North Carolina
Postlicensing Course Syllabus

SELECTED TOPICS COURSE

January 2013 Edition

North Carolina Real Estate Commission
P.O. Box 17100
Raleigh, NC 27619
(919) 875-3700
Email: *educ@ncrec.gov*

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INTRODUCTION

Course Description: The *Selected Topics Course* is one of the three 30-classroom hour mandatory postlicensing courses that must be completed by newly licensed North Carolina provisional brokers within three years after licensure. The primary objective of the course is to provide instruction at a level beyond that provided in prelicensing courses on topics deemed to be of special importance to licensees. Topics addressed in this course include commercial real estate brokerage, residential property management, land use controls, loan fraud, brokerage compensation issues, license law issues and case studies, selected fair housing issues and case studies, establishing a brokerage firm, manufactured and modular homes and issues relating to short sales.

Requirements for Teaching the Course: This course may only be taught by schools and instructors approved by the North Carolina Real Estate Commission to teach prelicensing and postlicensing courses. Rules governing the conduct of the course, including scheduling, course completion standards, course delivery, course completion reporting and other related matters may be obtained from the Commission. Course must be taught as prescribed by this syllabus.

Prerequisite: Possession of a North Carolina broker license (either provisional or non-provisional).

Textbook: *North Carolina Real Estate Manual*, most current edition.

Course Final Examinations and Completion Standards: Schools and instructors are required to utilize course final examinations provided by the Commission in accordance with Commission rules for such examinations. The confidentiality of examinations provided by the Commission must be protected at all times by schools and instructors. The examination minimum passing standard is 75%. Schools and instructors may, in their discretion, also require completion of in-class or out-of-class graded assignments that may count for up to 25% of a student's grade for the course.

Order of Topic Presentation and Recommended Topic Emphasis: Instructors may present the topics in the order they deem most appropriate. Instructors may make reasonable minor adjustments in subject area emphasis as needed to facilitate instruction, but should be careful not to devote undue overemphasis or underemphasis to any topic.

General Instructional Approach: Instructors are expected to utilize "real world" illustrative examples, to employ instructional techniques that encourage active student participation in class and to employ practical in-class and out-of-class work assignments to the maximum extent possible in this course.

Syllabus Copies: Copies of this syllabus will be provided by the Commission only for use by school officials and instructors. Schools are authorized to reproduce all or part of this syllabus for student use at their own expense, and may charge students for the cost of reproduction.

SELECTED TOPICS

POSTLICENSING COURSE

RECOMMENDED TOPIC EMPHASIS

		Hours
I.	Introduction to Commercial Real Estate Brokerage	7½
II.	Landlord-Tenant Law & Residential Property Management	6
III.	Land Use Controls and the Real Estate Agent	2
IV.	Loan Fraud	1½
V.	Brokerage Compensation Issues	3
VI.	Miscellaneous License Law and Rule Issues	¾
VII.	License Law Case Studies	3
VIII.	Fair Housing Case Studies	2
IX.	Legal Requirements for Establishing a Real Estate Brokerage Firm	¾
X.	Manufactured and Modular Homes	½
XI.	Issues Related to Short Sales	1
XII.	Local Issues	½
Final Examination		1½
Total Hours		30

Selected Topics

Postlicensing Course Outline

*References to "**Manual**" in this outline refer to the **North Carolina Real Estate Manual**, which is the prescribed text for this course. Page references in the syllabus are to the 2013-2014 edition of the Real Estate Manual.*

Section 1: Introduction to Commercial Real Estate Brokerage

Manual, Chapter 19, and portions of Chapters 15 & 16 **(7½ Hours)**

I. Introductory Concepts and Issues *(pages 760-782)* (1 Hour)

A. Basic Distinctions Between Residential and Commercial Practice (***pages 760-772)***
1. Multiple Product Types and Specialized Areas of Practice
2. Transaction Cycle Time
3. Multiple Listing Service (MLS)® vs. Database
4. Special Importance of Zoning and Other Land Use Restrictions
5. Leasing
6. Contracts and Contract Forms
7. Financing
8. Higher Stakes
9. Business Relationships
10. Working Hours
11. Cooperating with Out-of-State Brokers & Licensing Requirements
12. Commercial Real Estate Broker Lien

B. Special Considerations in Commercial Practice ***(pages 772-782)***
1. Zoning and Other Land Use Restrictions
2. Financing
3. Client and Customer Perspectives

II. Commercial Property Classifications, Features and Market Factors *(pages 782-800)* (1 Hour)

A. Office Properties or Space ***(pages 782-787)***
1. Office Space Classifications
2. Factors Affecting Value/Desirability
3. Common Special Office Lease Provisions

B. Retail Properties or Space ***(pages 787-792)***
   1. Retail Space Classifications
   2. Factors Affecting Value/Desirability
   3. Understanding the Market for Retail Space
   4. Common Special Retail Lease Provisions

C. Industrial Properties ***(pages 792-796)***
   1. Industrial Property Classifications
   2. Factors Affecting Value/Desirability
   3. Leases for Industrial Properties

D. Land ***(pages 796-799)***
   1. Factors Affecting Value/Desirability
   2. Marketing Considerations

E. Specialty Properties ***(pages 799-800)***

III. Market Comprehension and Analysis *(pages 800-803)* (½ Hour)

A. Understanding Market Factor Concepts
   1. Linkages
   2. Demographics
   3. Absorption
   4. Others

B. Understanding Your Market

IV. Pricing and Analysis Issues *(pages 803-810; 619-639)* (3½ Hours)

A. Sale Pricing ***(pages 803-804)***
B. Lease Pricing ***(pages 804-805)***
C. Performing a Comparative Market Analysis (CMA) or Broker Price Opinion (BPO) on a Commercial Property (Residential 5+ Unit Property or any Other Income-Producing Property). ***(Chapter 15, pages 619-639)***

   1. Review of Laws and Rules Governing Broker Price Opinions (BPOs) and Comparative Market Analyses (CMAs) Performed by Real Estate Brokers **Effective October 1, 2012.** *See Article 6 of the Real Estate License Law and Commission Rules Section A.2200 and Rule A.0108 as addressed in the* ***Manual, pages 622-639.***

   2. Review of Income (Direct) Capitalization Methodology as addressed in the ***Manual, pages 619-621.***

3. Performing a BPO or CMA as addressed in the ***Manual, pages 634-639***. Special emphasis should be placed on the material relating to analysis using the income capitalization approach to estimate a probable selling price and/or probable leasing price (lease rate).

Instructor Notes: *The* ***Broker Relationships and Responsibilities Course*** *includes substantial coverage of the basic law and rules as well as their application to estimating a selling price for residential 1-4 unit properties using the* ***sales comparison*** *and/or* ***gross rent multiplier*** *approaches. However, many students will be taking this course without having first taken the BRR Course and without any prior instruction on the BPO/CMA laws and rules that became effective October 1, 2012. Consequently, it is important that the BPO/CMA laws and rules be reviewed at the outset of this coverage. Then, the instructor should focus on the Income Capitalization Approach methodology and finally on applying that methodology to "commercial" properties (residential 5+ unit properties and other income-producing properties.* ***Instruction must include using practical problems to teach how to determine a probable selling price of at least one type of commercial property and also how to determine an appropriate leasing price (lease rate) for a commercial property.*** *An out-of-class graded homework assignment is highly recommended.*

D. Lease versus Purchase Analysis ***(pages 805-806)***
E. Investment Analysis [*Brief Introduction Only with Caution*] ***(pages 806- 807)***
F. Like-kind (Section 1031) Exchange [*Brief Introduction Only and Caution*] ***(pages 807-810)***

V. The Commercial Transaction Cycle *(pages 810-817)* (1¼ Hour)

A. The Typical ***Sales*** Transaction Cycle ***(pages 810-815)***

Instructor Note: *Instructors should provide students a copy of NCAR's* ***Standard Form 580-T****, Agreement for Purchase and Sale of Real Property [i.e., commercial property sales contract form] for the purpose of acquainting students with the form and its substantial difference from the standard residential contract form, but are not expected to teach completion of this contract form.*

1. Negotiation
2. Contract Preparation Generally
3. Selected Contract Provisions
4. Due Diligence
5. Financing
6. Closing and Post-Closing

B. The Typical Lease Transaction Cycle ***(pages 815-817; see also Chapter 16, pages 670-674 and 683-687)***

Instructor Notes: *Instructors may wish to provide students with a copy of NCAR's* ***Standard Form 590-T****, Commercial Lease Agreement for Single Tenant Facility, and* ***Standard Form 592-T****, Commercial Lease Agreement for Multi-Tenant Facility, to review language and terms that commonly appear in commercial leases in contrast to the issues typically addressed in residential leases. Following coverage of "Selected Lease Provisions" in Chapter 19, instructors should then address the coverage in Chapter 16 of the following types of leases that are commonly used for commercial properties and common lease provisions found in commercial leases.*

1. Lease Preparation Generally; Selected Lease Provisions ***(Chapter 18, pages 815-817)***

2. Types of Commercial Leases ***(Chapter 16, pages 670-674)***
   a. Percentage Lease
   b. Net Lease
   c. Graduated Lease
   d. Index Lease
   e. Full Service Lease
   f. Ground Lease

3. Selected Common Lease Provisions (Commercial or Nonresidential Leases) ***(Chapter 16, pages 683-687)***
   a. Provisions Relating to Tenant's Proposed Use
   b. Provisions Relating to Environmental Matters
   c. Provisions Relating to Fixtures
   d. Provisions Relating to Repairs
   e. Provisions Relating to Upfitting Improvements

VI. Securities Law and the Commercial Real Estate Broker

(pages 817-818) **(¼ Hour)**

[Brief Introduction Only]

Section 2: Laws Governing Residential Tenancies & Residential Property Management

Manual, Chapters 16 & 17 **(6 Hours)**

I. Laws Governing Residential Tenancies *(pages 643-665)* (1½ Hour)

A. Residential Rental Agreements Act
B. Act Prohibiting Retaliatory Eviction
C. Tenant Security Deposit Act

D. Eviction Procedures
E. Sexual Harassment
F. Laws Protecting Public Housing (Section 8 Housing) Tenants
G. Federal Servicemembers Civil Relief Act (federal law)
H. Laws Protecting Tenants in Foreclosure situations (federal and state laws)

Instructor Notes: *Protections afforded tenants under federal and state Fair Housing Laws will be reviewed later in this course.*

II. Residential Leases *(pages 675-681; 693-695)* (1 Hour)

A. Review and Proper Completion of Standard Form #410-T – Residential Rental Contract ***(pages 675-681)***
B. Statute of Frauds & Recordation of Leases ***(pages 693-695)***
D. Compliance with Lead-Based Paint Hazard Reduction Act (pre 1978 housing); ***see page 695; also see page 244 for disclosure form.***

III. North Carolina Vacation Rental Act *(pages 695-699)* (½ Hour)

Instructor Note: *When teaching this course in areas with substantial vacation rentals, additional time should be devoted to this topic.*

IV. Introduction to Property Management *(pages 707-710)* (½ Hour)

A. What Constitutes "Property Management"

B. Licensing Requirement for Property Managers
   1. General Requirement
   2. Exemption for Certain W-2 Employees of *Brokers* Acting as Property Managers

C. Laws/Rules Governing Property Manager Relationships

V. Property Management Agreements *(pages 711-718)* (½ Hour)

Instructor Notes: *Review the provisions of NCAR's* ***Standard Form #401****, Exclusive Property Management Agreement (Long-term Rental Property), found at pages 712-717. Instructors should remind licensees that this Form is a REALTOR® form and thus may* ***not*** *be used by anyone who is not a REALTOR® member or associated with a REALTOR® member.*

VI. Principal Functions of Property Managers *(pages 718 - 728)* (2 Hours)

A. Preparing a Management Plan
B. Establishing a Rental Schedule
C. Preparing an Operating Budget (*see Sample Operating Budget, page 722*)

Instructor Notes: *Instructors may wish to have students prepare a sample operating budget to assist in understanding the various annual expenses related to a property and to calculate the amount of rent required to satisfy, and hopefully exceed, the annual costs. Students could be encouraged to assume they are planning to rent their own residence, to calculate their annual costs and then determine the rent they need to charge to cover all expenses and produce net rental income.*

D. Marketing and Renting the Property
E. Collecting Rents and Security Deposits
F. Maintaining and Protecting the Property
G. Preparing and Enforcing Rules and Regulations
H. Performing Landlord's Duties under Leases
I. Instituting Legal Actions
J. Maintaining Property Insurance
K. Maintaining Records and Accounting to Owner

Section 3: Land Use Controls and the Real Estate Broker *Manual, portions of Chapter 7* (2 Hours)

Instructor Note: *Instructors should remind students of a licensee's duty to be knowledgeable about real estate matters and the License Law duty to discover and disclose material facts. Among other things, these duties mean that licensees are expected to be aware of public and private land use controls and of events in their area that affect property owners and buyers, and to recognize potential adverse effects on prospective buyers and inform them of such matters.*

Examples of Licensee's Duties:

- Duty to verify permitted land uses (zoning, protective covenants, etc.) (1) prior to making any representation about whether a used is permitted or (2) whenever a prospective buyer indicates an intent to use a property differently from the current use or to add an improvement.

- Duty to recognize potential land use problems when a "red flag" situation exists that would alert a reasonably prudent agent that a problem might exist, to check the zoning, protective covenants, etc., and to disclose any discovered problem.

- Duty to be aware of planned major land use changes that would substantially affect a property under consideration (e.g., major planned highway change, major planned commercial/industrial development, etc.) and to disclose such information.

I. Selected Public Land Use Controls *(pages 145-165)* (1 Hour)

A. Zoning
   1. Source of zoning authority of counties and municipalities
   2. Zoning districts and categories *[Instructors are urged to use local information for illustration.]*
   3. Extraterritorial jurisdiction
   4. Concepts and Terms

B. Subdivision Statutes and Regulations

II. Private Land Use Controls *(pages 173-181)* (1 Hour)

A. Restrictive/Protective Covenants

B. NC Planned Community Act

C. Conservation and Preservation Agreements

Section 4: Loan Fraud *Manual, portions of Chapter 13* (1½ Hours)

I. What is Loan Fraud? *(pages 525-527; 505-509)* (½ Hour)

A Background (***pages 525-526)***

B. North Carolina Legislation (***pages 505-509)***

C. Elements of Loan Fraud (***pages 526-527***)

II. Common Loan Fraud Schemes *(pages 527-531)* (1 Hour)

Review the many examples provided in the text. Instructors also may wish to incorporate ***four disciplinary cases appended to this Syllabus*** *all of which pertain to loan fraud by licensees and the resulting disciplinary action. Instructors also are encouraged to peruse the* ***Real Estate Bulletin*** *for cases that may illustrate relevant points.*

Section 5: Brokerage Compensation Issues (3 Hours)

Manual, Chapter 21 & 2008-09 Real Estate Update Course Materials (specifically pages 34-43 as to Rule A.0109 issues)

I. Compensation for Brokerage Services Requires a Real Estate License *(pages 833-840)* (¼ Hour)

A. General Prohibition of Compensating Unlicensed Persons
B. Exceptions
   1. Sharing Compensation with Parties to the Transaction
   2. Payments to Travel Agents for Vacation Rentals

II. Compensating Affiliated Licensees *(pages 840-847)* (1 Hour)

A. Licensee Eligibility for Compensation
B. Payment of Compensation to Provisional Brokers
C. Payment of Compensation to Brokers NOT on Provisional Status
D. Payment of Compensation to Licensees No Longer Affiliated w/Firm, Inactive Licensees or Expired Licensees
E. Miscellaneous Situations
F. Payment of Compensation to Business Entities Created by Broker Associates for Compensation Purposes

III. Sharing Compensation with Non-Affiliated Brokers or Firms *(pages 848-855)* (1 Hour)

A. Basic Requirements
B. Sharing Brokerage Fees through Cooperative Listing Services
C. Sharing Brokerage Fees Outside of Cooperative Listing Services
D. Requirement of Compensation Agreements to be "Written"
E. Limitations on Sharing Compensation
F. Sharing Compensation with Foreign Brokers
G. Commercial Brokerage
H. Limited Non-Resident Commercial License

IV. Third Party Payments to Licensees *(pages 856-865)* (¾ Hour)

A. Review of Rule 21 NCAC 58A.0109 and the Basic Requirements
B. RESPA Restrictions on Referral Fees and Kickbacks
C. Compensation, Incentives Bonuses, etc. to Broker From Anyone Other Than Broker's Principal

Instructor Note: *You may find it helpful to utilize the* ***2008-09 Update Course Materials****, pages 34-43, addressing Rule A.0109 issues.*

Section 6: Miscellaneous License Law and Rule Issues (¾ Hour)

Manual, Appendices A, B & C (North Carolina License Law, Commission Rules and License Law and Rule Comments). See RELINC (Real Estate Licensing in North Carolina) booklet for III E on "Reinstatement of Expired License."

I. Broker-in-Charge Overview [See Rule A.0110] (¼ Hour)

A. When Broker-in-Charge Designation Is Required
B. General Duties of Broker-in-Charge
C. Education and Experience Requirements

II. Using Unlicensed Personal Assistants [See "License Law and Rule Comments" -- Appendix C in *Manual.*] (¼ Hour)

A. Permitted Duties
B. Prohibited Activities

III. License Status and Education Issues (¼ Hour)

A. License Status: Meaning of provisional broker, active, inactive, expired, suspended and revoked status.
B. Postlicensing Education Requirement (and consequences of failure to satisfy)
C. Continuing Education Requirement (and consequences of failure to satisfy)
D. Requirements and procedures to activate an inactive license
E. Requirements and procedures to reinstate an expired license **(current *RELINC*)**

Instructor Note: *The Commission's* ***Broker-In-Charge Guide*** *may also be a useful tool for instructors in terms of providing examples or additional details as desired for incorporation into the lesson.*

Section 7: License Law Case Studies (3 Hours)

Manual, Chapter 20 & Appendix F

Review and discussion of disciplinary case summaries of actual cases handled by the Real Estate Commission. Instructors may wish to supplement the case summaries in Chapter 20 of the Manual with the disciplinary case studies found in Section 4 of the ***2010-2011 BICAR Course*** materials. (Answers to cases in the *Manual* are found in Appendix F.)

Section 8: Fair Housing Case Studies (2 Hours)

Manual, Chapter 18 & Appendix F

Review and discussion of fair housing laws and practices illustrated by the case studies provided.

Section 9: Legal Requirements for Establishing a Real Estate Brokerage Firm (¾ Hour)

Manual, Appendix D

I. Forms of Business Ownership (and Basic Characteristics)

Instructor Notes: *1) Advise students to consult their private attorney, accountant and tax advisor for more detailed advice and assistance in this regard. Do not attempt to advise students on matters relating to the most appropriate form of business ownership unless you are fully qualified to do so. 2) During the coverage of this section, you are encouraged to access and/or have your students access the actual real estate firm license application on the Commission's website at www.ncrec.gov. The application contains the rules that pertain to its completion.*

A.. Sole Proprietorship
B. Partnership
C. Corporation
D. Limited Liability Company (LLC)

II. Business Registration Requirement (Office of the Secretary of State)

III. Registration of Assumed Name (if needed)

IV. Real Estate FIRM License Requirements *[Rule 58A.0502]*

A. Separate firm application must be filed.
B. Firm must be legally formed and authorized by NC Secretary of State to do business in NC. Name on firm application must be identical to name registered with the Office of the Secretary of State.
C.. One principal of the business entity (a general partner of a partnership, a manager of an LLC, or an officer of a corporation) must serve as "Qualifying Broker."
D. Firm must have a broker-in-charge for each office. (Exception for certain Subchapter S corporations.)
E. All principals must satisfy "character" requirement.
F. Firm licensure does not extend to any individual.
G. Firm license must be renewed just like an individual license.

V. Qualifying Broker Duties

Section 10: Manufactured and Modular Homes (½ Hour)

Manual, Chapter 1, pages 7-8

I. Characteristics of Manufactured and Modular Homes

II. How to Determine if a Manufactured Home is Real or Personal Property

Section 11: Issues Relating to Short Sales (1 Hour)

Manual, Selected Portions of Chapters 9 & 13; 2011-12 Update Course Student Manual, pages 1-27

I. Introduction *(Manual, pages 531-532, 310 & 318)*

A. What is a Short Sale?
B. Listing Agent's Responsibility to Identify Potential Short Sale Situation

II. The Short Sale Process and Brokers' Roles *(Manual, pages 532-535)*

A. What Is and Is Not a Material Fact
B. The Short Sale Process
C. Brokers' Roles and Responsibilities

Section 12: Local Issues (1 Hour)

Instructor discretionary time for discussion of real estate issues of particular interest and significance in the local area where the course is being taught. Examples: Vacation Rental Act in areas with a lot of vacation rental property; special considerations in the sale or purchase of coastal property in coastal areas; local zoning issues; and local school reassignment issues and the impact on a particular address's assigned base schools.

End of Syllabus