21 NCAC 58A .1801 is amended with changes as published in 41:2 NCR 229 as follows:

SECTION .1800 - LIMITED ~~NONRESIDENT~~ COMMERCIAL ~~LICENSING~~ LICENSE

21 NCAC 58A .1801 GENERAL PROVISIONS

(a) Any person resident in a state or territory of the United States other than North Carolina may perform the acts or services of a real estate broker in North Carolina in transactions involving commercial real estate if ~~said~~ the person first applies for and obtains a limited ~~nonresident~~ commercial ~~real estate broker~~ license as provided in this Section.

(b) Corporations, business associations and entities shall be ineligible for licensure under this Section.

(c) Nothing in this Section shall be construed to limit the rights of any person duly licensed as a real estate broker in North Carolina under the provisions of G.S. 93A-4 or 93A-9(a).

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~
May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1802 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1802 DEFINITIONS

For the purposes of this Section:

(1) "Commercial Real Estate" means any real property or interest therein, whether freehold or non-freehold, which at the time the property or interest is made the subject of an agreement for brokerage services:

(a) is lawfully used primarily for sales, office, research, institutional, warehouse, manufacturing, industrial or mining purposes or for multifamily residential purposes involving five or more dwelling units;

(b) may lawfully be used for any of the purposes listed in Subitem (1)(a) of this Rule by a zoning ordinance adopted pursuant to the provisions of ~~G.S. 153A, Article 18~~ G.S. 160D, Article 2 ~~or G.S. 160A, Article 19~~ or which is the subject of an official application or petition to amend the applicable zoning ordinance to permit any of the uses listed in Subitem (1)(a) of this Rule which is under consideration by the government agency with authority to approve the amendment; or

(c) is ~~in good faith~~ intended to be ~~immediately~~ used for any of the purposes listed in Subitem (1)(a) of this Rule by the parties to any contract, lease, option, or offer to make any contract, lease, or option.

(2) "Qualifying state" means the state or territory of the United States where an applicant for, ~~and~~ or the holder of, a limited ~~nonresident~~ commercial license issued under this Section is licensed in good standing as a real estate broker or salesperson. The qualifying state must be the state or territory where the applicant or limited ~~nonresident~~ commercial ~~licensee~~ broker maintains his or her primary place of business as a real estate broker or salesperson. Under no circumstances may North Carolina be a qualifying state.

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~
May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1804 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1804 ACTIVE STATUS

~~Broker licenses~~ A license issued under this Section shall be issued on ~~active status and~~ inactive [~~status.~~] status pursuant to Rule .0504 of this Subchapter. To change the license to active status, a broker shall submit [~~an~~] a license activation and broker affiliation form designating a [~~broker-in-charge~~.] broker-in-charge to the Commission pursuant to Rule .0504 of this Subchapter. The license activation and broker affiliation form is available on the Commission's website at https://www.ncrec.gov/licenseeactivation. The license shall remain ~~valid~~ active only so long as the ~~licensee's~~ broker's license in the qualifying state remains ~~valid and~~ on active status. If a broker licensed under this Section fails to affiliate or loses their affiliation with a broker-in-charge at any time during licensure, the license shall be placed on inactive status. ~~In addition, a license issued to a salesperson under this Section shall remain valid only while the salesperson is acting under the supervision of a real estate broker in accordance with the applicable laws and rules in the qualifying state. Individuals~~ Brokers licensed under this Section shall ~~immediately~~ notify the Commission within 10 days if his or her license in the qualifying state lapses or expires, is suspended or revoked, made inactive, or is placed in abeyance for any reason.

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~*May 1, 2018.*~~
May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1806 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1806 LIMITATIONS

(a) A person licensed under this Section may act as a real estate broker in this ~~state~~ State only if:

(1) he or she does not reside in North Carolina;

(2) the real property interest which is the subject of any transaction in connection with which he or she acts as a broker in this ~~state~~ State is commercial real estate as that term is defined in Rule .1802 of this Section; and

(3) he or she is affiliated with a resident North Carolina ~~real estate broker~~ broker-in-charge as required in Rule .1807 of this Section.

(b) A ~~nonresident~~ limited commercial ~~real estate~~ broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~ May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1807 is amended with changes as published in 41:2 NCAC 230 as follows:

21 NCAC 58A .1807 AFFILIATION WITH RESIDENT BROKER

(a) ~~No person licensed under G.S. 93A-9(b) shall enter North Carolina to perform any act or service for which licensure as a real broker is required unless he or she has first entered into a brokerage cooperation agreement and declaration of affiliation with an individual who is a resident in North Carolina licensed as a North Carolina real estate broker.~~ [~~broker and designated as a broker-in-charge.~~] An individual seeking to engage in any act or service for which licensure as a real estate broker is required in North Carolina pursuant to G.S. 93A-1 and obtain licensure as a limited commercial broker under G.S. 93A-9(b) shall:

(1) complete the following prior to engaging in brokerage activities:

(a) a brokerage cooperation agreement pursuant to Paragraph (b) of this Rule; and

(b) a declaration of affiliation form with a resident North Carolina designated broker-in-charge pursuant to Paragraph (c) of this Rule.

(2) submit a license activation and broker affiliation form pursuant to 21 NCAC 58A .0504.

(b) A brokerage cooperation agreement as contemplated by this Rule shall be in writing and signed by the resident North Carolina ~~broker~~ broker-in-charge and the ~~non-resident~~ limited commercial ~~licensee. It shall contain:~~ broker and shall include:

(1) the material terms of the ~~agreement between the signatory licenses;~~ agreement;

(2) a description of the agency relationships, if any, which are created by the agreement among the ~~nonresident~~ limited commercial ~~licensee,~~ broker, the resident North Carolina ~~broker,~~ broker-in-charge, and the parties each represents;

(3) a description of the property or the identity of the parties and other information sufficient to identify the transaction which is the subject of the affiliation agreement; and

(4) a definite expiration date.

(c) ~~A declaration of affiliation shall be written and on the form provided by the Commission and shall identify the nonresident commercial licensee and the affiliated resident North Carolina licensee. It shall also contain a description of the duties and obligations of each as required by the North Carolina Real Estate License Law and rules adopted by the Commission. The declaration of affiliation may be a part of the brokerage cooperation agreement or separate from it.~~ The Declaration of Affiliation form shall be in writing on a form available on the Commission's website at https://www.ncrec.gov/Forms/Applications/DeclarationOfAffiliationOfLtdCommLic.pdf and shall be retained by the resident North Carolina broker-in-charge and limited commercial broker pursuant to 21 NCAC 58A .0108. The Declaration of Affiliation form shall include the limited commercial broker and resident North Carolina broker-in-charge's:

(1) legal name;

(2) residence and electronic mail address;

(3) phone number;

(4) North Carolina real estate license number;

(5) firm's name and address;

(6) declaration statement; and

(7) signature.

(d) A ~~nonresident~~ limited commercial ~~licensee~~ broker may affiliate with more than one resident North Carolina ~~broker~~ broker-in-charge at any time. However, a ~~nonresident~~ limited commercial ~~licensee~~ broker may be affiliated with only one resident North Carolina ~~broker~~ broker-in-charge in a single transaction.

(e) A resident North Carolina ~~broker~~ broker-in-charge who enters into a brokerage cooperation agreement and declaration of affiliation with a ~~nonresident~~ limited commercial ~~licensee~~ broker shall:

(1) verify that the ~~nonresident~~ limited commercial ~~licensee~~ broker is licensed in North Carolina;

(2) ~~actively and directly~~ supervise the ~~nonresident~~ limited commercial ~~licensee~~ broker in a manner which ~~reasonably~~ ~~insures~~ ensures that the ~~nonresident~~ limited commercial ~~licensee~~ broker complies with the North Carolina Real Estate License Law and rules adopted by the Commission;

(3) promptly notify the Commission if the ~~nonresident~~ limited commercial ~~licensee~~ broker violates the Real Estate License Law or rules adopted by the Commission;

(4) ~~insure~~ ensures that records are retained in accordance with the requirements of the Real Estate License Law and rules adopted by the Commission; and

(5) maintain his or her license on active status continuously for the duration of the brokerage cooperation agreement and the declaration of affiliation.

~~(f) The nonresident [limited] commercial licensee [broker] and the affiliated resident North Carolina broker [broker-in-charge] shall each retain in his or her records a copy of brokerage cooperation agreements and declarations of affiliation from the time of their creation and for at least three years following their expiration. Such records shall be made available for inspection and reproduction by the Commission or its authorized representatives without prior notice.~~

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Amended Eff. April 1, 2006; July 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~ May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1808 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1808 TRUST MONIES

A ~~nonresident~~ limited commercial broker acting as real estate broker in North Carolina shall deliver to the North Carolina resident ~~broker~~ broker-in-charge with whom he or she is affiliated all money belonging to others received in connection with the ~~nonresident~~ limited commercial broker's acts or services as a broker. Upon receipt of the funds, the resident North Carolina ~~broker~~ broker-in-charge shall ~~cause the funds to be deposited~~ deposit the funds in a trust account in accordance with the provisions of Rule .0116 of this Subchapter.

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-6(d); 93A-6(g); 93A-9;*
Eff. July 1, 2004;
Amended Eff. July 1, 2014; April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~
Amended Eff. January 1, 2027.

21 NCAC 58A .1809 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1809 ADVERTISING

In all advertising involving a ~~nonresident~~ limited commercial ~~licensee's~~ broker's conduct as a North Carolina real estate broker and in any representation of ~~such person's~~ their licensure in North Carolina, the advertising or representation shall conspicuously identify the ~~nonresident~~ limited commercial ~~licensee~~ broker as a "Limited ~~Nonresident~~ Commercial Real Estate Broker".

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Amended Eff. April 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~
May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1810 is amended with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1810 PAYMENT OF FEES

Commissions, fees, or other compensation earned by a ~~nonresident~~ limited commercial ~~licensee~~ broker shall not be paid directly to the ~~licensee~~ broker if ~~said~~ ~~licensee~~ the broker is employed by or working for a real estate broker or firm. Instead, ~~such~~ the fees or compensation shall be paid to the ~~licensee's~~ broker's employing broker or firm.

History Note: *Authority G.S. 93A-3(c); 93A-4; 93A-9;*
Eff. July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018.~~
May 1, 2018;
Amended Eff. January 1, 2027.

21 NCAC 58A .1811 is adopted with changes as published in 41:2 NCR 230 as follows:

21 NCAC 58A .1811 CONTINUING EDUCATION REQUIRED OF LIMITED COMMERCIAL BROKERS

(a) A limited commercial broker shall complete eight credit hours of real estate continuing education courses pursuant to Rule .1702 of this Section and approved pursuant to 21 NCAC 58H within one year prior to the expiration of the license as follows:

(1) Four credit hours of elective courses; and

(2) Four credit hours of the "General Update Course."

(b) Continuing education courses shall be completed upon the second renewal following the initial licensure and upon each subsequent annual renewal.

(c) The limited commercial broker shall provide the course completion certificate upon request of the Commission.

History Note: *Authority G.S. 93A-3(c); 93A-38.5;*
Eff. January 1, 2027.