

PROPOSED PERMANENT RULEMAKING

ANNUAL RULEMAKING EFFECTIVE JULY 1, 2023

In accordance with N.C.G.S. §150B-19.1(c), the Real Estate Commission (“Commission”) hereby gives notice that it has submitted to the Office of Administrative Hearings - Rules Review Commission for publication in the *North Carolina Register* the Notice of Text for proposed rule changes under consideration. No federal certifications or fiscal notes are required for any of these proposed changes.

The Notice of Text includes summaries that cite each rule affected and explains the reason for the proposed change. Changes to the proposed rule text are reflected by underscoring text that will be added and striking through text that will be deleted.

A public hearing on the proposed rules will be held in-person at the Commission’s office on Wednesday, March 15, 2023, at 9:00 a.m.

The period for accepting comments on the proposed rules begins February 15, 2023, and continues through April 17, 2023. You may submit written comments on these proposed rules 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@nrec.gov

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission (“RRC”). If the RRC receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the RRC approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The RRC will receive written objections until 5:00 p.m. on the day following the day the RRC approves the rule. The RRC will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the RRC, please call a RRC staff attorney at 919-431-3000.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to adopt the rules cited as 21 NCAC 58H .0216, .0307 and amend the rules cited as 21 NCAC 58A .0113, .0301, .0505, .1705, .1708; 58B .0202; 58H .0202 and .0302.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncrec.gov

Proposed Effective Date: July 1, 2023

Public Hearing:

Date: March 15, 2023

Time: 9:00 a.m.

Location: NC Real Estate Commission, 1313 Navaho Dr, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 58A .0113 – REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

Amend this Rule to clarify that military court-martial convictions are reportable offenses.

21 NCAC 58A .0301 – FORM

Amend this Rule to require a broker to report previous or pending military convictions in the application process.

21 NCAC 58A .0505 – REINSTATEMENT OF A LICENSE

Amend this Rule to require nonresident brokers that have been expired, revoked, or surrendered for more than two years to reinstate their license by filing an original application pursuant 21 NCAC 58A .0511.

21 NCAC 58A .1705 – ATTENDANCE AND PARTICIPATION REQUIREMENTS

Amend this Rule to correct the terminology of ‘course sponsor’ to ‘education provider.’

21 NCAC 58A .1708 – EQUIVALENT CREDIT

Amend this Rule to remove equivalent credit waivers for continuing education elective credit courses.

21 NCAC 58B .0202 – PUBLIC OFFERING STATEMENT SUMMARY

Amend this Rule to include electronic mail as a means of delivery of a timeshare cancellation notice pursuant to NCGS 93A-45(b).

21 NCAC 58H .0202 – APPLICATION FOR EDUCATION PROVIDER CERTIFICATION

Amend this Rule to prohibit an individual or entity with an ownership interest of ten percent or greater that has been limited, denied, withdrawn, or terminated from filing an application within one year of the effective date.

21 NCAC 58H .0216 – LIMITED EDUCATION PROVIDER PETITION FOR RECONSIDERATION

Adopt this Rule to clarify the petition process for a limited education provider to request a reconsideration of the Commission’s determination.

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

Amend this Rule to require instructors to attend at least 90% of the Commission’s annual Update Instructor Seminar.

21 NCAC 58H .0307 – LIMITED INSTRUCTOR PETITION FOR RECONSIDERATION

Adopt this Rule to clarify the petition process for a limited instructor to request a reconsideration of the Commission’s determination.

Comments may be submitted to: *Melissa Vuotto, PO Box 17100, Raleigh, NC 27619-7100; email Public.Comment@ncrec.gov*

Comment period ends: April 17, 2023

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

~~(a) Any broker who is convicted of any felony or misdemeanor, or who is disciplined by or enters into a conciliation agreement or consent order with any governmental agency in connection with any occupational license, or whose notarial commission is restricted, suspended, or revoked, shall file with the Commission a Criminal Conviction Disciplinary Action Reporting Form of such conviction or action within 60 days of the final judgment, order, or disposition in the case. A broker shall file with the Commission a Criminal Conviction Disciplinary Action Reporting Form within 60 days of:~~

- ~~(1) a final judgment, order, or disposition of any felony or misdemeanor conviction;~~
- ~~(2) a disciplinary action or entering into a conciliation agreement or consent order with a governmental agency or occupational licensing agency;~~
- ~~(3) a final judgment, order, or disposition of a military court-martial conviction; or~~
- ~~(4) a notarial commission sanction pursuant to G.S. 10B-60.~~

~~(b) The Criminal Conviction Disciplinary Action Reporting Form is available on the Commission's website at www.ncrec.gov or upon request to the Commission. In the Form, the broker Commission and shall set forth the broker's:~~

- (1) full legal name;
- (2) physical and mailing address;
- (3) real estate license number;
- (4) telephone number;
- (5) email address;
- (6) social security number;
- (7) date of birth; and
- (8) description of the criminal conviction and disciplinary conviction, military court-martial conviction, or professional license disciplinary action, including the jurisdiction and file number.

History Note: Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2);
Eff. August 1, 1996;
Amended Eff. July 1, 2016; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2003; July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018~~; May 1, 2018;
Amended Eff. July 1, 2023.

SECTION .0300 – APPLICATION FOR LICENSE

21 NCAC 58A .0301 FORM LICENSE APPLICATION

~~An individual or business entity who wishes to file an application for a broker license shall make application on a form prescribed by the Commission and may obtain the required form upon request to the Commission. The application form for an individual calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior real estate licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure. The application form for a business entity is described in Rule .0502 of this Section.~~

~~(a) An individual seeking licensure as a real estate broker shall submit a license application that is available on the Commission's website and shall include the applicant's:~~

- ~~(1) legal name;~~
- ~~(2) mailing, physical, and email address;~~
- ~~(3) telephone number;~~
- ~~(4) social security number and date of birth;~~
- ~~(5) qualification for license application;~~
- ~~(6) real estate license history;~~
- ~~(7) places of residence for the past seven years;~~
- ~~(8) employment history for the past three years;~~
- ~~(9) criminal offenses, military courts-martial convictions, professional license disciplinary actions, including the jurisdiction, file number, and explanation of each offense;~~
- ~~(10) liens or unpaid judgments;~~
- ~~(11) certification the applicant has read the Real Estate Licensing in North Carolina brochure that is available on the Commission's website; and~~
- ~~(12) declaration and signature.~~

~~(b) In addition to Paragraph (a) of this Rule, the applicant shall submit:~~

- ~~(1) the license application fee pursuant to Rule .0302 of this Section; and~~
- ~~(2) a criminal records report from a designated criminal reporting service obtained within six months prior to application submission.~~

History Note: Authority G.S. 93A-3(c); ~~93A-4(a),(b),(d)~~; 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. April 1, 2006; July 1, 2000; February 1, 1991; February 1, 1989; August 1, 1988; December 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~May 1, 2018~~; May 1, 2018;
Amended Eff. July 1, 2023.

SECTION .0500 - LICENSING

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

- (a) The fee for reinstatement of a license that has been expired, revoked, or surrendered for less than two years shall be an amount equal to two times the current renewal license fee pursuant to Rule .0503 of this Section.
- (b) The reinstatement application form is available on the Commission's website and shall include the applicant's:
- (1) legal name;
 - (2) mailing, physical, and email address;
 - (3) telephone number;
 - (4) previous license number;
 - (5) Secretary of State identification number, if applicable;
 - (6) social security number and date of birth, if applicable;
 - (7) qualifying broker and broker-in-charge's legal name and license number, if applicable;
 - (8) criminal record report from a designated criminal reporting service obtained prepared within six months ~~of~~ prior to application;
 - (9) certification; and
 - (10) signature.
- (c) An individual seeking reinstatement of a license that has been expired for less than six months shall:
- (1) submit the reinstatement fee pursuant to Paragraph (a) of this Rule;
 - (2) disclose any criminal ~~conviction or~~ conviction, court-martial conviction, or disciplinary action pursuant to Rule .0113 of this Section, including any conviction or disciplinary action incurred while the individual's license was expired; and
 - (3) satisfy the license activation requirements of Rule .1703 of this Subchapter, if applicable.
- (d) An individual seeking reinstatement of a license that has been expired for six months but no more than two years or revoked or surrendered for no more than two years shall:
- (1) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;
 - (2) submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and
 - (3) pass:
 - (A) one Postlicensing course within six months prior to submitting ~~his or her~~ a reinstatement application;
 - (B) the "National" and "State" sections of the current license examination within 180 days after submitting ~~his or her~~ a reinstatement application; or
 - (C) the "State" section of the current license examination within 180 days after submitting ~~his or her~~ a reinstatement application if the individual possesses an active broker license in another state.
- (e) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for more than two years shall submit ~~an original~~ a license application and application fee pursuant to G.S. 93A-4 and ~~Rules .0301 and .0302~~ Rules .0301, .0302, and .0511 of this Subchapter.
- (f) A reinstated license ~~shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original initial licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1).~~
- (g) A business entity seeking reinstatement of a license shall submit:
- (1) the reinstatement fee pursuant to Paragraph (a) of this Rule if the license has been expired for less than six months;
 - (2) the reinstatement fee and a complete reinstatement application pursuant to Paragraphs (a) and (b) of this Rule if the license has been expired for six months but no more than two years or revoked or surrendered for no more than two years; or
 - (3) ~~an original~~ a firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter if the license has been expired, revoked, or surrendered for more than two years.
- (h) A broker seeking reinstatement of a license shall satisfy to the Commission that ~~he or she~~ the broker possesses the character requisites pursuant to G.S. 93A-4(b).

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. July 1, 2017; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2023; July 1, 2018.

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

- (a) In order to receive credit for completing an approved continuing education course, a broker shall:
- (1) attend at least 90 percent of the scheduled instructional hours for the course;

- (2) provide ~~his or her~~ the broker's legal name and license number to the ~~course sponsor;~~ education provider;
 - (3) present ~~his or her~~ the broker's pocket card or photo identification card, if necessary; and
 - (4) personally perform all work required to complete the course.
- (b) With the instructor or the ~~sponsor's~~ education provider's permission, a 10 percent absence allowance may be permitted at any time during the course, except that it may not be used to skip the last 10 percent of the course unless the absence is:
- (1) approved by the instructor; and
 - (2) for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
 - (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

*History Note: Authority G.S. 93A-3(c); 93A-4.1;
 Eff. July 1, 1994;
 Amended Eff. July 1, 2017; July 1, 2010;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
 Amended Eff. July 1, 2023; January 1, 2020.*

21 NCAC 58A .1708 EQUIVALENT CREDIT

(a) The Commission shall award ~~a broker~~ an approved instructor continuing education credit for teaching a Commission Update Course. ~~A broker~~ An approved instructor seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the ~~broker~~ approved instructor to set forth the:

- (1) ~~broker's~~ approved instructor's name, license number, instructor number, address, telephone number, and email address;
- (2) Update Course number;
- (3) education provider's name and number;
- (4) education provider's address; and
- (5) date the course was taught.

(b) The Commission shall award a broker continuing education elective credit ~~for teaching a Commission approved continuing education elective for the first time any given continuing education elective is taught.~~ the first time an approved continuing education elective course is taught by the broker. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) course number;
- (4) education provider's name and number;
- (5) education provider's address; and
- (6) date the course was taught.

~~(c) The Commission may award continuing education elective credit for completion of an unapproved course that the Commission finds equivalent to the elective course component of the continuing education requirement set forth in 21 NCAC 58H .0402. The broker shall submit a course completion certificate issued by the education provider, a copy of the course description or course outline, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit. A broker seeking continuing education credit for a course that is not approved by the Commission shall submit a form, available on the Commission's website, that requires the broker to set forth the:~~

- ~~(1) broker's name, license number, address, telephone number, and email address;~~
- ~~(2) course title;~~
- ~~(3) number of instructional hours;~~
- ~~(4) course instructor's name; and~~
- ~~(5) education provider's name, address, telephone number, and email address.~~

~~(d)~~(c) The Commission may award continuing education elective credit for developing a continuing education elective course the first time that it is approved by the Commission pursuant to 21 NCAC 58H .0401. However, a broker shall only receive credit for the year in which the continuing education elective course is approved. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

~~(e) The Commission may award continuing education elective credit for authoring a real estate textbook. However, a broker shall receive credit for any single textbook only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the title page of the textbook, showing the title, publisher, and publication date, the table of contents, and a fifty dollar (\$50.00) fee for each textbook for which the licensee seeks credit.~~

~~(f) The Commission may award continuing education elective credit for authoring of a scholarly article on a real estate topic published in a professional journal or periodical. A broker shall receive credit for any single article only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit a copy of the article, proof of publication, and a fifty dollar (\$50.00) fee for each article for which the broker seeks credit.~~

~~(g)~~(d) In order for any application for equivalent credit to be considered and credits applied to the current licensing period, a complete application, the appropriate fee, and all supporting documents shall be received by the Commission no later than 5:00 p.m. on June 17.

~~(h) Any equivalent continuing education credit awarded under this Rule shall be applied first to make up any continuing education deficiency for the previous license period and then to satisfy the continuing education requirement for the current license period; however, credit for an unapproved course or educational activity, other than teaching an approved elective course, that was completed during a previous license period shall not be applied to a subsequent license period.~~

History Note: Authority G.S. 93A-3(c); 93A-38.5;
Eff. July 1, 1994;
Amended Eff. July 1, 2017; April 1, 2006; July 1, 2001; July 1, 2000; March 1, 1996; July 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2023; July 1, 2020.

SUBCHAPTER 58B – TIMESHARES

SECTION .0200 - PUBLIC OFFERING STATEMENT

21 NCAC 58B .0202 PUBLIC OFFERING STATEMENT SUMMARY

In addition to the requirements in G.S. 93A-44, a public offering statement shall contain a page prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary in conspicuous type. The Public Offering Statement Summary shall read as follows:

PUBLIC OFFERING STATEMENT SUMMARY

NAME OF PROJECT:

NAME AND REAL ESTATE LICENSE NUMBER OF BROKER (IF ANY):

Please study this Public Offering Statement carefully. Satisfy yourself that any questions you may have are answered before you decide to purchase. If a salesperson or other representative of the developer has made a representation which concerns you, and you cannot find that representation in writing, ask that it be pointed out to you.

NOTICE

UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIMESHARE PURCHASE WITHOUT PENALTY WITHIN FIVE DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIMESHARE PURCHASE, YOU MUST ~~MAIL OR MAIL, ELECTRONICALLY MAIL, OR HAND DELIVER~~ WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO (name and address of project). IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE NORTH CAROLINA REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

History Note: Authority G.S. 93A-44; 93A-51;
Eff. March 1, 1984;
Amended Eff. April 1, 2006; October 1, 2000; February 1, 1989; April 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. July 1, 2023; July 1, 2022.

SUBCHAPTER 58H - REAL ESTATE EDUCATION

SECTION .0200 - REAL ESTATE EDUCATION PROVIDERS

21 NCAC 58H .0202 APPLICATION FOR EDUCATION PROVIDER CERTIFICATION

(a) Any community college, junior college, or university located in this State and accredited by the Southern Association of Colleges and Schools seeking education provider certification shall apply to the Commission on a form available on the Commission's website and shall set forth the:

- (1) education provider's name;
- (2) education director's name and contact information;
- (3) education director's email address;
- (4) education provider's address;
- (5) education provider's telephone number;
- (6) education provider's website address;
- (7) type of public institution;
- (8) Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant; and
- (9) a signed certification by the education director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Any other person or entity seeking education provider certification shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b1):

- (1) the website, physical and mailing address, and telephone number of the principal office of the education provider;
- (2) the education director's license number, if applicable, email and mailing address, and telephone number;
- (3) the North Carolina Secretary of State Identification Number, if applicable;
- (4) the physical address of each proposed branch location, if applicable;
- (5) the type of ownership entity;
- (6) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- (7) the Prelicensing, Postlicensing, and Continuing Education courses to be offered by the applicant; and
- (8) a signed certification by the education director that courses shall be conducted in compliance with the rules of this Subchapter.

(c) The certification application fee for an education provider applying under Paragraph (b) of this Rule shall be two hundred dollars (\$200.00) for each proposed education provider location. Provided however, education providers shall not be required to obtain a certification for every location a Continuing Education course is offered.

(d) If any education provider relocates any location or opens additional branch locations during any licensing period, the education director shall submit an original application for certification of that location pursuant to this Rule.

(e) In the event that any education provider advertises or operates in any manner using a name different from the name under which the education provider is certified, the education provider shall first file an assumed name certificate in compliance with G.S. 66-71.4 and shall notify the Commission in writing of the use of such an assumed name. An education provider shall not advertise or operate in any manner that would mislead a consumer as to the education provider's actual identity.

(f) An individual or entity with an ownership interest of 10 percent or greater in a certified education provider that has been limited, denied, withdrawn, or terminated pursuant to Rule .0210 of this Section shall be prohibited from filing an application pursuant to this Rule for one year from the effective date of the limitation, denial, withdrawal, or termination.

History Note: Authority G.S. 93A-4; 93A-34; 93A-35;
Eff. July 1, 2017;
Amended Eff. July 1, 2023; July 1, 2020.

21 NCAC 58H .0216 LIMITED EDUCATION PROVIDER PETITION FOR RECONSIDERATION

(a) An education provider may submit a written petition to reconsider the determination made pursuant to Rule .0210(c) of this Section. The petition shall be accompanied by any documentary evidence that contradicts the Commission's determination pursuant to Rule .0210(c) of this Section.

(b) The petition pursuant to Paragraph (a) of this Rule shall be submitted to the Commission within 60 days from the date of receipt of notification of the certification limitation or the Commission's determination shall be final.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-38;
Eff. July 1, 2023.

SECTION .0300 – APPROVED INSTRUCTORS

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 ~~he or she is seeking~~ 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) a signed Consent to Service of Process and Pleadings for nonresident applicants; and
- (8) signature.

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

- (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 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.

(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 the Commission's annual Update Instructor Seminar 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, 2023; July 1, 2020; July 1, 2019.

21 NCAC 58H .0307 LIMITED INSTRUCTOR PETITION FOR RECONSIDERATION

(a) An instructor may submit a written petition to reconsider the determination made pursuant to Rule .0303(b) of this Section. The petition shall be accompanied by any documentary evidence that contradicts the Commission's determination pursuant to Rule .0303(b) of this Section.

(b) The petition pursuant to Paragraph (a) of this Rule shall be submitted to the Commission within 60 days from the date of receipt of notification of the approval limitation or the Commission's determination shall be final.

History Note: Authority G.S. 93A-3(c); 93A-4(d);
Eff. July 1, 2023.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the Real Estate Commission intends to repeal the rule cited as 21 NCAC 58A .1711.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncrec.gov

Proposed Effective Date: *July 1, 2023*

Public Hearing:

Date: *March 15, 2023*

Time: *9:00 a.m.*

Location: *NC Real Estate Commission, 1313 Navaho Dr., Raleigh, NC*

Reason for Proposed Action:

21 NCAC 58A .1711 – CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

Repeal this Rule to require nonresident brokers to comply with North Carolina continuing education requirements.

Comments may be submitted to: *Melissa Vuotto, PO Box 17100, Raleigh, NC 27619; phone (919) 875-3700; email Public.Comment@ncrec.gov*

Comment period ends: *April 17, 2023*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SUBCHAPTER 58A – REAL ESTATE BROKERS

SECTION .1700 – MANDATORY CONTINUING EDUCATION

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

History Note: Authority G.S. 93A-3(c); 93A-38.5;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1, 2000; March 1, 1996; July 1, 1995;

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

Amended Eff. July 1, 2020; ~~July 1, 2018; July 1, 2018;~~

Repealed Eff. July 1, 2023.