

**PROPOSED PERMANENT RULEMAKING**

*ANNUAL RULEMAKING EFFECTIVE JULY 1, 2021*

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 adoption and amendments 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 via webinar only on Wednesday, February 17, 2021, at 9:00 a.m. Please sign-up using the below link to receive the webinar instructions that will be emailed to all registered participants on February 16, 2021.

<https://forms.gle/ezJFF2yjKgWcHARo7>

Comments concerning the proposed rules will be accepted beginning December 15, 2020, and continue through February 22, 2021. Members of the public may submit oral or written comments on any proposed rules during the comment period by contacting the Commission’s Rulemaking Coordinator as follows:

Melissa A. Vuotto  
Rulemaking Coordinator  
North Carolina Real Estate Commission  
P.O. Box 17100  
Raleigh, NC 27619  
[public.comment@nrec.gov](mailto: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.



## NOTICE OF TEXT

### [Authority G.S. 150B-21.2(c)]

**OAH USE ONLY**

VOLUME: 35

ISSUE: 12

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.  
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [Real Estate Commission](#)

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2. Link to agency website pursuant to G.S. 150B-19.1(c): [www.ncrec.gov](http://www.ncrec.gov)

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

ADOPTION: [21 NCAC 58A .0120](#)

AMENDMENT: [21 NCAC 58A .0104-.0105, .0110, .0114, .0503, .1601, .2202; 58H .0210, .0303](#)

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

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4. Proposed effective date: [07/01/2021](#)

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5. Is a public hearing planned? [Yes](#)

If yes:

Date	Time	Location
<a href="#">02/17/2021</a>	<a href="#">9:00 am</a>	<a href="#">In an abundance of caution and to address protective measures to help prevent the spread of COVID-19, this public hearing will be held by webinar only.</a> <a href="https://ncrec.zoom.us/j/98588176314?pwd=U2dJdXpjS1pZRvVabTVidmlaZUFHdz09">https://ncrec.zoom.us/j/98588176314?pwd=U2dJdXpjS1pZRvVabTVidmlaZUFHdz09</a>

**6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:**

**7. Explain Reason For Proposed Rule(s):**

**21 NCAC 58A .0104 – AGENCY AGREEMENTS AND DISCLOSURE**

Amend this Rule to add racial equity language in agency agreements and disclosures.

**21 NCAC 58A .0105 – ADVERTISING**

Amend this Rule to add racial equity language in advertising. Amend Paragraph (a)(2) of this Rule to clarify the text that a broker needs written consent before they advertise or display a sign.

**21 NCAC 58A .0110 – BROKER-IN-CHARGE**

Amend Paragraph (a) of this Rule to clarify the text of the rule, does not include a substantial change. Amend Paragraph (g)(1) of this Rule to clarify what is meant by ‘employed’ and independent contractors. Amend Paragraph (g)(9) of this Rule to require brokers-in-charge to complete the Commission’s Basic Trust Account Procedures once the broker-in-charge assumes responsibility for a trust account unless the broker-in-charge has previously taken the course within the last three years. Amend this Rule to place a hold on a broker-in-charge’s eligibility designation if there is a pending investigation, unreported criminal conviction, or disciplinary action. Amend Paragraph (g) of this Rule to add a requirement for brokers-in-charge to monitor an unlicensed employee to ensure the unlicensed employee does not engage in brokerage.

**21 NCAC 58A .0114 – RESIDENTIAL PROPERTY AND OWNERS’ ASSOCIATION DISCLOSURE STATEMENT**

Amend this Rule to add a requirement to disclose the age and fuel type of water heater and Internet access availability in the Disclosure.

**21 NCAC 58A .0120 – PROHIBITED ACTS**

Adopt this Rule to prohibit brokers from requiring law firms split commission checks and to require commissions to go through a broker-in-charge.

**21 NCAC 58A .0503 – LICENSE RENEWAL**

Amend this Rule in Paragraph (b) to require all brokers to supply an email address during the license renewal process.

**21 NCAC 58A .1601 – FAIR HOUSING**

Amend this Rule to add racial equity language.

**21 NCAC 58A .2202 - STANDARDS**

Amend this Rule to add racial equity language in Broker Price Opinions and Comparative Market Analyses.

**21 NCAC 58H .0210 – DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER CERTIFICATION**

Amend this Rule to add racial equity language.

**21 NCAC 58H .0303 – DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL**

Amend this Rule to add racial equity language.

**8. 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. If the Rules Review Commission 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 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 email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

**Rule(s) is automatically subject to legislative review. Cite statutory reference:**

**9. The person to whom written comments may be submitted on the proposed rule(s):**

Name: [Melissa Vuotto](#)  
Address: [PO Box 17100](#)  
[Raleigh, NC 27619-7100](#)  
Phone (optional): [919-875-3700](#)  
Fax (optional):  
EMail (optional) [Public.Comment@ncrec.gov](mailto:Public.Comment@ncrec.gov)

**10. Comment Period Ends: [02/19/2021](#)**

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

[No fiscal note required](#)

**12. Rule-making Coordinator:**

Name: [Melissa A. Vuotto](#)  
[919-875-3700](#)  
[melissa@ncrec.gov](mailto:melissa@ncrec.gov)

**Agency contact, if any:**

Name: [Rob Patchett](#)  
Phone: [919-875-3700, ext. 133](#)  
Email: [Rob@ncrec.gov](mailto:Rob@ncrec.gov)

**13. The Agency formally proposed the text of this rule(s) on**

**Date: [10/21/2020](#)**

1 21 NCAC 58A .0104 is proposed for amendment as follows:

2  
3 **21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE**

4 (a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected  
5 with the management of a property owners association shall be in writing and signed by the parties thereto. Every  
6 agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction  
7 shall be in writing and signed by the parties at the time of its formation. Every agreement for brokerage services  
8 between a broker and a buyer or tenant shall be express and shall be in writing and signed by the parties thereto not  
9 later than the time one of the parties makes an offer to purchase, sell, rent, lease, or exchange real estate to another.  
10 However, every agreement between a broker and a buyer or tenant that seeks to bind the buyer or tenant for a period  
11 of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and  
12 signed by the parties thereto from its formation. A broker shall not continue to represent a buyer or tenant without a  
13 written, signed agreement when such agreement is required by this Rule. Every written agreement for brokerage  
14 services of any kind in a real estate transaction shall be for a definite period of time, shall include the broker's license  
15 number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency  
16 agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for  
17 automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any  
18 subsequent renewals. Every written agreement for brokerage services that includes a penalty for early termination  
19 shall set forth such a provision in a clear and conspicuous manner that shall distinguish it from other provisions of the  
20 agreement. For the purposes of this Rule, an agreement between brokers to cooperate or share compensation shall not  
21 be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not  
22 be memorialized in writing.

23 (b) A broker shall conduct brokerage activities in a manner that is neither determined nor predicated by bias or  
24 ideology as to race, color, religion, national origin, sex, familial status, or disability. Every listing agreement, written  
25 buyer agency agreement, or other written agreement for brokerage services in a real estate transaction shall contain  
26 the following provision: "The broker shall conduct all brokerage activities in regard to this agreement without respect  
27 to the race, color, religion, sex, national origin, handicap, or familial status of any party or prospective party." The  
28 provision shall be set forth in a clear and conspicuous manner that shall distinguish it from other provisions of the  
29 agreement. For the purposes of this Rule, the term, "familial status" shall be defined as it is in G.S. 41A-3(1b).

30 (c) In every real estate sales transaction, a broker shall, at first substantial contact with a prospective buyer or seller,  
31 provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth  
32 the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether  
33 the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective  
34 buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide  
35 the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no  
36 event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication  
37 to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For

1 the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the  
2 consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the  
3 broker personal or confidential information. The "Working with Real Estate Agents" publication may be obtained on  
4 the Commission's website at [www.ncrec.gov](http://www.ncrec.gov) or upon request to the Commission.

5 (d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the  
6 transaction without the written authority of each party. The written authority shall be obtained upon the formation of  
7 the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity  
8 with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency  
9 shall be reduced to writing not later than the time that one of the parties represented by the broker makes an offer to  
10 purchase, sell, rent, lease, or exchange real estate to another party.

11 (e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or  
12 subagent shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer  
13 that the broker represents the interests of the seller. The written disclosure shall include the broker's license number.  
14 If the first substantial contact occurs by telephone or by means of other electronic communication where it is not  
15 practical to provide written disclosure, the broker shall immediately disclose by similar means whom he or she  
16 represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event  
17 shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of  
18 first substantial contact with the buyer.

19 (f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or  
20 seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every  
21 real estate sales transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the  
22 seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he or she  
23 represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall  
24 include the broker's license number.

25 (g) The provisions of Paragraphs (c), (d) and (e) of this Rule do not apply to real estate brokers representing sellers  
26 in auction sales transactions.

27 (h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written  
28 agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written  
29 confirmation disclosing that he or she represents the interests of the buyer. The written confirmation may be made in  
30 the written agreement.

31 (i) A firm that represents more than one party in the same real estate transaction is a dual agent and, through the  
32 brokers associated with the firm, shall disclose its dual agency to the parties.

33 (j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior  
34 express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to  
35 represent only the interests of the seller and one or more other individual brokers associated with the firm to represent  
36 only the interests of the buyer in the transaction. The authority for designated agency shall be reduced to writing not  
37 later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with

1 Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only  
2 the interests of one party if the broker has actually received confidential information concerning the other party in  
3 connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate  
4 sales transaction when a provisional broker under his or her supervision will act as a designated broker for another  
5 party with a competing interest.

6 (k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated  
7 shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a  
8 broker designated to represent the buyer:

- 9 (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by  
10 the seller;
- 11 (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by  
12 statute or rule; and
- 13 (3) any information about the seller that the seller has identified as confidential unless disclosure of the  
14 information is otherwise required by statute or rule.

15 (l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated  
16 shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a  
17 broker designated to represent the seller:

- 18 (1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by  
19 the seller;
- 20 (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by  
21 statute or rule; and
- 22 (3) any information about the buyer that the buyer has identified as confidential unless disclosure of the  
23 information is otherwise required by statute or rule.

24 (m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the  
25 identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later  
26 than the presentation of the first offer to purchase or sell.

27 (n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant  
28 to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall  
29 not disclose the following information about one party to the other without permission from the party about whom the  
30 information pertains:

- 31 (1) that a party may agree to a price, terms, or any conditions of sale other than those offered;
- 32 (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by  
33 statute or rule; and
- 34 (3) any information about a party that the party has identified as confidential, unless disclosure is  
35 otherwise required by statute or rule.

36 (o) A broker who is selling property in which the broker has an ownership interest shall not undertake to represent a  
37 buyer of that property except that a broker who is selling commercial real estate as defined in Rule .1802 of this

1 Subchapter in which the broker has less than 25 percent ownership interest may represent a buyer of that property if  
2 the buyer consents to the representation after full written disclosure of the broker's ownership interest. A firm listing  
3 a property owned by a broker affiliated with the firm may represent a buyer of that property so long as any individual  
4 broker representing the buyer on behalf of the firm does not have an ownership interest in the property and the buyer  
5 consents to the representation after full written disclosure of the broker's ownership interest.

6 (p) A broker or firm with an existing listing agreement for a property shall not enter into a contract to purchase that  
7 property unless, prior to entering into the contract, the listing broker or firm first discloses in writing to their seller-  
8 client that the listing broker or firm may have a conflict of interest in the transaction and that the seller-client may  
9 want to seek independent counsel of an attorney or another licensed broker. Prior to the listing broker entering into a  
10 contract to purchase the listed property, the listing broker and firm shall either terminate the listing agreement or  
11 transfer the listing to another broker affiliated with the firm. Prior to the listing firm entering into a contract to purchase  
12 the listed property, the listing broker and firm shall disclose to the seller-client in writing that the seller-client has the  
13 right to terminate the listing and the listing broker and firm shall terminate the listing upon the request of the seller-  
14 client.

15  
16 *History Note: Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-6(a);*

17 *Eff. February 1, 1976;*

18 *Readopted Eff. September 30, 1977;*

19 *Amended Eff. July 1, 2015; July 1, 2014; July 1, 2009; July 1, 2008; April 1, 2006; July 1, 2005;*  
20 *July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998;*  
21 *July 1, 1997; August 1, 1996; July 1, 1995;*

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

23 *May 1, 2018;*

24 *Amended Eff. July 1, 2021.*



1 21 NCAC 58A .0105 is proposed for amendment as follows:

2  
3 **21 NCAC 58A .0105 ADVERTISING**

4 (a) Authority to Advertise.

5 (1) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of  
6 real estate for another or others without the consent of his or her broker-in-charge and without  
7 including in the advertisement the name of the firm or sole proprietorship with which the broker is  
8 affiliated.

9 (2) A broker shall not ~~advertise or display~~ a "for sale" or "for rent" sign on any real estate or otherwise  
10 advertise any real estate without the written consent of the owner or the owner's authorized agent.

11 (b) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent, or lease of real estate for others in a  
12 manner indicating the offer to sell, purchase, exchange, rent, or lease is being made by the broker's principal only.  
13 Every such advertisement shall indicate that it is the advertisement of a broker or firm and shall not be confined to  
14 publication of only contact information, such as a post office box number, telephone number, street address, internet  
15 web address, or e-mail address.

16 (c) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of  
17 this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina broker.

18 (d) A broker shall not advertise any brokerage service or the sale, purchase, exchange, rent, or lease of real estate,  
19 conduct brokerage services, promote their status as a real estate broker, or engage in other real estate related activities  
20 in any manner which is predicated by bias or ideology as to race, color, religion, national origin, sex, familial status,  
21 or disability.

22  
23 *History Note: Authority G.S. 93A-2(a1); 93A-3(c); 93A-9;*  
24 *Eff. February 1, 1976;*  
25 *Readopted Eff. September 30, 1977;*  
26 *Amended Eff. July 1, 2015; April 1, 2013; July 1, 2009; January 1, 2008; April 1, 2006; July 1,*  
27 *2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989;*  
28 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*  
29 *Amended Eff. July 1, 2021; July 1, 2018.*  
30  
31

1 21 NCAC 58A .0110 is proposed for amendment as follows:

2  
3 **21 NCAC 58A .0110 BROKER-IN-CHARGE**

4 (a) Every real estate firm shall designate one BIC for its principal office and ~~one~~ a different BIC for each of its branch  
5 offices. No office of a firm shall have more than one designated BIC. A BIC shall not serve as the BIC for more than  
6 one office. A BIC shall not serve as BIC for more than one ~~office-firm~~ unless each of those ~~offices~~ firms share the  
7 same physical office space and delivery address.

8 (b) Every sole proprietorship shall designate a BIC if the sole proprietorship:

- 9 (1) engages in any transaction where a broker is required to deposit and maintain monies belonging to  
10 others in a trust account;
- 11 (2) engages in advertising or promoting services as a broker in any manner; or
- 12 (3) has one or more other brokers affiliated with the sole proprietorship in the real estate business.

13 (c) A licensed real estate firm shall not be required to have a BIC if it:

- 14 (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its  
15 qualifying broker through another firm or broker;
- 16 (2) is treated for tax purposes as a pass-through business by the United States Internal Revenue Service;
- 17 (3) has no principal or branch office; and
- 18 (4) has no licensed person associated with it other than its qualifying broker.

19 (d) A broker who maintains a trust or escrow account for the sole purpose of holding residential tenant security  
20 deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not be required  
21 to be a BIC.

22 (e) In order for a broker to designate as a BIC for a sole proprietor, real estate firm, or branch office, a broker shall  
23 apply for BIC Eligible status by submitting an application on a form available on the Commission's website. The BIC  
24 Eligible status form shall include the broker's:

- 25 (1) name;
- 26 (2) license number;
- 27 (3) telephone number;
- 28 (4) email address;
- 29 (5) criminal history and history of occupational license disciplinary actions;
- 30 (6) certification of compliance with G.S. 93A-4.2, including that:
- 31 (A) his or her broker license is on active status;
- 32 (B) the broker has obtained at least two years of real estate brokerage experience equivalent to  
33 40 hours per week within the previous five years or shall be a North Carolina licensed  
34 attorney with a practice that consisted primarily of handling real estate closings and related  
35 matters in North Carolina for three years immediately preceding application; and
- 36 (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior  
37 to application and no later than 120 days after application; and

- 1 (7) signature.
- 2 (f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor,  
3 real estate firm, or branch office. The BIC designation form shall include:
- 4 (1) the broker's:
- 5 (A) name;
- 6 (B) license number;
- 7 (C) telephone number;
- 8 (D) email address; and
- 9 (E) criminal history and history of occupational license disciplinary actions; and
- 10 (2) the firm's:
- 11 (A) name; and
- 12 (B) license number, if applicable;
- 13 (g) A designated BIC shall:
- 14 (1) assure that each broker ~~employed~~ affiliated at the office has complied with Rules .0503, .0504, and  
15 .0506 of this Subchapter;
- 16 (2) notify the Commission of any change of firm's business address or trade name and the registration  
17 of any assumed business name adopted by the firm for its use;
- 18 (3) be responsible for the conduct of advertising by or in the name of the firm at such office;
- 19 (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
- 20 (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including  
21 those required to be retained pursuant to Rule .0108 of this Section;
- 22 (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in  
23 accordance with the requirements of Rule .0506 of this Subchapter;
- 24 (7) supervise all brokers ~~employed~~ affiliated at the office with respect to adherence to agency agreement  
25 and disclosure requirements;
- 26 (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office  
27 within 10 days following any such change; ~~and~~
- 28 (9) complete the Commission's Basic Trust Account Procedures Course within 120 days of ~~opening~~  
29 assuming responsibility for a trust account in accordance with G.S. 93A-6(g). 93A-6(g), however  
30 the BIC shall not be required to complete the course more than once in three years; and
- 31 (10) supervise all unlicensed individuals employed at the office and ensure that unlicensed individuals  
32 comply with G.S. 93A-2(c)(6).
- 33 (h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of  
34 designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.
- 35 (i) A broker's BIC Eligible status shall terminate if the broker:
- 36 (1) made any false statements or presented any false, incomplete, or incorrect information in connection  
37 with an application;

- 1 (2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;  
2 (3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's  
3 license has been suspended, revoked, or surrendered; or  
4 (4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course  
5 pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.

6 (j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the  
7 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to  
8 Paragraph (e) of this Rule.

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

11 (l) A broker shall not be granted BIC Eligible status or designated as BIC of a firm if there is a pending Commission  
12 investigation against the broker.

13  
14 *History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9;*  
15 *Eff. September 1, 1983;*  
16 *Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006;*  
17 *July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August*  
18 *1, 1998; April 1, 1997; July 1, 1995; July 1, 1994;*  
19 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;*  
20 *Amended Eff. July 1, 2021; July 1, 2020; July 1, 2018.*

1 21 NCAC 58A .0114 is proposed for amendment as follows:

2  
3 **21 NCAC 58A .0114 RESIDENTIAL PROPERTY AND OWNERS' ASSOCIATION DISCLOSURE**  
4 **STATEMENT**

5 (a) Every owner of real property subject to a transfer of the type governed by Chapter 47E of the General Statutes  
6 shall complete the following Residential Property and Owners' Association Disclosure Statement and furnish a copy  
7 of the complete statement to a buyer in accordance with the requirements of G.S. 47E-4. The form shall bear the seal  
8 of the North Carolina Real Estate Commission and shall read as follows:

9  
10 **[N.C. REAL ESTATE COMMISSION SEAL]**

11  
12 **STATE OF NORTH CAROLINA**  
13 **RESIDENTIAL PROPERTY AND OWNERS' Association DISCLOSURE STATEMENT**

14  
15 **Instructions to Property Owners**

- 16  
17 1. The Residential Property Disclosure Act (G.S. 47E)("Disclosure Act") requires owners of residential real  
18 estate (single-family homes, individual condominiums, townhouses, and the like, and buildings with up to  
19 four dwelling units) to furnish buyers a Residential Property and Owners' Association Disclosure Statement  
20 ("Disclosure Statement"). This form is the only one approved for this purpose. A disclosure statement must  
21 be furnished in connection with the sale, exchange, option, and sale under a lease with option to purchase  
22 where the tenant does not occupy or intend to occupy the dwelling. A disclosure statement is not required for  
23 some transactions, including the first sale of a dwelling which has never been inhabited and transactions of  
24 residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to  
25 occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.  
26
- 27 2. You must respond to each of the questions on the following pages of this form by filling in the requested  
28 information or by placing a check (✓) in the appropriate box. In responding to questions, you are only  
29 obligated to disclose information about which you have actual knowledge.  
30
- 31 a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach  
32 a report from an attorney, engineer, contractor, pest control operator or other expert or public agency  
33 describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information  
34 contained in it so long as you were not grossly negligent in obtaining or transmitting the information.  
35
- 36 b. If you check "No," you are stating that you have no actual knowledge of any problem. If you check "No" and  
37 you know there is a problem, you may be liable for making an intentional misstatement.

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- c. If you check "No Representation," you are choosing not to disclose the conditions or characteristics of the property, even if you have actual knowledge of them or should have known of them.
  
- d. If you check "Yes" or "No" and something happens to the property to make your Disclosure Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the buyer a corrected Disclosure Statement or correct the problem.
  
- 3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Disclosure Statement to the buyers; and the broker must disclose any material facts about your property which he or she knows or reasonably should know, regardless of your responses on the Statement.
  
- 4. You must give the completed Disclosure Statement to the buyer no later than the time the buyer makes an offer to purchase your property. If you do not, the buyer can, under certain conditions, cancel any resulting contract (See "**Note to Buyers**" below). You should give the buyer a copy of the Disclosure Statement containing your signature and keep a copy signed by the buyer for your records.

**Note to Buyers**

If the owner does not give you a Residential Property and Owners' Association Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract without penalty to you as the buyer. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Disclosure Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

21  
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- 5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____
Owner's Name(s): _____

*Owner(s) acknowledge(s) having examined this Disclosure Statement before signing and that all information is true and correct as of the date signed.*

Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_

Owner Signature: \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_

*Buyers acknowledge receipt of a copy of this Disclosure Statement; that they have examined it before signing; that they understand that this is not a warranty by owners or owners' agents; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owners and not the owners' agents or subagents. Buyers are strongly encouraged to obtain their own inspections from a licensed home inspector or other professional. As used herein, words in the plural include the singular, as appropriate.*

Buyer Signature: \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_

Buyer Signature: \_\_\_\_\_ Date \_\_\_\_\_, \_\_\_\_

1  
2 Property Address/Description: \_\_\_\_\_  
3 \_\_\_\_\_  
4

5 **The following questions address the characteristics and condition of the property identified above about which**  
6 **the owner has actual knowledge. Where the question refers to "dwelling," it is intended to refer to the dwelling**  
7 **unit, or units if more than one, to be conveyed with the property. The term "dwelling unit" refers to any**  
8 **structure intended for human habitation.**

9  
10 **No Repre-**  
11 **Yes No sentation**

1. In what year was the dwelling constructed? \_\_\_\_\_   
Explain if necessary: \_\_\_\_\_

2. Is there any problem, malfunction or defect with the dwelling's foundation, slab, fireplaces/chimneys, floors, windows (including storm windows and screens), doors, ceilings, interior and exterior walls, attached garage, patio, deck or other structural components including any modifications to them?

3. The dwelling's exterior walls are made of what type of material?  Brick Veneer  Wood   
 Stone  Vinyl  Synthetic Stucco  Composition/Hardboard  Concrete  Fiber Cement   
 Aluminum  Asbestos  Other \_\_\_\_\_

(Check all that apply)

4. In what year was the dwelling's roof covering installed? \_\_\_\_\_   
 (Approximate if no records are available.) Explain if necessary:  
 \_\_\_\_\_
5. Is there any leakage or other problem with the dwelling's roof?
6. Is there any water seepage, leakage, dampness or standing water in the dwelling's basement, crawl space, or slab?
7. Is there any problem, malfunction or defect with the dwelling's electrical system (outlets, wiring, panel, switches, fixtures, generator, etc.)?
8. Is there any problem, malfunction or defect with the dwelling's plumbing system (pipes, fixtures, water heater, etc.)?
9. Is there any problem, malfunction or defect with the dwelling's heating and/or air conditioning?
10. What is the dwelling's heat source?  Furnace  Heat Pump  Baseboard   
 Other \_\_\_\_\_ (Check all that apply)  
 Age of system: \_\_\_\_\_
11. What is the dwelling's cooling source?  Central Forced Air  Wall/Window Unit(s)   
 Other \_\_\_\_\_ (Check all that apply)  
 Age of system: \_\_\_\_\_
12. What is the dwelling's fuel sources?  Electricity  Natural Gas  Propane  Oil   
 Other \_\_\_\_\_ (Check all that apply)  
 If the fuel source is stored in a tank, identify whether the tank is  above ground or  below ground, and whether the tank is  leased by seller or  owned by seller.  
 (Check all that apply)
13. What is the dwelling's water supply source?  City/County  Community System   
 Private Well  Shared Well  Other \_\_\_\_\_  
 (Check all that apply)
14. What is the dwelling's water heater fuel type?  Natural Gas  Propane  Fuel Oil



Electricity  Other \_\_\_\_\_ (Check all that apply)

Age of system: \_\_\_\_\_

14.15. The dwelling's water pipes are made of what type of material?  Copper  Galvanized   
 Plastic  Polybutylene  Other \_\_\_\_\_  
(Check all that apply)

16. Does the property have available internet service?

15.17. Is there any problem, malfunction or defect with the dwelling's water supply (including water quality, quantity or water pressure)?

16.18. What is the dwelling's sewage disposal system?  Septic Tank  Septic Tank with Pump   
 Community System  Connected to City/County System  City/County System available  
 Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates State law])  
 Other \_\_\_\_\_  
(Check all that apply)

17.19. If the dwelling is serviced by a septic system, do you know how many bedrooms are allowed by the septic system permit? If your answer is "Yes," how many bedrooms are allowed? \_\_\_\_\_     
 No records available.

18.20. Is there any problem, malfunction or defect with the dwelling's sewer and/or septic system?

19.21. Is there any problem, malfunction or defect with the dwelling's central vacuum, pool, hot tub, spa, attic fan, exhaust fan, ceiling fans, sump pump, irrigation system, TV cable wiring or satellite dish, garage door openers, gas logs, or other systems?

20.22. Is there any problem, malfunction or defect with any appliances that may be included in the conveyance (range/oven, attached microwave, hood/fan, dishwasher, disposal, etc.)?

- 21-23. Is there any problem with present infestation of the dwelling, or damage from past infestation of wood destroying insects or organisms which has not been repaired?
- 22-24. Is there any problem, malfunction or defect with the drainage, grading or soil stability of the property?
- 23-25. Are there any structural additions or other structural or mechanical changes to the dwelling(s) to be conveyed with the property?
- 24-26. Is the property to be conveyed in violation of any local zoning ordinances, restrictive covenants, or other land-use restrictions, or building codes (including the failure to obtain proper permits for room additions or other changes/improvements)?
- 25-27. Are there any hazardous or toxic substances, materials, or products (such as asbestos, formaldehyde, radon gas, methane gas, lead-based paint) which exceed government safety standards, any debris (whether buried or covered) or underground storage tanks, or any environmentally hazardous conditions (such as contaminated soil or water, or other environmental contamination) ~~which affect the property?~~ located on or which otherwise affect the property?
- 26-28. Is there any noise, odor, smoke, etc. from commercial, industrial or military sources which affects the property?
- 27-29. Is the property subject to any utility or other easements, shared driveways, party walls or encroachments from or on adjacent property?
- 28-30. Is the property subject to any lawsuits, foreclosures, bankruptcy, leases or rental agreements, judgments, tax liens, proposed assessments, mechanics' liens, materialmens' liens, or notices from any governmental agency that could affect title to the property?
- 29-31. Is the property subject to a flood hazard or is the property located in a federally-designated flood hazard area?
- 30-32. Does the property abut or adjoin any private road(s) or street(s)?

31-33. If there is a private road or street adjoining the property, is there in existence any owners' association or maintenance agreements dealing with the maintenance of the road or street?

1 **If you answered "yes" to any of the questions listed above (~~1-31~~) (1-33) please explain (attach additional sheets**  
2 **if necessary):**

3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_

6  
7 In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public  
8 agency, or by an attorney, engineer, land surveyor, geologist, pest control operator, contractor, home inspector, or  
9 other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

10  
11 **The following questions pertain to the property identified above, including the lot to be conveyed and any**  
12 **dwelling unit(s), sheds, detached garages, or other buildings located thereon.**

13  
14  
15

**No Repre-**  
**Yes No sentation**

32-34. Is the property subject to governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot or unit?

**If you answered "yes" to the question above, please explain (attach additional sheets if necessary):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

33-35. Is the property subject to regulation by one or more owners' association(s) including, but not limited to, obligations to pay regular assessments or dues and special assessments?

If your answer is "yes," please provide the information requested below as to each owners' association to which the property is subject [insert N/A into any blank that does not apply]:  
(specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_. The name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(specify name) \_\_\_\_\_ whose regular assessments ("dues") are \$ \_\_\_\_\_ per \_\_\_\_\_. The name, address and telephone number of the president of the owners' association or the association manager are \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

1 **\* If you answered "Yes" to question 33 above, you must complete the remainder of this Disclosure Statement.**  
 2 **If you answered "No" or "No Representation" to question 33 above, you do not need to answer the remaining**  
 3 **questions on this Disclosure Statement. Skip to the bottom of the last page and initial and date the page.**  
 4

5 No Repre-  
 6 Yes No sentation

34.36. Are any fees charged by the association or by the association's management company in connection with the conveyance or transfer of the lot or property to a new owner? If your answer is "yes," please state the amount of the fees:     
 \_\_\_\_\_  
 \_\_\_\_\_

35.37. As of the date this Disclosure Statement is signed, are there any dues, fees or special assessment which have been duly approved as required by the applicable declaration or by-laws, and that are payable to an association to which the lot is subject? If your answer is "yes," please state the nature and amount of the dues, fees or special assessments to which the property is subject:     
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

36.38. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the property or lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:     
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

37.39. As of the date this Disclosure Statement is signed, are there any unsatisfied judgments against or pending lawsuits involving the planned community or the association to which the property and lot are subject, with the exception of any action filed by the association

for the collection of delinquent assessments on lots other than the property and lot to be conveyed? If your answer is "yes," please state the nature of each pending lawsuit and the amount of each unsatisfied judgment:

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1  
2 ~~38-40~~ Which of the following services and amenities are paid for by the owners' association(s) identified above out  
3 of the association's regular assessments ("dues")? (Check all that apply.)

4  
5  
6

	Yes	No	No Representation
Management Fees	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance of Property to be Conveyed			
Master Insurance			
Exterior Yard/Landscaping Maintenance of Lot to be Conveyed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance (specify amenities covered) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____			
Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storm Water Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____			
_____			

7  
8 Buyer Initials and Date \_\_\_\_\_ Owner Initials and Date \_\_\_\_\_  
9 Buyer Initials and Date \_\_\_\_\_ Owner Initials and Date \_\_\_\_\_

10

1 (b) The form described in Paragraph (a) of this Rule may be reproduced, but the text of the form shall not be altered  
2 or amended in any way.

3 (c) The form described in Paragraph (a) of this Rule as amended effective ~~July 1, 2018~~, July 1, 2021, applies to all  
4 properties placed on the market on or after ~~July 1, 2018~~. July 1, 2021. The form described in Paragraph (a) of this  
5 Rule as amended effective ~~July 1, 2014~~, July 1, 2018, applies to all properties placed on the market prior to ~~July 1,~~  
6 ~~2018~~. July 1, 2021. If a corrected disclosure statement required by G.S. 47E-7 is prepared on or after ~~July 1, 2018~~,  
7 July 1, 2021, for a property placed on the market prior to ~~July 1, 2018~~, July 1, 2021, the form described in Paragraph  
8 (a) of this Rule as amended effective ~~July 1, 2018~~, July 1, 2021, shall be used.

9

10 *History Note: Authority G.S. 47E-4(b); 47E-4(b1); 93A-3(c); 93A-6;*

11 *Eff. October 1, 1998;*

12 *Amended Eff. July 1, 2014; January 1, 2013; January 1, 2012; July 1, 2010; July 1, 2009; January*  
13 *1, 2008; July 1, 2006; September 1, 2002; July 1, 2000;*

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

15 *Amended Eff. July 1, 2021; July 1, 2018.*

16

17

1 21 NCAC 58A .0120 is proposed for adoption as follows:

2

3 **21 NCAC 58A .0120 PROHIBITED ACTS**

4 (a) A broker shall not require or demand of any escrow agent or attorney that a broker's commission be split with or  
5 paid to another person or entity.

6 (b) A broker shall not be paid a commission or referral fee directly by anyone other than their current BIC or the  
7 person who served as their BIC at the time of the transaction.

8 (c) A broker shall not coerce, extort, collude, instruct, induce, bribe, or intimidate a service provider in a real estate  
9 transaction in order to influence or attempt to influence their findings, report or decision. Such service providers  
10 include, but are not limited to, appraisers, attorneys, inspectors, financial lenders, and contractors.

11 (d) A broker shall not conduct brokerage or other real estate related activities, or otherwise promote their status as a  
12 real estate broker in any manner which is predicated by bias or ideology as to race, color, religion, national origin,  
13 sex, familial status, or disability.

14

15 *History Note: Authority G.S. 93A-3(c); 93A-6;*

16 *Eff. July 1, 2021.*

1 21 NCAC 58A .0503 is proposed for amendment as follows:

2

3 **21 NCAC 58A .0503 LICENSE RENEWAL**

4 (a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following  
5 issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days  
6 prior to license expiration and shall submit a renewal fee of forty-five dollars (\$45.00).

7 (b) During the renewal process, every individual broker shall provide an email address to be used by the Commission.  
8 The email address may be designated by the broker as private in order to be exempt from public records disclosures  
9 pursuant to G.S. 93A-4(b2). ~~A broker who does not have an email address is not required to obtain an email address  
10 to comply with this Rule.~~

11 (c) During the renewal process, every designated broker-in-charge shall disclose:

- 12 (1) each federally insured depository institution lawfully doing business in this State where the trust  
13 account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held,  
14 if applicable; and  
15 (2) any criminal conviction or occupational license disciplinary action that occurred within the previous  
16 year.

17

18 *History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-6;*

19 *Eff. February 1, 1976;*

20 *Readopted Eff. September 30, 1977;*

21 *Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;*

22 *Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule  
23 becomes effective, whichever is sooner;*

24 *Amended Eff. July 1, 2017; July 1, 2014; April 1, 2013; April 1, 2006; January 1, 2006; July 1,  
25 2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995;*

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

27 *Amended Eff. July 1, 2021; July 1, 2018.*



1 21 NCAC 58A .1601 is proposed for amendment as follows:  
2

3 **SECTION .1600 - DISCRIMINATORY PRACTICES PROHIBITED**  
4

5 **21 NCAC 58A .1601 FAIR HOUSING AND RACIAL EQUITY**

6 (a) Conduct by a licensee which violates the provisions of the State Fair Housing Act constitutes improper conduct  
7 or dealing in violation of G.S. 93A-6(a)(10).

8 (b) Conduct by a licensee in connection with a real estate transaction, real estate related services, or promotion of  
9 their status as a real estate broker that promotes the distribution of resources or opportunities in any manner is either  
10 determined or predicated by race, racial bias or racial ideology, color, religion, national origin, sex, familial status, or  
11 disability constitutes improper conduct or dealing in violation of G.S. 93A-6(a)(10).  
12

13 *History Note: Authority G.S. 41A-4; 41A-5; 41A-6; 93A-3(c);*

14 *Eff. July 1, 1989;*

15 *Amended Eff. April 1, 1997;*

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

17 *May 1, 2018;*

18 *Amended Eff. July 1, 2021.*

1 21 NCAC 58A .2202 is proposed for amendment as follows:

2  
3 **21 NCAC 58A .2202 STANDARDS**

4 (a) A broker performing a broker price opinion or comparative market analysis for a fee shall comply with all the  
5 requirements in G.S. 93A-83 and in this Rule.

6 (b) A broker shall only accept an assignment to provide a broker price opinion or comparative market analysis for a  
7 property if the broker has knowledge of the real estate market, direct access to real estate market sales or leasing data,  
8 and brokerage or appraisal experience in the subject property's geographic location.

9 (c) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the broker  
10 can exercise objective, independent judgment free of any influence from any interested party in the performance of  
11 his or her analysis of the facts relevant to determination of a probable selling or leasing price.

12 (d) A broker shall not provide a broker price opinion or comparative market analysis that is either determined or  
13 predicated by race, racial bias or racial ideology, color, religion, national origin, sex, familial status, or disability.

14 ~~(e)~~ (e) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the  
15 broker has personally inspected the exterior and interior of that property, provided, however, that an inspection of the  
16 exterior or interior is not required if this is waived in writing by the party for whom the opinion or analysis is being  
17 performed.

18 ~~(f)~~ (f) When developing a broker price opinion or comparative market analysis for a property or interest therein, a  
19 broker shall utilize methodology such as analysis of sales or income of sold or leased properties comparable to the  
20 subject property or capitalization as is appropriate for the assignment and type of subject property.

21 ~~(g)~~ (g) When analyzing sales or income of properties comparable to the property that is the subject of a broker price  
22 opinion or comparative market analysis assignment, a broker shall comply with the following standards:

23 (1) The broker shall select from reliable information sources a minimum of three sold or leased  
24 comparable properties for use in his or her analysis that are similar to the subject property with  
25 regard to characteristics such as property type, use, location, age, size, design, physical features,  
26 amenities, utility, property condition and conditions of sale. The comparable properties selected  
27 shall reflect the prevailing factors or market conditions influencing the sale or lease prices of similar  
28 properties in the subject property's local market; and

29 (2) The broker shall make adjustments to the selling or leasing price of selected comparable properties  
30 for differences between the characteristics of the comparable properties and the subject property as  
31 necessary to produce a credible estimate of the probable selling or leasing price. Adjustments shall  
32 be considered for differences in property characteristics such as location, age, size, design, physical  
33 features, amenities, utility, condition, economic or functional obsolescence and conditions of sale.  
34 The amounts of adjustments shall reflect the values that the local real estate market places on the  
35 differences in the characteristics in question.

1 ~~(g)~~ (h) A broker price opinion or comparative market analysis provided to the party for whom the opinion or analysis  
2 is being performed shall address, in addition to matters required to be addressed by G.S. 93A-83 and other provisions  
3 of this Rule, the following items:

- 4 (1) a description of the comparable properties used in the analysis (including any unsold properties  
5 listed for sale or rent that were used as comparable properties);
- 6 (2) the adjustments made to the selling or leasing prices of comparable properties;
- 7 (3) local real estate market conditions;
- 8 (4) if the date on which the sale or lease of a comparable property became final is more than six months  
9 prior to the effective date of the broker price opinion or comparative market analysis, an explanation  
10 of why the comparable property was used in the analysis and a description of the market conditions  
11 affecting the comparable property at the time the sale or lease became final; and
- 12 (5) each method used in deriving the estimate of probable selling or leasing price.

13 ~~(h)~~ (i) In connection with a broker price opinion or comparative market analysis, an estimated probable leasing price  
14 may be reported by a broker as a lease rate and an estimated probable selling or leasing price may be reported by a  
15 broker either as a single figure or as a price range. When the estimated probable selling or leasing price is stated as a  
16 price range and the higher figure exceeds the lower figure by more than 10 percent, the broker shall include an  
17 explanation of why the higher figure exceeds the lower figure by more than 10 percent.

18  
19 *History Note: Authority G.S. 93A-83(d);*  
20 *Temporary Adoption Eff. October 1, 2012;*  
21 *Eff. April 1, 2013;*  
22 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*  
23 *May 1, 2018;*  
24 *Amended Eff. July 1, 2021.*

1 21 NCAC 58H .0210 is proposed for amendment as follows:

2  
3 **21 NCAC 58H .0210 DENIAL, WITHDRAWAL, OR TERMINATION OF EDUCATION PROVIDER**  
4 **CERTIFICATION**

5 (a) The Commission may deny or withdraw certification of an education provider or suspend, revoke, or deny renewal  
6 of the certification of an education provider upon finding that an education provider:

- 7 (1) official was found by a court or government agency of competent jurisdiction to have violated any  
8 state or federal law;
- 9 (2) made any false statements or presented any false, incomplete, or incorrect information in connection  
10 with an application;
- 11 (3) failed to provide or provided false, incomplete, or incorrect information in connection with any  
12 report the education provider is required to submit to the Commission;
- 13 (4) presented to its students or prospective students false or misleading information relating to its  
14 instructional program, to the instructional programs of other institutions, or related to employment  
15 opportunities;
- 16 (5) collected money from students but refused or failed to provide the promised instruction;
- 17 (6) failed to submit the per student fee as required by G.S. 93A-4(a2) or 93A-38.5(d);
- 18 (7) refused at any time to permit authorized representatives of the Commission to inspect the education  
19 provider's facilities or audit its courses;
- 20 (8) or education director violated the rules of this Subchapter or was disciplined by the Commission  
21 under G.S. 93A-6;
- 22 (9) obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate  
23 license examination questions;
- 24 (10) failed to provide to the Commission a written plan describing the changes the education provider  
25 made or intends to make in its instructional program including instructors, course materials, methods  
26 of student evaluation, and completion standards to improve the performance of the education  
27 provider's students on the license examination within 30 days of the Commission's request during  
28 an investigation or application process;
- 29 (11) provided the Commission a fee that was dishonored by a bank or returned for insufficient funds;
- 30 (12) Certificate of Authority was revoked, subject to a revenue suspension, or subject to administrative  
31 dissolution by the NC Secretary of State;
- 32 (13) failed to utilize course materials pursuant to Rule .0205 of this Section;
- 33 (14) failed to submit reports pursuant to Rule .0207 of this Section;
- 34 (15) provided false, incomplete, or misleading information relating to real estate licensing, education  
35 matters, or the broker's education needs or license status; ~~or~~
- 36 (16) discriminated in its admissions policy or practice against any person on the basis of age, sex, race,  
37 color, national origin, familial status, handicap status, or religion; or

1           ~~(16)~~(17) refused or failed to comply with the provisions of this Subchapter.

2 (b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or  
3 improper conduct in connection with the operations of an education provider if that broker:

4           (1)       has an ownership interest in the education provider;

5           (2)       is the education director; or

6           (3)       is an instructor for an education provider.

7 (c) The Commission shall withdraw an education provider's certification when its annual License Examination  
8 Performance Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the  
9 education provider shall be ineligible to apply for certification for a period of one year.

10 (d) When ownership of a certified education provider is transferred and the education provider ceases to operate as  
11 the certified entity, the certification is not transferable and shall terminate on the effective date of the transfer. All  
12 courses shall be completed by the effective date of the transfer. The transferring owner shall report course  
13 completion(s) to the Commission. The new entity shall obtain an original certification for each location where the  
14 education provider will conduct courses as required by G.S. 93A-34 and Rule .0202 of this Section prior to advertising  
15 courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any education provider  
16 operations.

17  
18 *History Note:*     *Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;*

19                     *Eff. July 1, 2017;*

20                     *Amended Eff. July 1, 2021; July 1, 2020.*

1 21 NCAC 58H .0303 is proposed for amendment as follows:

2  
3 **21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL**

4 (a) The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding  
5 that the instructor or instructor applicant:

- 6 (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for  
7 renewal of approval described in Rule .0306 of this Section at the time of application or at any time  
8 during an approval period;
- 9 (2) made any false statements or presented any false, incomplete, or incorrect information in connection  
10 with an application for approval or renewal of approval or any report that is required to be submitted  
11 to the Commission;
- 12 (3) has failed to submit to the Commission any report, course examination, or video recording required  
13 by these Rules;
- 14 (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a  
15 manner consistent with the course materials;
- 16 (5) taught a Prelicensing course and failed to provide to the Commission a written plan describing the  
17 changes the instructor has made or intends to make in his or her instructional program to improve  
18 the performance of the instructor's students on the license examination within 30 days of the  
19 Commission's request during an investigation or application process;
- 20 (6) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation  
21 of state or federal law by a court of competent jurisdiction;
- 22 (7) has been found by a court or government agency of competent jurisdiction to have violated any state  
23 or federal regulation prohibiting discrimination;
- 24 (8) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate  
25 license examination questions;
- 26 (9) has failed to take steps to protect the security of end-of-course examinations;
- 27 (10) failed to take any corrective action set out in the plan described in Subparagraph (a)(5) of this Rule  
28 or as otherwise requested by the Commission;
- 29 (11) engaged in any other improper, fraudulent, or dishonest conduct;
- 30 (12) failed to utilize course materials pursuant to Rule .0205 of this Subchapter;
- 31 (13) has taught or conducted a course in any manner that discriminated against any person on the basis  
32 of age, sex, race, color, national origin, familial status, handicap status, or religion; or  
33 ~~(13)~~(14) failed to comply with any other provisions of this Subchapter.

34 (b) The Commission shall withdraw an instructor's approval when their annual License Examination Performance  
35 Record fails to exceed 40 percent in each of the previous two license years. Following withdrawal, the instructor shall  
36 be ineligible to apply for approval for a period of one year.

- 1 *History Note:* *Authority G.S. 93A-4; 93A-33; 93A-34;*
- 2 *Eff. July 1, 2017;*
- 3 *Amended Eff. July 1, 2021; July 1, 2020.*