

EMERGENCY RULE EFFECTIVE MAY 1, 2020
AND PROPOSED TEMPORARY
RULEMAKING NOTICE

Effective May 1, 2020, emergency rule, 21 NCAC 58G .0106, requires schools and course sponsors to cancel or suspend all in-person courses until June 30, 2020, and allows schools, course sponsors, and education providers to offer the Update Course as an in-person course or as a synchronous distance learning course.

The Commission has simultaneously submitted to the Office of Administrative Hearings - Rules Review Commission the proposed temporary rule adoption for 21 NCAC 58G .0106. No federal certifications or fiscal notes are required for any of these proposed changes.

A public hearing will be held on May 13, 2020, at 9:00 a.m. on the proposed temporary rule, 21 NCAC 58G .0106, relating to the public health emergency, and will only be held via video conference. Please sign-up using the below link to receive the video conference instructions that will be emailed to all registered participants on May 12, 2020.

<https://forms.gle/H1fTfViwwKQsNWTv9>

Members of the public may submit oral or written comments on any of the proposed rule now through May 19, 2020, by contacting the Commission's Rulemaking Coordinator as follows:

Melissa Vuotto
Rulemaking Coordinator
North Carolina Real Estate Commission
P.O. Box 17100
Raleigh, NC 27619
public.comment@ncrec.gov



**EMERGENCY RULE-MAKING
FINDINGS OF NEED
[G.S. 150B-21.1A]**

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: NORTH CAROLINA REAL ESTATE COMMISSION	
2. Rule citation(s): 21 NCAC 58G .0106	
3. Adoption by agency on: APRIL 15, 2020	4. Date agency requests entry of emergency rule in the Code: MAY 1, 2020
5. What is the need for an emergency rule? On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issued Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing. On March 27, 2020, the Governor of North Carolina, by issuing Executive Order No. 121, ordered residents to stay-at-home to limit the spread of COVID-19 for thirty days. Local governments and counties have also enacted similar orders that impose stricter restrictions or prohibitions.	
6. Has the agency provided the public with abbreviated notice? If so, describe. Yes, it has been posted on the homepage of www.ncrec.gov and a notice was emailed to all interested persons on April 23, 2020.	
7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety? The public health threat posed by COVID-19 requires immediate action to limit mass gatherings, increase social distancing, and limit exposure of high risk individuals. It is in the public's interest to immediately adopt rules that limit the Commission's regulated audience's exposure to COVID-19 and allow for relaxed requirements during the time of this public health emergency.	

[Emergency Rule-making Findings of Need Continued]

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority)

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

- Yes
 No

10. Rule establishes or increases a fee? (See G.S. 12-3.1)

- Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:
- No

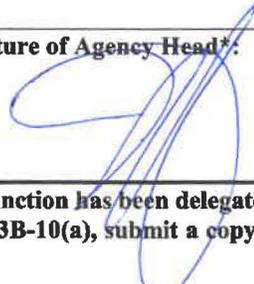
11. Rule-making Coordinator:

Melissa A. Vuotto
Phone:
919-875-3700 ext. 142
E-Mail:
Melissa@ncrec.gov

Agency contact, if any:

Robert A. Patchett
Phone:
919-875-3700 ext. 133
E-Mail:
Rob@ncrec.gov

12. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Jeff Malarney
Title: Chair of the North Carolina Real Estate Commission
E-Mail: Jeff@darecountylaw.com

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____
Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____
Date: _____

Comments:

1 21 NCAC 58G .0106 is adopted under emergency procedures as follows:
2

3 **21 NCAC 58G .0106 SYNCHRONOUS DISTANCE-LEARNING FOR PUBLIC HEALTH**
4 **EMERGENCY**

5 (a) Schools and course sponsors shall cancel or suspend all in-person courses until June 30, 2020.

6 (b) Schools, course sponsors, and education providers may offer synchronous distance-learning for continuing
7 education courses except for the period between June 11, 2020 and June 30, 2020, inclusive. Schools and education
8 providers may offer synchronous distance-learning for prelicensing and postlicensing courses. “Synchronous
9 distance-learning” means the instructor and students are separated only by distance and not time, allowing for real-
10 time monitoring of student participation.

11 (c) The Update Course shall be offered by schools, course sponsors, or education providers only as an in-person and
12 synchronous distance-learning course.

13

14 History Note: Authority G.S. 93A-3(c); 93A-4.1(c);

15 Emergency Eff. May 1, 2020.

16

4/21/2020



PROPOSED TEMPORARY RULE FOR PUBLICATION ON THE OAH WEBSITE

OFFICE USE ONLY

Published on the OAH website:

CHECK APPROPRIATE BOX:

- Proposed Temporary Rule [G.S. 150B-21.1(a3)]
Proposed Temporary Rule simultaneously adopted as an emergency rule [G.S. 150B-21.1A(a)]

1. Rule-Making Agency: NORTH CAROLINA REAL ESTATE COMMISSION

2. Proposed Action -- Mark the appropriate box(es) and list rule citation(s) beside proposed action:

- ADOPTION: 21 NCAC 58G .0106
AMENDMENT:
REPEAL:

3. Public Hearing:

Date: May 13, 2020
Time: 9:00 A.M.
Location: Teleconference via Zoom; https://ncrec.zoom.us/j/98202655093?pwd=bWhnWEFNMUUwMFhkOXMwcGV6ZUk3QT09

4. Reason for agency adopting rule(s) under temporary action:

- A serious and unforeseen threat to the public health, safety or welfare.
The effective date of a recent act of the General Assembly or of the U.S. Congress.
A recent change in federal or state budgetary policy.
A recent federal regulation.
A recent court order.
Other:

Explain:
SEE EXHIBIT A.

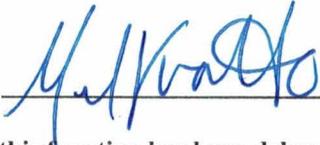
<p>5. Comments from the public shall be directed to: Name: MELISSA A. VUOTTO Address: PO BOX 17100, RALEIGH, NC 27619-7100</p> <p>Phone (optional): Fax (optional): E-Mail (optional): PUBLIC.COMMENT@NCREC.GOV</p>	
<p>6. Comment Period Starts: APRIL 28, 2020</p>	<p>Comment Period Ends: MAY 19, 2020</p>
<p>7. Rule-making Coordinator: MELISSA A. VUOTTO Address: NC REAL ESTATE COMMISSION PO BOX 17100 RALEIGH, NC 27619-7100</p> <p>Phone: 919-875-3700, ext. 142 E-Mail: Melissa@ncrec.gov</p> <p>Agency contact, if any: Robert A. Patchett Phone: 919-875-3700, ext. 142 E-mail: Rob@ncrec.gov</p>	<p>8. The Agency formally proposed the text of this rule(s) on Date: APRIL 15, 2020</p> <p>9. Signature of Agency* Head or Rule-making Coordinator:</p> <p style="text-align: center;">  _____ </p> <p>*If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.</p> <p>Typed Name: Melissa A. Vuotto Title: Rulemaking Coordinator</p>

EXHIBIT A

On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. On March 14, 2020, the Governor of North Carolina issued Executive Order No. 117 that prohibited mass gatherings, closed schools, and urged social distancing. On March 27, 2020, the Governor of North Carolina, by issuing Executive Order No. 121, ordered residents to stay-at-home to limit the spread of COVID-19 for thirty days. Local governments and counties have also enacted similar orders that impose stricter restrictions or prohibitions.

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16 Temporary Adoption Eff. _____.

17