent or more of the original entity's
2 ownership. The transferring owner shall report course completion to the Commission. The school and the
3 transferring owners shall not conduct any course after the termination of the school licensure as set forth in this Rule.
4 The natural persons or entities holding an ownership interest after the transfer shall obtain preapproval from the
5 Commission prior to advertising courses, registering students, or accepting tuition, and shall obtain an original
6 school license for each location where the school will conduct courses prior to conducting courses.] When
7 ownership of a licensed private real estate school is transferred and the school ceases to operate as the licensed
8 entity, the school license is not transferable and shall terminate on the effective date of the transfer. All courses shall
9 be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the
10 Commission. The new entity shall obtain an original private real estate school license for each location where the
11 school will conduct courses as required by G.S. 93A-34 and Rule .0203 of this Subchapter prior to advertising
12 courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any school operations.
13 (c) If a licensed private real estate school transfers an aggregate of fifty percent or more of the ownership interest,
14 the school shall notify the Commission in writing within 10 days of the transfer.

15
16 *History Note:* Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;
17 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0301

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please add Section Names

Please consider including some cross-references to the approval process for instructors and sponsors.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0301 is adopted as published in 31:10 NCR 1015 as follows:

**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 to conduct such courses.

(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. An approved instructor may not independently conduct an Update course unless the instructor has also obtained approval as an Update course sponsor.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0302

DEADLINE FOR RECEIPT: Friday, March 10, 2017

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In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please format any changes in accordance with 26 NCAC 02C .0405(b)(1).

When would a signed consent to service of process and pleadings form as set forth in (a)(7) be required?

Please correct the margins in (b).

In (d), by "may" do you mean "The digital video recording requirement described in Paragraph (c) of this Rule shall be waived if the instructor applicant has a current:..." If you actually do mean "may", please provide the factors that the Commission will use in granting this waiver.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0302 is adopted with changes as published in 31:10 NCR 1016 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 form, if applicable; 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 Rule .1702 of Subchapter 58A;
- _____ (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) within the previous seven years has either:
 - _____ (A) ~~three~~ **two** years full-time experience in real estate brokerage with at least one year in ~~real estate sales and 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 ~~sixty (60)~~ **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(c) of this Section.

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

- _____ (1) approval as either a General Update Course, Prelicensing, or Postlicensing instructor; or

1 (2) Distinguished Real Estate Instructor (DREI) designation that has been awarded to the instructor by
2 the Real Estate Educators Association or an equivalent instructor certification.

3 (e) Prior to teaching any Prelicensing or Postlicensing course, an approved instructor shall take the Commission's
4 New Pre/Postlicensing Instructor Seminar.

5 (f) Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update
6 Instructor Seminar Seminar for the current license period. The Update Instructor Seminar shall not be used to
7 meet the requirement in .0306(b)(4) of this Section.

8
9 *History Note:* *Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;*

10 *Eff. July 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0303

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins.

In (5) and (6), should "Prelicensing" be "Prelcensing courses"?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0303 is adopted as published in 31:10 NCR 1016 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 Prelicensing and compiled a license examination performance record for first-time examination candidates that is below sixty percent passing for two or more of the previous five annual reporting periods;

(6) taught Prelicensing 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;

(7) 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) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;

(9) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;

(10) has failed to take appropriate steps to protect the security of end-of-course examinations pursuant to Rule .0210(g) of this Subchapter;

(11) failed to take any corrective action set out in the plan described in Paragraph (a)(5) of this Rule or as otherwise requested by the Commission;

(12) engaged in any other improper, fraudulent, or dishonest conduct; or

(13) failed to comply with any other provisions of this Subchapter.

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

21 NCAC 58H .0304 is adopted as published in 31:10 NCR 1017 as follows:

21 NCAC 58H .0304 INSTRUCTOR CONDUCT AND PERFORMANCE

(a) All instructors shall ensure that class sessions are conducted at the scheduled time and for the full amount of time that is scheduled or required. Instructors shall conduct courses in accordance with the Commission's rules, and any applicable course syllabi, instructor guide, or course plan. Instructors shall conduct classes demonstrating the ability to:

(1) state student learning objectives at the beginning of the course and present accurate and relevant information;

(2) communicate correct grammar and vocabulary;

(3) utilize a variety of instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture and demonstration, and student-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;

(4) utilize instructional aids, such as:

(A) whiteboards;

(B) sample forms and contracts;

(C) pictures;

(D) charts; and

(E) videos.

(5) utilize assessment tools, such as:

(A) in-class or homework assignments, and

(B) quizzes and midterm examinations for Prelicensing and Postlicensing courses.

(6) avoid criticism of any other person, agency, or organization;

(7) identify key concepts and correct student misconceptions; and

(8) maintain control of the class.

(b) Instructors teaching Prelicensing, Postlicensing, or Update courses shall interact with students either in person in a classroom setting or through an interactive telecommunication system, or comparable system, that permits continuous mutual audio and visual communication between the instructor and students. The school shall provide monitoring and technical support for the instructors or students.

(c) Instructors teaching Prelicensing or Postlicensing courses shall:

(1) safeguard and protect the security of course examinations;

(2) not allow students to review or retain copies of end-of-course examinations and any materials used during the examination; and

(3) only use guest lecturers that have been approved by the school director pursuant to Rule .0204(d) of this Section.

(d) Instructors shall not obtain, use, or attempt to obtain or use, in any manner or form, North Carolina real estate license examination questions.

1

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

3 *Eff. July 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0305

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Is there a requirement elsewhere in Rule or Statute that sponsors record there courses?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0305 is adopted as published in 31:10 NCR 1017 as follows:

21 NCAC 58H .0305 DIGITAL VIDEO RECORDINGS

(a) Upon request of the Commission during an investigation, an approved instructor shall submit a digital video recording of the instructor teaching specified topics of a course, as identified by the Commission which the instructor is approved to teach.

(b) Upon the request of the Commission during an investigation, a continuing education sponsor shall submit a digital video recording depicting a particular Update Course instructor, as designated by the Commission, teaching the Update course.

(c) Any digital video recording submitted to the Commission shall:

(1) have been made within 12 months of the date of submission;

(2) be recorded either on a digital video disc (DVD), USB drive, or similar medium;

(3) be unedited;

(4) display a visible date and time stamp during the entire video recording;

(5) include a label identifying the instructor, the course title, subject being taught, student materials used, and dates of the video instruction;

(6) have visual and sound quality to allow reviewers to see and hear the instructor; and

(7) show at least a portion of the students present in a live audience.

(d) The deadline for any digital video recording requested during an investigation shall be 30 days after the date of the next scheduled course, but no later than 120 days after the Commission's request.

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

Eff. July 1, 2017.

21 NCAC 58H .0306 is adopted with changes as published in 31:10 NCR 1018 as follows:

21 NCAC 58H .0306 RENEWAL AND EXPIRATION OF INSTRUCTOR APPROVAL

(a) Commission approval of instructors shall expire annually on June 30 following issuance of approval.

(b) Any approved instructor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The instructor renewal application shall set forth the instructor's:

_____ (1) legal name, address, email address, and telephone number;

_____ (2) real estate license number and instructor number assigned by Commission;

_____ (3) any criminal convictions and occupational license disciplinary actions within the past year;

_____ (4) proof of attendance since approval or last renewal of a real estate instructor educational program of at least six hours, such as the:

_____ (A) Commission's Spring Educators Conference or New Instructor Seminar;

_____ (B) NC Real Estate Educators Association's conference or instructor development workshop;

or

_____ (C) Real Estate Educators Association's conference or instructor development [workshop; or] workshop.

_____ ~~(D) Commission's Update Instructor Seminar.~~

_____ (5) courses for which he or she is seeking approval as an instructor; and

_____ (6) signature.

(c) In order to reinstate an instructor approval that has been expired for less than six months, the former instructor shall meet the requirements set forth in Paragraph (b) of this Rule.

(d) If an instructor approval has been expired for more than six months, the former instructor shall file an application for original approval pursuant to Rule .0302 of this Section.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0401

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please add the Section Name

Please format any changes to adoptions following publication in accordance with 26 NCAC 02C .0405(b)(1). This basically says to remove all underlines in the proposed adopted rule, and then underline any additions and strike through any deletions. You will not highlight any changes to adoptions.

Please add the Subchapter name and Section name to this Rule in accordance with 26 NCAC 02C .0108(4).

Why is this Rule necessary? It seems as though the Rules in this Section make it clear to whom they apply.

If this Rule is determined to be necessary, please change "This Section applies to..." to "This Section shall apply to..."

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0401 is adopted as published in 31:10 NCR 1018 as follows:

21 NCAC 58H .0401 APPLICABILITY

This Section applies to the application, renewal, and conduct of continuing education sponsors, continuing education elective courses, and Update Courses.

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

 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0402

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), line 5, please change "are" to "shall be."

Please correct the margins in (b)(3), (b)(7), and (b)(8)

In (d), please delete "currently"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0402 is adopted as published in 31:10 NCR 1018 as follows:

21 NCAC 58H .0402 APPLICATION FOR ORIGINAL APPROVAL OF CONTINUING EDUCATION
SPONSOR

(a) Only continuing education sponsors approved by the Commission are 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 N.C.G.S. §93A-10.

(d) The name of any course sponsor shall not be identical to the name of any other currently 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.

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

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0403

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins in (a).

What is meant by "supervising the conduct" of courses in (a)(1)? How does one supervise conduct of a course?

In (a)(5), what are the "approved student materials"? Are these the course materials?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0403 is adopted with changes as published in 31:10 NCR 1018 as follows:

21 NCAC 58H .0403 CONTINUING EDUCATION COORDINATOR

(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 conduct of all 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 student materials;

(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.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0404

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please correct the margins in (b).

In (f), what is your authority to charge a \$100.00 materials fee. 93A-4.1(d) indicates that you may only charge up to \$75.00 for annual renewal of course approval.

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0404 is adopted as published in 31:10 NCR 1019 as follows:

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL

(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;

(6) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;

(7) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew; and

(8) a certification that the continuing education coordinator has completed the Commission's video training pursuant to Rule .0403(c) of this Section;

(9) 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

(10) 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.

(f) 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.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0405

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please format any changes in accordance with 26 NCAC 02C .0405(b)(1).

Please correct the margins in (a).

Please explain the change made after publication. Was this done in response to public comment?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0405 is adopted with changes as published in 31:10 NCR 1019 as follows:

21 NCAC 58H .0405 DENIAL OR WITHDRAWAL OF SPONSOR APPROVAL

(a) The Commission may deny or withdraw approval of any continuing education sponsor upon finding that the sponsor or the continuing education coordinator in the employ of the sponsor:

(1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or sponsor approval or renewal;

(2) provided false, incomplete, or incorrect information in connection with any reports the continuing education sponsor is required to submit to the Commission;

(3) provided the Commission a check for required fees that was dishonored by a bank or returned for insufficient funds;

(4) 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;

(5) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;

(6) has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction;

(7) collected money from brokers for a continuing education course but refused or failed to provide the promised instruction;

(8) intentionally provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;

(9) failed to submit the CE Roster Reports as required by Rule .0412 of this Section;

(10) failed to submit the per student fee as required by G.S. 93A-4.1(d); or

(11) failed to comply with any other provision of this Subchapter.

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

(1) has an ownership interest in the course sponsor;

(2) is the designated continuing education coordinator for the course sponsor; or

(3) is an instructor for the course sponsor.

(c) [Course sponsor approval shall terminate if, at any time after the original approval of a course sponsor, an aggregate of fifty percent or more of the ownership interest is transferred to natural persons or entities other than those having an ownership interest at the time of the original application. Termination shall be effective on the date of the transaction resulting in the aggregate transfer of fifty percent or more of the original ownership. The transferring owner shall report course completions as of the date of the transfer to the Commission. The formerly approved continuing education sponsor and the transferring owners shall not conduct any course after the termination of the former continuing education sponsor approval. The natural persons or entities holding an ownership interest after the transfer shall obtain approval from the Commission prior to advertising courses,

1 ~~registering students, or accepting tuition, and shall obtain a new original continuing education sponsor approval~~
2 ~~prior to conducting courses.~~ When ownership of an approved continuing education sponsor is transferred to a
3 separate legal entity, the sponsor's approval is not transferable and shall terminate on the effective date of the
4 transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report
5 course completion(s) to the Commission. The new entity shall obtain an original continuing education sponsor
6 approval as required by Rule .0402 of this Subchapter prior to advertising courses, registering students, accepting
7 tuition, conducting courses, or otherwise engaging in any sponsor operations.

8 (d) If an approved continuing education sponsor transfers an aggregate of fifty percent or more of the ownership
9 interest, the sponsor shall notify the Commission in writing within 10 days of the transfer.

10
11
12 *History Note:* Authority G.S. 93A-3(c); 93A-4.1; 93A-6(a)(15);

13 Eff. July 1, 2017.

21 NCAC 58H .0406 is adopted as published in 31:10 NCR 1020 as follows:

21 NCAC 58H .0406 APPROVAL AND RENEWAL OF ELECTIVE COURSE

(a) Prior to obtaining the Commission's written approval of a continuing education elective course, sponsors shall not offer, advertise, or otherwise represent that any continuing education elective course is, or may be, approved for continuing education credit in North Carolina.

(b) A sponsor seeking original approval of a proposed elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the proposed elective course;
- (2) continuing education sponsor's legal name, address, and telephone number;
- (3) continuing education coordinator's legal name;
- (4) continuing education sponsor's sponsor code, if previously approved;
- (5) credit hours awarded for completing the course;
- (6) subject matter of the course;
- (7) identity of the course owner;
- (8) written permission of the course owner, if other than the applicant;
- (9) identity of prospective instructors; and
- (10) continuing education sponsor's signature.

(c) The application for original approval shall be accompanied by a copy of the course guide, which shall include course objectives, learning objectives for each topic, a timed outline, instructional methods and aids to be employed, and all materials that will be provided to students.

(d) If the elective course will be taught by any method other than live, in-person, in-class instruction, the applicant shall submit, along with the application for original approval:

- (1) a full copy of the course on the medium to be utilized for instruction;
- (2) a description of the method by which the sponsor will verify and record student attendance;
- (3) a list of hardware and software or other equipment necessary to both offer and complete the course;
- (4) the contact information for the technical support service for the course; and
- (5) a copy of the student orientation and course tutorial information.

(e) If the course will be taught by any method other than live, in-person, in-class instruction, the applicant shall, if requested, make available, at a date and time satisfactory to the Commission and at the applicant's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an Internet-based course, the Commission shall be provided access to the course at a date and time set by the Commission and shall not be charged any fee for such access.

(f) A sponsor seeking approval to offer an already approved elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the elective course;

- (2) applicant's legal name, address, and telephone number;
- (3) applicant's continuing education coordinator's legal name;
- (4) applicant's continuing education sponsor code, if previously approved;
- (5) identity of the course owner;
- (6) written permission of the course owner, if other than the applicant;
- (7) identity of prospective instructors; and
- (8) continuing education sponsor's signature.

(g) All applicants shall submit a fee of one hundred dollars (\$100.00) per elective course. No fee shall be required if the applicant is a public real estate school or is an agency of federal, state, or local government.

(h) Applications submitted pursuant to Paragraph (f) of this Rule shall be deemed approved ten business days after the Commission has received both a complete application and the required one hundred dollar (\$100) per course fee, unless the Commission notifies the applicant otherwise.

(i) Commission approval of all continuing education elective courses shall expire on June 30.

(j) In order to ensure continuous approval, a course sponsor shall include the name and course number of each previously approved continuing education elective it wishes to renew, along with the required fifty dollar (\$50.00) fee, in the sponsor approval renewal application pursuant to Rule .0404 of this Section.

(k) In order to obtain approval for an expired continuing education elective, a course sponsor shall submit an application for original approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0407

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a)(5), why not reference the requirement of instructor approval? Is my understanding correct in that to be approved, they just have to meet the requirements set forth in .0302, but if they want to teach continuing education then they have to meet the additional requirements set forth in .0407? If that's the case, is the title of .0302 correct in including update course instructors?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0407 is adopted as published in 31:10 NCR 1020 as follows:

21 NCAC 58H .0407 CONTINUING EDUCATION ELECTIVE COURSE REQUIREMENTS

(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 ten years that is directly related to the subject matter of the course;

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

(D) education or experience or both found by the Commission to be equivalent to one of the above standards.

(b) Sponsors shall obtain approval from the Commission before making any changes in the content of an elective course. Requests for approval of changes shall be in writing. However, changes in course content that are technical in nature do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0408

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), given this Rule, do you need "only approved continuing education sponsors shall offer Update courses"?

In (g), what is your authority to require a "materials fee"? G.S. I assume that "Update" courses are considered to be "continuing education" for purposes of G.S. 93A-4.1. G.S. 93A-4.1 allows for a fee up to \$125 for approval of a course. I don't see any authority for a materials fee.

In (h), what is the approval process for modifications to the course? In this in accordance with Paragraph (k)?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0408 is adopted with changes as published in 31:10 NCR 1021 as follows:

21 NCAC 58H .0408 COMMISSION CREATED UPDATE COURSES

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

(b) Only approved continuing education sponsors shall offer Update courses. Only approved instructors pursuant to Rule .0302 of this Subchapter shall instruct Update courses.

(c) Continuing education sponsors shall obtain written approval from the Commission prior to offering, advertising, or otherwise representing that any Update course is being offered for continuing education credit in North Carolina.

(d) A continuing education sponsor seeking approval to offer Update courses shall submit an application form available on the Commission's website that shall require the applicant to set forth the:

(1) continuing education sponsor's legal name, address, and telephone number;

(2) continuing education coordinator's legal name;

(3) continuing education sponsor's number assigned by the Commission;

(4) name and instructor number of prospective instructors; and

(5) continuing education sponsor's signature.

(e) A continuing education sponsor seeking approval to offer a modified Update course pursuant to Paragraph (k) of this Rule shall also submit the written permission of each of the course owners, if other than the applicant.

(f) A licensed or approved school may obtain approval from the Commission to offer an Update Course by requesting it on the application or renewal of the school license or approval.

(g) The applicant shall submit a one hundred dollars (\$100.00) materials fee. No fee shall be required if the applicant is a public school or is an agency of federal, state, or local government.

(h) Sponsors shall use only the Commission-developed course materials to conduct the Update courses, unless modifications to the Update course content have received advance approval from the Commission. Sponsors shall provide a copy of the materials developed or otherwise approved by the Commission to each broker taking an Update course.

(i) Commission approval to offer Update courses shall expire annually on June 30 following issuance of approval. Sponsors shall apply for renewal of approval to offer Update courses each year along with the renewal of sponsor approval required in Rule .0404 of this Section.

(j) 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.

(k) With advance approval from the Commission, course sponsors 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**

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

7
8 History Note: Authority G.S. 93A-3(c); 93A-4.1;
9 Eff. July 1, 2017.

21 NCAC 58H .0409 is adopted as published in 31:10 NCR 1021 as follows:

21 NCAC 58H .0409 RECORDS AND COMMISSION REVIEW

(a) All continuing education sponsors shall retain on file for three years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Commission upon request during an investigation.

(b) Continuing education sponsors shall admit any Commission authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
 Eff. July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0410

DEADLINE FOR RECEIPT: Friday, March 10, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (a), line 5, please change "break is 90" to "break shall be 90"

In (b), line 9, and (e), line 25, why is "inclusive"? Please consider deleting as it seems like superfluous language.

In (d), there appears to be a word missing on line 19 with the sentence beginning "If a change or cancellation within." Should it be If a change or cancellation occurs within?"

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

Amber Cronk May
Commission Counsel
Date submitted to agency: February 28, 2017

21 NCAC 58H .0410 is adopted as published in 31:10 NCR 1021 as follows:

21 NCAC 58H .0410 CONTINUING EDUCATION COURSE SCHEDULING AND NOTIFICATION

(a) All 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 is 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) Continuing education sponsors shall not offer, conduct, or allow a student to complete any course and offer continuing education credit between June 11 and June 30, inclusive.

(c) Sponsors shall provide the Commission written notice of all scheduled course offerings at least 10 days prior to the scheduled course date. The notice shall include:

- (1) the sponsor name;
- (2) the sponsor number assigned by the Commission;
- (3) the legal name and instructor number of the course instructor;
- (4) the course number;
- (5) the scheduled course date and start time; and
- (6) the course location.

(d) Continuing education sponsors shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a change or cancellation within five days of the scheduled course date, then the continuing education sponsor shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) The sponsor of any distance education course shall require students to complete the course within 30 days of the date of registration or the date the student is provided the course materials and permitted to begin work, whichever is the later date. The sponsor shall not offer, conduct, or allow a student to complete any course for continuing education credit between June 11 and June 30, inclusive. The sponsor shall advise all students registering for a distance education course, prior to accepting payment for any course, of the deadlines for course completion.

(f) Each sponsor 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.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0411 is adopted as published in 31:10 NCR 1022 as follows:

21 NCAC 58H .0411 CONTINUING EDUCATION COURSE ATTENDANCE

(a) Continuing education sponsors shall require each student who is a licensed broker to provide his or her name and license number at the initial check in for a class session.

(b) A student shall not be issued a Course Completion Certificate, and shall not be reported to the Commission as having completed a course unless the student satisfies the attendance requirement in 21 NCAC 58A .1705.

(c) Sponsors and instructors shall not make any exceptions to this Rule.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0412 is adopted as published in 31:10 NCR 1022 as follows:

21 NCAC 58H .0412 CONTINUING EDUCATION ROSTER REPORTS AND CERTIFICATES

(a) At the conclusion of any continuing education course, elective or Update, the sponsor shall submit to the Commission a CE Roster Report verifying each broker's completion of the course pursuant to Rule .0411 of this Section. The CE Roster Report shall contain the:

(1) sponsor's name;

(2) sponsor's number assigned by the Commission;

(3) course instructor's name and number;

(4) course's name and number;

(5) course completion date; and

(6) name and license number of each student who completed the course.

(b) Sponsors shall submit the CE Roster Report electronically within seven calendar days following the end of any course, but in no case later than June 15.

(c) Sponsors shall submit the ten dollar (\$10.00) per student fee required by G.S. 93A-4.1(d), along with the CE Roster Report.

(d) Sponsors shall provide a course completion certificate to each student who completes an approved continuing education course pursuant to Rule .0411 of this Section. Sponsors shall provide a printed or electronic certificate within 15 days following the course, but in no case later than June 15, for any course completed prior to that date.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0413 is adopted as published in 31:10 NCR 1022 as follows:

**21 NCAC 58H .0413 CONTINUING EDUCATION COURSE COST, CANCELLATION, AND
REFUNDS**

(a) Sponsors shall establish an all-inclusive cost to be charged to students taking any continuing education course.
No separate or additional costs shall be charged to students.

(b) Sponsors shall establish written course cancellation and refund policies. In the event a sponsor cancels a
scheduled course, registered students shall be notified within twenty-four hours. Sponsors shall refund all prepaid
payments received from registered students within 30 days of the date of cancellation, or with the student's written
permission apply the refund toward another course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0414 is adopted as published in 31:10 NCR 1022 as follows:

21 NCAC 58H .0414 ADVERTISING

(a) Sponsors shall not utilize advertising that is false or misleading.

(b) All course advertisement and promotional materials shall specify the number of continuing education credit hours to be awarded by the Commission for the course.

(c) All continuing education course promotional materials shall describe the course costs, the cancellation policy, and refund policies.

(d) Sponsors shall not use endorsements or recommendations of any person or organization, in advertising or otherwise, unless the person or organization:

(1) has consented in writing to the use of the endorsement or recommendation; and

(2) is not compensated for such use.

History Note: Authority G.S. 93A-3(c); 93A-4.1

Eff. July 1, 2017.