

LICENSING & EDUCATION REVIEW - 2014

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 - ◆ Qualification Requirements to Serve as a Broker-In-Charge (BIC)
 - ◆ Maintaining the BIC Designation/Eligibility

Learning Objective: This section is merely included as a review and reference for licensees to refresh their understanding of what one must do in order to maintain a *current and active* North Carolina real estate broker license, and thus be *eligible to engage in brokerage activity* within North Carolina. Because this is a perennial section that has been included in the Update course materials every year since 2006-2007, **instructors are not required to cover these materials in class.** Any licensee who still is confused after reading these materials *and* consulting the applicable rules *and* reviewing the status of his/her license online, may call the Information Services Division of the Real Estate Commission for assistance.

INTRODUCTION

In response to the many calls Commission staff receives from licensees who are confused and frustrated with their own lack of knowledge concerning the maintenance of their real estate licenses, the Commission reviews basic education and licensing matters in each year's *General Update and BICUP courses*.

MISCELLANEOUS LICENSE STATUS ISSUES

“Provisional Broker” and “Broker-In-Charge”

- **“Provisional Broker”** is NOT a separate license – it is simply a “broker license on provisional status.” This status is automatically assigned to new licensees and must be removed within three years following license issuance by taking the three required 30-hour postlicensing courses. A provisional broker may engage in brokerage activity only when under the supervision of a broker-in-charge.
- **“Broker-In-Charge”** is also NOT a separate license – it is simply a “license status” that is acquired by qualifying for and declaring oneself a broker-in-charge.

“Current” versus “Expired” License

- A **“current”** license is one for which the licensee has *timely* paid the proper renewal fee for the current license period and, thus, still *has* a license.
- An **“expired”** license is one for which the licensee has NOT timely paid the proper renewal fee for the current license period. *A person whose license has expired has no license and may not engage in any brokerage activity — PERIOD!*

IMPORTANT NOTE: Most licensees calling the Commission mistakenly refer to their “expired” license as being “inactive.” *An “expired” license is very different from an “inactive” license.* While a licensee may not lawfully engage in brokerage activities in either case, at least the person on inactive status still *has* a license, whereas *a person with an expired license doesn’t even have a license!* It is far easier to “activate” an “inactive” license than it is to “reinstate” an “expired” license.

License Expiration and Renewal

- **ALL** real estate licenses *expire on June 30 each year, i.e.,* broker, provisional broker, firm, or limited nonresident commercial broker. A license may be renewed up to 45 days prior to the June 30 expiration date by paying the license renewal fee. [G.S. 93A-4(c).]
- **The annual license renewal fee is now \$45.00 per year as of April 1, 2013.**
- *A licensee who fails to pay the renewal fee by June 30 no longer has a license; the license is **expired** and the former licensee may not engage in any brokerage activity until the license is both reinstated and reactivated.*
- Mailing the renewal fee to the Commission on June 30 is **NOT sufficient**. It must be **received** by 5:00pm June 30 or the last business day of June, whichever occurs first. The “mailbox rule” does **not** apply to license renewals!

The easiest way to renew one's license is to do so ONLINE by going to the Commission's website at www.ncrec.gov. The server is up until 11:59:59pm on June 30. Online renewal allows immediate confirmation of license renewal. Licensees should print the confirmation page and keep it at least until they receive their pocket card in the mail. As mentioned in Section Three, Rule A.0503 was revised effective July 1, 2014 and requires online license renewal as of May/June 2015, unless the individual doesn’t have the ability to renew online.

- ***NO EXCUSES FOR FAILURE TO RENEW ON TIME ARE ACCEPTED!***
It is the licensee's responsibility to renew on time even if s/he does not receive the renewal notice.

"Private" versus "Public" Email Addresses

In an effort to be more efficient and cost-effective, the Commission would like to send renewal notices and other communications to licensees electronically, which is why it has requested an email address for each licensee. **RECALL too** that *licensees may now designate the email address they provide the Commission as "private;"* email addresses *designated as private by a licensee* will be used for Commission purposes and will not be displayed or provided as part of the public information about that licensee (contrary to the general rule that information received by the Commission is public record).

"Active" versus "Inactive" License

- **"Active"** license status means that the licensee holds a current (properly renewed) license AND has completed any required continuing education as well as any required postlicensing education. A provisional broker must also have a broker-in-charge (whose license is current and active).
- **"Inactive"** license status means that the licensee still has a license, i.e., a "current" (properly renewed) license, but the license has been placed on inactive status due to one or more of the following reasons:
 - failure to timely complete required continuing education
 - failure to timely complete required postlicensing education
 - failure of a provisional broker to have a broker-in-charge with a current, active license
 - request of the licensee

Active Status Mandatory to Engage in Brokerage

Rule A.0504 states in pertinent part:

- (a) The holder of a license on **active status** may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on **inactive status** *may not engage in any activity requiring a real estate license, including the referral for compensation* of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party...
- (b) A license issued to a *provisional broker* shall, upon initial licensure, be assigned to *inactive* status. A *provisional broker's license* shall be assigned by the Commission to ***inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge.*** [A] broker [full or provisional status] shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, *he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.* (Emphasis added).

Reinstatement of Expired License

License Expired Six (6) Months or Less

If the license has been expired **six (6) months or less**, it may be reinstated merely by paying the **\$55.00 reinstatement fee**, whereupon the license will be *current* as of the date of reinstatement. **NOTE:** Although the license will be *current* (restored), it will be reinstated on “inactive” status. To return to “active” status, the licensee must complete any necessary continuing education *and submit a “Request to Activate License,” Form 2.08* Activation and Affiliation form. In addition to continuing education, provisional brokers must have satisfied any applicable postlicensing requirements and have a broker-in-charge in order to activate. ***Nothing is automatically restored after any lapse in license status for any reason.*** Rather, licensees must *always* complete and submit REC 2.08 both to reactivate the license and to notify the Commission of the licensee’s business address and/or affiliation with a company.

*This six month “grace period” for reinstating an expired license by December 31 following expiration on June 30 by only paying the \$55.00 reinstatement fee
WILL NOT BE EXTENDED FOR ANY REASON!*

License Expired for More Than Six (6) Months

When the license has been *expired for more than 6 months*, the former licensee must *not only pay the \$55.00 reinstatement fee, but must also file a complete license application form (same as for original license)*, which includes submission of a **criminal record report**, as well as a current license certification history from any state in which he/she has been licensed within the preceding five years. The applicant must be found to have satisfactory moral character, just as at the time of original licensure.

Reinstatement is neither automatic nor guaranteed. Pursuant to statute, the Commission may require the applicant to demonstrate s/he possesses current knowledge, skills and competence in real estate brokerage by completing education and/or examination, in addition to considering the applicant’s character, as a condition of license reinstatement. The specific requirements depend on the type of license, how long it has been expired and the applicant’s recent real estate brokerage related education and experience. *Contact the Commission office for detailed guidelines on requesting reinstatement of a license expired for more than six months.*

- Virtually all **former “non-provisional” brokers** (i.e., “full” brokers) with licenses expired more than six months applying for reinstatement must take one *or more* postlicensing course(s) OR retake the state license examination. **Note:** having a current broker license in another state **no longer** will allow a NC broker (resident or nonresident) to *reinststate* his/her expired NC license without first either sitting for the NC specific portion of the state licensing examination or completing one or more of the three 30-hour postlicensing classes.
- **Former “provisional” brokers** (resident or nonresident) with licenses expired more than six months applying for reinstatement will NOT be allowed to reinststate as “provisional” brokers. They must first complete any postlicensing education not completed within the previous three years. They would then be reinstated as brokers NOT on provisional status.
- *Any licensee whose license has been expired for more than five years will be treated as though they have never been licensed and must meet all requirements for original licensure!*

POSTLICENSING EDUCATION

Basic Requirement: 90 Classroom Hours Within Three Years After Licensure

All provisional brokers must complete 90 hours of postlicensing education (divided into three 30-hour courses) emphasizing practical knowledge and skills within three years of obtaining his/her provisional broker license both to remove the “provisional” status and to remain on active status. Each of the 30-hour courses includes a written examination that the licensee must successfully pass. These courses are listed below:

- **Broker Relationships and Responsibilities**
- **Contracts and Closing**
- **Selected Topics**

Key Features of Postlicensing Education

- *The postlicensing requirement is **in addition to** the continuing education (CE) requirement of eight (8) hours per license year. Postlicensing courses do NOT count toward the continuing education requirement!*
- A provisional broker must, *at a minimum*, complete one of the three postlicensing courses during the first year after initial licensure, one course during the second year and one course during the third year. However, *a provisional broker may elect to take all three courses during the first year (or one the first year and two the second year or two the first year and one the second year).*
- Upon completing all three courses, at whatever point that occurs during the three-year period, the broker’s provisional status will be terminated by the Commission upon receipt of the last course completion report from the course sponsor and the licensee will be sent a “Notice of Record Change” advising of the status change. Within fifteen days thereafter, the broker will be sent a new pocket card that reflects full broker status.
- The three courses may be taken in any sequence; however, the recommended sequence is the order in which they are listed above.
- *The time periods for completing postlicensing courses begin to run from the date the license is issued, which is the licensee’s “anniversary date” for completing postlicensing courses. Thus, if a license was issued on October 15, the licensee’s anniversary dates for postlicensing education will be October 15 of the next three years. The license issuance date may be found on the licensee’s original license certificate (not the pocket card).*
- Schools report postlicensing course completion to the Commission electronically within seven (7) days of course completion.

Please do not send original course completion certificates to the Commission.

[Remember that the **annual license expiration date is June 30** and the **deadline for completing CE annually is June 10.**]

Planning for Postlicensing Education is Critical

Do not delay taking a required postlicensing course until the last minute! It is totally your responsibility to complete these courses in a timely manner! Course availability at a convenient location may be limited in many areas. When a needed course is available in a location convenient to you, you are advised to go ahead and take the course even if you have several months left to take it. This is not CE. With CE, dozens of courses are available just before the June 10 annual deadline; however, every provisional broker has a different license anniversary date for postlicensing education and scheduled courses will be spread more evenly throughout the year. There also are not that many provisional brokers, so there is far less demand for postlicensing courses than for CE and availability at a convenient location is a major issue.

- *Extensions of time are very difficult to obtain!* The criteria for extensions of time to complete these courses are very restrictive – just as is the case for continuing education. A licensee's confusion about his or her deadline for taking the courses, a licensee's procrastination, unavailability of a course in a convenient location, business or personal conflicts, or even an illness or family emergency that occurs in the last month of the time period for taking a course will NOT be grounds for obtaining an extension of time.
- *Reminder Notice Sent 90 Days in Advance of Anniversary Date.* Provisional brokers who have not completed the required postlicensing education are sent a reminder notice about **90 days in advance of their upcoming anniversary date.** This is the only reminder notice provided by the Commission.

Consequences of Not Completing Postlicensing Education

After the First or Second Year

A provisional broker who fails to complete a 30-hour postlicensing course as required in either the first or second year following licensure will have his/her license placed on *inactive* status within a few days after the anniversary date of license issuance. To reactivate the license, the provisional broker must first complete one of the 30-hour courses s/he should have taken, *in addition to* any required continuing education, if applicable, and then submit a "Request to Activate License" form (REC Form 2.08) signed by both the provisional broker and his/her broker-in-charge.

After the Third Year

Originally, a provisional broker who failed to complete all 90 hours of postlicensing education within three years of initial licensure had his/her license cancelled at the end of the three years. However, since January 1, 2012, the license of a provisional broker who fails to complete all 90 hours of postlicensing education by the third anniversary date of license issuance is now placed on *inactive status* rather than cancelled. Thus, while the licensee may not use the license, s/he still has a license and may retain the license indefinitely by renewing it every year. Provisional broker licenses previously canceled under former law were automatically reinstated on inactive status without any fees on January 1, 2012, but to retain the restored license, the licensee had to begin paying the renewal fee by June 30, 2012 and each year thereafter. To *activate* the license, the individual will be required to have completed all 90 hours of postlicensing education within the previous three year period *and* to satisfy all continuing education required for license activation.

Waiver of Postlicensing Education for Provisional Brokers Based on “Equivalent Real Estate Experience and/or Education”

The Commission may waive one or more of the postlicensing courses for provisional brokers who can demonstrate they possess “equivalent real estate experience and/or education,” such as substantial brokerage experience in another state. The particular course(s) that might be waived depends on the amount and type of experience/education. Waiver of all three courses is highly unlikely. *Instructions for requesting in writing a waiver of postlicensing courses (with examples of acceptable experience) may be found on the Commission’s website at www.ncrec.gov under “Postlicensing Education” or may be obtained by calling the Commission office.* Evaluations of experience for waiver purposes will not be provided by telephone.

While nonresident provisional brokers may typically satisfy the postlicensing education requirement by taking courses in another state or by obtaining a broker license in another state, it should be noted that *nonresident licensees who have a North Carolina business address or mailing address in their licensee record are treated the same as North Carolina residents for postlicensing education purposes. Thus, they must either take the courses in North Carolina or meet the waiver requirements for resident licensees.*

CONTINUING EDUCATION

Basic Requirement: *Four-Hour “Update” Course Plus One Four-Hour “Elective” Course Each License Period After First License Renewal to Be Eligible for Active Status*

- **Four-Hour Update Course**

- **A Provisional Broker or non-BIC Broker** must take the **General Update Course** (4-hours) each year – NO EXCEPTIONS. This course is developed annually by the Commission and content changes from year to year. [NOTE, however, that there is a commercial version of the General Update Course; either the *General Update* course or the *General Update-Commercial* course must post to every provisional broker’s and non-BIC broker’s record each and every year as 4 of the minimum 8-hours of CE to be eligible for active status the following license year.]
- **A Broker-in-Charge or a Broker wanting to retain his/her “BIC Eligibility”** must take the **BICUP (Broker-in-Charge Update) course** (4-hours) each license year for his/her Update *rather than* the *General Update* course. The broker will receive Update course credit for the *BICUP* course *and* it will maintain the broker’s BIC status/eligibility.
[See subsequent section on Broker-In-Charge Requirements for more information.]

- **Four-Hour Elective Course**

- **ALL licensees** must take at least one approved CE elective course (4-hours) in addition to an Update course each year.

CE Required for Active License Status

Licensees only need to take CE if they wish to engage in real estate brokerage activities. A license may be renewed each year without taking CE and maintained on “inactive” status indefinitely, *but a licensee with a license on “inactive” status may not engage in nor receive any consideration for acts that require a license, including referral fees. If a licensee engages in any act that requires a license, including accepting a referral fee, his or her license must be on “active” status at the time s/he makes the referral (passes the name), which requires that the licensee be current with his or her CE.*

CE for New Licensees

A licensee is NOT required to take any CE *prior to the first renewal of his/her license.* However, after the first renewal *and prior to the second renewal* of that license, the licensee must satisfy the continuing education requirement to renew on active status every license year thereafter.

Example: A provisional broker with a license issued on July 15, 2012 does NOT have to take CE to renew and be eligible for active status as of July 1, 2013, but must take the required CE between July 1, 2013 and June 10, 2014 to be eligible to renew on active status as of July 1, 2014 (assuming s/he also has a broker-in-charge and has completed at least one postlicensing course prior to July 15, 2013 with a second postlicensing course due before July 15, 2014). As to the CE requirement, the result is exactly the same if the provisional broker in this example was issued a license on May 15, 2013!

Other Key Points to Remember about CE:

- **All required CE must be *completed* by June 10 of any license year.** *This includes DISTANCE EDUCATION (e.g., “online”) CE courses that also must be **completed** by June 10 – the sponsor will cut off access to the online course at midnight on June 10. Pursuant to Commission rules, no continuing education courses are offered by approved sponsors between June 11 and June 30 inclusive. There are NO EXTENSIONS if the June 10 cut-off date falls on a weekend or holiday. This “blackout period” is necessary to allow the Commission time to receive information from sponsors, credit continuing education courses taken by licensees at the last minute to their records, and identify/correct errors for licensees about to be made inactive.*
- A licensee who fails to satisfy the CE requirement by June 10 of each year will receive a notice from the Commission in early July informing the licensee that his/her license is **inactive**. *The licensee should have ceased all brokerage activities as of July 1 until his or her license is restored to active status.*

Correcting a CE Deficiency and Reactivating a License

Rule A.1703 presently provides: “If the inactive licensee’s license *has not properly been on active status since the preceding July 1 and the licensee has a deficiency in his or her continuing education record for the previous license period, the licensee must make up the deficiency AND fully satisfy the continuing education requirement for the current license period in order to activate the license....*”

Example: A licensee completes one elective course but does not take an Update course during the July 2013 - June 2014 license year. His/her license is made inactive July 1, 2014 due to this CE deficiency. To reactivate his/her license at any time during the July 2014 - June 2015 license year, the licensee must take **12 hours of CE** comprised of the *2014-2015 General Update Course* plus one elective course to satisfy the current year's requirements, **plus another elective course** to make up for the four-hour CE deficiency from the 2013-14 license year. If the licensee in this example had no CE credit for the 2013-14 license period, s/he would also have to take a third elective course for a total of 16 hours.

A licensee whose license is on inactive status as of July 1 will **always** be required to take *at least* the current year's CE in full (Update + an elective) plus cure any deficiency from the preceding license year prior to requesting reactivation. What if a licensee takes 2 elective classes in 2013-2014 and thus has a total of 8 credit hours of CE? Nonetheless, his/her license will be on *inactive status* as of July 1, 2014, because s/he failed to take an Update course. However, applying the rule for reactivation, this person would only need to take the current year's CE in full (Update + 1 elective) and would then be eligible to request reactivation as *s/he had a sufficient number of CE credit hours the preceding year (8), it was merely content that was lacking, i.e., the Update course credit.*

**In sum, the *minimum* to reactivate will always be
the current year's *General Update* plus one elective (8-hours)
and the *maximum* required to reactivate will be 16 hours
(current year's *General Update* course + 3 electives).**

IMPORTANT NOTE: A licensee on inactive status must always *request* license activation after correcting a CE deficiency. It is *not sufficient to merely take all required CE*. Once the licensee has completed all 8, 12 or 16 hours of continuing education [Update + 1-3 elective courses], whichever is applicable, the licensee must *always* submit a completed "**Request to Activate License**" form to the Commission requesting activation of his/her license. This form is available on the Commission's website (Form 2.08). Upon mailing or faxing the activation/affiliation form, the licensee may begin working immediately, subject to confirmation from the Commission within 30 days.

Submission of this form is required for ALL brokers, provisional or "full," before their inactive license will be activated. [Why? Because when the license went inactive and thus could not be used, all information related to business address and firm affiliation was deleted from the licensee's record as s/he was not eligible to engage in any brokerage activity. Thus, the Commission must receive the activation/affiliation Form 2.08 to update and reconstruct the licensee's record.]

Maximum CE requirement to "activate" an "inactive" license is 16 hours. Note that the maximum CE required to activate a license is 16 hours, regardless of how long the license has been on inactive status. Thus, a licensee could be inactive for 15 years, and *so long as s/he paid the renewal fee each year to keep his/her license, s/he could reactivate* that license after 15 years of nothing merely by taking the current year's *General Update* course and 3 elective courses, for a total of 16 hours, and submit the license activation form (Form 2.08) to the Commission. In contrast, if a license has been **expired** for more than six months (as opposed to simply being "inactive"), the requirements to **reinstate** that license are much greater (state exam or 30 hour courses) than the requirements to "reactivate" an "inactive" license.

Note: The foregoing discussion applies to the continuing education requirements for licensees who either *reside in North Carolina or have a North Carolina business or mailing address in their licensee record*. It applies to **ALL licensees** who allow their licenses to become **inactive**, *even those who may previously have been BICs or BIC-eligible*, as they lost that status or eligibility the moment their license became inactive. However, **nonresident** North Carolina licensees who are not affiliated with an office located in North Carolina and who do not have any North Carolina mailing address have other options available to them to satisfy the continuing education requirement and renew on active status. These options are described on the Commission's website at www.ncrec.gov and are found also in Rule A.1711.

BROKER-IN-CHARGE REQUIREMENTS

Basic Requirement for a Broker-In-Charge

Commission Rule A.0110 requires that "Every real estate **firm** shall designate a broker to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any branch office." A broker may only be broker-in-charge of one office at a time. The primary exception is if two firms/companies share the same physical location as an office, one broker may be broker-in-charge of both companies at that location, although the records, transaction files, trust accounts, advertising, expenses, etc., must be separately maintained for each company.

Sole Proprietors (including Sole Practitioners)

A frequently overlooked and misunderstood point about the broker-in-charge requirement is addressed in the following language paraphrased from Commission Rule A.0110(e):

*A broker who is a **sole proprietor** shall designate himself or herself as a broker-in-charge if the broker:*

- (1) engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account;*
- (2) engages in advertising or promoting his/her services as a broker in any manner;*
- OR*
- (3) has one or more other brokers affiliated with him/her in the real estate business.*

The most misunderstood of the three broker-in-charge triggering requirements for sole proprietors cited above is No. 2: "...engages in advertising or promoting his or her services as a broker **in any manner**." Acts of a sole proprietor that trigger the BIC requirement under No. 2 include, but are not limited to:

- Advertising as a broker in/through any publication, website or other medium.
- Distributing business cards indicating s/he is a real estate broker.
- Distributing solicitations for brokerage business to prospective clients/customers.
- Orally offering brokerage services to friends, business associates/acquaintances, fellow members of a civic organization, etc.
- Listing a property for sale or lease (this inherently involves holding oneself out as a broker and advertising).

*A broker-sole proprietor may lawfully provide extremely few brokerage services without designating himself or herself as a BIC and must always have an **active license** to engage in **any** brokerage activity.* A couple of examples of *permissible* brokerage activities by a sole proprietor who is NOT a designated BIC include:

- Requesting and receiving a referral fee from another broker or brokerage firm *so long as* the broker's license is on active status at the time the referral is made and the broker *has not solicited* the consumer or otherwise improperly promoted his/her brokerage services as discussed above.
- Representing a relative or friend as a buyer's broker in a sales transaction provided the broker has not solicited the business, has not advertised or promoted his or her services, and does not hold earnest money beyond the time it is required to be deposited in a trust account.

The practical effect of these requirements is that a broker who provides brokerage services independently in most cases must also designate himself or herself as a BIC.

Qualification Requirements to Serve as Broker-In-Charge (BIC)

- **License status.** Broker license must be on "active" status and NOT on "provisional" status. A provisional broker is ineligible to serve as a broker-in-charge.
- **Qualifying experience.** Broker must have at least *two (2) years full-time (or equivalent part-time) real estate brokerage experience* (i.e., 4000 hours) *within the preceding five (5) years*. The requirement is for *actual brokerage experience, not just having a license on "active" status*.
- **Qualifying education.** A broker who declares himself/herself as a broker-in-charge must complete the Commission's **12-hour Broker-In-Charge Course** within 120 days of designation *unless* s/he has had the course within the preceding three years.

Broker-In-Charge Declaration; Certifying Qualifying Experience

A broker must submit a "**Broker-In-Charge Declaration**" form to request designation as a broker-in-charge (**REC Form 2.04** available on website). By submitting this form, *a broker certifies to the Commission that s/he possesses the required brokerage experience, that it was acquired while his/her license was on "active" status, and that it consisted of activities for which a real estate license is required* (listing, selling, purchasing, leasing or renting real estate for others for a fee). Legal licensed experience in another state or as a *licensed* real estate assistant qualifies as experience. Experience as a secretary, bookkeeper or manager of a real estate office, or as a leasing agent performing acts exempt from licensure does *not* qualify, even if performed while holding a real estate license.

A Broker-In-Charge Declaration will only be accepted by the Commission if the broker's license record indicates that his/her license has been on "active" status for at least two of the past five years. Accepted BIC declarations are subject to "**spot checks**" by the Commission to verify experience certifications. A BIC should be prepared to provide documentation of his or her claimed brokerage experience upon request. If a BIC being spot-checked cannot document that s/he possessed the minimum required ACTUAL brokerage experience (not just active status), the BIC may be referred to the Commission's Regulatory Affairs Division for further inquiry and possible disciplinary proceedings if it appears the BIC made a false certification of experience.

Waiver of Qualifying Experience

It is possible for some brokers with exceptional “equivalent” qualifications other than brokerage experience (for example, *substantial* experience as a real estate attorney or salaried new homes sales representative for a corporate owner) to obtain a waiver of the qualifying experience requirement. Others may be able to obtain a **partial** waiver based on *substantial* non-brokerage direct experience in real estate transactions or substantial brokerage experience that is more than five years old. *See the instructions for requesting a waiver of the broker-in-charge experience requirement on the Commission’s website at www.ncrec.state.nc.us under “Broker-In-Charge.”*

NOTE: Waivers of BIC qualifying experience are difficult to obtain and infrequently granted.

Broker-In-Charge Course

A newly designated broker-in-charge must complete the Commission’s **12-hour Broker-in-Charge Course** within 120 days of designation, unless the broker has had the 12-hour course within the preceding three years, in which case s/he will not be required to repeat the course. Once a broker has satisfied both broker-in-charge qualification requirements, i.e., send Form 2.04 to declare and certify experience *and* complete the 12-hour course, s/he will perfect his/her BIC status and gain the status of “BIC eligible.” **Note:** Unlike the experience requirement, *there is no waiver of this educational requirement* (unless one is a non-resident BIC with no NC addresses, thus qualifying for the Rule A.0110(o) exception).

Maintaining the BIC Designation/Eligibility

BICUP = Broker-In-Charge Update Course (Required Update course for BICs and BIC-Eligible Brokers)

During the first full license year **following** the **license year** in which the broker was designated as a broker-in-charge, and each license year thereafter, every broker-in-charge must complete a special four-hour Update course developed specifically for BICs *in lieu of* taking the *General Update* course. This special course, the **BICUP (Broker-in-Charge Update) Course**, is written by the Commission but taught by Commission-approved *Real Estate Update* course instructors.

Though the *BICUP* course will include all the information in the corresponding year’s *General Update* course, it will also address issues of special interest and importance for brokers-in-charge. Course sponsors should restrict enrollment in this course to brokers who are either brokers-in-charge or “broker-in-charge eligible,” as they are the only licensees who may receive CE credit for the BICUP.

Example: A BIC designated in January 2015 **must take**, during the July 2015 - June 2016 license year and each license year thereafter, the *BICUP Course* and an approved CE elective course. For the July 2014 - June 2015 license period, the BIC may take the *General Update Course* and one approved CE elective course, which may be the 12-hour *Broker-In-Charge Course* if the licensee had not taken the course within three years prior to becoming a broker-in-charge. However, even though not required, the broker could take the BICUP course during the 2014-2015 license year and receive credit for it *so long as the broker is a BIC or BIC-eligible at the time s/he takes the BICUP*, i.e., anytime *after* January 2015 and before June 10, 2015. **The KEY is the licensee’s status at the time s/he takes the course!**

“BIC Eligible” Status

Once a broker satisfies both *qualification requirements* either prior to or while serving as a broker-in-charge, the broker-in-charge will automatically be classified as “broker-in-charge eligible” in Commission records. Such a broker may later choose to step down as an active BIC of an office, but want to retain eligibility to redesignate himself/herself as a BIC in the future without having to meet the education and experience requirements for initial designation. That broker may retain “*BIC eligible*” status simply by renewing his/her license on time each year and taking the *BICUP* course and one approved CE elective course each license period.

Loss of BIC Status or BIC Eligible Status

A person who is a broker-in-charge or broker-in-charge eligible will lose that status or eligibility in the following situations, namely:

- 1) the broker’s license **expires** (not renewed on time) or is suspended, revoked or surrendered;
- 2) the broker’s license is made **inactive** because the broker failed to timely complete an Update course and/or an approved CE elective course in any given license year;
- 3) the broker failed to take the BICUP course as his/her Update course in any given year;
- 4) the broker is found by the Commission to have NOT possessed the required qualifying experience at the time s/he was initially designated as a BIC or re-designated as a BIC.

NOTE: A broker who is broker-in-charge eligible and who renews his/her license on time and completes eight hours of continuing education during the preceding license year, including the *General Update* course and an approved CE elective, will have an active broker license as of the following July 1, but will have lost his/her broker-in-charge eligibility as s/he did not take the BICUP as his/her Update course the preceding license year.

Regaining Lost BIC Status/Eligibility

A broker who wants to regain terminated BIC status or eligibility should read revised Rule A.0110(m), as the procedure changed effective May 1, 2013. Brokers most often lose BIC eligibility because they fail to renew their license before June 30 or they fail to take the right CE. As of May 1, 2013, a broker who has lost broker-in-charge status or eligibility must:

- 1) do whatever is necessary to **return his/her license to active status** (\$ and/or CE),
- then 2) **reactivate** the broker license by sending the Commission a completed activation/affiliation form, REC 2.08,
- then** 3) *once the license is back on active status on Commission records*, the former broker-in-charge eligible broker must complete the Commission’s 12 hour Broker-in-Charge Course *regardless of when s/he last took the course*, and
- THEN** 4) *after completing the 12 hour Broker-in-Charge Course*, request to be re-designated as a broker-in-charge by submitting a Broker-in-Charge Declaration form to the Commission (REC Form 2.04).

The procedure to redesignate as a broker-in-charge and regain broker-in-charge eligibility after losing broker-in-charge eligible status will be discussed in greater depth in the *2014-2015 BICUP* course materials.

**CE NEEDED TO REACTIVATE LICENSE IF *INACTIVE* AS OF JULY 1
DUE TO CE DEFICIENCY PRECEDING LICENSE YEAR (APPLIES TO
ALL INACTIVE LICENSEES)**

CE taken Previous Year (July 1, 2013- June 10, 2014)		Active or inactive as of July 1, 2014?	CE Needed in Current Year (July 1, 2014-June 10, 2015)			Need to file Activation Form? (REC 2.08)
Mandatory Update	Elective*		General Update	Elective (NOT BICUP**)	Total Courses Needed	
Yes	Yes	Active	Yes	Yes (1 course)	TWO: GenUp plus 1 elective <i>prior</i> to 6/10/2015	No
Yes	No	INACTIVE	Yes	Yes (2 courses)	THREE: GenUp plus 2 electives BEFORE can reactivate	YES
No	Yes**	INACTIVE	Yes	Yes (2 courses)	THREE: GenUp plus 2 electives BEFORE can reactivate	YES
No	No	INACTIVE	Yes	Yes (3 courses)	FOUR: GenUp plus 3 electives BEFORE can reactivate	YES
No	Yes – took 2 for 8 hours of elective credit	INACTIVE	Yes	Yes (1 course)	TWO: GenUp plus 1 elective BEFORE can reactivate	YES

* Must be an elective course approved by the NCREC. Beginning July 1, 2014, ALL LICENSEES may now take *any approved elective they choose*.

**2014-2015 BICUP course is NOT eligible for *elective credit*, but it will satisfy both a BIC or BIC-eligible licensee's mandatory update course requirement AND maintain the licensee's BIC status or eligibility, *so long as the licensee is a BIC or BIC-eligible at the time s/he takes the class*.

The foregoing table assumes that a licensee timely paid his/her \$45 renewal fee by June 30. If not, that licensee must first pay the \$55 reinstatement fee, and then apply the above table to determine whether s/he may immediately activate his/her license, or whether s/he must also take CE before s/he can reactivate, but s/he will ALWAYS be required to complete and send the activation form (REC 2.08) to the Commission because the licensee lost all statuses and addresses when his/her license expired.