

SECTION ONE

LICENSING AND EDUCATION REVIEW



1. Sharon, an unlicensed homeowner places a “For Sale by Owner” sign in her yard. On the sign, Sharon writes: “I’ll pay \$500 to anyone who helps me find a buyer for this house.” May Sharon legally pay a \$500 fee to an unlicensed individual who refers a buyer? _____
2. Tyler has a “full” North Carolina broker license, but it has been on inactive status for six years. He pays his renewal fee every year, but has not taken any continuing education (CE). One of Tyler’s friends wants to sell her house and asks him to recommend a broker. May Tyler refer his friend to a broker and collect a referral fee? _____
What if Tyler makes the referral while his license is inactive, but he activates his license three weeks later and the house sells four months later? May he be paid a referral fee? _____
3. Milton is the broker-in-charge for XYZ Realty. Four full brokers and two provisional brokers are affiliated with his office. Milton completes the correct CE by June 10 but forgets to pay his renewal fee by June 30.
 - A. What will be the status of Milton’s license on July 1? _____
 - B. What will be the license statuses of the six affiliated licensees? _____

 - C. What must Milton do to reinstate his license on active status? _____
 - D. Once Milton’s license is active, what must he do to regain BIC or BIC-Eligible status? _____

LEARNING OBJECTIVES

After completing this Section, you should be able to answer the above questions and to:

- differentiate license categories and define license statuses;
- explain how to maintain a current and active license for both individuals and entities/firms;
- explain broker-in-charge (BIC) qualification requirements and how to initially designate as a BIC;
- explain how to attain “*BIC-Eligible*” status and its benefits; and
- explain how to regain BIC and *BIC-Eligible* status, if lost.

LICENSE CATEGORIES

North Carolina is a “broker only” state, meaning that there is only one basic type of license – a broker license. However, there are several categories or levels of broker license as described below.

NOTE: ALL licenses EXPIRE June 30 every year unless renewed.

Provisional Broker (PB)

- This is the entry-level license status.
- Upon satisfying all the license qualification requirements (including passing the state license examination) most license applicants initially are issued a provisional broker license, or technically, a broker license on provisional status. Their wall license will read “Broker,” but their license pocket card will indicate the license type as “PB.”
- A provisional broker cannot operate independently. S/he must be under the supervision of a broker-in-charge to have a license on active status and be able to provide brokerage services.
- A provisional broker may remove provisional status by completing the 90-hour postlicensing education program. The program consists of three 30-hour courses, at least one of which must be completed by the license anniversary date in each of the first three years following initial licensure to maintain an active license. [Rule 58A.1902.] Failure to complete at least one course in each of the first two years, and all three within three years, will result in the provisional broker’s license being placed on inactive status.

Broker (B)

- This is the primary individual license.
- Once a provisional broker completes all 90 hours of postlicensing education, the provisional status is removed and the individual becomes a “full” broker.
- A “full” broker can engage in brokerage either as:
 - an affiliated agent of a real estate brokerage company (firm or sole proprietorship) under a broker-in-charge (BIC),
or
 - the owner of a company, whether a sole proprietorship or entity with a firm license. If the broker-owner does not qualify to become a BIC, then s/he must hire a broker with the requisite experience to serve as BIC of the owner’s company.

Broker-in-Charge (BIC)

- “Broker-in-charge” is a license status initiated by submitting a Broker-in-Charge Declaration (REC 2.04) to the Commission. State law defines a broker-in-charge (BIC) as:
 - ... a broker who has been designated as ... having responsibility for the supervision of brokers on provisional status ... at a particular real estate office and for other administrative and supervisory duties as the Commission may prescribe by rule. [G.S. 93A-2(a1).]
- To qualify for designation as a BIC, a licensee must have:
 - a “full” broker license on active status,
 - AND
 - at least two years’ full time brokerage experience within the previous five-year period.

A broker who meets these qualifications may send Form REC 2.04 to the Commission asking to be designated as a BIC of a particular office for a specific company.
- The broker will be required to take the Commission’s *12-hour Broker-in-Charge Course* within 120 days of declaring as BIC, *unless* s/he completed the 12-hour course within three (3) years prior to submitting the declaration form.
- Any broker actively engaged in brokerage must have an “office” somewhere and to have/create an office, you must have a BIC. Thus, a broker either must be affiliated with an office under a BIC or be a BIC of his/her own company.

Firm License (C)

- A firm license is a broker license issued to a business entity.
- A business entity (whether a corporation, limited liability company, limited partnership, general partnership, association, joint venture, etc.) must first apply for and obtain a North Carolina real estate firm broker license *before* the entity may engage in real estate brokerage in North Carolina or receive income from North Carolina real estate brokerage activity.
- To qualify for firm licensure, the entity must have a **qualifying broker (QB)** (i.e., an officer, manager, or general partner) who has an individual North Carolina broker license on active status. [Rule A.0502(b).] The qualifying broker role is separate and distinct from the BIC role. One person may serve as both QB and BIC at one office location, but the QB is not required to be a BIC anywhere.
- Sole proprietorships do not need a firm license because the sole owner has not created an entity.

Limited Nonresident Commercial License

- A limited nonresident commercial broker license is a license issued to a person who:
 - lives in a state other than North Carolina (NC),
 - has an active real estate broker or salesperson license in another state where his/her primary place of real estate brokerage business is located,
 - wants to enter NC to engage in a commercial transaction as an affiliated agent with his/her out-of-state brokerage company, and
 - will not be formally associated with a NC brokerage company and thus will not have a BIC for NC licensing purposes.
- A nonresident applying for this restricted license will not be required to take any NC education or sit for the State specific portion of the state license exam.
- This restricted license permits the nonresident to enter NC to engage only in “commercial real estate transactions” as defined in Commission Rule A.1802(1). While the nonresident will not have a North Carolina BIC, s/he must enter into a declaration of affiliation and a brokerage cooperation agreement with a resident NC broker who will be responsible for supervising the nonresident when providing commercial brokerage services in North Carolina. The nonresident’s NC license pocket card will read “LCB” for Limited Commercial Broker.
- A Limited Nonresident Commercial License will not convert to a resident North Carolina license if the nonresident moves to North Carolina or associates with an office located in NC. In either of these two instances, the nonresident must apply for and obtain an unrestricted North Carolina broker license by passing the North Carolina specific section of the state license examination.

CURRENT AND ACTIVE LICENSURE

To lawfully engage in brokerage activity, an individual or entity must have a CURRENT real estate broker license on *ACTIVE STATUS* at the time the brokerage services are provided. Renewing a license every year allows the person or entity to keep the license; ***if you fail to renew on time, you no longer will have a license.*** You may renew and keep a license for years without it being on active status, but you may NOT engage in brokerage services during that period.

State law says ALL LICENSES (individual and entity) expire on June 30 and may be renewed 45 days prior to expiration. [G.S. 93A-4(c).] Thus, the renewal window each year runs from May 15-June 30.

Current vs. Expired



Current means the renewal fee (presently \$45) was paid between May 15-June 30.



Expired means the renewal fee was not paid prior to June 30 *and the person/entity no longer has a license.*

Individual Licenses

The renewal fee must be *received* by the Commission by 11:59:59 pm on June 30, or the former licensee will no longer have a license as of 12:01am on July 1 and must immediately cease all brokerage activity until properly licensed again. Licensees are required to renew their licenses online at the Commission's website. *There is no grace period nor are any renewal extensions granted.* The only exceptions made are for brokers who serve in the military and are on active deployment during the renewal period, as federal law requires such special consideration.



BEST PRACTICE: Be sure to print your payment confirmation notice after renewing your license!

While there is no grace period, it is relatively painless to reinstate an expired license if you realize you lost it on or before December 31. You may reinstate an expired license between July 1 and December 31 by paying a \$55 reinstatement fee. If you allow December 31 to pass without reinstating an expired license, then regaining the former individual broker license becomes more difficult.

Reinstating an Expired Individual License

What a broker must do to reinstate an expired individual license depends on the type of license at the time of expiration and how long the license has been expired.

The tables on the next two pages provide a quick overview of reinstatement requirements for individuals. Please contact the Commission's Education & Licensing Division for specific instructions.

Provisional Broker License

Note: The following information applies to Provisional Broker licenses.
A former salesperson (PBT) licensee should contact the Commission's Education Division for reinstatement requirements.

Length of time License has been Expired, Revoked, Cancelled, or Surrendered	Education Requirements/Options	Reinstatement Application Required?	Status when Reinstated
6 months or less	No education or exam required.	NO. \$55.00 reinstatement fee may be paid online at www.ncrec.gov on or before December 31st.	Inactive Provisional Broker To be active*, PB must be current with CE and Postlicensing education and affiliate with a Broker-in-Charge. *Activation requires Form REC 2.08
More than 6 months and up to 5 years	Complete all three Postlicensing courses within 3 years prior to application. (<i>i.e., Applicant must first fully satisfy Postlicensing education requirement.</i>) ALL courses must be completed & application submitted by June 30 of 5th year after expiration.	YES. Must be filed with reinstatement fee and criminal background check ON OR BEFORE June 30 of 5th year. <i>Note: Postlicensing education must be completed prior to submitting application.</i>	Active Broker
More than 5 years START OVER!	Successfully complete 75-hour North Carolina Broker Prelicensing course AND pass National and State sections of license exam. <i>If an applicant holds an active salesperson or broker license in another state, s/he is not required to take the Broker Prelicense course and need only pass the "State" section of the license examination.</i>	YES. Must be filed with reinstatement fee and criminal background check upon successful completion of Broker Prelicense course. Once application is processed, the applicant will be provided exam registration instructions. <i>An applicant with an active license in another state must submit the application in order to be given exam registration instructions.</i>	Inactive Provisional Broker To be active*, PB must affiliate with a Broker-in-Charge. PB will be required to complete Postlicensing education as if a new licensee. <i>If an applicant holds an active Broker license in another state and passes the State portion of the NC license exam, status upon reinstatement will be "Active Broker".</i> *Activation requires Form REC 2.08

“Full” Broker License			
Length of time License has been Expired, Revoked, Cancelled, or Surrendered	Education Requirements/Options	Reinstatement Application Required?	Status when Reinstated
6 months or less	No education or exam required.	NO. \$55.00 reinstatement fee may be paid online at www.ncrec.gov on or before December 31st.	Inactive Broker <u>To be active</u> , Broker must correct any CE deficiency and <u>submit Activation Form REC 2.08</u> to the Commission.
More than 6 months up to 2 years	Successfully complete one Postlicensing course. Course must be completed within 6 months prior to submitting reinstatement application. -OR- File application and pass National and State sections of license exam. <i>Applicants holding an active broker license in another state need only pass the “State” section of the license examination.</i>	YES. Must be filed with reinstatement fee and criminal background check ON OR BEFORE June 30 of 2nd year after expiration. <i>If an applicant chooses to take a Postlicensing course, it must be completed prior to submitting the application.</i>	Active Broker
More than 2 years up to 5 years	Successfully complete all three Postlicensing courses within 3 years prior to application. -OR- File application and pass National and State sections of license exam. <i>Applicants holding an active broker license in another state need only pass the “State” section of the license examination.</i>	YES. Must be filed with reinstatement fee and criminal background check ON OR BEFORE June 30 of 5th year after expiration. <i>If an applicant chooses to take Postlicensing courses, they must be completed prior to submitting the application.</i>	Active Broker
More than 5 years START OVER!	Successfully complete 75-hour North Carolina Broker Prelicensing course AND pass National and State sections of license exam. <i>Applicants holding an active salesperson or broker license in another state are not required to take the Broker Prelicensing course and need only pass the “State” section of the license examination.</i>	YES. Must be filed with reinstatement fee and criminal background check upon successful completion of Broker Prelicense course. Once application is processed, the applicant will be provided exam registration instructions. <i>An applicant with an active license in another state must submit the application to receive exam registration instructions.</i>	Inactive Provisional Broker To be active*, PB must affiliate with a Broker-in-Charge. PB will be required to complete Postlicensing education as if a new licensee. <i>If an applicant holds an active Broker license in another state and passes the State portion of the NC license exam, status upon reinstatement will be “Active Broker”.</i> *Activation requires Form REC 2.08

Reinstating an Expired Firm License

A real estate company doing business as an entity must also renew its firm license by paying the \$45 renewal fee between May 15 - June 30 every year. Many entities must also file an Annual Report with the NC Secretary of State to remain in good standing and authorized to do business in North Carolina.

As with individuals, an entity that fails to renew its license by June 30 will not have a license as of July 1. Because the company no longer has a license, it loses all of its office locations, BICs, and affiliated brokers since it cannot provide brokerage services. The qualifying broker (QB) may reinstate the company’s license within the first six months after expiration by paying the \$55 reinstatement fee on the Commission’s website, just like individuals. If the firm’s license has been expired for more than six months, then the entity must file a firm license application requesting reinstatement with the \$55 fee. Unlike individuals, however, an entity’s license may be reinstated regardless of how long it has been expired *so long as* the entity seeking reinstatement is the same entity as originally licensed.

Active vs. Inactive Status

Individual Licenses

To legally receive any income from brokerage activity, *including referral fees*, you must have an **ACTIVE North Carolina license** at the time you provide the service or make the referral. To maintain active status, you must both timely renew your license and complete the appropriate **8-hours of Continuing Education by June 10** each year. (Provisional Brokers must also timely complete at least one 30-hour **Postlicensing Education course** and be affiliated with a Broker-in-Charge.)

Continuing Education (CE)

MINIMUM REQUIRED CE:

Update (GenUP or BICUP) AND a Commission-approved Elective
by JUNE 10 every year!

Provisional Brokers & <i>non-BIC</i> Brokers must take:	Brokers-in-Charge and Brokers who have <i>BIC-Eligible</i> status** must take:
GenUp (General Update) AND One (1) Commission-approved Elective	BICUP (Broker-in-Charge Update) AND One (1) Commission-approved Elective

“*BIC-Eligible*” status is attained only after certain conditions are met, as will be explained in the section titled **Attaining BIC and BIC-Eligible Status. To determine whether you have *BIC-Eligible* status, check your license record on the Commission’s website or call the Commission office.

If you do not complete the correct CE courses by June 10, your license will be changed to “inactive” status on July 1. You may continue to work through June 30, because your license remains active between June 11–June 30, but you must CEASE all brokerage activity at 12:01AM on July 1, as you no longer have a license you may use. You may not resume brokerage activity until your license is back on “active” status.



***I took the Update in May but forgot to take an elective by June 10.
May I go online and take an elective on June 20?***

Answer: No. There is nothing you can do to correct a CE deficiency between June 11 and June 30. Providers of real estate CE courses in NC are not allowed to offer CE during the black-out period. The black-out period is necessary to allow sponsors to upload CE course results, so the Commission can update its databases and determine who is eligible to have an active status as of July 1.



My license is Inactive because I did not take CE. What must I do to reactivate it?

[NOTE: Having a license on inactive status means you still have a license because you paid the renewal fee, but you cannot use the license because it’s on inactive status.]

To correct a CE deficiency and reactivate a license, you must:

1. complete the current year’s CE requirement in full
(i.e., take the General Update + 1 Commission-approved elective);

AND

2. take either 1 or 2 approved electives to make up for the *number of hours you forgot to take* during the preceding license year;

AND THEN

3. submit the Activate License form to the Commission (REC 2.08 - available online).



BIC ALERT: Once a full broker completes all required CE, s/he is eligible to return to active status, but the Commission does not automatically activate licenses. The BIC and/or the licensee **must notify the Commission that you want to activate your license** by submitting the Activate License form to the Commission (REC 2.08) to re-create the broker’s business affiliations, e.g., what company, at what location, under who as BIC?

BOTTOM LINE

Minimum CE needed to reactivate is eight (8) hours:
GenUP + 1 elective.
Maximum CE needed to reactivate is sixteen (16) hours:
GenUP + 3 electives.

NOTE: A provisional broker must cure any CE deficiency AND must be current with postlicensing education AND have a BIC to activate his/her license.



Since entities do not take education, what determines whether a firm’s license is on active or inactive status?

Answer: To have an active firm license, the entity’s Qualifying Broker (QB) must always maintain his/her license on active status. So long as the QB’s license is active, then the entity’s license, once renewed, will also be on active status. However, if the QB allows his/her license to go inactive or expire on July 1, then the company’s license will be *inactive*, meaning no one may engage in brokerage under the company’s umbrella. As with an expired license, the company would not have any offices, BICs or affiliated licensees because it cannot use the license it has because the license is not active. The company’s license would not be reactivated until either the QB returns his/her license to active status or the company appoints a new QB who has an active NC broker license.

Postlicensing Education

Provisional brokers (PB) must complete a total of 90 hours of postlicensing education. The program consists of three 30-hour courses. A different course must be completed in each of the first three years following initial licensure to be eligible to actively engage in real estate brokerage. [**Note:** postlicensing education must be completed *in addition to* CE each year after first license renewal *and* having a BIC.]

Examples of Postlicensing Education Deadline Dates	
License Issuance Date	Anniversary Dates / Postlicensing Education Deadlines
August 3, 2016	August 3, 2017; August 3, 2018; and August 3, 2019
February 25, 2017	February 25, 2018; February 25, 2019; and February 25, 2020
July 2, 2017	July 2, 2018; July 2, 2019; and July 2, 2020

Failure to complete a course by the license anniversary date in either of the first two years will cause the provisional broker’s license to immediately be placed on inactive status. To return to active status, the PB must first complete any postlicensing that is lacking (one or two 30-hour courses), be current in his/her CE, and find a BIC who is willing to be the PB’s supervising BIC. Failure to complete all three postlicensing courses by the third license anniversary date will result in the PB’s license being placed on inactive status indefinitely.

UNDERSTAND that a PB whose license is made inactive due to a postlicensing education deficiency will continue to have a license so long as s/he pays the renewal fee every year, but s/he will not be able to use the license or engage in any form of brokerage because the license is on inactive status.

Similarly, a full broker may renew his/her license every year to keep the license but is not required to maintain the license on active status so long as s/he is not providing brokerage services. A broker could renew a license for 15 years while working in some other vocation, and after 15 years of no CE, could activate that license with how many hours of CE? Contrast this result with what happens after five years if you fail to renew your license.

SUMMARY: Maintaining a Current and Active License

Provisional Brokers	“Full” Brokers (non-BIC)	Brokers Who Are BICs or BIC-Eligible
<ol style="list-style-type: none"> 1. Renew license each year between May 15-June 30 2. Complete GenUP + 1 Elective by June 10 each year (after first renewal) 3. Complete one 30-hour postlicensing course by license anniversary date each of the first 3 years 4. Maintain affiliation with a broker-in-charge 	<ol style="list-style-type: none"> 1. Renew license each year between May 15-June 30 2. Complete GenUP + 1 Elective by June 10 each year 	<ol style="list-style-type: none"> 1. Renew license each year between May 15-June 30 2. Complete BICUP + 1 Elective by June 10 each year



Read the following scenario and answer the questions in your group.

Sally has renewed her “full” broker license every year, but has not taken any CE since 2011.

- What is the status of Sally’s license? _____
- How many classes must Sally take to activate her license? _____
- Which classes must she take? _____
- Will Sally’s license be “active” once she completes the course(s)? YES ____ NO ____
Why or Why not? _____
- Assume Sally was a Broker-in-Charge before her license status changed to Inactive.
Will that change the courses she should take now to reactivate? YES ____ NO ____
When she reactivates, will she be BIC or BIC-Eligible? YES ____ NO ____

BROKER-IN-CHARGE DESIGNATION PREREQUISITES

To *qualify initially* to declare as a Broker-in-Charge, you must have:

1. A “full” broker license (not provisional) on active status;
AND
2. two years’ full-time brokerage experience (4000 hours), or equivalent part-time experience, within the preceding five years.

What is *full-time* brokerage experience?

The intent is that brokerage be the individual’s primary form of employment by which s/he is trying to earn a living. Accordingly, the rough formula is:

50 weeks/year at 40/hours per week = 2000 hours/year x 2 years = **4000 hours total**.

Thus, when a broker has attained 4000 hours of brokerage experience within the preceding five years, s/he may request to be designated a broker-in-charge. The vast majority of brokers requesting designation do so based on experience.

Note: qualifying “brokerage experience” is any lawful brokerage activity as a salesperson, provisional broker, or broker, in North Carolina or any other state.



Read the following scenario and answer the questions in your group.



Stan has held a broker license on “active” status since 2008, but he has not been working in the real estate brokerage business. He has renewed his license each year and taken the required CE.

Does Stan qualify to declare himself as BIC? YES ____ NO ____

Why or Why not? _____

If you qualify to declare as a Broker-in-Charge, there are two steps in the process.

1. Submit the *Broker-in-Charge Declaration (REC 2.04)* to the Commission

By signing the form, you are certifying/attesting that you A) have an active non-provisional broker license, B) possess the required experience, and C) will fulfill the BIC duties enumerated on the back of the form.

2. Complete the Commission's *12-hour Broker-in-Charge Course* either:

- within three years PRIOR TO submitting the declaration form
- OR
- within 120 days AFTER submitting the declaration form.

Merely taking the 12-hour Broker-in-Charge Course when you are not serving as a BIC will NOT automatically make you a BIC. The course will help prepare and qualify you to become a BIC, but *you will never be a BIC until you notify the Commission you want to be a BIC by submitting the Broker-in-Charge Declaration (REC 2.04 - available on the Commission's website).* By submitting the form, you notify the Commission of your desire to be a BIC for a named company at a specific office address.

“BIC-ELIGIBLE” STATUS

“BIC-Eligible” is a specific license status. Once achieved, BIC-Eligible status enables a broker to step down as BIC, whether for a few weeks or months or years, and later be re-designated as BIC simply by submitting a *Broker-in-Charge Declaration (REC 2.04)* to the Commission.

As long as the broker has maintained his/her BIC-Eligible status by timely renewing his/her license each year and doing the correct CE (BICUP + an elective), s/he will not be required to take the *12-hour Broker-in-Charge Course* upon re-designation, even if the class was last taken more than three years ago.

To attain BIC-Eligible status initially, a broker must:

1. **Satisfy all broker-in-charge qualification requirements** (full broker license on active status and two years of full-time brokerage experience within the preceding five years);
2. **Submit the *Broker-in-Charge Declaration (REC 2.04)*;**

AND

3. **Complete the *12-hour Broker-in-Charge course*** either within three years prior to declaring as BIC or within 120 days after sending the *Broker-in-Charge Declaration (REC 2.04)*.

The table below illustrates the two paths to achieve BIC-Eligible status.

Two Paths to BIC-Eligible Status

<ol style="list-style-type: none">1. Achieve required experience AND Broker status2. Submit BIC Declaration form *Now BIC*3. Take 12-hour BIC course within 120 days of designation *Now BIC AND BIC-Eligible*	OR	<ol style="list-style-type: none">1. Achieve required experience AND Broker status2. Take 12-hour BIC course3. Submit BIC Declaration form within 3 years of course completion *Now BIC AND BIC-Eligible*
--	-----------	--

NOTE: The Commission's 12-hour Broker-in-Charge Course is not a *prerequisite* to sending the Commission the Broker-in-Charge Declaration, whereas *having an active broker license and two years full-time experience are prerequisites*. You may initially declare as a BIC without having taken the 12-hour class, but you must complete the class within 120 days after declaring or you will be removed as BIC by the Commission for failing to satisfy the remaining BIC qualification requirement, i.e., the education. If you are removed by the Commission, *you will not be allowed to re-declare as a BIC anywhere in NC until you first successfully complete the 12-hour Broker-in-Charge Course*.

How to Maintain BIC-Eligible Status

Once a broker declares as BIC and attains BIC-Eligible status, s/he may maintain that status indefinitely by:

1. renewing his/her license between May 15-June 30 each year;

AND

2. completing the *BICUP (Broker-in-Charge Update)* course plus 1 NCREC-approved Elective by June 10 each year.

To maintain BIC-Eligible status, a broker must continue taking the BICUP + 1 Elective every license year after declaring even when not actively serving as a BIC.

Failure to take the BICUP in any given year will result in loss of Broker-in-Charge designation AND/OR BIC-Eligible status.

NOTE: A broker may take the General Update in the license year in which s/he declares as a BIC, because s/he is not *required* to begin taking the BICUP until the first full license year *after* the *license year* in which the broker declares (i.e., sends Form REC 2.04 to the Commission). The broker may choose to take the BICUP in the year in which s/he declares and will receive credit for the course *so long as s/he has BIC status at the time s/he takes the course*. If a broker is not a BIC or is not BIC-Eligible at the time s/he takes the BICUP, then s/he will *not* receive any continuing education credit for the course even if s/he later sends a *Broker-in-Charge Declaration*.



Read the following scenario and answer the questions in your group.



Rosalie, a “full” broker, submits the *Broker-in-Charge Declaration* to the Commission on October 15, 2016, and receives a *Notice of License Record Change* from the Commission letting her know that she has been designated as broker-in-charge on October 25, 2016. She completes the *12 - hour Broker-in-Charge Course* on January 6, 2017.

- A. When did Rosalie achieve BIC status? _____
- B. Has Rosalie achieved BIC-Eligible status? YES ____ NO ____
If so, when? _____
- C. When may Rosalie begin taking the BICUP course? _____
- D. When MUST Rosalie begin taking the BICUP course? _____

Loss of BIC-Eligible Status

You will lose your BIC designation and/or BIC-Eligible status if:

1. your license is inactive, expired, surrendered, suspended or revoked,

OR

2. you fail to take the BICUP as your mandatory Update in any license year following the license year in which you declared as BIC.

Regaining Broker-in-Charge and BIC-Eligible Status

A broker who attains, but later loses, BIC-Eligible status will not be able to immediately re-declare as a BIC. Instead, s/he must take the following steps **in the order indicated**.

1. Do whatever is necessary to return your license to active status, i.e., pay reinstatement fee and/or complete required continuing education;
THEN
2. Submit the Activate License form to the Commission (REC 2.08);
THEN
3. Complete the Commission's *12-hour Broker-in-Charge Course*,
AND THEN
4. Submit the *Broker-in-Charge Declaration* requesting redesignation (REC 2.04).

NOTE: *you must possess the experience required for initial designation at the time you redesignate.*

What Happens if the BIC's License Expires or Goes Inactive?

A BIC who allows his/her license to expire or go inactive on July 1 will take the office down with him/her unless a new BIC is designated by sending the Broker-in-Charge Declaration (REC 2.04) to the Commission prior to June 28 to allow time to process the form.

Unless a new BIC is designated by June 28, *the office will disappear in Commission records on July 1 because there is no BIC, and all associated brokers will be transferred to their home addresses in Commission records.* The full brokers will still be on active status, but will not be affiliated with the company, and all provisional brokers will be on inactive status (even though they may have completed their CE and paid their renewal fees) because they no longer have a BIC.



How can the office be resurrected while the former BIC is expired or inactive?

Answer: It depends on whether the former BIC was serving only as the BIC or was both the BIC and Qualifying Broker.

If the former BIC was serving only as BIC...

The qualifying broker can appoint a new broker to serve as BIC and that broker will submit a *Broker-in-Charge Declaration* (REC 2.04) form to the Commission. Once the form is processed, the newly designated BIC must file activation/affiliation forms to re-associate all full and provisional brokers with the newly recreated office. (This assumes the office disappeared; if the BIC substitution was made prior to June 30, then the new BIC would only need to send the BIC Declaration form.)

If the former BIC was serving as BIC AND Qualifying Broker...

Simply designating a new BIC will not solve the firm's problem because, while the firm may still have a license if it was renewed, the firm's license will be on *inactive status* because the company does not have a **qualifying broker** (i.e., an officer, manager or general partner with an active NC broker license).

So long as the qualifying broker's license is not on active status, then the firm's license will be inactive meaning the company cannot engage in brokerage anywhere in NC. So long as the company's license remains inactive, the company will not have any offices, BICs, or associated agents because it cannot engage in brokerage. The company's license will remain on inactive status until the former qualifying broker either 1) activates his/her individual license, or 2) is replaced as qualifying broker.

ANSWERS TO DISCUSSION QUESTIONS

Page 1:

- 1) Sharon, an unlicensed homeowner places a “For Sale by Owner” sign in her yard. On the sign, Sharon writes: “I’ll pay \$500 to anyone who helps me find a buyer for this house.” May Sharon pay a \$500 referral fee to an individual who does not have an active NC broker license?

Answer: No. No one may give an unlicensed person or entity any compensation or “thing of value” for brokerage activity. Sharon may ONLY pay the \$500 referral fee to an individual (or entity) with a real estate license on Active status.

- 2) Tyler has a full NC broker license, but it has been on inactive status for six (6) years. He pays his renewal fee every year but has not taken any CE. One of Tyler’s friends wants to sell her house and asks him to recommend a broker. May Tyler refer his friend to a broker and collect a referral fee?

Answer: No. Tyler’s license must be on Active status when he makes the referral in order to legally collect a referral fee.

What if Tyler makes the referral while his license is inactive, but he activates his license three weeks later and the house does not sell until four months later?

Answer: Tyler still cannot be paid because his license was inactive at the time he made the referral.

- 3) Milton is the broker-in-charge for XYZ Realty. Four full brokers and two provisional brokers are affiliated with his office. Milton completes the correct CE (BICUP course and an elective) by June 10 but forgets to pay his renewal fee by June 30.

- A. What will be the status of Milton’s license on July 1?

Answer: Expired. Milton will no longer have a license.

- B. What will be the license statuses of the 6 affiliated licensees?

Answer: The full brokers will still be on active status, but at their home addresses and no longer affiliated with the company; the two provisional brokers will be on inactive status at their home addresses because they no longer have a BIC.

- C. What must Milton do to reinstate his license on active status?

Answer: Milton must 1) pay the reinstatement fee; and 2) submit the Activate License form (REC 2.08).

Note: Milton is able to immediately reactivate his license because he completed the required education the preceding license year; in other words, there was no CE deficiency; he just did not pay his money on time.

- D. Once Milton’s license is active, what must he do to regain BIC or BIC-Eligible status?

Answer: Milton had to activate his individual broker license before addressing his loss of BIC/BIC-Eligible status. Now, Milton must first complete the Commission’s 12-hour Broker-in-Charge course, regardless of when he last took it, and then submit the Broker-in-Charge Declaration (REC 2.04) to recreate his office. He also must submit REC 2.08 to re-affiliate each former agent with his re-created office.

Page 11:

Sally has renewed her “full” broker license every year, but has not taken any CE since 2011.

- A. What is the status of Sally’s license?

Answer: Inactive.

- B. How many CE classes must Sally take to activate her license?

Answer: 4 classes (4 hours each for total of 16 hours)

- C. Which classes must she take?

Answer: Continuing Education = Current year’s General Update (GenUP) plus three electives.

- D. Will Sally’s license be Active once she completes the course(s)?

Answer: No.

Why or Why not?

Answer: She must submit the Activate License form (REC 2.08).

- E. Assume Sally was a Broker-in-Charge before her license status changed to Inactive.

Will that change the courses she should take now to reactivate? *Answer: No.*

When she reactivates, will she be BIC or BIC-Eligible? *Answer: No.*

Page 12:

Stan has held a broker license on Active status since 2008, but he has not been working in the real estate brokerage business. He has renewed his license each year and taken the required CE.

Does Stan qualify to be designated as BIC? *Answer: No.*

Why or why not? *Answer: Stan has no actual brokerage experience during the past five (5) years.*

Page 15:

Rosalie, a “full” broker, submits the Broker-in-Charge Declaration to the Commission on October 15, 2016, and receives a *Notice of License Record Change* from the Commission letting her know that she has been designated as broker-in-charge on October 25, 2016. She completes the *12 -hour Broker-in-Charge Course* on January 6, 2017.

- A. When did Rosalie achieve BIC status? *Answer: October 25, 2016.*

- B. Did Rosalie achieve BIC Eligible status? *Answer: Yes.*

If so, when? *Answer: Upon the posting of the 12-hour Broker-in-Charge course to her CE record.*

- C. When MAY Rosalie begin taking the BICUP course?

Answer: As soon as she was designated broker-in-charge (October 25, 2016).

- D. When MUST Rosalie begin taking the BICUP course?

Answer: Brokers are not required to take the BICUP course until the first full license year following designation. Rosalie was designated broker-in-charge on October 25, 2016, so she may choose to take the GenUp course during the current license year (July 1, 2016-June 10, 2017). She MUST begin taking the BICUP course during the next license year (July 1, 2017-June 10, 2018).

— This Page Intentionally Left Blank —

Notes