

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0105

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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

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

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

In (b), what is the intent of lines 13-15 (every such advertisement... or e-mail address)? Is this saying that more information has to be provided than just the basic contact information listed? Is there a way to make that more clear – perhaps what must be included, rather than what is insufficient?

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58A .0105 is amended with changes as published in 32:14 NCAC 1405 as follows:

21 NCAC 58A .0105 ADVERTISING

(a) Authority to Advertise.

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

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

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

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

History Note: Authority G.S. 93A-2(a1); 93A-3(c); 93A-9;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2018; July 1, 2015; April 1, 2013; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989.

21 NCAC 58A .0106 is amended as published in 32:14 NCR 1405 as follows:

21 NCAC 58A .0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Paragraph (b) of this Rule, every broker shall deliver a copy of any written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to their customer or client within ~~five days~~ three days of the document's execution, broker's receipt of the executed document.

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

- (1) obtains the prior 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, except as may be required by law; and
- (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, 2018; July 1, 2017; 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 .0108

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

In (a), please delete or define "successful" before "conclusion" on line 5. Please also consider deleting "successful or unsuccessful" before "conclusion of the transaction" as it appears to be unnecessary language.

In (a), line 7, please consider deleting "however,"

In the History note, please move July 1, 2018 to line 7

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58A .0108 is amended with changes as published in 32:14 NCR 1405 as follows:

21 NCAC 58A .0108 RETENTION OF RECORDS [AND CONFIDENTIALITY]

(a) Brokers shall retain records of all sales, rental, and other transactions conducted in such capacity, whether the transaction is pending, completed, or terminated prior to its successful conclusion. The broker shall retain records for three years after all funds held by the broker in connection with the transaction have been disbursed to the proper party or parties or the successful or unsuccessful conclusion of the transaction, whichever occurs later. However, if the broker's agency agreement is terminated prior to the conclusion of the transaction, the broker shall retain such records for three years after the termination of the agency agreement or the disbursement of all funds held by or paid to the broker in connection with the transaction, whichever occurs later.

(b) Records shall include copies of the following:

- (1) contracts of sale;
- (2) written leases;
- (3) agency contracts;
- (4) options;
- (5) offers to purchase;
- (6) trust or escrow records;
- (7) earnest money receipts;
- (8) disclosure documents;
- (9) closing statements;
- (10) brokerage cooperation agreements;
- (11) declarations of affiliation;
- (12) broker price opinions and comparative market analyses prepared pursuant to G.S. 93A, Article 6, including any notes and supporting documentation;
- (13) sketches, calculations, photos, and other documentation used or relied upon to determine square footage;
- (14) advertising used to market a property; and
- (15) any other records pertaining to real estate transactions.

(c) All records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.

~~[(d) Brokers shall safeguard personal and confidential information and records stored or transmitted through computers, electronic mail, facsimile machines, telephones, telephone answering machines, and all other electronic or computer technology.]~~

~~[(e)]~~ (d) Brokers shall provide a copy of the written agency disclosure and acknowledgement thereof when applicable, written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to the firm or sole proprietorship with which they are affiliated within three days of receipt.

1 *History Note:* *Authority G.S. 93A-3(c);*
2 *Eff. February 1, 1976;*
3 *Readopted Eff. September 30, 1977;*
4 *Amended Eff. July 1, 2018; July 1, 2004; September 1, 2002; August 1, 1998; February 1, 1989;*
5 *February 1, 1998;*
6 *Temporary Amendment Eff. October 1, 2012;*
7 *Amended Eff. July 1, 2016; April 1, 2013.*
8

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0110

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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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 our office to inquire concerning the staff recommendation.

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

In (c), please change "is not required" to "shall not be required"

In (d), please either delete "standing alone" or provide some additional information for purposes of clarity.

In (e), when would it be appropriate for a broker to seek "BIC Eligible status"? Is it necessary to do this before a broker may become a designated BIC? Is the BIC Eligible status granted by the Commission and then the firm designates a BIC after the Commission has declared someone to be BIC eligible? Are they BIC Eligible after they have met the requirements contained in 93A-4.2? Would it provide some clarity to this Rule to add some information as to the overview of the process at the beginning of the Rule?

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58A .0110 is amended as published in 32:14 NCR 1406 as follows:

21 NCAC 58A .0110 BROKER-IN-CHARGE

~~(a) When used in this Rule, the term:~~

~~(1) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained;~~

~~(2) "Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker in charge of a sole proprietorship; and~~

~~(3) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business.~~

~~(b) Except as provided in Paragraphs (d) and (e) of this Rule, every real estate firm, including a sole proprietorship, shall have a broker designated by the Commission as provided in Paragraph (f) of this Rule to serve as the broker in charge at its principal office and a broker to serve as broker in charge at any branch office. No broker shall be broker in charge of more than one office at a time. No office of a firm shall have more than one designated broker in charge.~~

~~(c) If a firm shares office space with one or more other firms, the same broker may serve as broker in charge of multiple firms at that location. All firms at that location having the same designated broker in charge shall maintain with the Commission as a delivery address the same delivery address as that of the single designated broker in charge.~~

~~(d) A licensed real estate firm is not required to have a broker in charge if it:~~

~~(1) has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;~~

~~(2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;~~

~~(3) has no principal or branch office; and~~

~~(4) has no licensed or unlicensed person associated with it other than its qualifying broker.~~

~~(e) A broker who is a sole proprietor shall obtain the Commission's designation of himself or herself as a broker in charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Maintenance of a trust or escrow account by a broker solely for holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not, standing alone, subject the broker to the requirement to designate himself or herself as a broker in charge.~~

~~(f) A broker desiring to be a broker in charge shall request in writing his or her designation as broker in charge by the Commission on a form provided by the Commission. The form shall include the broker's name, license number, firm affiliation, and a certification that he or she possesses the experience described in Subparagraph (g)(2) of this~~

1 ~~Rule. Upon receipt of notice from the Commission that the broker has been designated as broker in charge, the~~
2 ~~broker shall assume the duties of broker in charge.~~

3 ~~(g) To qualify to become a broker in charge, a broker shall:~~

4 ~~(1) have a license on active status but not on provisional status;~~

5 ~~(2) possess at least two years of full time real estate brokerage experience or equivalent four years of~~
6 ~~part time real estate brokerage experience within the previous five years or real estate education,~~
7 ~~such as the completion of the North Carolina GRI program or other education with a subject~~
8 ~~matter relating to brokerage practice and the supervision of brokers, or experience in real estate~~
9 ~~transactions that the Commission finds equivalent to such experience, such as a licensed attorney~~
10 ~~with a practice that consisted primarily of handling real estate closing and related matters in North~~
11 ~~Carolina for three years immediately preceding application or full time, lawful experience selling~~
12 ~~new homes owned by a corporate homebuilder as a bonafide employee of the corporate home~~
13 ~~builder for three years immediately preceding the application; and~~

14 ~~(3) complete the Commission's 12 classroom hour broker in charge course either within three years~~
15 ~~prior to designation as a broker in charge or within 120 days following designation as a broker in~~
16 ~~charge.~~

17 ~~Upon the request of the Commission, a broker shall provide evidence to the Commission that he or she possesses the~~
18 ~~requisite experience. A broker in charge designation shall be immediately terminated if a broker in charge fails to~~
19 ~~complete the broker in charge course during the required time period or if the Commission finds the broker in~~
20 ~~charge does not possess the required experience. A broker who is removed as broker in charge for failure to timely~~
21 ~~complete the Commission's 12 hour broker in charge course must first complete the 12 hour broker in charge course~~
22 ~~before he or she may again be designated as broker in charge.~~

23 ~~(h) By submission of a broker in charge designation request to the Commission, a broker certifies that he or she~~
24 ~~possesses the experience required to become a broker in charge and upon designation by the Commission, the~~
25 ~~broker shall be authorized to act as a broker in charge. Upon his or her designation as broker in charge and~~
26 ~~completion of the broker in charge course within the time period prescribed in Subparagraph (g)(3) of this Rule, the~~
27 ~~designated broker in charge acquires the eligibility to be re designated as a broker in charge at any time in the~~
28 ~~future after a period of not actively serving as a broker in charge without having to again satisfy the qualification~~
29 ~~requirements for initial designation stated in this Paragraph so long as the broker continuously satisfies the~~
30 ~~requirements to retain such eligibility described in Paragraph (k) of this Rule.~~

31 ~~(i) The broker in charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the~~
32 ~~Commission, assume the responsibility at his or her office for:~~

33 ~~(1) the retention of current license renewal pocket cards by all brokers employed at the office for~~
34 ~~which he or she is broker in charge; the display of licenses at such office in accordance with Rule~~
35 ~~.0101 of this Section; and assuring that each broker employed at the office has complied with~~
36 ~~Rules .0503, .0504, and .0506 of this Subchapter;~~

- ~~(2) — the notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;~~
- ~~(3) — the conduct of advertising by or in the name of the firm at such office;~~
- ~~(4) — the maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;~~
- ~~(5) — the retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;~~
- ~~(6) — the supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;~~
- ~~(7) — the supervision of all brokers employed at the office for which he or she is broker in charge with respect to adherence to agency agreement and disclosure requirements.~~

~~(j) A broker who was the broker in charge of a real estate office on April 1, 2006, whose broker in charge declaration was received by the Commission prior to that date, and who completed the Commission's broker in charge course prior to April 1, 2006 or within 120 days following designation as a broker in charge, may continue to serve as a broker in charge thereafter until his or her eligibility to serve as a broker in charge is terminated as provided in Paragraph (l) of this Rule.~~

~~(k) Once a broker has been designated as a broker in charge and completed the 12 hour broker in charge course as prescribed by Paragraph (g) of this Rule, the broker may maintain broker in charge eligibility by timely annual renewal of his or her broker license and completion each license year of the four hour mandatory continuing education update course for brokers in charge known as the "Broker In Charge Update Course" described in Rule 58E .0102(b), and any Commission approved four hour continuing education elective course described in Rule 58E .0305. The Broker In Charge Update Course shall be taken initially by a broker in charge during the first full license year following the license year in which the broker was designated as a broker in charge and each license year thereafter in order for the broker to maintain broker in charge eligibility. Enrollment in the Broker In Charge Update Course shall be limited exclusively to current brokers in charge, and brokers who are not currently acting as a broker in charge but who desire to retain their broker in charge eligibility. Only these brokers shall receive continuing education credit for taking the Broker In Charge Update Course. A broker in charge or broker who is broker in charge eligible who takes the General Update Course described in Rule .1702 of this Subchapter rather than the Broker In Charge Update Course shall receive continuing education update course credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the Broker In Charge Update Course in order to retain his or her broker in charge status or eligibility.~~

~~(l) A broker's broker in charge eligibility and, if currently designated as a broker in charge, his or her broker in charge designation shall be terminated upon the occurrence of any of the following events:~~

- ~~(1) — the broker's license expires or the broker's license is suspended, revoked or surrendered;~~
- ~~(2) — the broker's license is made inactive for any reason;~~

1 ~~(3) — the broker fails to complete the Broker In Charge Update Course described in Paragraph (k) of~~
2 ~~this Rule; or~~

3 ~~(4) — the broker is found by the Commission to have not possessed the experience required in Paragraph~~
4 ~~(g) of this Rule at the time of either initial designation as a broker in charge or re designation as a~~
5 ~~broker in charge.~~

6 ~~(m) — When a broker who is a former broker in charge desires to be re designated as a broker in charge following~~
7 ~~termination of his or her broker in charge designation or eligibility, he or she must first have a license on active~~
8 ~~status. The broker then must satisfy the experience requirements for initial designation set forth in Paragraph (g) of~~
9 ~~this Rule, and the broker must complete the 12 hour broker in charge course prior to re designation as broker in~~
10 ~~charge.~~

11 ~~(n) — A broker in charge shall notify the Commission in writing that he or she no longer is serving as broker in~~
12 ~~charge of a particular office within 10 days following any such change.~~

13 ~~(o) — A non resident broker who has been designated by the Commission as the broker in charge of an office not~~
14 ~~located in North Carolina is not required to complete the broker in charge course or the Broker In Charge Update~~
15 ~~Course prescribed for brokers in charge under Paragraph (k) of this Rule. However, if such broker in charge either~~
16 ~~becomes a resident of North Carolina or becomes broker in charge of an office located within North Carolina, then~~
17 ~~he or she must take the 12 hour broker in charge course within 120 days of such change, unless he or she has taken~~
18 ~~the 12 hour course within the preceeding three years. Such broker in charge shall take the Broker In Charge Update~~
19 ~~Course prescribed in Paragraph (k) of this Rule during the first full license year following the change and each~~
20 ~~license year thereafter so long as the broker in charge remains a resident of North Carolina or continues to manage~~
21 ~~an office located in North Carolina.~~

22 ~~(p) — A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter~~
23 ~~shall not act as or serve in the capacity of a broker in charge of a firm or office in North Carolina.~~

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

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

28 (1) engages in any transaction where the broker is required to deposit and maintain monies belonging
29 to others in a trust account;

30 (2) engages in advertising or promoting his or her services as a broker in any manner; or

31 (3) has one or more other brokers affiliated with him or her in the real estate business.

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

33 (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its
34 qualifying broker through another firm or broker;

35 (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue
36 Service;

37 (3) has no principal or branch office; and

1 (4) has no licensed person associated with it other than its qualifying broker.

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

5 (e) A broker seeking BIC Eligible status shall submit an application on a form available on the Commission's
6 website. The BIC Eligible status form shall include the broker's:

7 (1) name;
8 (2) license number;
9 (3) telephone number;
10 (4) email address;
11 (5) criminal history and history of occupational license disciplinary actions;
12 (6) certification that:

13 (A) his or her broker license is on active status;
14 (B) the broker possesses at least two years of full-time or four years of part-time real estate
15 brokerage experience within the previous five years or shall be a North Carolina licensed
16 attorney with a practice that consisted primarily of handling real estate closings and
17 related matters in North Carolina for three years immediately preceding application; and
18 (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior
19 to application and no later than 120 days after application; and

20 (7) signature.

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

23 (1) the broker's:

24 (A) name;
25 (B) license number;
26 (C) telephone number;
27 (D) email address; and
28 (E) criminal history and history of occupational license disciplinary actions; and

29 (2) the firm's:

30 (A) name; and
31 (B) license number, if applicable;

32 (g) A designated BIC shall:

33 (1) assure that each broker employed at the office has complied with Rules .0503, .0504, and .0506 of
34 this Subchapter;

35 (2) notify the Commission of any change of firm's business address or trade name and the registration
36 of any assumed business name adopted by the firm for its use;

37 (3) be responsible for the conduct of advertising by or in the name of the firm at such office;

- (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
- (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including those required to be retained pursuant to Rule .0108 of this Section;
- (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) supervise all brokers employed at the office with respect to adherence to agency agreement and disclosure requirements; and
- (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office within 10 days following any such change.
- (h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.
- (i) A broker's BIC Eligible status shall terminate if the broker:
- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;
- (3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's license has been suspended, revoked, or surrendered; or
- (4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.
- (j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to Paragraph (e) of this Rule.
- (k) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

History Note: Authority *G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; ~~93A-4.1(e)(8); 93A-4.1(e);~~ 93A-4.2; 93A-9; 93A-9(a);*

Eff. September 1, 1983;

Amended Eff. ~~July 1, 2018;~~ July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0114

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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

Is there a reason that "purchasers" is being changed to "buyers"? It looks like "buyers" is included in the definition of "purchasers" in G.S. 47E-4 and that "purchasers" is mostly used throughout 47E.

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58A .0114 is amended with changes as published in 32:14 NCR 1409 as follows:

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

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

[N.C. REAL ESTATE COMMISSION SEAL]

**STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE STATEMENT**

Instructions to Property Owners

1. The Residential Property Disclosure Act (G.S. 47E) ("Disclosure Act") requires owners of residential real estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish ~~purchasers~~ buyers a Residential Property and Owners' Association Disclosure Statement ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must respond to each of the questions on the following pages of this form by filling in the requested information or by placing a check (✓) in the appropriate box. In responding to questions, you are only obligated to disclose information about which you have actual knowledge.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an attorney, engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.

- b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
- c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
- d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the ~~purchaser~~ buyer a corrected Disclosure Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the ~~purchasers;~~ buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Disclosure Statement to the ~~purchaser~~ buyer no later than the time the ~~purchaser~~ buyer makes an offer to purchase your property. If you do not, the ~~purchaser~~ buyer can, under certain conditions, cancel any resulting contract (See "**Note to ~~Purchasers~~ Buyers**" below). You should give the ~~purchaser~~ buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the ~~purchaser~~ buyer for your records.

Note to ~~Purchasers~~ Buyers

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the ~~purchaser.~~ buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____

Owner's Name(s): _____

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

Owner Signature: _____ Date _____, _____

Owner Signature: _____ Date _____, _____

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

~~Purchaser~~ Buyer Signature: _____ Date _____, _____

~~Purchaser~~ Buyer Signature: _____ Date _____, _____

Property Address/Description: _____

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

- | | Yes | No | Representation |
|---|--------------------------|--------------------------|--------------------------|
| 1. In what year was the dwelling constructed? _____
Explain if necessary: _____ | | | <input type="checkbox"/> |
| 2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

3. The dwelling's exterior walls are made of what type of material? ☐ Brick Veneer ☐ Wood ☐
☐ Stone ☐ Vinyl ☐ Synthetic Stucco ☐ Composition/Hardboard ☐ Concrete ☐ Fiber
 Cement ☐ Aluminum ☐ Asbestos ☐ Other _____
 (Check all that apply)
4. In what year was the dwelling's roof covering installed? _____ ☐
 (Approximate if no records are available.) Explain if necessary:

5. Is there any leakage or other problem with the dwelling's roof? ☐ ☐ ☐
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's
 basement, crawl space, or slab? ☐ ☐ ☐
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets,
 wiring, panel, switches, fixtures, generator, etc.)? ☐ ☐ ☐
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes,
 fixtures, water heater, etc.)? ☐ ☐ ☐
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air
 conditioning? ☐ ☐ ☐
10. What is the dwelling's heat source? ☐ Furnace ☐ Heat Pump ☐ Baseboard ☐
☐ Other _____ (Check all that apply)
 Age of system: _____
11. What is the dwelling's cooling source? ☐ Central Forced Air ☐ Wall/Window Unit(s) ☐
☐ Other _____ (Check all that apply)
 Age of system: _____
12. What is the dwelling's fuel sources? ☐ Electricity ☐ Natural Gas ☐ Propane ☐ Oil ☐
☐ Other _____ (Check all that apply)
 If the fuel source is stored in a tank, identify whether the tank is ☐ above ground or ☐
 below ground, and whether the tank is ☐ leased by seller or ☐ owned by seller.
 (Check all that apply)

13. What is the dwelling's water supply source? ☐ City/County ☐ Community System ☐
☐ Private Well ☐ Shared Well ☐ Other _____
 (Check all that apply)
14. The dwelling's water pipes are made of what type of material? ☐ Copper ☐ Galvanized ☐
☐ Plastic ☐ Polybutylene ☐ Other _____
 (Check all that apply)
15. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)? ☐ ☐ ☐
16. What is the dwelling's sewage disposal system? ☐ Septic Tank ☐ Septic Tank with Pump ☐
☐ ~~Septic Tank~~ ☐ ~~Septic Tank with Pump~~ ☐ Community System ☐ Connected to
 City/County System ☐ City/County System available [☐ ~~State Permitted System (fee and
 conditions apply)~~] ☐ Straight pipe (wastewater does not go into a septic or other sewer
 system [note: use of this type of system violates State law])
☐ Other _____
 (Check all that apply)
17. If the dwelling is serviced by a septic system, do you know how many bedrooms are
 allowed by the septic system permit? If your answer is "Yes," how many bedrooms are ☐ ☐ ☐
 allowed? _____ ☐ No records available.
18. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic ☐ ☐ ☐
 system?
19. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot
 tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable ☐ ☐ ☐
 wiring or satellite dish, garage door openers, gas logs, or other systems?
20. Is there any problem, malfunction or defect with any appliances that may be included in
 the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)? ☐ ☐ ☐
21. Is there any problem with present infestation of the dwelling, or damage from past
 infestation of wood destroying insects or organisms which has not been repaired? ☐ ☐ ☐
22. Is there any problem, malfunction or defect with the drainage, grading or soil stability of ☐ ☐ ☐

the property?

23. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property? ☐ ☐ ☐
24. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)? ☐ ☐ ☐
25. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) which affect the property? ☐ ☐ ☐
- ~~26. Is there a radon mitigation system present in the dwelling?~~ ~~☐~~ ~~☐~~ ~~☐~~
26. ~~[27.]~~ Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property? ☐ ☐ ☐
27. ~~[28.]~~ Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property? ☐ ☐ ☐
28. ~~[29.]~~ Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property? ☐ ☐ ☐
29. ~~[30.]~~ Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area? ☐ ☐ ☐
30. ~~[31.]~~ Does the property abut or adjoin any private road(s) or street(s)? ☐ ☐ ☐
31. ~~[32.]~~ If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street? ☐ ☐ ☐

If you answered "yes" to any of the questions listed above (1-31) [(1-32)] please explain (attach additional sheets if necessary):

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

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

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

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

32. [34.]33. To your knowledge, is Is the property subject to regulation by one or more owners' association(s) or governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to to, obligations to pay regular assessment assessments or dues and special assessments? If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]:

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager are

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address and telephone number of the president of the owners' association or the association manager _____ are _____

* If you answered "Yes" to question 32 [34] 33 above, you must complete the remainder of this Disclosure Statement. If you answered "No" or "No Representation" to question 32 [34] 33 above, you do not need to answer the remaining questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.

			No Repre-
	Yes	No	sentation
33- [35.]34.			
Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

34- [36.]35.			
As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to which the property is subject:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

35- [37.]36.			
As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

36. ~~38.~~ 37. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:

☐ ☐ ☐

37. ~~39.~~ 38. Which of the following services and amenities are paid for by the owners' association(s) identified above out of the association's regular assessments ("dues")? (Check all that apply.)

	No Representation		
	Yes	No	
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Master Insurance</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<hr/>			
Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1
2 ~~Owner~~ Buyer Initials and Date _____ Owner Initials and Date _____
3
4 ~~Purchaser~~ Buyer Initials and Date _____ ~~Purchaser~~ Owner Initials and Date _____
5 _____
6

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

9 (c) The form described in Paragraph (a) of this Rule as amended effective ~~July 1, 2014~~ July 1, 2018, applies to all
10 properties placed on the market on or after ~~July 1, 2014~~ July 1, 2018. The form described in Paragraph (a) of this
11 Rule as amended effective ~~January 1, 2013~~ July 1, 2014, applies to all properties placed on the market prior to ~~July~~
12 ~~1, 2014~~ July 1, 2018. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after ~~July 1, 2014~~,
13 July 1, 2018, for a property placed on the market prior to ~~July 1, 2014~~ July 1, 2018, the form described in Paragraph
14 (a) of this Rule as amended effective ~~July 1, 2014~~ July 1, 2018, shall be used.

15
16 *History Note: Authority G.S. 47E-4(b); 47E-4(b1); 93A-3(c); 93A-6;*

17 *Eff. October 1, 1998;*

18 *Amended Eff. ~~July 1, 2018~~; July 1, 2014; January 1, 2013; January 1, 2012; July 1, 2010; July 1,*
19 *2009; January 1, 2008; July 1, 2006; September 1, 2002; July 1, 2000.*
20

21 NCAC 58A .0503 is amended as published in 32:14 NCR 1414 as follows:

21 NCAC 58A .0503 LICENSE RENEWAL

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration 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 individual broker shall provide an email address to be used by the Commission. 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 is not required to obtain an email address to comply with this Rule.

(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; 93A-4.1; 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;
Amended Eff. July 1, 2018; July 1, 2017; July 1, 2014; April 1, 2013; April 1, 2006; January 1, 2006; July 1, 2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995.

21 NCAC 58A .0505 is amended as published in 32:14 NCR 1415 as follows:

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

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

(b) The reinstatement application form is available on the Commission's website and shall include 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) criminal record report prepared within six months of application;
- ~~(8) (9)~~ certification; and
- ~~(9) (10)~~ signature.

(c) An individual seeking reinstatement of a license that has been expired ~~or revoked~~ for less than six months ~~shall~~ shall:

- (1) submit the reinstatement fee pursuant to Paragraph (a) of this Rule. ~~Rule;~~
- (2) disclose any criminal conviction or disciplinary action pursuant to Rule .0113 of this Section, including any conviction or disciplinary action incurred while the individual's license was expired; and
- (3) satisfy the license activation requirements of Rule .1703 of this Subchapter, if applicable.

(d) An individual seeking reinstatement of a license that has been ~~expired, revoked, or surrendered~~ expired for six months but no more than two years ~~or revoked or surrendered for 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~~
- (3) pass:
 - (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 180 days after submitting his or her reinstatement application; or
 - (C) ~~pass only~~ the "State" section of the current license examination within 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, revoked, or surrendered for more than two years ~~or more~~ ~~shall submit:~~ submit an original license application and fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.

(1) ~~an original license application; and~~

(2) ~~the original license application fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.~~

(f) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or 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 pursuant to G.S. 93A-4(a1).

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

(1) ~~for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.~~
the reinstatement fee pursuant to Paragraph (a) of this Rule if the license has been expired for less than six months;

(2) ~~for six months but no more than two years shall:~~ the reinstatement fee and a complete reinstatement application pursuant to Paragraphs (a) and (b) of this Rule if the license has been expired for six months but no more than two years or revoked or surrendered for no more than two years;

~~(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 shall file an original firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter.~~ Subchapter if the license has been expired, revoked, or surrendered for more than two years.

~~(g) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or 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 pursuant to G.S. 93A-4(a1). An individual seeking reinstatement of a license on active status shall satisfy the requirements of Rule .1703 of this Subchapter.~~

(h) A broker seeking reinstatement of a license shall satisfy to the Commission that he or she possesses the character requisites pursuant to G.S. 93A-4(b).

History Note: Authority G.S. 93A-3(c); 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, 2018; 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.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58A .0511

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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

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

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

Is this Rule intended to address military trained applicants under G.S. 93B—15.1 or is it only Paragraph (d)? Given 93B-15.1, I assume that it is only Paragraph (d), but that is not clear in the Rule.

In (e), by “temporary practice permit under this Subchapter”, do you mean “temporary practice permit under this Rule” or perhaps even “Paragraph (d) of this Rule”? Is the “temporary practice permit” provision only applicable to military trained applicants?

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58A .0511 is amended as published in 32:14 NCR 1416 as follows:

**21 NCAC 58A .0511 LICENSING OF PERSONS LICENSED IN ANOTHER JURISDICTION
(EFFECTIVE JULY 1, 2018)**

(a) For purposes of this Rule, "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 salesperson or real estate broker license in another jurisdiction that has been on active status in good standing 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.~~ satisfy the 75-hour preclicensing education program and examination requirements prescribed in G.S. 93A-4 by electing to either:

(1) 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; or

(2) be issued a North Carolina broker license on provisional status only and then comply with the provisions of G.S. 93A-4(a1).

(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, revoked, or surrendered pursuant to G.S. 93A-6, so long as the license is renewed or is reinstated pursuant to Rule .0505 of this Section.

(d) A military-trained or military spouse applicant seeking a temporary practice permit ~~shall~~ shall submit an application on a form available on the Commission's website. The military-trained or military spouse temporary permit application shall include applicant's:

(1) legal name;

(2) mailing, physical, and email address;

(3) telephone number;

(4) social security number;

(5) date of birth;

(6) criminal background report prepared within six months of application;

(7) occupational licensing history, including any disciplinary actions;

(8) pending liens or judgements;

(9) certification of equivalent training or experience, by submission of either a:

(A) military occupational specialty certificate that is substantially equivalent to or exceeds the requirements for licensure;

(B) certification that the applicant has engaged in the active practice of brokerage for at least two of the five years preceding the date of the application; or

1 (C) certification, issued within six months of application, of a current real estate salesperson or
2 broker license in another jurisdiction that has been on active status within 3 years of application;

3 (10) certification; and

4 (11) signature.

5 ~~(1) be licensed, certified, or registered in another jurisdiction that has standards equivalent to G.S.~~
6 ~~93A-4;~~

7 ~~(2) satisfy the requirements for licensure under G.S. 93B-15.1(a) or G.S. 93B-15.1(b); and~~

8 ~~(3) provide a copy of the official military order or a written verification signed by the commanding~~
9 ~~officer.~~

10 ~~(e) The military trained or military spouse applicant may engage in brokerage activity under the temporary practice~~
11 ~~permit until a license is granted or until a notice to deny a license is issued, whichever occurs sooner.~~

12 ~~(f) A temporary practice permit shall automatically expire after 180 days from issuance. (c) An applicant that who~~
13 ~~is issued a temporary practice permit under this Subchapter shall remain a provisional broker for the duration of the~~
14 ~~permit.~~

15
16 *History Note:* *Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-9(a); 93B-15.1;*

17 *Eff. January 1, 2012;*

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

21 NCAC 58A .1702 is amended as published in 32:14 NCR 1416 as follows:

21 NCAC 58A .1702 CONTINUING EDUCATION REQUIREMENT

(a) Except as provided in Rules .1708 and .1711 of this Section, ~~the a~~ broker shall complete eight credit hours of real estate continuing education courses approved pursuant to 21 NCAC 58H 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~~, broker with BIC Eligible status, the "Broker-In-Charge Update Course" in lieu of the "General Update Course."

(b) A BIC or broker who takes the General Update Course rather than the Broker-In-Charge Update Course shall receive continuing education credit for taking such course only for the purpose of retaining his or her license on active status and shall not be considered to have satisfied the requirement to take the Broker-In-Charge Update Course in order to retain his or her BIC Eligible status.

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

~~(c)(d)~~ The broker shall provide the course completion certificate upon request of the Commission.

~~(d)(e)~~ 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 shall satisfy the continuing education requirement described in Rule .1703 of this Section.

~~(e)(f)~~ 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.

~~(f)(g)~~ For purposes of this Rule, the terms "active status" and "inactive status" shall have the same definition as those in Rule .0504 of this Subchapter.

~~(g)(h)~~ 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;

Eff. July 1, 1994;

Amended Eff. July 1, 2018; July 1, 2017; July 1, 2014; April 1, 2006; July 1, 2005; April 1, 2004;

October 1, 2000; August 1, 1998; July 1, 1996.

21 NCAC 58A .1703 is amended as published in 32:14 NCR 1417 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 broker's second license renewal following his or her initial licensure shall have completed the continuing education as described in Paragraph (b) or (c) of this Rule. Rule, whichever is appropriate.

(b) If the inactive broker's license has not been on active status since the preceding July 1 and the broker has a deficiency in his or her continuing education record for the previous license period, the broker shall make up the deficiency and satisfy the continuing education requirement pursuant to Rule .1702 of this Section 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.

(c) If a broker's license has been on inactive status for more than two years and the broker has a deficiency in his or her continuing education record, the broker shall:

(1) cure the continuing education deficiency for the current license year; and

(2) complete two Postlicensing courses no more than six months prior to activation.

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

Eff. July 1, 1994;

Amended Eff July 1, 2018; July 1, 2017; April 1, 2006; July 1, 2000; July 1, 1995.

21 NCAC 58A .1711 is amended as published in 32:14 NCR 1417 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 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 fee of fifty dollars (\$50.00) per request and evidence 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 shall be 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 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 pursuant to 21 NCAC 58H
3 .0406.

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

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

11 *Eff. July 1, 1994;*

12 *Amended Eff. July 1, 2018; July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1,*
13 *2000; March 1, 1996; July 1, 1995.*

1 21 NCAC 58A .2101 is amended without notice pursuant to G.S. 150B-21.5(a)(5) as follows:

2
3 **SECTION .2100 - BROKERS IN MILITARY SERVICE**
4

5 **21 NCAC 58A .2101 APPLICABILITY**

6 This Section shall apply to every broker whose license is not revoked, suspended, or surrendered, or who is
7 otherwise the subject of a disciplinary order, and who is eligible for an extension of time to file a tax return under
8 the provisions of ~~G.S. 150-249.2~~ G.S. 105-249.2 and 26 U.S.C. 7508.
9

10 *History Note: Authority G.S. 93B-15(b);*

11 *Eff. ~~July 1, 2010.~~ July 1, 2010.*

12 *Amended Eff. July 1, 2018.*

21 NCAC 58B .0103 is amended as published in 32:14 NCR 1418 as follows:

21 NCAC 58B .0103 RENEWAL OF TIME SHARE PROJECT REGISTRATION

(a) A developer seeking a renewal of a time share project registration shall submit a complete renewal application form during the month of June. A renewal application form is available on the Commission's website at www.ncrec.gov. In the renewal application form, the developer shall set forth:

- (1) the time share's project name, registration number, and mailing address;
- (2) the developer's name, telephone number, and email address;
- (3) the full legal name of brokers that are associated with the time share project and their real estate license numbers;
- (4) the name of all exchange programs associated with the time share project along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
- (5) the name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for each of the following:
 - (A) the managing entity;
 - (B) the marketing entity;
 - (C) the registrar, pursuant to G.S. 93A-58(a);
 - (D) the independent escrow agent, pursuant to G.S. 93A-42(a); and
 - (E) the project broker, pursuant to 93A-58(c);
- (6) a certification that the information contained in the registration filed with the Commission is accurate and current on the date of the renewal application; and
- (7) ~~notarized signature(s) by either: the developer's attorney or project broker's signature.~~
 - ~~(A) — two executive officers of the corporation developer;~~
 - ~~(B) — two managers of the limited liability company developer;~~
 - ~~(C) — the sole proprietor of the sole proprietor developer;~~
 - ~~(D) — the general partner of the partnership developer; or~~
 - ~~(E) — the developer's attorney.~~

(b) The developer shall submit a nonrefundable fee of eight hundred dollars (\$800.00) payable to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card.

(c) A complete renewal application shall be accompanied by the prescribed fee and shall be received at the Commission's office prior to the expiration of the certificate of registration as described in G.S. 93A-52(d).

(d) Making a false certification on a time share project registration renewal application shall be grounds for disciplinary action by the Commission.

History Note: *Authority G.S. 93A-51; 93A-52(d);*
 Eff. March 1, 1984;
 Temporary Amendment Eff. May 23, 1985;

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2

Amended Eff. July 1, 2018; July 1, 2016; April 1, 2013; February 1, 1989; September 1, 1985.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58G .0103

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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

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

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

In Item (1), please change "which" to "that" on line 5.

In the History Note, please move July 1, 2018 after "Amended Eff." on line 29 (please see your History Note for 21 NCAC 58H .0211.

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58G .0103 is amended as published in 32:14 NCR 1418 as follows:

21 NCAC 58G .0103 DEFINITIONS

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

- ~~(1)~~ "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business.
- ~~(2)~~ "BIC" means a broker-in-charge pursuant to G.S. 93A-2(a1).
- ~~(3)~~ "BIC Eligible" means a broker's license status who has satisfied the broker-in-charge qualification requirements and filed application pursuant to G.S. 93A-4.2 and 21 NCAC 58A .0110.
- ~~(4)~~ (4) "Commission" means the North Carolina Real Estate Commission.
- ~~(5)~~ (5) "Commission's website" means www.ncrec.gov.
- ~~(6)~~ (6) "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.
- ~~(7)~~ (7) "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.
- ~~(8)~~ (8) "Firm" means a partnership, corporation, limited liability company, association, or other business entity, except for a sole proprietorship.
- ~~(9)~~ (9) "Form" means an original form template provided by the Commission and completed by the submitting party.
- ~~(10)~~ (10) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a broker acting in a fiduciary capacity are handled or records for such trust monies are maintained.
- ~~(11)~~ (11) "Principal Office" means the office so designated in the Commission's records by the qualifying broker of a licensed firm or the broker-in-charge of a sole proprietorship.

History Note: *Authority G.S. 93A-3(c);*
Eff. July 1, 2018; July 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Real Estate Commission

RULE CITATION: 21 NCAC 58H .0211

DEADLINE FOR RECEIPT: Wednesday, April 11, 2018

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

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

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

In (b), please consider adding "as follows" or something similar after "the course" to provide some introductory language to (b)(1) and (2).

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

Amber May
Commission Counsel
Date submitted to agency: March 28, 2018

21 NCAC 58H .0211 is amended as published in 32:14 NCR 1419 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 a Roster Report electronically within ~~30~~ seven days following the course.

(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;~~ date pursuant to Rule .0210 of this Section;
- (D) the school's name and number;
- (E) the course's name and number; and
- (F) the instructor's name and number.

(c) Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S. 93A-4(a2).

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

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

Amended Eff. July 1, 2018.

21 NCAC 58H .0404 is amended as published in 32:14 NCR 1419 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;
- (5) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;
- (6) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew;
- (7) a certification that the continuing education coordinator has completed the Commission's video training pursuant to ~~Rule .0403(e)~~ Rule .0403(b) of this Section;
- (8) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and
- (8) the signature of the sponsor.

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

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

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

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

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

Amended Eff. July 1, 2018.