

Burgos, Alexander N

Subject: FW: [External] RE: Real Estate Commission
Attachments: 21 NCAC 58A .0302.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, April 25, 2025 9:15 AM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Melissa A. Vuotto <Melissa@NCREC.GOV>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: FW: [External] RE: Real Estate Commission

Good morning,

It is my intention to recommend approval of the attached rule as revised at the May RRC meeting.

As always if you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.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 an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: Real Estate Commission
Attachments: 21 NCAC 58A .0302.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, April 25, 2025 9:15 AM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Melissa A. Vuotto <Melissa@NCREC.GOV>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: FW: [External] RE: Real Estate Commission

Good morning,

It is my intention to recommend approval of the attached rule as revised at the May RRC meeting.

As always if you have any questions please feel free to contact me.

William W. Peaslee
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Burgos, Alexander N

Subject: FW: [External] RE: Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, April 22, 2025 9:03 AM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: Real Estate Commission

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Tuesday, April 22, 2025 9:01 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: Real Estate Commission

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Good morning Bill,

Please proceed with the recommendation of the 7 rules at RRC's Thursday meeting. We will continue to address the remaining issues with 21 NCAC 58A .0302 and forward you a revised rule as soon as possible.

I will be available on WebEx for the RRC meeting if you should need anything additional from the Real Estate Commission.

Thank you for all your assistance!



Melissa Vuotto

Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission

21 NCAC 58A .0302 is amended with changes as published in 39:14 NCR 932 as follows:

21 NCAC 58A .0302 LICENSE APPLICATION AND FEE

(a) The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).

(b) An applicant shall update information provided in connection with a license application in writing to the Commission or submit a new application form that includes the updated information without request by the Commission to ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a broker or firm in accordance with G.S. 93A-6(b)(1). Upon the request of the Commission, an applicant shall submit updated information or provide additional information necessary to complete the application within 45 days of the request or the license application shall be canceled.

(c) The license application of an individual shall be canceled if the applicant fails to:

- (1) pass a scheduled license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or
- (2) appear for and take any scheduled examination without having the applicant's examination postponed or absence excused pursuant to Rule .0401 of this Subchapter.

(d) If an applicant withdraws their application for licensure after a Notice of Hearing is issued the Commission may prohibit the applicant from re-applying for licensure for a period of up to two years from the date of the application's withdrawal if the Commission determines that the applicant failed to show good cause for the application withdrawal. If an applicant seeks to withdraw their application for licensure after a Notice of Hearing is issued by Commission staff, an applicant shall file a Motion to Withdraw with the Commission that states the applicant's reason for withdrawal. The Commission shall issue an Order of Withdrawal and may prohibit the applicant from re-applying for licensure for a period of up to two years from the date of the Order if the applicant fails to show good cause for the withdrawal. For purposes of this Rule, good cause may include:

- (1) an incapacitating illness of the applicant or applicant's attorney;
- (2) a naturally occurring disaster; or
- (3) an undue hardship on the applicant.

(e) If an applicant is denied licensure following a hearing, the Commission ~~may~~ shall order that the applicant be prohibited from re-applying for licensure for a period of up to two years from the date of the application.

History Note: Authority G.S. 93A-4; 93A-6(b)(1); 93A-9; 93B-8.1(b5);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989;

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

Amended Eff. July 1, 2025; July 1, 2020.

Burgos, Alexander N

Subject: FW: [External] RE: Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, April 22, 2025 9:03 AM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: Real Estate Commission

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Tuesday, April 22, 2025 9:01 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: Real Estate Commission

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Good morning Bill,

Please proceed with the recommendation of the 7 rules at RRC's Thursday meeting. We will continue to address the remaining issues with 21 NCAC 58A .0302 and forward you a revised rule as soon as possible.

I will be available on WebEx for the RRC meeting if you should need anything additional from the Real Estate Commission.

Thank you for all your assistance!



Melissa Vuotto

Compliance Manager

Regulatory Affairs Division

North Carolina Real Estate Commission

Burgos, Alexander N

Subject: FW: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, April 21, 2025 2:53 PM
To: Kristen Fetter <kristen@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

From: Kristen Fetter <kristen@NCREC.GOV>
Sent: Monday, April 21, 2025 2:52 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

You don't often get email from kristen@ncrec.gov. [Learn why this is important](#)

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Bill,

Thanks very much for your response – and the helpful explanation.

No, we do not think there are interconnectivity issues at play between .0302 and the remainder of the rules.



Kristen L. Fetter
Legal Counsel, Assistant Director
Regulatory Affairs Division
North Carolina Real Estate Commission
Phone 919-875-3700
Web www.ncrec.gov **Email** kristen@ncrec.gov
P.O. Box 17100, Raleigh, NC 27619-7100
<https://ncrec.zoom.us/my/kristenfetter>



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Burgos, Alexander N

Subject: FW: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Monday, April 21, 2025 2:47 PM
To: Kristen Fetter <kristen@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

Hi Kristen,

Thank you for your email. Yes, I remember you. I hope you are well.

I do not know that I will have time to speak with you before the RRC meeting but I will do what I can to accommodate the request. Please be advised that any verbal communications between the agency and RRC counsel will be memorialized and publicly available pursuant to OAH policy.

In the meantime I will be recommending extension of rule 58A .0302 at the RRC meeting. It is too late to consider any additional revisions to the rule for Thursday's meeting.

It is my intention to recommend approval of the balance of the rules at Thursday's meeting unless your agency believes there are interconnectivity issues with rule 58A .0302. Is there any interconnectivity?

Thank you in advance for your prompt response. I look forward to working with you.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

From: Kristen Fetter <kristen@NCREC.GOV>
Sent: Monday, April 21, 2025 2:24 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Subject: [External] 21 NCAC 58A .0302 - NC Real Estate Commission

You don't often get email from kristen@ncrec.gov. [Learn why this is important](#)

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi Bill,

Hope that you had a nice Easter.

Do you have some time this afternoon or early tomorrow to discuss the concerns with this rule?

On a separate note – you may or may not remember me from many moons ago with Kat Haney, Joey Stansbury, et al at Greenshields?! Glad to see you at RRC!



Kristen L. Fetter
Legal Counsel, Assistant Director
Regulatory Affairs Division
North Carolina Real Estate Commission
Phone 919-875-3700
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P.O. Box 17100, Raleigh, NC 27619-7100
<https://ncrec.zoom.us/my/kristenfetter>



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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, April 17, 2025 12:14 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Subject: 21 NCAC 58H .0302

External sender <bill.peaslee@oah.nc.gov>

Make sure you trust this sender before taking any actions.
Good afternoon,

Thank you for your email.

As written, Paragraph (d) implies that there are two processes for withdrawing an application: one pre-Notice of Hearing and another post-Notice of Hearing.

In the former, the applicant may withdraw for any reason and by any vehicle the applicant chooses. As this language is permissive in nature, consider whether it is necessary as the Commission is not setting any requirements for this withdrawal.

The latter is the problem. The Commission has placed an incomplete process into the rules which creates an ambiguity. Upon what criteria will the Commission exercise its discretion on whether to grant the "Motion to Withdraw"?

The Commission is an executive branch agency. It does not have unfettered discretion and cannot regulate the public by whim, particularly regarding the pursuit of a livelihood. The issue here does not go to the applicant's fitness to have a license in which the Commission has great discretion in a, arguably, quasi-judicial capacity. The issue here is one of process, the terms of which must be clear and unambiguous. And who appoints the Commission members is irrelevant under Chapter 150B.

Paragraph (e) has a similar problem. Here, by employing the word "may," the Commission is exercising discretion which could result in the denial of the pursuit of a livelihood albeit temporary. It is unclear by what criteria this discretion will be exercised. The remedy here is to either change "may" to "shall" or state the criteria upon which the discretion will be exercised.

At this point, the Commission can either submit a revised rule, being cognizant of G.S. 150B-21.2(g), withdraw the rule, or decide the last revision is the final revision. In the latter case I will write an opinion for the May 2025 RRC meeting. What would you like to do?

Thank you for your consideration. I look forward to your response. As I understand some of your key decision-makers are unavailable, I will not expect a reply prior to the April RRC meeting.

Have a happy Easter.

Bill

William W. Peaslee
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1711 New Hope Church Road
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Burgos, Alexander N

From: Peaslee, William W
Sent: Monday, April 21, 2025 2:20 PM
To: Melissa A. Vuotto
Cc: Burgos, Alexander N
Subject: Real Estate Commission

Good afternoon

As you know there are seven rules for which I will be making a recommendation of approval. Rule 58A .0302 is outstanding.

Do you want the balance of the rules to be considered Thursday's RRC meeting or are there any interconnectivity issues for which you would want other rules extended as well.

Thank you in advance for your prompt reply.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
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(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 58H .0206
Attachments: 21 NCAC 58H .0206.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Tuesday, April 15, 2025 2:15 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Melissa A. Vuotto <Melissa@NCREC.GOV>
Subject: FW: [External] RE: 21 NCAC 58H .0206

Good afternoon,

It is my intention to recommend approval of the attached rule as revised.

As always if you have any questions please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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(984) 236-1939
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Burgos, Alexander N

Subject: FW: [External] RE: 21 NCAC 58H .0206
Attachments: 21 NCAC 58H .0206.docx

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Tuesday, April 15, 2025 10:33 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: 21 NCAC 58H .0206

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Attached is revised language for 21 NCAC 58H .0206. Please let me know if you have any further questions.

Thank you,



Melissa Vuotto
Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission

21 NCAC 58H .0206 is amended with changes as published in 39:14 NCR 934 as follows:

21 NCAC 58H .0206 ADVERTISING AND RECRUITMENT ACTIVITIES

(a) ~~Any education provider utilizing its License Examination Performance Record or Annual Summary Report for advertising or promotional purposes shall only use the most recent annual License Examination Performance Record or Annual Summary Report as published on the Commission's website in a manner that is not misleading or false. An education provider or instructor shall not advertise or otherwise make available any License Examination Performance Record or license examination pass rates or completion rates, nor reference or publish the pass rates of other education providers or instructors except as published on the Commission's website or as provided by this Subchapter.~~

(b) Education providers shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that education provider or acquisition of a real estate license.

(c) Education providers shall not use endorsements or recommendations of any person or organization for advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Education providers shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or association.

(e) Education providers may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(f) ~~[Instructional time and materials shall be utilized]~~ Education providers shall utilize instructional hours and materials for instructional purposes only. For purposes of this Rule, instructional purpose means any combination of distance education, synchronous distance learning, and in-person methods of real estate instruction on course topics or materials.

(g) All Continuing Education course advertisements and promotional materials shall specify the number of Continuing Education credit hours to be awarded by the Commission for the course.

(h) The education provider's name shall be used in all publications and advertising.

*History Note: Authority G.S. 93A-4; 93A-33;
 Eff. July 1, 2017;
 Amended Eff. July 1, 2025; July 1, 2020.*

Burgos, Alexander N

Subject: FW: 21 NCAC 58H .0206

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, April 11, 2025 9:25 AM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 21 NCAC 58H .0206

Good morning.

Thank you for the explanation of the above captioned rule. Consider whether “instructional hours,” which is a defined term, as opposed to “instructional time,” would be an improvement.

Also, the RRC style guide prefers active voice. “Education providers shall (not) ...”

Either way I would recommend approval.

Thank you.

William W. Peaslee
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Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC
Attachments: 21 NCAC 58A .0302.docx; 21 NCAC 58H .0206.docx

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Thursday, April 10, 2025 11:19 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

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Good morning,

Attached is revised rule text for 21 NCAC 58A .0302 and 21 NCAC 58H .0206 in response to the change requests. Please let me know if you have any further concerns.

Thank you,



Melissa Vuotto
Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission

21 NCAC 58A .0302 is amended with changes as published in 39:14 NCR 932 as follows:

21 NCAC 58A .0302 LICENSE APPLICATION AND FEE

(a) The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).

(b) An applicant shall update information provided in connection with a license application in writing to the Commission or submit a new application form that includes the updated information without request by the Commission to ensure that the information provided in the application is current and accurate. ~~Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a broker or firm in accordance with G.S. 93A-6(b)(1).~~ Upon the request of the Commission, an applicant shall submit updated information or provide additional information necessary to complete the application within 45 days of the request or the license application shall be canceled.

(c) The license application of an individual shall be canceled if the applicant fails to:

- (1) pass a scheduled license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or
- (2) appear for and take any scheduled examination without having the applicant's examination postponed or absence excused pursuant to Rule .0401 of this Subchapter.

(d) ~~If an applicant withdraws~~ An applicant may withdraw their application for licensure [after] at any time prior to the issuance of a Notice of Hearing in the matter. [is issued the Commission may prohibit the applicant from re-applying for licensure for a period of up to two years from the date of the application's withdrawal if the Commission determines that the applicant failed to show good cause for the application withdrawal.] If an applicant wishes to withdraw their application for licensure after a Notice of Hearing is issued by Commission staff, an applicant shall file a Motion to Withdraw with the Commission.

(e) If an applicant is denied licensure following a hearing, the Commission may order that the applicant be prohibited from re-applying for licensure for a period of up to two years from the date of the application.

History Note: Authority G.S. 93A-4; 93A-6(b)(1); 93A-9; 93B-8.1(b5);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989;

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

Amended Eff. July 1, 2025; July 1, 2020.

21 NCAC 58H .0206 is amended with changes as published in 39:14 NCR 934 as follows:

21 NCAC 58H .0206 ADVERTISING AND RECRUITMENT ACTIVITIES

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(b) Education providers shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that education provider or acquisition of a real estate license.

(c) Education providers shall not use endorsements or recommendations of any person or organization for advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Education providers shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or association.

(e) Education providers may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(f) Instructional time and materials shall be utilized for instructional purposes only. For purposes of this Rule, instructional purpose means any combination of distance education, synchronous distance learning, and in-person methods of real estate instruction on course topics or materials.

(g) All Continuing Education course advertisements and promotional materials shall specify the number of Continuing Education credit hours to be awarded by the Commission for the course.

(h) The education ~~provider~~ provider's name shall be used in all publications and advertising.

*History Note: Authority G.S. 93A-4; 93A-33;
 Eff. July 1, 2017;
 Amended Eff. July 1, 2025; July 1, 2020.*

Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Thursday, April 10, 2025 4:37 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

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Below are the responses from our General Counsel, Janet Thoren.

Thank you,



Melissa Vuotto
Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Thursday, April 10, 2025 3:52 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

Warning: Unusual link

This message contains an unusual link, which may lead to a malicious site. Confirm the message is safe before clicking any links.

Good afternoon,

Rule .0302, Line 22: What criteria will the Commission use in exercising its discretion in determining whether to grant the "Motion"? Or does the Commission mean a "Notice"? If the Commission means "notice", what is the difference between withdrawing before or after the Notice of Hearing? In other words, if an applicant can withdraw their application at any time for any reason, why make a distinction? **The Commission has dealt with a number of applicants who have requested a hearing, then requested multiple continuances. When the Commission denies a continuance, the applicant is currently able to immediately reapply and start the process again, effectively getting their continuance despite the Commission's decision not to delay the matter further. Going through the entire process and preparing for hearing, paying a court reporter, etc. only to have an applicant withdraw on the day of**

the hearing is a waste of the Commission's time and resources. Commission members are appointed by the governor and General Assembly and tasked in their judicial capacity with determining motions, hearing cases, and making findings of fact, conclusions of law, and entering orders. Motion practice is a part of their judicial function, not their legislative or rulemaking function. The purpose of this rule is to make it clear to an applicant that they must file a motion to withdraw after the formal Notice of Hearing required under GS 15B has been served on the Applicant. That is the point at which the board would like to remove the applicant's ability to freely withdraw their application without the board granting a motion to withdraw. The board would weigh the evidence presented by the applicant supporting their motion and determine if that evidence warrants allowing the withdrawal.

Lines 21-23: Perhaps it would help me understand what activities the Commission is trying to prevent with this paragraph. At first I thought the Commission was trying to limit "instructional time" to certain substantive but undefined classes/topics. As revised the Commission seems to be requiring instructional time being devoted to instruction. Why is that necessary? What else would instructional time be used for? **CE providers often have sponsors provide food and beverages and the sponsors want time to promote their products or services. The Commission does not allow any promotional material to be presented during the instructional time, which must be used only for instruction on the course materials. We thought the issue was with defining "substantive" and revised the rule to eliminate that word. We may have misunderstood the objection. Class materials are approved by the Commission under another rule, and those materials are the ones we refer to here as the classes/topics.**

Thank you for your prompt response.

Bill

William W. Peaslee
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1711 New Hope Church Road
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(984) 236-1939
Bill.Peaslee@oah.nc.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 an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, April 9, 2025 3:51 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

Hi Melissa,

While the RRC can only grant the extension, I would not oppose it if need be. These appear to be simple changes. Also please consider whether any of the rules for which I am recommending approval are connected to those which would remain under consideration. If they are, then those rules should be extended as well.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Wednesday, April 9, 2025 3:47 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

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Thank you, Bill.

I will respond as soon as possible to the additional questions. If these are remedied by COB tomorrow, will they also go to the April RRC meeting? If our Executive Director decides proceed with the extended period of review to the May RRC meeting, is that still an option?



Melissa Vuotto
Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, April 9, 2025 3:20 PM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

Warning: Unusual sender <bill.peaslee@oah.nc.gov>

You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Good afternoon,

21 NCAC 58A .0302 as revised:

Line 19: What criteria will the Commission use in exercising its discretion whether to permit withdraw the application?

21 NCAC 58H .0206 as revised:

Line 23: Define “substantive course topics.” Is there a rule which establishes the courses?

Please respond by COB Thursday, April 10, 2025.

Thank you.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC
Attachments: 21 NCAC 58H .0209.docx; 21 NCAC 58H .0302.docx; 21 NCAC 58H .0416.docx; 21 NCAC 58A .0106.docx; 21 NCAC 58A .0502.docx; 21 NCAC 58H .0204.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Wednesday, April 9, 2025 3:15 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Melissa A. Vuotto <Melissa@NCREC.GOV>
Subject: FW: [External] RE: NC Real Estate Commission RFC

Good afternoon,

It is my intention to recommend approval of the attached revised rules at the April RRC meeting.

As always if you have any questions or concerns please feel free to contact me.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.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 an authorized state official.

Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC
Attachments: REC Response to RFC.docx; 21 NCAC 58H .0206.docx; 21 NCAC 58H .0209.docx; 21 NCAC 58H .0302.docx; 21 NCAC 58H .0416.docx; 21 NCAC 58A .0106.docx; 21 NCAC 58A .0302.docx; 21 NCAC 58A .0502.docx; 21 NCAC 58H .0204.docx

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Tuesday, April 8, 2025 10:49 AM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

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Good morning Bill,

Attached are REC's responses to the request for changes along with the rule text Word files for your review. Due to the additional language added in 21 NCAC 58A .0302 to define 'good cause,' REC Staff will be presenting the revised language to our board on April 23rd for their input . I know you are preparing for RRC's April 24th meeting, but any thoughts or additional recommendations to 21 NCAC 58A .0302 would be greatly appreciated in advance of that meeting.

Please let me know if you have any additional concerns or requests after reviewing the revised rule text.

Thank you for all your assistance!



Melissa Vuotto
Rulemaking Coordinator
Regulatory Affairs Division
North Carolina Real Estate Commission
Phone 919-875-3700, ext. 142
Web www.ncrec.gov **Email** melissa@ncrec.gov
P.O. Box 17100, Raleigh, NC 27619-7100



North Carolina State Bar Certified Paralegal

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REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58A .0106

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*Lines 6-7 What does this line accomplish that is not already addressed in the preceding sentence? **PREVIOUSLY, THE RULE ONLY REQUIRED BROKERS TO DELIVER DOCUMENTS WITHIN 3 DAYS AT THE TIME OF EXECUTION. WITH THE NEW LANGUAGE IN LINES 6-7, A BROKER MUST DELIVER DOCUMENTS AT ANY POINT, INCLUDING THE TIME OF EXECUTION AND A SUBSEQUENT REQUEST.***

*Line 8: Change "may" to "shall" or state the criteria upon which the discretion will be made and by whom. **REVISED THE LANGUAGE TO 'SHALL'***

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58A .0302

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Lines 7-9: Explain why this sentence is necessary pursuant to G.S.150B-21.9(a)(3). It appears to be only informational in nature. **LINES 5-7 REQUIRE AN APPLICANT TO UPDATE ITS APPLICATION AUTOMATICALLY. 93A-6(B)(1) ALLOWS FOR DISCIPLINE WHEN A LICENSE IS PROCURED THROUGH A FALSE OR FRAUDULENT REPRESENTATION WHICH COULD DEVELOP IF AN APPLICANT FAILS TO UPDATE THEIR APPLICATION. THIS RULE DETAILS THE DIFFERENCE BETWEEN WHEN AN APPLICANT SHOULD VOLUNTARILY UPDATE THEIR APPLICATION (ALWAYS) AND WHEN THE COMMISSION ASKS FOR ADDITIONAL INFORMATION RELATED TO THE APPLICATION (45 DAYS TO RESPOND).**

DELETED LINES 7-9.

Line 19: "Good cause" is ambiguous. **REVISED LANGUAGE TO DEFINE 'GOOD CAUSE'**

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58A .0502

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

*Page 1, Line 6-7: Consider moving the definition of principal provided on page 2, line 14-16 to here. **MOVED TO NEW LOCATION.***

*Page 1, Line 8: Define "conversion." I understand that G.S. 55-11A-04 is cited in the history note. Pursuant to 26 NCAC 02C .0406 the history note is to cite the authority for the rule and is not a substitution for definitions in the rule. **REVISED LANGUAGE.***

*Page 2, Line 19: Is the term "qualifying broker" defined in any rule? If not, qualified pursuant to what rule? **CLARIFIED LANGUAGE ON PAGE 2, LINE 21 TO INCLUDE A CROSS-REFERENCE TO THE DEFINITION OF 'QUALIFYING BROKER' IN PAGE 2, LINE 23.***

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

William W. Peaslee
Commission Counsel

Date submitted to agency: March 22, 2025

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58H .0204

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 1, Line 23: This line is unclear. Consider, if it meets the agency's intentions: "...registration fee in the absence of a right to a full refund." **REVISED LANGUAGE.**

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58H .0206

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 1, Lines 6-9: Explain with specificity the authority to the Commission to adopt Paragraphs (a)-(c). A mere citation to a statute will not be satisfactory.

THIS IS AN ADDITIONAL STANDARD DEEMED NECESSARY TO ASSURE THE CONDUCT OF PROGRAMS AND OPERATIONS SERVE THE PUBLIC BY REQUIRING EDUCATION PROVIDERS TO PUBLISH ONLY INFORMATION THAT IS ACCURATE AND NOT MISLEADING.

GS 93A-34(c)(11) “The education provider does not utilize advertising of any type with is false or misleading...”

GS 93A-34(c)(12) “Such additional standards as may be deemed necessary by the Commission to assure the conduct of adequate instructional programs and the operation of education providers in a manner which will best serve the public interest.”

Page 1, Line 21: Define “instructional purposes.” It seems like the Commission is prohibiting something. What is it? **REVISED LANGUAGE AND INCLUDED A DEFINITION OF ‘INSTRUCTIONAL PURPOSE’**

Page 1, Line 24: Should this be education “provider’s” name? If not, who is the “education provider”? **REVISED LANGUAGE.**

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

William W. Peaslee
Commission Counsel

Date submitted to agency: March 22, 2025

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58H .0209

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 1, Line 11: Isn't the addition of "education provider" redundant given the language in (b)(1)? **REVISED LANGUAGE.**

Page 1, Line 18: Certified by whom? Consider: Is "certification" the best word? Isn't it more a statement? **REVISED LANGUAGE.**

Page 1, Line 29: The paragraph instructs the education provider but not the public education provider. **REVISED LANGUAGE.**

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58H .0302

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 1, Line 15: Requiring an applicant to “demonstrate” possession of reputation and character is ambiguous. What forms of proof does the Commission accept? **REVISED LANGUAGE.**

Page 1, Line 15: Define “good reputation and character.” **REVISED LANGUAGE.**

Page 1, Line 21: Add “Commission’s” prior to New Instructor Seminar. **REVISED LANGUAGE.**

Page 1, Line 34: How is this demonstrated? **REVISED LANGUAGE.**

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: N.C. Real Estate Commission

RULE CITATION: 21 NCAC 58H .0416

DEADLINE FOR RECEIPT: April 2, 2025

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 email the reviewing attorney to inquire concerning the staff recommendation.

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

Page 1, Line 4: Why is this paragraph necessary pursuant to G.S. 150B-21.9(a)(3) when G.S. 93A-35(a) appears to state the same thing? **GS 93A-35(a) RELATES TO THE EXPIRATION OF EDUCATION PROVIDER CERTIFICATIONS. 21 NCAC 58H .0416 RELATES TO THE EXPIRATION OF COURSE APPROVALS. AN EDUCATION PROVIDER MUST BE CERTIFIED AND OBTAIN COURSE APPROVALS PRIOR TO OFFERING A COURSE TO THE PUBLIC.**

Page 1, Line 5: Consider whether "certify" is the appropriate word. **REVISED LANGUAGE.**

Page 1, Line 6-7: Consider whether "authority" would be superior to "permission." **REVISED LANGUAGE.**

Page 1, Line 12: Identify with specificity the authorization to establish a "materials fee." **93A-3(f) ALLOWS THE COMMISSION TO CHARGE FEES FOR PUBLICATIONS AND PROGRAMS. THE UPDATE COURSE IS A COURSE CREATED BY THE COMMISSION AND THE \$100 MATERIALS FEE COVERS THE PROGRAM'S COST.**

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

William W. Peaslee
Commission Counsel

Date submitted to agency: March 22, 2025

21 NCAC 58A .0106 is amended with changes as published in 39:14 NCR 932 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 three days of the broker's receipt of the executed document. A broker shall also deliver a copy of said documents within three days of receipt of a request by the customer or client.

(b) A broker ~~may~~ shall 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, 2017; July 1, 2005; July 1, 2001; October 1, 2000; May 1, 1990; July 1, 1989; February 1, 1989;

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

Amended Eff. July 1, 2025; July 1, 2018.

21 NCAC 58A .0302 is amended with changes as published in 39:14 NCR 932 as follows:

21 NCAC 58A .0302 LICENSE APPLICATION AND FEE

(a) The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).

(b) An applicant shall update information provided in connection with a license application in writing to the Commission or submit a new application form that includes the updated information without request by the Commission to ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a broker or firm in accordance with G.S. 93A-6(b)(1). Upon the request of the Commission, an applicant shall submit updated information or provide additional information necessary to complete the application within 45 days of the request or the license application shall be canceled.

(c) The license application of an individual shall be canceled if the applicant fails to:

- (1) pass a scheduled license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or
- (2) appear for and take any scheduled examination without having the applicant's examination postponed or absence excused pursuant to Rule .0401 of this Subchapter.

(d) If an applicant withdraws An applicant may withdraw their application for licensure at any time prior to the issuance of a Notice of Hearing in the matter. [after] After a Notice of Hearing is issued [the] by Commission staff, an applicant may not withdraw their application for licensure without permission of the Commission. If the Commission grants a request to withdraw, it may prohibit the applicant from re-applying for licensure for a period of up to two years from the date of the [application's] withdrawal if the Commission determines that the applicant failed to show good cause for the application withdrawal. For purposes of this Rule, good cause shall include:

- (1) an incapacitating illness of the applicant or applicant's attorney;
- (2) a naturally occurring disaster; or
- (3) an undue hardship on the applicant.

(e) If an applicant is denied licensure following a hearing, the Commission may order that the applicant be prohibited from re-applying for licensure for a period of up to two years from the date of the application.

History Note: Authority G.S. 93A-4; 93A-6(b)(1); 93A-9; 93B-8.1(b5);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989;

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

Amended Eff. July 1, 2025; July 1, 2020.

21 NCAC 58A .0502 is amended with changes as published in 39:14 NCR 932 as follows:

21 NCAC 58A .0502 FIRM LICENSING

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. A business entity shall not be permitted to apply for or obtain a firm license when a principal of the firm has a pending disciplinary case where probable cause has been found by the Commission. For purposes of this Rule, the term "principal," when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner, or who holds any other comparable position.

(b) An entity that changes its business form ~~other than by conversion in a manner not described in G.S. 55 Article 11A~~ shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes shall not be required to apply for a new license. However, such converted entity shall provide the information required by this Rule in writing to the Commission within 10 days of the conversion and shall include the duplicate license fee pursuant to Rule .0101(c) of this Subchapter.

(c) Firm license application forms shall be available on the Commission's website or upon request to the Commission and shall require the applicant to set forth:

- (1) the legal name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
- (6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;
- (7) the name, real estate license number, and signature of the proposed qualifying broker for the firm;
- (8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge designation form described in Rule .0110(f) of this Subchapter for each proposed broker-in-charge;
- (9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (10) any past revocation, suspension, or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- (11) any pending or previous professional license disciplinary action against the firm, its principals, or any proposed broker-in-charge;

~~(11)-(12)~~if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties

1 of the partners, and the name of each partner. If a partner is an entity rather than a natural person,
2 the name of each officer, partner, or manager of that entity, or any entity therein;
3 ~~(12)-(13)~~if a limited liability company, a description of the applicant entity, including a copy of its written
4 operating agreement or if no written agreement exists, a written description of the rights and duties
5 of the managers, and the name of each manager. If a manager is an entity rather than a natural
6 person, the name of each officer, partner, or manager of that entity, or any entity therein;
7 ~~(13)-(14)~~if a business entity other than a corporation, limited liability company, or partnership, a description
8 of the organization of the applicant entity, including a copy of its organizational documents
9 evidencing its authority to engage in real estate brokerage;
10 ~~(14)-(15)~~if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued
11 by the NC Secretary of State and an executed consent to service of process and pleadings; and
12 ~~(15)-(16)~~any other information required by this Rule.

13 (d) When the authority of a business entity to engage in the real estate business is unclear in the application or in law,
14 the Commission shall require the applicant to declare in the firm license application that the applicant's organizational
15 documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses
16 of affiliated persons, and similar information. ~~For purposes of this Rule, the term "principal," when it refers to a person~~
17 ~~or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director,~~
18 ~~manager, member, partner, or who holds any other comparable position.~~

19 (e) After filing a firm license application with the Commission, the entity shall be licensed provided that it:

20 (1) has one principal holding a broker license on active status in good standing who will serve as the
21 qualifying ~~broker; as defined by this Rule;~~ and
22 (2) employs and is directed by personnel licensed as a broker in accordance with this Chapter.

23 The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker
24 of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be
25 an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business
26 entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The
27 natural person who is qualifying broker shall assure to the Commission the performance of the qualifying broker's
28 duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

29 (f) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers,
30 members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless
31 of whether they are engaged in furthering the business of the licensed entity.

32 (g) The qualifying broker of a business entity shall assume responsibility for:

33 (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office
34 of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;
35 (2) renewing the real estate broker license of the entity;

- (3) retaining the firm's current pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
 - (4) notifying the Commission of any change of business address or legal or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
 - (5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;
 - (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;
 - (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time records are required to be retained by Rule .0108 of this Subchapter;
 - (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and
 - (9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.
- (h) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.
- (i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. ~~55-11A-04~~; 93A-3(c); 93A-4; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. July 1, 2017; July 1, 2015; July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018~~; May 1, 2018;

21 NCAC 58H .0204 is amended with changes as published in 39:14 NCR 934 as follows:

21 NCAC 58H .0204 POLICIES AND PROCEDURES DISCLOSURE

(a) An education provider shall publish ~~to prospective students and provide to all students upon enrollment~~ a Policies and Procedures ~~Disclosure~~. Disclosure for prospective students.

(b) In addition to the information required by G.S. 93A-34(c)(5), an education provider's Policies and Procedures Disclosure shall include:

- (1) the name and address of the Commission, along with a statement that any complaints concerning the education provider or its instructors should be directed to the Commission;
- (2) a statement that the education provider shall not discriminate in its admissions policy or practice against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion;
- (3) the education provider's most recent annual License Examination Performance Record and the Annual Summary Report data as published by the Commission;
- (4) the all-inclusive tuition and fees for each particular course;
- (5) a written course cancellation and refund policy;
- (6) a list of all course and reference materials required;
- (7) the course completion requirements pursuant to Rule .0207 of this Section and 21 NCAC 58A .1705; ~~and~~
- (8) a statement referring the student to the Commission's website for the education provider's pass rate; ~~and~~
- ~~(8)(9)~~ a signed certification acknowledging the student's receipt of the Policies and Procedures Disclosure prior to payment of any portion of tuition or registration fee without the right to a full refund. fee.

(c) In addition to the information required in Paragraph (b) of this Rule and G.S. 93A-34(c)(5), an education provider offering distance education, synchronous distance learning, or blended learning courses shall include:

- (1) a list of hardware and software or other equipment necessary to offer and complete the course;
- (2) the contact information for technical support; and
- (3) a description of how the end-of-course examination shall be administered to the student.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;
Eff. July 1, 2017;
Amended Eff. July 1, 2025; January 1, 2021; July 1, 2020.

21 NCAC 58H .0206 is amended with changes as published in 39:14 NCR 934 as follows:

21 NCAC 58H .0206 ADVERTISING AND RECRUITMENT ACTIVITIES

(a) ~~Any education provider utilizing its License Examination Performance Record or Annual Summary Report for advertising or promotional purposes shall only use the most recent annual License Examination Performance Record or Annual Summary Report as published on the Commission's website in a manner that is not misleading or false. An education provider or instructor shall not advertise or otherwise make available any License Examination Performance Record or license examination pass rates or completion rates, nor reference or publish the pass rates of other education providers or instructors except as published on the Commission's website or as provided by this Subchapter.~~

(b) Education providers shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that education provider or acquisition of a real estate license.

(c) Education providers shall not use endorsements or recommendations of any person or organization for advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Education providers shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or association.

(e) Education providers may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(f) Instructional time and materials shall be utilized for instructional purposes only. For purposes of this Rule, instructional purpose means any combination of distance education, synchronous distance learning, and in-person methods of real estate instruction on substantive course topics or materials.

(g) All Continuing Education course advertisements and promotional materials shall specify the number of Continuing Education credit hours to be awarded by the Commission for the course.

(h) The education ~~provider~~ provider's name shall be used in all publications and advertising.

*History Note: Authority G.S. 93A-4; 93A-33;
 Eff. July 1, 2017;
 Amended Eff. July 1, 2025; July 1, 2020.*

21 NCAC 58H .0209 is amended with changes as published in 39:14 NCR 935 as follows:

**21 NCAC 58H .0209 ~~EXPIRATION AND RENEWAL~~ RENEWAL AND EXPIRATION OF
EDUCATION PROVIDER CERTIFICATION**

(a) All education provider and public education provider certifications shall expire annually on June 30 following certification.

(b) An education provider or public education provider seeking renewal of its certification shall submit an electronic application which shall include the following information:

(1) the education provider or public education provider's:

(A) name;

(B) [education provider] number;

(C) mailing address;

(D) telephone number; and

(E) website address, if applicable; and

(2) the education director's name and signature;

(3) all approved real estate courses offered;

(4) a copy of the education provider's Policies and Procedures Disclosure, if applicable; and

(5) a certification statement that ~~the course meets all courses meet~~ the requirements of this Subchapter.

(c) Public education providers shall not be charged any fees to renew the education provider certification or course renewal.

(d) The education provider certification renewal fee shall be one hundred dollars (\$100.00) for each education provider location.

~~(e) The renewal fee for an education provider to offer a Prelicensing or Postlicensing course at any of its locations during the licensed period shall be twenty five dollars (\$25.00) per Prelicensing or Postlicensing course.~~

~~(f) The renewal fee for an education provider to renew an approved continuing education elective course shall be fifty dollars (\$50.00) per elective course.~~

~~(g) The materials fee for an education provider to renew an Update course approval shall be one hundred dollars (\$100.00).~~

~~(h)~~(e) If an education provider or public education provider certification has expired, the education provider or public education provider shall submit an application for original certification pursuant to Rule .0202 of this Subchapter.

~~(i)~~(f) Commission approval of all continuing education courses shall expire on June 30. In order to obtain approval for an expired continuing education course, an education provider shall submit an original application pursuant to Rule .0401 of this Subchapter.

~~(j)~~(g) If an education provider transfers an aggregate of 50 percent or more of the ownership interest, the education provider shall notify the Commission in writing within 10 days of the transfer.

~~(k) On or before July 1, 2021, all education providers shall modify approved courses to comply with this Subchapter.~~

1 *History Note:* *Authority G.S. 93A-3(f); 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36; 93A-38.5(d);*
2 *Eff. July 1, 2017;*
3 *Amended Eff. July 1, 2025; January 1, 2022; January 1, 2021; July 1, 2020; July 1, 2019.*

21 NCAC 58H .0302 is amended with changes as published in 39:14 NCR 935 as follows:

21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR INSTRUCTOR APPROVAL

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's website that shall require the instructor applicant to indicate the course(s) for which approval is being sought and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number, if any, assigned by Commission;
- (3) criminal and occupational licensing history, including any disciplinary actions;
- (4) education background, including specific real estate education;
- (5) experience in the real estate business;
- (6) real estate teaching experience, if any;
- (7) signed Consent to Service of Process and Pleadings for nonresident applicants; and
- (8) signature.

(b) An instructor applicant shall ~~demonstrate that the instructor applicant possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:~~ have:

- (1) a North Carolina real estate broker license that is not on provisional status;
- (2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1703;
- (3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education;
- (4) completed the Commission's New Instructor Seminar within the previous six months; and
- (5) within the previous seven years has either:
 - (A) two years full-time experience in real estate brokerage with at least one year in North Carolina;
 - (B) three years of instructor experience at a secondary or post-secondary level;
 - (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
 - (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate transactions or representation of real estate brokers or firms.
- (6) [pass] passed an instructor approval examination created by the Commission and based on the North Carolina License Law and Commission Rules prior to registering for the New Instructor Seminar.

(c) In order to complete the New Instructor Seminar, a broker shall:

- (1) attend at least ninety percent of all scheduled hours; and
- (2) ~~demonstrate the ability to~~ teach a 15-minute block of a single Prelicensing topic in a manner consistent with the course materials.

(d) Prior to teaching any Update course, an approved instructor shall ~~take complete~~ the Commission's annual Update Instructor Seminar pursuant to Paragraph (c) of this Rule for the current license period. ~~period and attend at least 90~~

~~percent of all scheduled hours.~~ The Update Instructor Seminar shall not be used to meet the requirement in Rule .0306(b)(4) of this Section.

History Note: Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;
Eff. July 1, 2017;
Amended Eff. July 1, 2025; July 1, 2023; July 1, 2020; July 1, 2019.

21 NCAC 58H .0416 is adopted with changes as published in 39:14 NCR 936 as follows:

21 NCAC 58H .0416 RENEWAL AND EXPIRATION OF COURSE APPROVAL

(a) Approval of real estate education courses shall expire annually on June 30 following initial course approval.

(b) An education provider or public education provider seeking to renew a course approval shall ~~certify that they are~~
be the owner of the course material or, if not the course owner, submit written ~~permission~~ authorization from the
course owner to use the course materials. Written ~~permission authorization of the course owner~~ shall be signed and
dated by the course owner no earlier than six months prior to the submission of the course renewal.

(c) The fee for an education provider to renew a course approval shall be:

- (1) twenty-five dollars (\$25.00) per Prelicensing or Postlicensing Course;
- (2) fifty dollars (\$50.00) per continuing education elective course; and
- (3) one hundred dollars (\$100.00) materials fee to offer the Update Course.

(d) An education provider or public education provider shall submit an application for original course approval
pursuant to Rule .0401 of this Subchapter if the course approval:

- (1) fails to renew pursuant to this Rule; or
- (2) has renewed twice since the initial course approval.

History Note: *Authority G.S. 93A-3(f); 93A-4; 93A-33; 93A-35; 93A-38.5(d);*
Eff. July 1, 2025.

Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, April 4, 2025 8:22 AM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: [External] RE: NC Real Estate Commission RFC

Thank you for your email. I will inform the RRC.

Have a good weekend.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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Burgos, Alexander N

Subject: FW: [External] RE: NC Real Estate Commission RFC
Attachments: 2025.04.02, Period of Review Extension.pdf

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Wednesday, April 2, 2025 1:09 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] RE: NC Real Estate Commission RFC

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Good afternoon Bill,

The Real Estate Commission has been reviewing the change requests and would like to request additional time to respond. Also, our next Commission meeting happens to be the day before the RRC April 24th meeting which does not allow us enough time to have finalized rules back to you. I'm hoping to have revised rules and responses to your questions soon so that the rules are finalized well in advance of RRC's May 29th meeting.

Please let me know if you have any questions or if there's anything further I can provide.

Thank you,



Melissa Vuotto
Compliance Manager
Regulatory Affairs Division
North Carolina Real Estate Commission



NORTH CAROLINA REAL ESTATE COMMISSION

Miriam J. Baer
Executive Director

Leonard C. Elder
Director of Education & Licensing

Janet B. Thoren
Director of Regulatory Affairs

April 2, 2025

Via Electronic Mail Only: Bill.Peaslee@oah.nc.gov

William W. Peaslee
Rules Review Commission Counsel
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609

Re: Request for an Extension on the Period of Review
21 NCAC 58A .0106, .0302, .0502; 21 NCAC 58H .0204, .0206, .0209, .0302, and .0416

Dear Mr. Peaslee:

The Real Estate Commission respectfully requests an extension on the review period for the permanent rules submitted to the Rules Review Commission to its next meeting, May 29, 2025. This extension is necessary to allow sufficient time to address the requested technical changes thoroughly.

We appreciate your consideration.

Sincerely,

/s/ Melissa Vuotto

Melissa Vuotto
Rulemaking Coordinator

/mv

Burgos, Alexander N

From: Melissa A. Vuotto <Melissa@NCREC.GOV>
Sent: Monday, March 24, 2025 8:33 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: [External] RE: NC Real Estate Commission RFC

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Good morning,

The requests for change have been received. I will have our legal counsel review and send our responses as soon possible.

Thank you,



Melissa Vuotto

Rulemaking Coordinator
Regulatory Affairs Division
North Carolina Real Estate Commission

Phone 919-875-3700, ext. 142

Web www.ncrec.gov **Email** melissa@ncrec.gov

P.O. Box 17100, Raleigh, NC 27619-7100



North Carolina State Bar Certified Paralegal

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Saturday, March 22, 2025 11:50 AM
To: Melissa A. Vuotto <Melissa@NCREC.GOV>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: NC Real Estate Commission RFC

Warning: Unusual sender <bill.peaslee@oah.nc.gov>

You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Good morning,

I am the Rules Review Commission attorney assigned to review your rules.

Attached please find the request for changes for the NCREC's rule before the RRC for review.

I look forward to working with you.

As always, if you have any questions please feel free to contact me.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
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(984) 236-1939
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