Yes, that would be great.

Melissa Vuotto  
Paralegal Supervisor  
North Carolina Real Estate Commission

North Carolina State Bar Certified Paralegal

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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

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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*

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**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  
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**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

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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.
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

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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

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Brian,

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

Thank you,
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.

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 evite 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 evites 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
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