

Burgos, Alexander N

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Monday, May 16, 2022 3:56 PM
To: Liebman, Brian R
Cc: Burgos, Alexander N
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Yes, that would be great.

Melissa Vuotto

Paralegal Supervisor
North Carolina Real Estate Commission

North Carolina State Bar Certified Paralegal

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized state officials.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, May 16, 2022 3:55 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

Great!

If you're agreeable, I will forward the final copies of the Rules you just sent over to Dana, by the way.

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Monday, May 16, 2022 3:53 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you, Brian. I will be attending virtually if anything should come up during the meeting.

Thanks again!

Melissa Vuotto

Paralegal Supervisor

North Carolina Real Estate Commission

North Carolina State Bar Certified Paralegal

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized state officials.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Monday, May 16, 2022 3:52 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

Hi Melissa,

These look good, and again, thanks for getting these back to me quickly! I will be recommending approval of your rules at the upcoming meeting.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Monday, May 16, 2022 2:24 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Thank you, Brian.

Attached please find the revised rules in response to your below comments. Please note, in 58B .0101 the history note citation related to 47A and 47C is not related to this rule which is why it was not replaced with a specific statute.

Please let me know if you have any further questions or concerns regarding these rules.

Melissa Vuotto

Rulemaking Coordinator
Regulatory Affairs Division
North Carolina Real Estate Commission
Post Office Box 17100
Raleigh NC 27619-7100
Phone: 919.875.3700, Ext. 142

North Carolina State Bar Certified Paralegal

Melissa@ncrec.gov
www.ncrec.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized state officials.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Saturday, May 14, 2022 8:04 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

Hi Melissa,

Thanks for your work on these. In general, the rules look good, but after review, I have a few more questions/concerns/comments.

58B .0101

At (a)(7)(e), Page 2, Line 22 the term "Affidavit of Designation" is not defined in the Subchapter. If this is a required form, the contents of all information required to be provided should be part of a rule, pursuant to 150B-2(8a). Is there another rule where the contents of the Affidavit are described?

In your History Note, I see you deleted the references to N.C. Gen. Stat. Chapters 47A and 47C, but did not replace them with any specific provisions. I didn't see anything in 47A directly referencing timeshares, but 47C-4-105 does have specific application to timeshares. I'm not sure it's relevant here, as 47C-4-105 refers to a public offering declaration, and this Rule is for registration with the Commission.

58B .0104

Thanks for your changes to (d), but the new language is ambiguous as to which developer, the new or the old, should file with the Commission. Please clarify.

58B .0203

In the History Note, I think the reference should be to 93A-44(b), rather than (d), which states that the developer shall provide the purchaser with the statement and shall obtain from the purchase a written acknowledgement of receipt.

58B .0401

I am not sure the change to (a) really addresses the concern with the statutory language, and in fact may exacerbate the problem. The statute gives the duty to "maintain or cause to be maintained" records exclusively to the developer. The way the new language reads to me, the records retention requirement is now *limited* to salespersons who are also brokers and developers. I really think this provision needs to be edited to bring it in line with the statutory language.

5B .0601

In (a), line 12, did you mean to say “available on the Commission’s website”?

In (c), line 21, I don’t think you need to add 93A-4(a1) to your History Note, but instead reference the statute in the Rule itself. For example: “...provisional brokers as defined in G.S. 93A-4(a1) shall not be....”

5B .0602

In (b), line 24, remove “of” following “purchasers”.

Also in (b), line 25, I think it’d be better phrased to say “Article 4 of Chapter 93 of the North Carolina General Statutes”.

5H .0210

In (a)(10), line 24-25, please add a comma between “Commission” and “within” and between “process” and “a”.

In (a)(12), lines 31-32, this remains unclear. As they seem to be three unrelated items triggered by different three different agencies, consider making them three different subsections (12) (13) and (14). For example, “(11) has had its Certificate of Authority revoked by _____ pursuant to _____.”

58H .0303

In (a)(5), lines 17-20, what criteria does the Commission use to determine whether to request a plan? Are these criteria laid out in another rule or statute?

Please return your responses to me as soon as you can.

Thanks!

Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Thursday, May 12, 2022 2:02 PM
To: Liebman, Brian R <brian.liebman@oah.nc.gov>
Subject: [External] FW: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to [Report Spam](#).

Brian,

We had a slight adjustment to the language in 21 NCAC 58H .0303, please see the attached version.

Thank you,

Melissa Vuotto

Paralegal Supervisor
North Carolina Real Estate Commission

North Carolina State Bar Certified Paralegal

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized state officials.

From: Melissa A. Vuotto
Sent: Thursday, May 12, 2022 1:26 PM
To: 'Liebman, Brian R' <brian.liebman@oah.nc.gov>
Subject: RE: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

Hi Brian,

I've attached our responses to your questions and a copy of the revised rules. Please let me know if you have any further questions.

Melissa Vuotto

Rulemaking Coordinator
Regulatory Affairs Division
North Carolina Real Estate Commission
Post Office Box 17100
Raleigh NC 27619-7100
Phone: 919.875.3700, Ext. 142

North Carolina State Bar Certified Paralegal

Melissa@ncrec.gov
www.ncrec.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by authorized state officials.

From: Liebman, Brian R <brian.liebman@oah.nc.gov>
Sent: Friday, April 29, 2022 11:06 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: NC Real Estate Commission Rules - Request for Changes - May 2022 RRC

Good evening,

I'm the attorney who reviewed the Rules submitted by the Real Estate Commission for the May 2022 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, May 19, 2022, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get invites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, May 13, 2022.

I will be out of the office next week, but please feel free to reach out with questions in the meantime, and I will respond when I get back.

Thanks,
Brian

Brian Liebman
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984)236-1948
brian.liebman@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.