REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0103

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met 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 one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*Please cite the substantive authority for regulating brokers’ and firms’ business names.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0105

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

The Rules Review Commission staff has completed its opinion review of this rule or set of rules your agency filed with the RRC for review by the RRC at its next meeting. The Commission has not yet met 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 one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*Please cite specific substantive authority for the provisions in (a)(1) regulating or restricting the activities of provisional brokers.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0108

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*It seems to me that this rule is not a list type rule so much as one that should be broken into separate ideas or paragraphs.*

*I would make the current first paragraph into either (a), lines 4 – 11 or (a) and (b), lines 4 – 8 and 8 – 11 respectively. [If I made 8 – 11 into (b) I would probably delete the opening word “However,” as well.]*

*The current list beginning on line 14 and extending through line 28 would become (b) or (c) depending on the previous paragraph(s) and the final two lines would become the final paragraph (c) or (d).*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0110

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) there needs to be a definition for “principal” office since that term is used in the rule. It is unclear how to distinguish a principal office from a branch office or how the principal office is determined where there are multiple offices.*

*In (a)(1) you need to close the quotation mark around “’Office.”*

*At the end of (a)(1) line 8 change the period to a semicolon followed by “and” with no further punctuation.*

*At the end of (a)(2) change “business; and” to “business.” (with the period following “business”).*

*It is unclear to me how a sole proprietor with no other broker / employees but with non-broker employees in a branch office is to comply with the rule in (b) lines 11 – 14. It does not seem like that is the intent of the rule, especially since I believe that would be outside the authority of the agency – in effect to either forbid such a sole proprietor from having a branch office or requiring such a sole proprietor to hire a broker / employee.*

*It also seems to me that the portion of the rule in (b) beginning at the end of line 14, “If a firm shares ...” would be easier to understand as a separate labeled paragraph.*

*In (b) line 18 please correct the formatting of “~~designate~~.”*

*Based on the provisions of (b) concerning a sole proprietorship, I assume that “person” in (b)(4) refers to another broker. If that is the case, please change “person” to “broker” in line 25.*

*In (d) line 33 delete or define “immediately.” In line 35 make “Notice” lowercase.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission CounselREQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0111

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) I have two comments about the use of singular and plural number.*

*The first is that lines 4 and 5 use the plural number for the listed items while in lines 6 and 7 the items are singular. It seems to me that the number should be the same in both cases.*

*In line 6 it seems to me that “and lease” should be “or lease.” In the first part of the sentence the “or” conjunction is used (line 5, “or other legal instruments”) and you should maintain that parallel construction. I also believe, although I am hard-pressed to express the correct grammatical principles, that in the context “or” is more correct than “and” would be.*

*While normally I might not comment on any of this since there is a statutory construction principle and law supporting the contention that the singular and plural can be substituted for each other without changing the meaning, I am noting it in this case because the reason for the changes in this rule is to “make grammatical corrections to paragraph (a).” I think these changes would be consistent and should be made.*

*In (b) I interpret the words “a broker may not alter the form before it is presented to the parties” in lines 10 and 11 to refer to an alteration in the preprinted form and not to filling in blanks. If that is the case please add “preprinted” before “form” in line 11. In either case, however, in line 11 please change “may” to “shall.”*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0117

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*I would suggest rewriting (a) lines 6 and 7 as follows to maintain more cohesive parallel structure:*

*Such records shall be sufficient to show proper deposit of such funds into a trust or escrow account, to show proper disbursement of such funds from the account and to verify the ... account.*

*Alternatively you might prefer:*

*Such records shall be sufficient to show proper deposit and disbursement of such funds into and from a trust or escrow account and to verify the ... account.*

*Or you may draft any other equivalent parallel construction.*

*In (c) all the subparagraphs from (1) through (6) should end with a semicolon (as in subparagraphs (c)(7) – (10)) rather than a period. The same would apply for all the sub-subparagraphs in (c)(3) and (4). The period would normally not occur until you reached the end of the paragraph.*

*In (c) page 1 line 13 please change “and/or” to “and” (my preference) or, “or.”*

*In (c)(3) line 35 please change the period following “means” to a colon.*

*In (c)(4), page 2 line 17, please change the period following “account” to a colon.*

*In (c)(6), page 3 line 11, please change “Rule A.0118” to “Rule .0118 of this Section.”*

*In (d), page 3 line 24, unless “clear audit trail” is a term of art used by accountants please change “a clear” to “an.”*

*In (e)(1), page 3 line 28, change the period to a semicolon.*

*In (e)(2) line 31 change the period to a semicolon followed by the word “and” with no further punctuation.*

*The change in (g), page 4 line 14, from “five” to “ten” is not properly formatted.*

*When you make these changes be sure that the date on the original indicates 2013, not 2012 as on the original submission.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0118

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*In (b) line 17 change “Rule A .0116” to “Rule .0116 of this Section.”*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0504

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*In (a) line 8 please change “may” to “shall.”*

*In (a) lines 13 and 14 it seems to me that the phrase “while a license is on inactive status” applies to “a broker holding a license ... by the Commission” (lines 12 and 13) rather than “the offense of engaging in an activity for which a license is required” (line 13) and could either be deleted (my preference) or set off from “the offense ... is required” by a comma.*

*It seems to me that the provisions in (d) are dealing with two separate, although possibly related situations: the activation of an inactive license and the affiliation of a broker with a firm. Each of these events can occur without the other scenario’s being present. For this reason, and the fact that all the other paragraphs in this rule address individual situations, I would break these two rules into two separate paragraphs. If you did that I believe it would be easier to put what the broker and broker-in-charge must do in each case in each rule, since there might be slight variations between the two, but that might not be necessary. As it is now I believe there is some awkwardness in describing the necessary actions each must or may take in varying circumstances.*

*If you do make this change, please be sure to verify and if necessary correct the reference to (d) in (e) page 2 line 7.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0506

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*In (a) line 7 the construction “... firm or office where the provisional broker is associated” is awkward. It seems to me that a person normally thinks of being “associated with” an entity not “associated where” that entity is. Also I am assuming that you are using “associated” to mean the same as “affiliated” in the previous rule that refers to a broker being “affiliated with” a firm. Perhaps my problem is that I’m not sure whether you are referring more to the “affiliation with” the broker in charge or the mere location of the provisional broker.*

*If you are referring to the location of the provisional broker then I believe you should drop the word “associated.” If you are referring to the relation between the broker-in-charge and the provisional broker then I believe you should change “where ... is associated” to “with which ... is affiliated.”*

*In (d) line 36 unless “actively and directly” is a term of art understood by all members of the trade, or is defined elsewhere in these rules or federal regulations, please delete or define the terms.*

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0511

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*In (a) line 26 it seems to me that “of a Canadian ...” should be “or a Canadian ....”*

*Please change “Subchapter,” the last word of this rule, to “Section.”*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

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Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .0616

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*In (a) lines 12 and 13 should the qualifications of the person controlling an applicant / entity not match the requirements for an applicant?*

*It also seems to me, especially since those last two lines in (a) are likely to be expanded, that perhaps the last sentence of (a) should become a separate labeled paragraph.*

*Is it possible for an applicant who has had his or her moral character called into question to resolve the situation in the applicant’s favor without necessarily having to call for a hearing as set out in (b)? If so then there should be some reference to that in this rule.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .1401

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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In reviewing these rules, the staff determined that one or more technical changes need to be made. Approval of any rule is contingent on making this technical change as set out in G.S. 150B-21.10.

*In (a) line 7 please change “on a prescribed form” to “on a form provided by the Commission.”*

*In (a) line 7 please change “require information” to “require the following information,” put a colon following the word “claim” in line 8 and delete “including but not limited to” in that same line. In the alternative you may rewrite that sentence to express what I’ve requested in whatever style or form you choose. RRC standards are that the form can request only what the various rules have provided for.*

*In (a) line 12 it seems to me that “Counsel” should be lowercase.*

*In (c) line 18 either delete “in its discretion,” and change “may” to “shall” or specify the standards the commission shall use in deciding whether to exercise its discretion.*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58A .2202

**DEADLINE FOR RECEIPT: FRIDAY, MARCH 15, 2013**

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*At the end of (f)(1) line 26 please change the period to a semicolon and add the word “and” with no further punctuation. This will maintain the same construction as used in (g).*

*In (g)(1) – (4) please change the comma at the end of the subparagraph to a semicolon.*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58B .0102

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*The registration fees in this rule do not match the fees for the number of units that are mentioned in the reason for action on the submission for filing form. Please verify that the fees in the rule are correct and submit a corrected submission form. In the alternative please correct the fees in the rule to correspond with the fees in the submission form*

Please retype or otherwise correct the rule(s) or submission form(s) as necessary and deliver it to our office at 1711 New Hope Church Rd, Raleigh, North Carolina 27609.

If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel

REQUEST FOR TECHNICAL CHANGE

AGENCY: NC REAL ESTATE COMMISSION

RULE CITATION: 21 NCAC 58B .0103

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*In (a) line 5 change “prescribed” to “provided.”*

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If you have any questions or problems concerning this request, please contact me.

Joseph J. DeLuca, Jr.

Commission Counsel