

1 21 NCAC 58A .1712 is amended with changes as published in 36:16 NCAC 1409 as follows:

2
3 **21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE**

4 (a) The Broker-in-Charge Course is a 12-hour educational course that is required for ~~all brokers designating as broker-~~
5 ~~in charge a broker to attain BIC Eligible [Status] status~~ under Rule .0110 of this Subchapter. ~~The 12-hour course is~~
6 ~~divided into an 8-hour module and a 4-hour module. A broker shall complete the 8-hour module before beginning the~~
7 ~~4-hour module.~~

8 (b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

9 (1) ~~attend at least 90 percent of the scheduled instructional hours for the course;~~

10 (2) ~~provide his or her legal name and license number to the course provider;~~

11 (3) ~~present his or her pocket card or photo identification card, if necessary;~~

12 (4)(1) personally perform all work required to complete the course; and

13 (5)(2) complete the 12-hour ~~Broker in Charge~~ Broker-in-Charge Course no later than ~~120~~ 30 days after
14 the broker registers for ~~the course.~~ the course and no later than the following June 10, whichever
15 comes first.

16 (c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective
17 continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-
18 hour Broker-in-Charge Course.

19
20 *History Note:* Authority G.S. 93A-3(c); ~~93A-4.1; 93A-38.5;~~ 93A-4.2;
21 Eff. ~~January 1, 2020.~~ January 1, 2020;
22 Amended Eff. July 1, 2022.

1 21 NCAC 58B .0101 is amended with changes as published in 36:16 NCR 1409 as follows:

2
3 **SUBCHAPTER 58B – ~~TIME SHARES~~ TIMESHARES**

4
5 **SECTION .0100 – ~~TIME SHARE PROJECT~~ TIMESHARE PROGRAM REGISTRATION**

6
7 **21 NCAC 58B .0101 APPLICATION FOR REGISTRATION**

8 ~~(a) Every application for time share project registration shall be filed at the Commission's office upon a form~~
9 ~~prescribed by the Commission. Every such application shall contain or have appended thereto:~~

- 10 (1) ~~information concerning the developer's title or right to use the real property on which the project is~~
11 ~~located, including a title opinion provided by an independent attorney performed within 30 days~~
12 ~~preceding the date of application;~~
- 13 (2) ~~information concerning owners of time shares at the project other than the developer;~~
- 14 (3) ~~a description of the improvements and amenities located at the project, including a description of~~
15 ~~the number and type of time share units;~~
- 16 (4) ~~a description of the time share estate to be sold or conveyed to purchasers;~~
- 17 (5) ~~information concerning the developer and his or her financial ability to develop the project~~
18 ~~(including the developer's most recent audited financial statement, any loan commitments for~~
19 ~~completion of the proposed time share project, a projected budget for the construction, marketing~~
20 ~~and operation of the time share project until control by purchasers is asserted, and details of any~~
21 ~~source of funding for the time share project other than consumer sales proceeds), and information~~
22 ~~concerning the marketing and managing entities and their relationship to the developer;~~
- 23 (6) ~~the developer's name and address, past real estate development experience and such other~~
24 ~~information necessary to determine the moral character of those selling and managing the project;~~
- 25 (7) ~~copies of all documents to be distributed to time share purchasers at the point of sale or immediately~~
26 ~~thereafter; and~~
- 27 (8) ~~such information as may be required by G.S. 93A 52.~~

28 ~~The form shall also describe the standards for its proper completion and submission.~~

29 ~~(b) In accordance with G.S. 93A 52, an application for time share registration shall be considered to be properly~~
30 ~~completed when it is wholly and accurately filled out and when all required documents are appended to it and appear~~
31 ~~to be in compliance with the provisions of the Time Share Act, and, where the project is a condominium, the~~
32 ~~Condominium Act or Unit Ownership Act.~~

33 ~~(c) An entity which owns time shares at a time share project where there are one or more existing registered developers~~
34 ~~may also apply to the Commission for registration of its time shares, provided that the entity does not control a~~
35 ~~registered developer, is not controlled by a registered developer, and is not in common control of the project with a~~
36 ~~registered developer.~~

1 (a) A timeshare program seeking registration shall apply to the Commission on a form available on the Commission's
2 website and shall, in addition to the requirements set forth in G.S. 93A-52, set forth:

- 3 (1) the timeshare program's physical and mailing address and telephone number;
- 4 (2) the developer's name, address, telephone number, email address, type of business structure with
5 supporting documentation, and legal counsel's contact information, if [any, and previous real estate
6 experience;] any;
- 7 (3) information concerning the developer's title or right to use the real property on which the project is
8 located, including a title opinion provided by an independent attorney performed within 30 days
9 preceding the date of application;
- 10 (4) a description of the timeshare estate to be sold or conveyed to purchasers;
- 11 (5) the developer's past real estate development experience and any criminal, bankruptcy, and
12 occupational licensing history;
- 13 (6) the developer's financial information including the following:
 - 14 (a) an audited financial statement within the previous six months;
 - 15 (b) loan commitments for completion of the timeshare program; and
 - 16 (c) a projected budget for construction, marketing, and operations of the timeshare program;
- 17 (7) the Registrar, Program Broker, marketing entity, and managing entity's:
 - 18 (a) name;
 - 19 (b) business and email address;
 - 20 (c) real estate license number, if applicable;
 - 21 (d) telephone number; and
 - 22 (e) executed [affidavit,] Affidavit of Designation, if [applicable;] applicable, that includes:
 - 23 (i) the timeshare program name, registration number, and address;
 - 24 (ii) the name of the designated individual and license number, if applicable, or
25 financial institute;
 - 26 (iii) the designated individual's address, email address, and telephone number; and
27 (iii) a notarized signature of the designated individual.
- 28 (8) the names and real estate license number of brokers associated with the timeshare program; and
- 29 (9) a signed affidavit by the developer.

30 (b) An entity [which] that owns time shares at a timeshare program where there are one or more existing registered
31 developers may also apply to the Commission for registration of its timeshares, provided that the entity does not
32 control a registered developer, is not controlled by a registered developer, and is not in common control of the program
33 with a registered developer.

34 *History Note: Authority G.S. 47A-47C; 93A-51; 93A-52(a); 93A-52;*

35 *Eff. March 1, 1984;*

36 *Amended Eff. July 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*
2 *May 1, 2018;*
3 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0102 is amended as published in 36:16 NCR 1410 as follows:

2
3 **21 NCAC 58B .0102 REGISTRATION FEE**

4 ~~(a) For the initial registration or subsequent registration of a time share project by a developer proposing to sell or~~
5 ~~develop 16 or more time shares, the fee shall be one thousand dollars (\$1,000). For an initial or subsequent registration~~
6 ~~of a time share project in which the developer proposes to sell 15 or fewer time shares, the fee shall be seven hundred~~
7 ~~dollars (\$700.00). For any time share registration by a homeowner association for the purpose of re-selling time shares~~
8 ~~in its own project which it has acquired in satisfaction of unpaid assessments by prior owners, the fee shall be four~~
9 ~~hundred fifty dollars (\$450.00).~~

10 ~~(b) Payment of application fees for time share registration shall be made to the Commission by certified check, money~~
11 ~~order, debit card, or credit card. Applications for registration not accompanied by the appropriate fee shall not be~~
12 ~~considered by the Commission.~~

13 ~~(c) In the event a properly completed application filed with the Commission is denied for any reason, or if an~~
14 ~~incomplete application is denied by the Commission or abandoned by the developer prior to a final decision by the~~
15 ~~Commission, the amount of two hundred fifty dollars (\$250.00) shall be retained by the Commission from the~~
16 ~~application fee and the balance refunded to the applicant developer.~~

17 The timeshare program registration fee pursuant to Rule .0101 of this Subchapter shall be:

18 (1) one thousand dollars (\$1,000) for programs with 16 or more units;

19 (2) seven hundred dollars (\$700) for programs with 15 or fewer units; and

20 (3) four hundred fifty dollars (\$450) for programs offering to resell 51 or more units through a homeowner
21 association which has acquired the units in satisfaction of unpaid assessments by prior owners.

22
23 *History Note: Authority G.S. 93A-51; 93A-52;*

24 *Eff. March 1, 1984;*

25 *Amended Eff. July 1, 2016; April 1, 2013; July 1, 2000;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

27 *May 1, 2018;*

28 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0103 is amended with changes as published in 36:16 NCR 1411 as follows:

2
3 **21 NCAC 58B .0103 RENEWAL OF ~~TIME SHARE PROJECT~~ TIMESHARE PROGRAM**
4 **REGISTRATION**

5 (a) A developer seeking a renewal of a ~~time share project timeshare program~~ registration shall submit a ~~complete~~
6 renewal application ~~form during the month of June. A renewal application form is available on the Commission's~~
7 ~~website at www.ncreec.gov. In the renewal application form, the developer shall set forth:~~ on a form available on the
8 Commission's website that sets forth the:

- 9 (1) ~~the time share's project timeshare program's~~ name, registration number, and mailing address;
10 (2) ~~the developer's~~ name, telephone number, and email address;
11 (3) ~~the full legal name of brokers that are associated with the time share project and their real estate~~
12 ~~license numbers;~~ names and license numbers of brokers associated with the timeshare program;
13 (4) ~~the name of all exchange programs associated with the time share project timeshare program~~ along
14 with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;
15 (5) ~~the name, address, email address, telephone number, real estate broker license number if applicable,~~
16 ~~and the assignment date for each of the following:~~ for the:
17 (A) ~~the~~ managing entity;
18 (B) ~~the~~ marketing entity;
19 (C) ~~the registrar, registrar~~ pursuant to G.S. 93A-58(a);
20 (D) ~~the independent escrow agent, independent escrow agent~~ pursuant to G.S. 93A-42(a); and
21 (E) ~~the project broker, program broker~~ pursuant to 93A-58(c);
22 (6) a certification that the information contained in the renewal registration filed with the Commission
23 is accurate and current on the date of the renewal application; and
24 (7) ~~the developer's attorney or project broker's program broker's~~ signature.

25 (b) The developer shall submit a ~~nonrefundable renewal registration fee~~ of eight hundred dollars (\$800.00) payable
26 ~~to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card. for timeshare~~
27 programs not offered for resale by a homeowners association. A homeowners association shall submit a renewal
28 registration fee of four hundred fifty [dollars (\$450).] dollars.

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

31 ~~(d)(c) Making a false certification on a time share project registration renewal application shall be grounds for~~
32 ~~disciplinary action by the Commission, pursuant to G.S. 93A-54(b)(13).~~

33
34 *History Note: Authority G.S. 93A-51; 93A-52(d);*

35 *Eff. March 1, 1984;*

36 *Temporary Amendment Eff. May 23, 1985;*

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

1
2

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2022; July 1, 2018.*

21 NCAC 58B .0104 is amended with changes as published in 36:16 NCR 1411 as follows:

**21 NCAC 58B .0104 AMENDMENTS TO ~~TIME SHARE PROJECT~~ TIMESHARE PROGRAM
REGISTRATION**

(a) A developer shall notify the Commission ~~immediately, but in no event later than~~ within 15-30 days, days after any material change in the information contained in the ~~time share project~~ timeshare program registration.

(b) A material change shall be any change which reflects a difference ~~in:~~ in the:

- (1) ~~the~~ quality ~~nature,~~ quality, or availability of the purchaser's ownership or right to use the ~~time share;~~ timeshare;
- (2) ~~the~~ quality ~~nature,~~ quality, or availability of any amenity at the project;
- (3) ~~the~~ control ~~developer's title,~~ control, or right to use the real property on which the project is located;
- (4) ~~the~~ independent escrow agent, registrar, or program broker, information concerning the developer, ~~the~~ or persons connected therewith, managing or marketing entities, ~~or persons connected therewith,~~ previously filed with the Commission; or
- (5) ~~the~~ change; or change. purchaser's right to exchange his or her unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change; or change.
- ~~(6) the project or time share [timeshare] as originally registered which would be significant to a reasonable purchaser.~~

(c) ~~Amendments to time share project registrations shall be submitted in the form of substitute pages for material previously filed with the Commission. New or changed information shall be conspicuously indicated by underlining in red ink. A timeshare developer seeking to amend a program's registration shall submit each document to be amended with new or changed information underlined in [red ink.] red. Every amendment submitted shall be accompanied by a cover letter signed by the developer or the developer's attorney containing a summary of the amendment and a statement of reasons for which the amendment has been made. The cover letter shall also state:~~

- (1) the name and address of the ~~project timeshare program~~ and its registration number;
- (2) the name and address of the developer;
- (3) the document or documents to which the amendment applies;
- (4) whether or not the changes represented by the amendment required the assent of the ~~time share~~ timeshare owners and, if so, how the assent of the ~~time share~~ timeshare owners was obtained; and
- (5) the recording reference in the office of the register of deeds for the changes, if applicable.

~~Developers of multiple projects must submit separate amendments and cover letters for each project for which amendments are submitted.~~

(d) ~~The Commission may, in its discretion, require the developer to file a new time share project [timeshare program] registration application in the place of an amendment form. Such refiling shall be without fee. If the ownership of a developer of a registered timeshare program changes, the new developer shall file a new timeshare program registration application pursuant to Rule .0101 of this Subchapter. Said refiling shall be without a fee.~~

1 *History Note: Authority G.S. 93A-51; 93A-52(a3);*
2 *Eff. March 1, 1984;*
3 *Amended Eff. October 1, 2000; February 1, 1989; April 1, 1987;*
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*
5 *May 1, 2018;*
6 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0105 is amended as published in 36:16 NCR 1412 as follows:

2

3 **21 NCAC 58B .0105 NOTICE OF TERMINATION**

4 ~~(a) A developer of a registered time share project which, for any reason, terminates its interest, rights, ownership or~~
5 ~~control of the project or any significant part thereof shall immediately notify the Commission in writing on a form~~
6 ~~prescribed by the Commission for that purpose. Notice of termination to the Commission shall include the date of~~
7 ~~termination, the reasons therefor, the identity of the developer's successor, if any, and a report on the status of time~~
8 ~~share sales to purchasers on the date of termination. A developer seeking to terminate its interest in a timeshare~~
9 ~~program shall file a Notice of Termination form available on the Commission's website and shall set forth the~~
10 ~~timeshare program's:~~

- 11 ~~_____ (1) name;~~
- 12 ~~_____ (2) physical, mailing, and email address;~~
- 13 ~~_____ (3) telephone number;~~
- 14 ~~_____ (4) reason the developer is terminating its interest;~~
- 15 ~~_____ (5) date of termination;~~
- 16 ~~_____ (6) new owner, if the developer's interest will be sold or transferred; and~~
- 17 ~~_____ (7) the signature of the developer.~~

18 ~~(b) Upon receipt of a properly executed notice of termination of the developer's interest in a time share project, the~~
19 ~~Commission shall enter a notation of cancellation of registration in the file of the project, and shall notify the developer~~
20 ~~of cancellation. A developer's failure to give notice of termination as provided herein shall not prevent cancellation of~~
21 ~~the project's registration under G.S. 93A-52.~~

22

23 *History Note: Authority G.S. 93A-51; ~~93A-52(a); 93A-52;~~*
24 *Eff. April 1, 1987;*
25 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*
26 *May 1, 2018;*
27 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0201 is amended with changes as published in 36:16 NCR 1412 as follows:

2
3
4 **SECTION .0200 - PUBLIC OFFERING STATEMENT**

5
6 **21 NCAC 58B .0201 GENERAL PROVISIONS**

7 (a) Information contained in a public offering statement pursuant to N.C.G.S. 93A-44(b) shall be accurate on the day
8 it is supplied to a purchaser. ~~Before any public offering statement is supplied to a purchaser, the developer shall file a~~
9 ~~copy of the statement with the Commission.~~

10 (b) ~~In addition to the information required to be contained in a public offering statement by G.S. 93A-44, every public~~
11 ~~offering statement shall disclose to the purchaser of a time share complete and accurate information concerning:~~

- 12 (1) ~~the real property type of the time share program, whether tenancy in common, condominium or~~
13 ~~other, and a description of the estate the purchaser will own, the term of that estate and the remainder~~
14 ~~interest, if any, once the term has expired;~~
- 15 (2) ~~the document creating the time share program, a statement that it is the document which governs~~
16 ~~the program and a reference to the location where the purchaser may obtain or examine a copy of~~
17 ~~the document;~~
- 18 (3) ~~whether or not the property is being converted to a time share from some other use and, if so, a~~
19 ~~statement to that effect and disclosure of the prior use of the property;~~
- 20 (4) ~~the maximum number of time shares in the project, each recreational and other commonly used~~
21 ~~facility offered, and who or what will own each facility, if the project is to be completed in one~~
22 ~~development or construction phase;~~
- 23 (5) ~~if the project is planned in phased construction or development, the complete plan of phased~~
24 ~~offerings, including the maximum number of time shares which may be in the project, each~~
25 ~~recreational and other commonly used facility, who or what will own each facility, and the~~
26 ~~developer's representations regarding his or her commitment to build out the project;~~
- 27 (6) ~~the association of owners or other entity which will ultimately be responsible for managing the time~~
28 ~~share program, the first date or event when the entity will convene or commence to conduct business,~~
29 ~~each owner's voting right, if any, and whether and for how long the developer, as time share owner,~~
30 ~~will control the entity;~~
- 31 (7) ~~the location where owners may inspect the articles and bylaws of the owners association, or other~~
32 ~~organizational documents of the entity and the books and records it produces;~~
- 33 (8) ~~whether the entity has lien rights against time share owners for failure to pay assessments;~~
- 34 (9) ~~whether or not the developer has entered into a management contract on behalf of the managing~~
35 ~~entity, the extent to which the managing entity's powers are delegated to the manager and the~~
36 ~~location where a copy of the management contract may be examined;~~

1 ~~(10) whether or not the developer will pay assessments for time shares which it owns and a statement~~
2 ~~that the amount of assessments due the managing entity from owners will change over time, as~~
3 ~~circumstances may change;~~

4 ~~(11) whether or not the developer sponsors or will sponsor a rental or resale program and, if so, a~~
5 ~~summary of the program or programs; and~~

6 ~~(12) the developer's role at the project, if the developer is a separate entity from any other registered~~
7 ~~developer of the time share project.~~

8 ~~(e)-(b)~~ The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary
9 action by the Commission.

10
11 History Note: Authority G.S. ~~93A-44(8); 93A-44(b);~~ 93A-51;

12 Eff. March 1, 1984;

13 Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989; April 1, 1987;

14 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~

15 May 1, 2018;

16 Amended Eff. July 1, 2022.

1 21 NCAC 58B .0202 is amended with changes as published in 36:16 NCR 1412 as follows:

2
3
4 **21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY**

5 ~~Every~~ In addition to the requirements in [N.C.G.S 93A-44,] G.S. 93A-44, a public offering statement shall contain a
6 ~~one page cover~~ [cover] page prescribed by the Commission and completed by the developer entitled Public Offering
7 Statement ~~Summary.~~ Summary in conspicuous type. The Public Offering Statement Summary shall read as follows:
8

9 **PUBLIC OFFERING STATEMENT SUMMARY**

10
11 **NAME OF PROJECT:**

12
13 **NAME AND REAL ESTATE LICENSE NUMBER OF ~~BROKER:~~ BROKER (IF ANY):**

14
15 ~~This Public Offering Statement contains information which deserves your careful study, as you decide whether or not
16 to purchase a time share.~~

17 ~~The Public Offering Statement includes general information about the real estate type, the term, and the size of this
18 time share project. It also includes a general description of the recreational and other facilities existing now, or to be
19 provided in the future. The Public Offering Statement will tell you how maintenance and management of the project
20 will be provided and how the costs of these services will be charged to purchasers. From the Public Offering Statement,
21 you will also learn how the project will be governed and whether purchasers will have a voice in that government.
22 You will also learn that a time share instrument will be recorded to protect your real estate interest in your time share.
23 The Public Offering Statement contains important information, but is not a substitute for the detailed information
24 contained in the contract of purchase and the legal documents which create and affect the time share program at this
25 project.~~

26 ~~Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered
27 before you decide to purchase. If a salesperson or other representative of the developer has made a representation
28 which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.~~

29
30 **NOTICE**

31
32 **UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR ~~TIME SHARE~~ TIMESHARE**
33 **PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO**
34 **CANCEL YOUR ~~TIME SHARE~~ TIMESHARE PURCHASE, YOU MUST MAIL OR HAND DELIVER**
35 **WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of**
36 **project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA**
37 **REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL**

1 **AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS**
2 **MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.**

3

4 *History Note: Authority G.S. 93A-44; 93A-51;*

5 *Eff. March 1, 1984;*

6 *Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; April 1, 1987;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

8 *May 1, 2018;*

9 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0203 is amended with changes as published in 36:16 NCR 1413 as follows:

2

3 **21 NCAC 58B .0203 RECEIPT FOR PUBLIC OFFERING STATEMENT**

4 (a) Prior to the execution of any contract to purchase a ~~time share, timeshare, a time share~~ developer or a ~~time share~~
5 timeshare salesperson shall obtain from the purchaser a written receipt for the public offering statement, which shall
6 display, directly over the buyer signature line in type in all capital letters, no smaller than the largest type on the page
7 on which it appears, the following statement: DO NOT SIGN THIS RECEIPT UNLESS YOU HAVE RECEIVED A
8 COMPLETE COPY OF THE PUBLIC OFFERING STATEMENT TO TAKE WITH YOU. STATEMENT.

9 (b) Receipts for public offering statements shall be maintained as part of the records of the sales transaction.

10

11 *History Note:* Authority G.S. ~~93A-45(a); 93A-44(b);~~ 93A-51;

12 *Eff. February 1, 1988;*

13 *Amended Eff. October 1, 2000;*

14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

15 *May 1, 2018;*

16 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0301 is amended with changes as published in 36:16 NCR 1413 as follows:

2
3 **SECTION .0300 - CANCELLATION**

4
5 **21 NCAC 58B .0301 PROOF OF CANCELLATION**

6 (a) The postmark date affixed to any written notice of a purchaser's intent to cancel ~~his or her time share~~ a timeshare
7 purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending
8 to rebut this presumption shall be admissible at a hearing before the Commission.

9 (b) Upon receipt of a purchaser's written notice of ~~his or her~~ intent to cancel ~~his or her time share~~ a timeshare purchase,
10 the developer, or ~~his or her~~ the developer's agent or representative, shall retain the notice and any enclosure,
11 envelope envelope, or other cover in the developer's ~~files at the project,~~ files, and shall produce the file upon the
12 Commission's request.

13 (c) When there is more than one ~~registered~~ developer at a ~~time share project~~ timeshare program and a purchaser gives
14 written notice of ~~his or her~~ intent to cancel ~~his or her time share~~ a timeshare purchase that is received by a developer
15 or sales staff other than the one from whom ~~his or her time share~~ the timeshare was purchased, the developer or sales
16 staff receiving such notice shall promptly deliver it to the proper developer who shall then honor the notice if it was
17 timely sent by the purchaser.

18
19 *History Note: Authority G.S. 93A-45; 93A-51; 93A-54(d); 93A-54(f);*
20 *Eff. September 1, 1984;*
21 *Amended Eff. October 1, 2000; August 2, 1993; February 1, 1989;*
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*
23 *May 1, 2018;*
24 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0401 is amended with changes as published in 36:16 NCR 1413 as follows:

2
3 SECTION .0400 - ~~TIME SHARE~~ ~~TIMESHARE~~ SALES OPERATION

4
5 21 NCAC 58B .0401 RETENTION OF ~~TIME SHARE~~ ~~TIMESHARE~~ RECORDS

6 A time share developer and a time share salesperson shall retain or cause to be retained for a period of three years
7 complete records of every time share sale, rental, or exchange transaction made by or on behalf of the developer.
8 Records required to be retained shall include but not be limited to offers, applications and contracts to purchase, rent
9 or exchange time shares; records of the deposit, maintenance and disbursement of funds required to be held in trust;
10 receipts; notices of cancellation and their covers if mailed; records regarding compensation of salespersons; public
11 offering statements; and any other records pertaining to time share transactions. Such records shall be made available
12 to the Commission and its representatives upon request.

13 (a) A developer [~~and a timeshare salesperson~~] shall [~~retain~~] maintain or cause to be [~~retained~~] maintained complete
14 timeshare records for a period of not less than three years after the completion or termination of a timeshare sale,
15 rental, or exchange.

16 (b) Timeshare records shall include, at a minimum, copies of the following:

- 17 (1) offers to purchase;
18 (2) applications and contracts to purchase;
19 (3) rent or exchange timeshares;
20 (4) records of deposits;
21 (5) maintenance and disbursement of funds required to be held in trust;
22 (6) receipts;
23 (7) notices of cancellations;
24 (8) compensation of timeshare salespersons;
25 (9) public offering statement and summary; and
26 (10) any other records pertaining to the timeshare transaction or termination.

27 (c) Timeshare records shall be made available for inspection and reproduction [by] to the Commission or its
28 authorized representatives without prior notice.

29
30 *History Note: Authority G.S. 93A-3(c); 93A-51; 93A-54(d); 93A-54;*
31 *Eff. September 1, 1984;*
32 *Amended Eff. October 1, 2000;*
33 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018~~.*
34 *May 1, 2018;*
35 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0402 is amended as published in 36:16 NCR 1414 as follows:

2

3 21 NCAC 58B .0402 is proposed for amendment as follows:

4

5 **21 NCAC 58B .0402** ~~TIME SHARE-TIMESHARE~~ **AGENCY AGREEMENTS AND DISCLOSURE**

6 ~~Time share~~ Timeshare sales transactions conducted by ~~licensees~~ brokers on behalf of a ~~time share~~ developer are subject
7 to 21 NCAC 58A .0104.

8

9 *History Note: Authority G.S. 93A-3(c); 93A-51;*

10 *Eff. August 1, 1998;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

12 *May 1, 2018;*

13 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0501 is amended with changes as published in 36:16 NCR 1414 as follows:

2
3 **SECTION .0500 – HANDLING AND ACCOUNTING OF FUNDS**

4
5 **21 NCAC 58B .0501 ~~TIME SHARE-TIMESHARE~~ TRUST FUNDS**

6 (a) Except as otherwise permitted by G.S. 93A-45(e), ~~[93a-45(d),]~~ 93A-45(d), all monies received by a ~~time share~~
7 developer or a ~~time share-timeshare~~ salesperson in connection with a ~~time share-timeshare~~ sales transaction shall be
8 deposited into a trust or escrow account ~~not later than three banking days~~ immediately following receipt and shall
9 remain in such account for ten days from the date of sale or ~~until~~ cancellation by the purchaser, whichever first occurs.

10 (b) All monies received ~~by a person licensed as a broker~~ in connection with a ~~time share-timeshare~~ transaction shall
11 be delivered immediately to ~~his or her project~~ the program broker.

12 ~~(c) When a time share purchaser timely cancels his or her time share purchase, the developer shall refund to the~~
13 ~~purchaser all monies paid by the purchaser in connection with the purchase. The refund shall be made no later than~~
14 ~~30 days following the date of execution of the contract. Amounts paid by the purchaser with a bankcard or a credit~~
15 ~~card shall be refunded by a cash payment or by issuing a credit voucher to the purchaser within the 30 day period.~~

16 ~~(d) Every project broker shall obtain and keep a written representation from the developer as to whether or not lien-~~
17 ~~free or lien subordinated time share instruments can be recorded within 45 days of the purchaser's execution of the~~
18 ~~time share purchase agreement. When a lien free or lien subordinated instrument cannot be recorded within said time~~
19 ~~period, on the business day following the expiration of the ten day time share payment escrow period, a project broker~~
20 ~~shall transfer from his or her trust account all purchase deposit funds or other payments received from a purchaser~~
21 ~~who has not cancelled his or her purchase agreement, to the independent escrow agent in a check made payable to the~~
22 ~~independent escrow agent. Alternatively, the check may be made payable to the developer with a restrictive~~
23 ~~endorsement placed on the back of the check providing "For deposit to the account of the independent escrow agent~~
24 ~~for the (name of time share project) only."~~

25
26 *History Note: Authority G.S. 93A-42(e); 93A-45; 93A-51;*

27 *Eff. September 1, 1984;*

28 *Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; July 1, 1988; February 1, 1988;*

29 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

30 *May 1, 2018;*

31 *Amended Eff. July 1, 2022.*

1 21 NCAC 58B .0601 is amended with changes as published in 36:16 NCR 1414 as follows:

2
3 **SECTION .0600 - ~~PROJECT-PROGRAM~~ BROKER**

4
5 **21 NCAC 58B .0601 DESIGNATION OF ~~PROJECT-PROGRAM~~ BROKER**

6 The developer of a registered timeshare project shall designate for each project subject to the developer's control a
7 project broker by filing with the Commission an affidavit on the form prescribed. The developer may from time to
8 time change the designated project broker by filing a new designation form with the Commission within 10 days
9 following the change. A broker licensed under the provisions of Section .1800 of Subchapter 58A shall not be
10 designated as a project broker. Provisional brokers shall not be designated as a project broker.

11 (a) The developer shall designate a program broker for each registered timeshare program. The developer shall file
12 with the Commission an Affidavit of Timeshare Program Broker available ~~[ef]~~ on the Commission's website and shall
13 set forth the timeshare program's:

14 (1) name and registration number;

15 (2) program broker's name, business and email address, real estate license number, telephone number,
16 and notarized signature.

17 (b) [A developer seeking to designate a new program broker may submit an Affidavit of Timeshare Program Broker
18 pursuant to Paragraph (a) of this Rule. The developer must file the Affidavit of Timeshare Program Broker within 10
19 days of the change.] The developer shall file with the Commission a new Affidavit of Timeshare Program Broker
20 within 10 days of any change in the program broker.

21 (c) Brokers licensed pursuant to Section .1800 of Subchapter 58A and provisional brokers as defined in G.S. 93A-
22 4(a1) shall not be designated as a program broker.

23 *History Note: Authority G.S. 93A-41(7a); 93A-9; 93A-41(24); 93A-51; 93A-58(e); 93A-9; 93A-58(d);*

24 *Eff. February 1, 1998;*

25 *Amended Eff. April 1, 2006; July 1, 2004;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

27 *May 1, 2018;*

28 *Amended Eff. July 1 2022.*

1 21 NCAC 58B .0602 is amended with changes as published in 36:16 NCR 1414 as follows:

2
3 **21 NCAC 58B .0602 DUTIES OF THE PROJECT PROGRAM BROKER**

4 (a) ~~The broker designated by the developer of a time share project to be project broker shall assume responsibility~~
5 ~~for.~~ The program broker shall:

- 6 (1) ~~The display of the time share project certificate~~ the timeshare program registration certificate and
7 ~~the license certificates of the real estate brokers associated with or engaged on behalf of the~~
8 ~~developer at the project;~~
9 (2) ~~The determination of whether each licensee employed has complied with Rules .0503 and .0506 of~~
10 ~~Subchapter 58A; ensure that each broker affiliated with the program has complied with Rules .0503~~
11 ~~and .0504 of this Subchapter;~~
12 (3) ~~The notification to the commission of any change in the identity or address of the project or in the~~
13 ~~identity or address of the developer or marketing or managing entities at the project; notify the~~
14 ~~Commission of any change in the developer or material change pursuant to Rule .0104(b) of this~~
15 ~~Subchapter;~~
16 (4) ~~The deposit and maintenance of time share purchase or rental monies in a trust or escrow account~~
17 ~~until proper disbursement is made; and deposit and maintain the trust or escrow account of the~~
18 ~~timeshare program and the records pertaining thereto;~~
19 (5) ~~The proper maintenance of accurate~~ retain and maintain the timeshare program's records at the
20 ~~project including all records relating to the handling of trust monies at the project, records relating~~
21 ~~to time share sales and rental transactions and the project registration and renewal. pursuant to Rule~~
22 ~~.0401 of this Subchapter.~~

23 (b) ~~The project program broker shall review all contracts, public offering statements and other documents distributed~~
24 ~~to the timeshare program's purchasers ~~of time shares at the project to ensure that the documents comport with the~~~~
25 ~~requirements of the Time Share Act Article 4 of Chapter 93 of the North Carolina Statutes and the rules adopted by~~
26 ~~the ~~commission,~~ Commission, and to ensure that true and accurate documents have been given to the purchasers.~~

27 (c) ~~The project broker shall not permit time share sales to be conducted by any person not licensed as a broker and~~
28 ~~shall not delegate or assign his or her supervisory responsibilities to any other person, nor accept control of his or her~~
29 ~~supervisory responsibilities by any other person.~~

30 ~~(d)~~(c) ~~The project program broker shall notify the ~~commission~~ Commission in writing of any change in his or her~~
31 ~~status as project broker within ten days following the change. program broker within 10 days.~~

32
33 *History Note: Authority G.S. 93A-51; 93A-58(c);*

34 *Eff. February 1, 1988;*

35 *Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989;*

36 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~*

37 *May 1, 2018;*

1 21 NCAC 58H .0210 is amended with changes as published in 36:16 NCR 1415 as follows:

2
3 **21 NCAC 58H .0210 LIMITATION, DENIAL, WITHDRAWAL, OR TERMINATION OF**
4 **EDUCATION PROVIDER CERTIFICATION**

5 (a) The Commission may ~~limit, deny~~ deny, or withdraw certification of an education provider or suspend, revoke, or
6 deny renewal of the certification of an education provider upon finding that an education provider:

- 7 (1) was found by a court or government agency of competent jurisdiction to have violated any state or
8 federal law;
- 9 (2) made any false statements or presented any false, incomplete, or incorrect information in connection
10 with an application;
- 11 (3) failed to provide or provided false, incomplete, or incorrect information in connection with any
12 report the education provider is required to submit to the Commission;
- 13 (4) presented to its students or prospective students false or misleading information relating to its
14 instructional program, to the instructional programs of other institutions, or related to employment
15 opportunities;
- 16 (5) collected money from students but refused or failed to provide the promised instruction;
- 17 (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or 93A-38.5(e).
- 18 (7) refused at any time to permit authorized representatives of the Commission to inspect the education
19 provider's facilities or audit its courses;
- 20 (8) or education director violated the rules of this Subchapter or was disciplined by the Commission
21 under G.S. 93A-6;
- 22 (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate
23 license examination questions;
- 24 (10) failed to provide to the ~~Commission~~ Commission, within 30 days of the Commission's request
25 during an investigation or application process, a written plan describing the changes the education
26 provider made or intends to make in its instructional program including instructors, course materials,
27 methods of student evaluation, and completion standards to improve the performance of the
28 education provider's students on the license ~~examination within 30 days of the Commission's request~~
29 during an investigation or application process; examination;
- 30 (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- 31 (12) ~~Certificate of Authority was revoked, subject to a revenue suspension, or subject to administrative~~
32 ~~dissolution by the NC Secretary of State;~~ has had its Certificate of Authority revoked by the NC
33 Secretary of State pursuant to G.S. 55-15-30;
- 34 (13) has been subject to a revenue suspension or suspended by the NC Secretary of State pursuant to G.S.
35 105-230;
- 36 (14) has been administratively dissolved by the NC Secretary of State pursuant to G.S. 57D-6-06;
- 37 (13)(15) failed to utilize course materials pursuant to Rule .0205 of this Section;

1 ~~(14)~~(16)

failed to submit reports pursuant to Rule .0207 of this Section;

2 ~~(15)~~(17)

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

4 ~~(16)~~(18)

discriminated in its admissions policy or practice against any person on the basis of age,
5 sex, race, color, national origin, familial status, handicap status, or religion; or

6 ~~(17)~~(19)

refused or failed to comply with the provisions of this Subchapter.

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

9 (1) has an ownership interest in the education provider;

10 (2) is the education director; or

11 (3) is an instructor for an education provider.

12 (c) ~~The Commission shall withdraw an education provider's certification when its~~ If an education provider's annual
13 License Examination Performance Record fails to exceed 40 percent in each of the previous two license years.

14 ~~Following withdrawal, the education provider shall be ineligible to apply for certification for a period of one year.~~

15 years and the education provider was certified by the Commission during the entire two years, the Commission shall

16 limit the education provider's certification such that the education provider shall not offer prelicensing or postlicensing

17 [courses for a period of one year effective July 1 of the following license year. At the expiration of the one year

18 certification limitation, the limitation shall be removed from the education provider's certification if the education

19 provider completes the following during the year in which the certification was limited:] courses. Said limitation shall

20 be effective July 1st of the calendar year following the Commission's determination.

21 The education provider shall be eligible to have the limitation removed one year after the limitation is imposed

22 provided that the education provider has:

23 (1) provided a written plan describing the changes the education provider has made or intends to make
24 in its instructional program to improve the performance of the students on the license examination;

25 (2) [a consultation] consulted with a designated Commission staff member to review the written plan
26 and needs for improvement; and

27 (3) employed an instructor with no limitations to teach prelicensing and postlicensing courses.

28 (d) [An education provider whose certification has been limited that fails to complete the requirements to remove its

29 limitations under Paragraph (c) of this Rule may renew its certification but shall not offer prelicensing or postlicensing

30 courses until the requirements to remove the limitations on its certification are completed.] A limited education

31 provider is eligible to renew its certification; however, a renewal shall not remove the limitations provided under

32 Paragraph (c) of this Rule.

33 ~~(d)~~(e) When ownership of a certified education provider is transferred and the education provider ceases to operate

34 as the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All

35 courses shall be completed by the effective date of the transfer. The transferring owner shall report course

36 completion(s) to the Commission. The new entity shall obtain an original certification for each location where the

37 education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising

1 courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider
2 operations.

3

4 *History Note:* Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;

5 *Eff. July 1, 2017;*

6 *Amended Eff. July 1, 2022; July 1, 2021; July 1, 2020.*

7

8

1 21 NCAC 58H .0303 is amended with changes as published in 36:16 NCAC 1416 as follows:

2
3 **21 NCAC 58H .0303 ~~DENIAL OR LIMITATION, DENIAL, OR WITHDRAWAL OF INSTRUCTOR~~**
4 **APPROVAL**

5 (a) The Commission may ~~deny or limit, deny, or~~ withdraw approval of any instructor applicant or approved instructor
6 upon finding that the instructor or instructor applicant:

- 7 (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for
8 renewal of approval described in Rule .0306 of this Section at the time of application or at any time
9 during an approval period;
- 10 (2) made any false statements or presented any false, incomplete, or incorrect information in connection
11 with an application for approval or renewal of approval or any report that is required to be submitted
12 to the Commission;
- 13 (3) has failed to submit to the Commission any report, course examination, or video recording required
14 by these Rules;
- 15 (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update ~~course~~ course
16 in a manner consistent with the course materials;
- 17 (5) taught a Prelicensing course and failed to provide to the ~~Commission~~ Commission, within 30 days
18 of the Commission's request during an investigation or application process, a written plan describing
19 the changes the instructor has made or intends to make in his or her instructional program to improve
20 the performance of the instructor's students on the license ~~examination within 30 days of the~~
21 Commission's request during an investigation or application process; examination;
- 22 (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation
23 of state or federal law by a court of competent jurisdiction;
- 24 (7) has been found by a court or government agency of competent jurisdiction to have violated any state
25 or federal regulation prohibiting discrimination;
- 26 (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate
27 license examination ~~questions; questions except that the instructor or instructor applicant may sit~~
28 for their own initial examination for licensure;
- 29 (9) has failed to take steps to protect the security of end-of-course examinations;
- 30 (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule
31 or as otherwise requested by the Commission;
- 32 (11) engaged in any other improper, fraudulent, or dishonest conduct;
- 33 (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- 34 (13) has taught or conducted a course in any manner that discriminated against any person on the basis
35 of age, sex, race, color, national origin, familial status, handicap status, or religion; or
- 36 (14) failed to comply with any other provisions of this Subchapter.

1 (b) ~~The Commission shall withdraw an instructor's approval when their~~ If an instructor's annual License Examination
2 Performance Record fails to exceed 40 percent in each of the previous two license ~~years.~~ years and the instructor was
3 approved by the Commission during the entire previous two years. Following withdrawal, the instructor shall be
4 ineligible to apply for approval for a period of one year. ~~the Commission shall limit the instructor's approval such that~~
5 ~~the instructor shall not teach prelicensing or postlicensing~~ [courses for a period of one year effective July 1 of the
6 following license year. At the expiration of the one year approval limitation, the limitation shall be removed if the
7 instructor completes the following during the year in which the approval was limited:] courses. Said limitation shall
8 be effective July 1st of the calendar year following the Commission's determination.

9 The instructor shall be eligible to have the limitation removed one year after the limitation is imposed provided that
10 the instructor has:

11 (1) provided a written plan describing the changes the instructor has made or intends to make in his or
12 her instructional program to improve the performance of the students on the license examination;

13 (2) [a consultation] consulted with a designated Commission staff member to review the written plan
14 and needs for improvement; and

15 (3) attended the Commission's New Instructor Seminar.

16 (c) ~~[An instructor whose approval has been limited that fails to complete the requirements to remove the limitations~~
17 ~~under Paragraph (b) of this Rule may renew his or her instructor approval but shall not teach prelicensing or~~
18 ~~postlicensing courses until the requirements to remove the limitations on his or her instructor approval are completed.]~~

19 A limited instructor is eligible to renew an instructor approval; however, a renewal shall not remove the limitations
20 provided under Paragraph (b) of this Rule.

21
22 *History Note: Authority G.S. 93A-4; 93A-33; 93A-34;*

23 *Eff. July 1, 2017;*

24 *Amended Eff. July 1, 2022; July 1, 2021; July 1, 2020.*