

1 21 NCAC 58A .0103 is amended with changes as published in 30:12 NCR 1293 as follows:

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3 **21 NCAC 58A .0103 BROKER NAME AND ADDRESS**

4 (a) Upon initial licensure and at all times thereafter, every broker shall ~~assure~~ ensure ~~that~~ notify the Commission
5 ~~has on record of~~ the broker's current personal name, firm name, trade name, residence ~~address~~ address, ~~and firm~~
6 ~~address~~, address, telephone number, and email address. Every broker shall notify the Commission in writing of each
7 change of personal name, firm name, trade name, residence ~~address~~ address, ~~and firm~~ ~~address~~, address, telephone
8 number, and email address within 10 days of said change. All addresses shall be sufficiently descriptive to enable
9 the Commission to correspond with and locate the broker.

10 (b) ~~Registration of Assumed Name~~. In the event that any broker [business entity] shall advertise or operate in any
11 manner using a firm name different from the name under which the [firm] broker is [licensed] licensed, ~~or~~ [a sole
12 proprietorship operating under] an assumed name which [that] does not set forth the surname of the broker, [owner
13 of the sole proprietorship], the broker [business entity or sole proprietorship] shall first file the appropriate certificate
14 with the office of the county register of deeds in each county in which the broker intends to engage in brokerage
15 activities in compliance with G.S. 66-68 and shall notify the Commission in writing of the use of such a firm name
16 or assumed name. ~~[In no event shall an]~~ An individual broker shall not advertise or operate in any manner that
17 would mislead a consumer as to the broker's actual identity or as to the identity of the firm with which he or she is
18 affiliated.

19 (c) ~~Business names~~. A broker shall not include the name of a provisional broker or an unlicensed person in the
20 name of a sole proprietorship, partnership partnership, or business entity other than a corporation or limited liability
21 company. No broker shall use a business name that includes the name of any active, inactive, or cancelled broker
22 without the permission of that broker or that broker's authorized representative.

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24 *History Note: Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-6(a)(1);*

25 *Eff. February 1, 1976;*

26 *Readopted Eff. September 30, 1977;*

27 *Amended Eff. July 1, 2016; April 1, 2013; August 1, 1998; February 1, 1989; May 1, 1984.*

1 21 NCAC 58A .0108 is amended with changes as published in 30:12 NCR 1293 as follows:

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3 **21 NCAC 58A .0108 RETENTION OF RECORDS**

4 (a) Brokers shall retain records of all sales, rental, and other transactions conducted in such capacity, whether the
5 transaction is pending, ~~completed~~ completed, or terminated prior to its successful conclusion. The broker shall
6 retain ~~such~~ records for three years after all funds held by the broker in connection with the transaction have been
7 disbursed to the proper party or parties or the successful or unsuccessful conclusion of the transaction, whichever
8 occurs later. However, if the broker's agency agreement is terminated prior to the conclusion of the transaction, the
9 broker shall retain such records for three years after the termination of the agency agreement or the disbursement of
10 all funds held by or paid to the broker in connection with the transaction, whichever occurs later.

11 (b) ~~Such records~~ Records shall include copies of the following:

- 12 (1) contracts of ~~sale~~, sale;
- 13 (2) written ~~leases~~, leases;
- 14 (3) agency ~~contracts~~, contracts;
- 15 (4) ~~options~~, options;
- 16 (5) offers to ~~purchase~~, purchase;
- 17 (6) trust or escrow ~~records~~, records;
- 18 (7) earnest money ~~receipts~~, receipts;
- 19 (8) disclosure ~~documents~~, documents;
- 20 (9) closing ~~statements~~, statements;
- 21 (10) brokerage cooperation ~~agreements~~, agreements;
- 22 (11) declarations of ~~affiliation~~, affiliation;
- 23 (12) broker price opinions and comparative market analyses prepared pursuant to G.S. 93A, Article 6,
24 including any notes and supporting ~~documentation~~, and documentation;
- 25 (13) sketches, calculations, photos, and other documentation used or relied upon to determine square
26 footage;
- 27 (14) advertising used to market a property; and
28 ~~(13)~~ (15) any other records pertaining to real estate transactions.

29 (c) All ~~such~~ records shall be made available for inspection and reproduction by the Commission or its authorized
30 representatives without prior notice.

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32 *History Note: Authority G.S. 93A-3(c); 93A-9;*
33 *Eff. February 1, 1976;*
34 *Readopted Eff. September 30, 1977;*
35 *Amended Eff. July 1, 2004; September 1, 2002; August 1, 1998; February 1, 1989; February 1,*
36 *1998;*
37 *Temporary Amendment Eff. October 1, 2012;*

1 21 NCAC 58A .0113 is amended with changes as published in 30:12 NCR 1294 as follows:

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3 **21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS**

4 Any broker who is convicted of any felony or misdemeanor, or who is disciplined by or enters into a conciliation
5 agreement or consent order with any governmental agency in connection with any ~~other~~ occupational license, or
6 whose notarial commission is restricted, suspended, or revoked, shall file with the Commission a written report
7 **Criminal Conviction Disciplinary Action Reporting Form** of such conviction or action within 60 days of the final
8 judgment, order, or disposition in the case. ~~A form for this report~~ **The Criminal Conviction Disciplinary Action**
9 **Reporting Form** is ~~[shall be]~~ available ~~from the Commission.~~ on the Commission's website at www.ncrec.gov or
10 upon request to the ~~[Commission]~~ **Commission.** ~~[and shall require]~~ In the Form, the broker ~~[to]~~ **shall** set forth the
11 broker's:

12 _____ (1) full legal name;

13 _____ (2) physical and mailing address;

14 _____ (3) real estate license number;

15 _____ (4) telephone number;

16 _____ (5) email address;

17 _____ (6) social security number;

18 _____ (7) date of birth; and

19 _____ (8) description of the criminal conviction and disciplinary action, including the jurisdiction and file
20 number.

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22 *History Note: Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2);*

23 *Eff. August 1, 1996;*

24 *Amended Eff. July 1, 2016; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2003; July 1,*

25 *2000.*

1 21 NCAC 58A .2104 is amended as published in 30:12 NCR 1295 as follows:

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3 **21 NCAC 58A .2104 POSTPONEMENT OF POSTLICENSING EDUCATION**

4 A broker described by ~~21 NCAC 58A Rule .2101~~ of this Section who is a provisional broker shall not be required to
5 complete any ~~post licensing~~ postlicensing education ~~required to be completed~~ during the period to be disregarded
6 under 26 U.S.C. ~~5708~~ 7508 until the 180th day following the ending of such period. The broker's license shall not
7 be placed on inactive status or cancelled for his or her failure to complete the required ~~post licensing~~ postlicensing
8 education prior to the deadline established in this Rule.

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

11 Eff. ~~July 1, 2010.~~ July 1, 2010;

12 Amended Eff. July 1, 2016.

1 21 NCAC 58A .2105 is amended as published in 30:12 NCR 1295 as follows:

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3 **21 NCAC 58A .2105 PROOF OF ELIGIBILITY**

4 It shall be the responsibility of every broker eligible for the postponement of fees and education requirements
5 established by this ~~section~~ Section to demonstrate his or her eligibility and the beginning and ending of the time to be
6 disregarded as described in 26 U.S.C. ~~5708~~ 7508.

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

9 *Eff. ~~July 1, 2010.~~ July 1, 2010;*

10 *Amended Eff. July 1, 2016.*

1 21 NCAC 58B .0102 is amended **with changes** as published in 30:12 NCR 1295 as follows:

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3 **21 NCAC 58B .0102 REGISTRATION FEE**

4 (a) ~~Every application for time share project registration must be accompanied by a certified check made payable to~~
5 ~~the North Carolina Real Estate Commission.~~ For the initial registration or subsequent registration of a time share
6 project by a developer proposing to sell or develop 16 or more time shares, the fee **is shall be** one thousand dollars
7 (\$1,000). For an initial or subsequent registration of a time share project in which the developer proposes to sell 15
8 or fewer time shares, the fee **is shall be** seven hundred dollars (\$700.00). For any time share registration by a
9 homeowner association for the purpose of re-selling time shares in its own project which it has acquired in
10 satisfaction of unpaid assessments by prior owners, the fee **is shall be** four hundred fifty dollars (\$450.00).

11 (b) Payment of application fees for time share registration shall be made to the Commission by certified check,
12 money order, debit card, or credit card. Applications for registration not accompanied by the appropriate fee shall
13 not be considered by the Commission.

14 (c) In the event a properly completed application filed with the Commission is denied for any reason, or if an
15 incomplete application is denied by the Commission or abandoned by the developer prior to a final decision by the
16 Commission, the amount of two hundred fifty dollars (\$250.00) shall be retained by the Commission from the
17 application fee and the balance refunded to the applicant developer.

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19 *History Note: Authority G.S. 93A-51; 93A-52;*

20 *Eff. March 1, 1984;*

21 *Amended Eff. July 1, 2016; April 1, 2013; July 1, 2000.*

21 NCAC 58B .0103 is amended with changes as published in 30:12 NCR 1295 as follows:

21 NCAC 58B .0103 RENEWAL OF TIME SHARE PROJECT REGISTRATION

(a) ~~Every developer desiring the renewal of a time share project registration shall apply for the same in writing upon a form provided by the Commission during the month of June. A developer seeking a renewal of a time share project registration shall submit a complete renewal application form during the month of June on a form June. A renewal application form is~~ available on the Commission's website at ~~www.ncree.gov~~ www.ncrec.gov. ~~that requires~~ In the renewal application form, the developer ~~to~~ shall set forth:

(1) the time share's project name, registration number, and mailing address;

(2) the developer's name, telephone number, and email address;

(3) the full legal name of brokers that are associated with the time share project and their real estate license numbers;

(4) the name of all exchange programs associated with the time share project along with a current copy of the Exchange Disclosure Report pursuant to G.S. 93A-48;

(5) the name, address, email address, telephone number, real estate broker license number if applicable, and the assignment date for each of the following:

(A) the managing entity;

(B) the marketing entity;

(C) the ~~registrar~~ registrar, pursuant to G.S. 93A-58(a);

(D) the independent escrow ~~agent~~ agent, pursuant to G.S. 93A-42(a); and

(E) the project ~~broker~~ broker, pursuant to 93A-58(c);

(6) a certification that the information contained in the registration filed with the Commission is accurate and current on the date of the renewal application; and

(7) notarized signature(s) by either:

(A) two executive officers of the corporation developer;

(B) two managers of the limited liability company developer;

(C) the sole proprietor of the sole proprietor developer;

(D) the general partner of the partnership developer; or

(E) the developer's attorney.

~~(b) Every such renewal application shall be accompanied by a certified check made payable to the North Carolina Real Estate Commission in the amount of eight hundred dollars (\$800.00). The developer shall submit a nonrefundable fee of eight hundred dollars (\$800.00) payable to the North Carolina Real Estate Commission by certified check, money order, debit card, or credit card.~~

~~(c) To renew the time share project registration, the properly completed~~ A complete renewal application shall be accompanied by the prescribed fee ~~must and shall~~ be received at the Commission's office prior to the expiration of the certificate of ~~registration.~~ registration as described in G.S. 93A-52(d).

37 ~~(b) Applications for the renewal of a time share project registration shall be signed by the developer, by two~~
38 ~~executive officers of the developer, or by the developer's attorney at law and shall certify that the information~~
39 ~~contained in the registration filed with the Commission is accurate and current on the date of the renewal~~
40 ~~application.~~

41 (d) Making a false certification on a time share project registration renewal application shall be grounds for
42 disciplinary action by the Commission.

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44 *History Note: Authority G.S. 93A-51; 93A-52(d);*

45 *Eff. March 1, 1984;*

46 *Temporary Amendment Eff. May 23, 1985;*

47 *Amended Eff. July 1, 2016; April 1, 2013; February 1, 1989; September 1, 1985.*