



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

Volume 17

1986

Number 2

NEW COMMISSION MEMBERS

Governor James G. Martin has appointed Mr. Ernest C. Pearson of Raleigh and Mr. J. Edward Poole of Spring Lake to the North Carolina Real Estate Commission for three-year terms commencing August 1, 1986.



ERNEST C. PEARSON

Mr. Pearson is a partner in the Raleigh law firm of Sullivan & Pearson, P.A. A native of Charlotte, he attended Clemson University and then graduated with High Honors from N.C. State University in 1972 where he was a member of the Rugby Football Club and a Distinguished Military Graduate. He then attended the UNC-School of Law receiving his Juris Doctor degree in 1975.

After two years as Director of Special Projects for the N.C. Department of Transportation, Mr. Pearson served in the U.S. Army from 1977-79 in various legal positions in Germany. He then served as a Trial Attorney for the U.S. Army Legal Services Agency before entering private practice in Raleigh in 1981.

Active in Wake County civic and political activities, Mr. Pearson is a Past-President of the Wake County Reserve Officers Association, the immediate Past-President of the Wake County Republican Party and currently chairs the Fourth Congressional District Republican Party. □



J. EDWARD POOLE

Mr. Poole is owner of Poole Real Estate and J. Edward Poole Appraisal Associates in Spring Lake. He has been active in the real estate brokerage business since 1958 and has engaged in real estate appraising for the past 20 years.

A Fayetteville native, Mr. Poole attended N.C. State University and Sperry Engineering School in New York, and served in the U.S. Navy in World War II.

His civic and community activities are extensive, including 7th District Chairman of the Republican Party, Chairman of the Cape Fear Chapter of the N.C. Engineering Club, and a member of the Ft. Bragg Masonic Lodge. He is also a Director of Southern National Bank in Spring Lake and a life-long member of Cedar Falls Baptist Church.

Mr. Poole was a member of the Real Estate Commission from 1975-78 serving as Chairman in 1977-78. □

CARLTON ELECTED CHAIRMAN



A. P. Carlton has been elected Chairman of the North Carolina Real Estate Commission for a one-year term commencing August 1, 1986. Mr. Carlton was actively engaged in the real estate business in Greensboro for 25 years before retiring in 1983.

He is a former President of the North Carolina Association of REALTORS and REALTOR of the Year, and he is currently serving as President of the National Association of Real Estate License Law Officials.



Anne M. Allen has been elected Vice-Chairman of the Commission for the coming year. Mrs. Allen is Executive Vice President of Merrill Lynch Realty/Anne Allen in Greensboro.

Active in the real estate brokerage business since 1961, she is a former President of the North Carolina Association of REALTORS, receiving the Greensboro Board's REALTOR of the Year Award in 1975. □

ON THE INSIDE . . .

In the previous issue of the *Bulletin*, the North Carolina Real Estate License Law was reprinted. In this issue, you will find the current Rules and Regulations adopted by the Real Estate Commission governing your general brokerage activities, real estate licensing and examination matters, as well as the various registration and regulation requirements for time share projects.

After reading this *Bulletin*, remove the outer pages and keep the Rules and Regulations (Subchapter 58A-Real Estate Brokers and Salesmen) for your future reference. Also, Brokers-In-Charge will want to review the Rules with their salesmen and associates. □

REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law, Rules and Regulations, and proficiency in ethical real estate practice. The articles published herein shall not be reprinted or reproduced in any other publication without specific reference being made to their original publication in the North Carolina Real Estate Commission Real Estate Bulletin.

NORTH CAROLINA REAL ESTATE COMMISSION

1200 Navaho Drive
P.O. Box 17100
Raleigh, North Carolina 27619
Phone 919/733-9580

James G. Martin, Governor

COMMISSION MEMBERS

A. P. Carlton Greensboro
Chairman
Anne M. Allen Greensboro
Vice-Chairman
Gilbert L. Boger Mocksville
LaNelle Lilley Wrightsville Beach
Ernest C. Pearson Raleigh
J. Edward Poole Spring Lake
Patricia Casey Wilson Raleigh

Phillip T. Fisher Executive Director
L. Ted Gayle Dir. Audits/Invest.
Mary Frances Whitley Fin. Officer
Larry A. Outlaw ... Education Director
Mike Hughes Asst. Ed. Dir.
Thomas R. Miller Legal Counsel
Asst. Attorney General
Blackwell M. Brogden, Jr.
..... Dep. Legal Counsel
Robin Hammond Clark .. Legal Inf. Off.
Margaret A. Lamar .. Cons. Info. Analyst

EXAM RESULTS

EXAMINATION — May, 1986

	Passed	Failed
Brokers	142	108
Salesmen	571	351

EXAMINATION — June, 1986

	Passed	Failed
Brokers	220	184
Salesmen	825	663

CORRECTION

The effective date of the most recent amendments to the Time Share Act was incorrectly reported in the previous *Bulletin*. The amendments took effect January 1, 1986.

BULLETIN BOARD



Margaret A. Lamar has been employed by the Real Estate Commission as Consumer Information Analyst, responsible for reviewing time share registration documents and responding to consumer complaints. "Sonny" is a graduate of Florida State University Law School and was employed in the Florida Division of Land Sales, Condominiums and time shares for four years.



Diane K. Willette has been employed as Time Share Clerk, responsible for processing time share registration documents. Diane is a licensed real estate salesman formerly associated with a Goldsboro real estate brokerage firm.

Larry Outlaw, the Commission's Education Director, has been elected Director of the (National) Real Estate Educators Association for a three-year term ... 16,000 copies of the Commission's publication, *It's Your Move*, will be

sent to N.C.'s high schools for the 1987 school year. To date, approximately 250,000 copies of this consumer housing booklet have been distributed free-of-charge ... 60,751 real estate licensees were renewed by the June 30 filing deadline, representing 89% of the total renewals mailed. . . The Commission is currently scheduling more than 2000 persons per month for the license examinations. This dramatic increase in license applicants and licensees, coupled with the recent annual license renewal period, has placed heavy and unexpected demands on our telephone system and our ability to promptly respond to the hundreds of calls received each day. The Commission apologizes for any delays or inconvenience which may occur pending the up-grading of our telephone system.



Teresa J. Vaughn has been employed as a Clerk-Typist to assist in typing and maintaining files and records for the Commission's Legal Staff. Teresa was formerly employed by the N.C. Department of Natural Resources and Community Development.

BLANTON LITTLE SCHOLARSHIP

The Real Estate Commission at its July meeting established the Blanton Little Memorial Scholastic Achievement Award in honor and memory of Mr. Little, who served as Secretary-Treasurer of the Real Estate Commission from 1975 to 1981.

This annual award will be given to a student who demonstrates outstanding

scholastic achievement at the North Carolina REALTORS Institute and will consist of one tuition payment to the Institute.

This scholarship will be in addition to the Joseph Schweidler Memorial Scholarship which has been awarded by the Commission since 1975.

TRUST ACCOUNT SHORT COURSE

Registration Form

Instructions

1. Any real estate licensee, trust account bookkeeper or other person who handles real estate trust funds or accounts may attend.
2. These free courses are held at the McKimmon Center, Raleigh, N. C., beginning at 1:00 p.m. and require 3-3½ hours to complete.
3. To register, complete and return this form to the N.C. Real Estate Commission, P.O. Box 17100, Raleigh, N.C. 27619-7100, Attn. Ms. Hamm.
4. Registration forms must be received in the Commission Office at least 10 days prior to the course. Registrations will be confirmed in writing by the Commission and registrants furnished more detailed information concerning the location and content of this course.

I wish to attend the following Trust Account Short Course.

☐ September 16

☐ October 21

☐ November 13

Name: Phone:

Address (inc. Zip)

RULES & REGULATIONS
North Carolina Real Estate Commission
Chapter 93A

Statutory Authority: Sections 93A-3(c), 93A-4(d), and Chapter 150A of the General Statutes of North Carolina
North Carolina Administrative Code

Title 21
Occupational Licensing Boards

Subchapter 58 A
Real Estate Brokers and Salesmen

- Section A.0100
General Brokerage Regulation
- A.0101 Display of License and Renewal Sticker
- .0102 Branch Office. (Repealed)
- A.0103 Change of Business Name or Address.
- A.0104 Listing Contracts.
- A.0105 Advertising.
- A.0106 Delivery of Instruments.
- A.0107 Handling and Accounting of Funds.
- A.0108 Retention of Records.
- A.0109 Brokerage Commission Disputes.
- A.0110 Broker-In-Charge
- Section .0200
General Provisions
- Repealed
- Section A.0300
Application for License
- A.0301 Form.
- A.0302 Filing and Fees.
- A.0303 Payment of Application Fees.
- Section A.0400
Examinations
- A.0401 Time and Place.
- A.0402 Subject Matter.
- A.0403 Re-examination.

Section A.0500
Licensing

- A.0501 Character.
- A.0502 Corporations.
- A.0503 License Renewal; Penalty for Non-Renewal.
- A.0504 Inactive Status.
- A.0505 Expired License.
- A.0506 Salesman to be Supervised by Broker.
- A.0507 Payment of License Fees.
- A.0508 Duplicate License Fee; License History Fee
- Section A.0600
Administrative Hearings
- Section A.0700
Petitions for Rules
- Section A.0800
Rule Making
- Section A.0900
Declaratory Rulings
- Section A.1000
Real Estate Schools
- Section A.1100
Real Estate Courses
- Section A.1200
Certification of
Real Estate Instructors
- Section A.1300
Private
Real Estate Schools

Subchapter 58B
Time Shares

- Section B.0100
Time Share Project Registration
- B.0101 Application for Registration.
- B.0102 Registration Fee.
- B.0103 Renewal of Time Share Project Registration.
- B.0104 Amendments to Time Share Project Registration.
- Section B.0200
Public Offering Statement
- B.0201 General Provisions.
- B.0202 Public Offering Statement Summary.
- Section B.0300
Cancellation
- B.0301 Proof of Cancellation.
- Section B.0400
Time Share Sales Operation
- B.0401 Retention of Time Share Records.
- Section B.0500
Handling and Accounting of Funds
- B.0501 Time Share Trust Funds.

SUBCHAPTER 58 A

REAL ESTATE BROKERS AND SALESMEN

SECTION A.0100 GENERAL BROKERAGE

A .0101 Display of License and Renewal Sticker

(a) The license of a broker-in-charge and the license of each broker and salesman engaged in real estate activities at the office of the broker-in-charge shall be prominently displayed at such office.

(b) The annual license renewal sticker issued by the Commission to each broker, salesman, or brokerage corporation shall be affixed by the licensee to his real estate license immediately upon receipt.

.0102 Branch Office

Repealed.

A .0103 Change of Business Name or Address

All licensees shall notify the Commission in writing of each change of business address or trade name within 10 days of said change. The address shall be sufficiently descriptive to enable the Commission to correspond with and locate the licensee.

A .0104 Listing Contracts

Every written listing contract shall provide for its existence for a definite period of time and for its termination without prior notice at the expiration of that period. It shall not require an owner to notify a broker of his intention to terminate the listing.

A .0105 Advertising

(a) Blind Ads. A broker shall not advertise the sale, purchase, exchange, rent or lease of real estate, for another or others, in a manner indicating the offer to sell, purchase, exchange, or lease is being made by a principal. Every such advertisement shall clearly indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, or street address.

(b) Registration of Assumed Name. In the event that any licensee shall advertise in any manner using a firm name, corporate name, or an assumed name which does not set forth the surname of the licensee, he shall first notify the Commission in writing of such name or names and furnish the Commission with a copy of each certificate filed with the office of the County Register of Deeds in compliance with Section 66-68, North Carolina General Statutes.

(c) Authority to Advertise:

- (1) A salesman shall not advertise the sale, purchase, exchange, rent or lease of real estate for another or others without his broker's consent and without including in the advertisement the name of the broker or firm with whom he is associated.

- (2) A broker shall not display a "For Sale" or "For Rent" sign on any real estate without the consent of the owner or his authorized agent.

A .0106 Delivery of Instruments

Every real estate broker or real estate salesman shall immediately, but in no event later than five days from the date of execution, deliver to the parties thereto copies of any contract, offer, lease, or option affecting real property.

A .0107 Handling and Accounting of Funds

(a) All monies received by a real estate broker acting in his fiduciary capacity shall be deposited in a trust or escrow account not later than three banking days following receipt of such monies except that earnest money deposits received on offers to purchase real estate and tenant security deposits received in connection with real estate leases shall be deposited in a trust or escrow account not later than three banking days following acceptance of such offer to purchase or lease; the date of acceptance of such offer to purchase or lease shall be set forth in the purchase or lease agreement. All monies received by a real estate salesman shall be delivered immediately to the broker by whom he is employed.

(b) In the event monies received by a real estate broker while acting in a fiduciary capacity are deposited in a trust or escrow account which bears interest, such broker shall first secure from all parties having an interest in the monies written authorization for the deposit of such monies in an interest-bearing account. Such authorization shall also specify how and to whom the interest will be disbursed, and if contained in an offer, contract, lease, or other transaction instrument, such authorization shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the instrument.

(c) Closing statements shall be furnished to the buyer and the seller in the transaction at the closing or not more than five days after closing.

(d) Trust or escrow accounts shall be so designated by the bank or savings and loan association in which the account is located, and all deposit tickets and checks drawn on said account shall bear the words "Trust Account" or "Escrow Account".

(e) Real estate brokers shall maintain records sufficient to verify the adequacy and proper use of their trust accounts, and shall retain bank statements, cancelled checks, deposit tickets, copies of contracts, closing statements and any other documents necessary and sufficient to verify and explain record entries. Minimum trust account records include the following information:

- (1) The date the broker received trust monies; and
- (2) The amount, nature and purpose of deposits and from whom received; and

- (3) The date trust monies are deposited in the trust or escrow account; and
- (4) The amount, date and purpose of withdrawals and to whom paid; and
- (5) A current running balance of trust monies held by the broker.

(f) All trust account records shall be made available for inspection by the Commission or its authorized representatives without prior notice.

(g) In the event of a dispute between the seller and buyer or landlord and tenant over the return or forfeiture of any deposit other than a residential tenant security deposit held by a broker, the broker shall retain said deposit in his trust or escrow account until he has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction.

A.0108 Retention of Records

Real estate brokers shall retain records of all transactions conducted in such capacity for a period of three years. Such records shall include contracts of sale, written leases, listing contracts, options, offers to purchase, trust records, earnest money receipts, closing statements and any other records pertaining to real estate transactions.

A.0109 Brokerage Commission Disputes

The Commission is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning such matters of contract as the rate of commissions, the division of commissions, pay of salesmen, and similar matters.

A.0110 Broker-In-Charge

(a) There shall be designated for each real estate firm and branch office thereof one duly licensed real estate broker who shall assume responsibility at such office for:

- (1) the proper display of license certificates and renewal stickers of the real estate brokers and salesmen associated with or engaged on behalf of the firm at such office;
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office; and
- (6) the proper supervision of real estate salesmen associated with or engaged on behalf of the firm at such office in accordance with the requirements of rule .0506 of this subchapter.

(b) When used in this rule, the term:

- (1) "Office" means any place of business where acts are performed for which a real estate license is required; and
- (2) "branch office" means any office in addition to the principal office of a real estate broker which is operated in connection with the broker's real estate business.

(c) Each broker-in-charge shall notify the Commission in writing of any change in his status as broker-in-charge within 10 days following the change.

SECTION .0200 — GENERAL PROVISIONS

Repealed

SECTION A .0300 — APPLICATION FOR LICENSE

A .0301 Form

Any person desiring to obtain a license as a real estate broker or salesman shall make written application to the Commission upon a prescribed form. Such forms are available upon request to the Commission. In general, the form calls for information such as the applicant's name and address, a recent passport size photograph of the applicant, past and present places of residence and employment, education, prior real estate licenses, prior arrests and convictions, unpaid judgments, bankruptcies endorsements of good character, and information concerning the applicant's experience or education in real estate.

A .0302 Filing and Fees

(a) Properly completed applications must be received in the Commission Office or postmarked not later than the filing date established by the Executive Director for a scheduled examination and must be accompanied by the appropriate fee. Once the application has been filed and processed, the application fee will not be refunded.

(b) The following fees shall be charged:

- (1) application fee for broker license \$30.
- (2) application fee for salesman license \$30.

A .0303 Payment of Application Fees

Payment of application fees shall be made by certified check or money order payable to the North Carolina Real Estate Commission.

SECTION A .0400 — EXAMINATIONS

A .0401 Time and Place

Examinations for broker's and salesman's licenses will be scheduled at such times and places as determined by the Executive Director. Applicants will be given written notice of when and where to appear for examination.

A.0402 Subject Matter and Passing Scores

(a) The salesman and broker examination shall test applicants on the following general subject areas:

- (1) real estate law;
- (2) real estate brokerage law and practices;
- (3) the real estate license law, rules and regulations of the Commission and the Commission's trust account guidelines;
- (4) real estate finance;
- (5) real estate valuation (appraisal);
- (6) real estate mathematics; and
- (7) related subject areas.

(b) In order to pass the salesman or broker examination, an applicant must correctly answer 75 percent of the questions on the examination. Passing applicants will receive only a score of "pass"; however, failing applicants will be informed of their actual score.

A.0403 Re-examination

If an applicant fails to pass the initial examination for which he has been scheduled, he will be re-scheduled for the examination held two months later. If an applicant fails to pass his re-examination or fails to appear for and take any examination for which he has been scheduled, he shall make written application to the Commission upon a prescribed form accompanied by the appropriate fee, if he wishes to obtain a real estate license.

A.0404 Cheating and Related Misconduct

Applicants shall not cheat or attempt to cheat on an examination by any means, including both giving and receiving assistance, and shall not communicate in any manner for any purpose with any person other than an examination supervisor during an examination. Violation of this rule shall be grounds for dismissal from an examination, invalidation of examination scores, and denial of a real estate license, as well as for disciplinary action if the applicant is a licensed salesman.

A.0405 Confidentiality of Examination

Licensing examinations are the exclusive property of the Commission and are confidential. No applicant or licensee shall obtain, attempt to obtain, receive or communicate to other persons examination questions. Violation of this rule shall be grounds for denial of a real estate license if the violator is an applicant and disciplinary action if the violator is a licensee.

A.0406 Examination Review

An applicant who fails an examination may review his examination at such times and places as are scheduled by the Executive Director. A request to review an examination must be made not later than the request deadline date established by the Executive Director for a scheduled examination review date. Failure to request an appointment to review an examination by the examination review date shall constitute a waiver of the right to review such examination. Applicants who pass an examination may not review their examination. Applicants who review their examination may not be accompanied by any other person at a review session, nor may any other person review an examination in behalf of the applicant.

SECTION A .0500 LICENSING

A .0501 Character

(a) At a meeting of the Commission following each licensing examination, the applicants who have passed the examination shall be considered for licensing. When the moral character of an applicant is in question, action by the Commission will be deferred until the applicant has affirmatively demonstrated that he possesses the requisite truthfulness, honesty and integrity.

(b) When the moral character of an applicant is in question, the Commission shall notify the applicant and the applicant shall be entitled to be heard by the Commission on the question of his moral fitness for licensure.

A.0502 Corporations

(a) Corporations required to be licensed as a real estate broker shall make written application to the Commission upon prescribed forms. These forms shall be available upon request to the Commission and call for such information as the corporate name, the address of its principal office, a copy of its corporate charter evidencing its authority to engage in the business of real estate brokerage, past conviction of criminal offenses of any corporate director, officer, employee or share-

holder who owns ten percent or more of the outstanding shares of any class, information concerning the past revocation, suspension or denial of a business or professional license to any director, officer, employee or shareholder who owns ten percent or more of the outstanding shares of any class, a list of all directors and officers of the corporation, a list of all persons, partnerships, corporations or other entities owning ten percent or more of the outstanding shares of any class, and a list of all brokers and salesmen associated with the corporation.

(b) A foreign corporation shall further qualify by filing, with its application for license, a copy of its certificate of authority to transact business in this state issued by the North Carolina Secretary of State in accordance with Section 55-131, North Carolina General Statutes, and a Consent to Service of process and pleadings which shall be authenticated by its corporate seal and accompanied by a duly certified copy of the resolution of the board of directors authorizing the proper officer or officers to execute said Consent.

(c) After filing of written application with the Commission and upon a showing that at least one executive officer of said corporation holds a current broker's license in good standing and will serve as principal broker of the corporation, the corporation will be licensed provided it appears that the applicant corporation employs and is directed by personnel possessed of requisite truth, honesty and integrity.

(d) The licensing of a corporation shall not be construed to extend to the licensing of its officers and employees in their individual capacities regardless of whether they are engaged in furthering the business of the licensed corporation.

A.0503 License Renewal; Penalty for Non-Renewal

(a) Any licensee desiring the renewal of a license in good standing shall apply for same in writing upon a form approved by the Commission during the month of June and shall forward the required fee of twenty dollars (\$20.00). Forms are available upon request to the Commission.

(b) Any person who engages in the business of real estate broker or real estate salesman while his license is lapsed will be subject to the penalties prescribed in the license law.

A.0504 Inactive Status

(a) A real estate broker or salesman shall be assigned to inactive status upon written request to the Commission. A licensee on inactive status shall not be entitled to act in any capacity for which a real estate license is required until he is assigned to active status. The fact that a licensee is on inactive status shall not affect the authority of the Commission to take disciplinary action against the licensee. The Commission shall assign a real estate salesman to inactive status when he has satisfied the requirements for licensure. The commission shall also assign a real estate salesman to inactive status when he is not under the active, personal supervision of a broker.

(b) A licensee on inactive status may request to be assigned to active status by filing a form prescribed by the Commission setting forth the licensee's desire to be assigned to active status, his correct address, and in the case of a salesman, a statement from the broker-in-charge of the real estate office with which the salesman will be associated certifying that he will supervise the salesman in the performance of all acts for which a license is required; provided, however, that the Commission in its discretion may require a licensee who has been on inactive status for three or more years to satisfy the requirements of an applicant for original licensure.

(c) A licensee on inactive status shall renew his license upon the payment of the annual renewal fee.

(d) A corporate real estate broker shall be assigned by the Commission to inactive status when the principal broker of the

corporation notifies the Commission that he will no longer serve as principal broker or when the license of the principal broker expires, or is revoked or suspended by the Commission. The corporate real estate broker shall be returned to active status upon the certification of the corporation to the Commission of a new principal broker or upon the reinstatement of the license of the principal broker by the Commission.

A.0505 Expired License

Expired licenses may be reinstated within 12 months after expiration upon proper application and payment of the twenty dollar (\$20.00) renewal fee plus five dollar (\$5.00) late filing fee. Licenses expired for more than 12 months may be considered for reinstatement upon proper application and payment of thirty dollar (\$30.00) fee for brokers and thirty dollar (\$30.00) fee for salesmen. Such applications will be reviewed by the Commission to determine whether an examination and/or real estate education will be required.

A.0506 Salesman to be Supervised by Broker

(a) A salesman's license is valid only while he is supervised by the broker-in-charge of the office where the salesman is engaged in the business of a real estate salesman.

(b) Upon a salesman's association with a real estate broker or brokerage firm, the broker-in-charge of the office where the salesman will be engaged in the business or a real estate salesman shall immediately file with the Commission a form prescribed by the Commission containing the salesman's name and residence address, the name of the broker-in-charge, the name of the firm and the address of the office with which the broker-in-charge is associated, a statement from the broker-in-charge certifying that he will supervise the salesman in the performance of all acts for which a license is required, the date that the broker-in-charge assumes responsibility for such supervision, and the signatures of the salesman and broker-in-charge. Upon mailing or delivering the properly completed form to the Commission by the broker-in-charge, the salesman named in the form may engage in the business of real estate salesman under the supervision of the broker-in-charge pending acknowledgement from the Commission of receipt of such form; however, in the event such written acknowledgement from the Commission is not received by the broker-in-charge within thirty (30) calendar days following the date shown in the form, the broker-in-charge shall cause the salesman to immediately cease any further activity for which a real estate license is required pending receipt of the written acknowledgement from the Commission.

(c) A broker who certifies to the Commission that he will supervise a licensed real estate salesman shall actively and personally supervise the salesman in a manner which would reasonably assure that the salesman performs all acts for which a real estate license is required in accordance with the real estate license law and Commission rules. A supervising broker who fails to supervise a salesman as prescribed above may be subject to disciplinary action by the Commission.

(d) A broker-in-charge shall, upon termination of his supervision of a salesman, immediately notify the Commission in writing setting forth the date of termination.

A.0507 Payment of License Fees

Checks given the Commission in payment of license fees which are returned unpaid shall be considered cause for license denial, suspension, or revocation.

A.0508 Duplicate License Fee; License History Fee

(a) A licensee may by filing a prescribed form and paying a five dollar (\$5.00) fee to the Commission, obtain a duplicate real estate license or renewal sticker to replace an original license or sticker which has been lost, damaged or destroyed or where the name of the licensee has been lawfully changed.

(b) The Commission shall at the request of a licensee and upon the payment of a fee of ten dollars (\$10.00) prepare and issue to the licensee a certified statement describing the licensee's license history.

SECTION A .0600 — ADMINISTRATIVE HEARINGS

SECTION A .0700 — PETITIONS FOR RULES

SECTION A .0800 — RULE MAKING

SECTION A .0900 — DECLARATORY RULINGS

SECTION A .1000 — REAL ESTATE SCHOOLS

SECTION A .1100 — REAL ESTATE COURSES

SECTION A .1200 — CERTIFICATION OF REAL ESTATE INSTRUCTORS

SECTION A .1300 — PRIVATE REAL ESTATE SCHOOLS

Applicants for real estate licenses will not be tested on Section A .0600 through A .1300 of the Rules and Regulations of the Real Estate Commission.

Interested persons may obtain a copy of Sections A .0600 through A .1300 by making written request to the North Carolina Real Estate Commission.

SUBCHAPTER 58 B TIME SHARES

SECTION B .0100 — TIME SHARE PROJECT REGISTRATION

B .0101 Application for Registration

Every application for time share project registration shall be filed at the Commission office upon a form prescribed by the Commission and shall contain information concerning the developer's right to use the real property on which the project is located, including a title opinion provided by an independent attorney performed within thirty days preceding the date of application; a description of the improvements and amenities located at the project, including a description of the type and number of time share units; a description of the time share estate to be sold to purchasers; information concerning

the developer and the marketing and managing entities and their relationship to the developer; information concerning any criminal convictions, unpaid civil judgments, bankruptcies and administrative disciplinary actions against the developer, the marketing and managing entities, or their principals or officers in this or any other state or principality; true copies of all documents required; and such additional information required under G.S. 93A-52.

B .0102 Registration Fee

Every application for time share project registration must be accompanied by a certified check made payable to the North Carolina Real Estate Commission in the amount of one thousand dollars (\$1,000). Applications for registration not

accompanied by the appropriate fee shall not be considered by the Commission. In the event a properly completed application filed with the Commission is denied for any reason, the amount of two hundred fifty dollars (\$250) shall be retained by the Commission from the application fee and the balance refunded to the applicant developer.

B.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 prescribed by the Commission during the month of June next preceding the expiration of the certificate of registration of the project. Every such renewal application shall be accompanied by a certified check made payable to the North Carolina Real Estate Commission in the amount of seven hundred fifty dollars (\$750). To renew the time share project registration, the properly completed application accompanied by the prescribed fee must be received at the Commission's office prior to the expiration of the certificate of registration.

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

B.0104 Amendments to Time Share Project Registration

(a) A developer shall notify the Commission immediately, but in no event later than fifteen (15) days, after any material change in the information contained in the time share project registration.

(b) A material change shall be any change which reflects a difference in:

- (1) the nature, quality or availability of the purchaser's ownership or right to use his time share; or
- (2) the nature, quality or availability of any amenity at the project; or
- (3) the developer's title, control or right to use the real property on which the project is located; or
- (4) the information concerning the developer, the managing or marketing entities, or persons connected therewith, previously filed with the Commission; or
- (5) the purchaser's right to exchange his unit; however, a change in the information required to be disclosed to a purchaser by G.S. 93A-48 shall not be a material change; or
- (6) the project or time share as originally registered which would be significant to a reasonable purchaser.

(c) Amendments to the time share project registration shall be made upon a form prescribed by the Commission. Every amendment shall identify the section of the project registration to be amended and shall contain a summary of the amendment and a brief statement of the reasons for the amendment. The amendment shall include either the text of the project registration section to be substituted or a copy of the document to be modified.

(d) The Commission may, in its discretion, require the developer to file a new time share project registration application in the place of an amendment form. Such refiling shall be without fee.

SECTION B.0200 — PUBLIC OFFERING STATEMENT

B.0201 General Provisions

(a) Information contained in a public offering statement shall be accurate on the day it is supplied to a purchaser. Before any public offering statement is supplied to a purchaser, the developer shall file a copy of the statement with the Commission.

(b) In addition to the information required to be contained in a public offering statement by G.S. 93A-44, every public offering statement shall disclose to the purchaser of a time share complete and accurate information concerning the availability of the purchaser's time share; the recordation of the instrument conveying the purchaser's time share; the availability of each amenity and recreational facility; and the exchange of the purchaser's time share.

(c) The inclusion of false or misleading statements in a public offering statement shall be grounds for disciplinary action by the Commission.

B.0202 Public Offering Statement Summary

(a) Every public offering statement shall contain a one page cover prescribed by the Commission and completed by the developer entitled Public Offering Statement Summary. The Public Offering Statement Summary shall read as follows:

"PUBLIC OFFERING STATEMENT SUMMARY

NAME OF PROJECT: _____

ADDRESS OF PROJECT: _____

NAME OF SALESMAN: _____

This Public Offering Statement contains information which deserves your careful study. The Public Offering Statement contains answers to the following questions which should be of particular importance to you.

BEFORE YOU SIGN ANY CONTRACT WHICH OBLIGATES YOU TO PURCHASE A TIME SHARE, PLEASE CONSIDER:

1. When will my time share be available to me?
see Public Offering Statement page _____
2. What will be my total cost, including my initial cost, periodic fees and other charges?
see Public Offering Statement page _____
3. Who may change these charges and how?
see Public Offering Statement page _____
4. How will the time share project be maintained in the future?
see Public Offering Statement page _____
5. When will each amenity and recreation facility (swimming pool, golf course, tennis courts, etc.) be available for my use?
see Public Offering Statement page _____
6. Will I be able to exchange my time share for a time share somewhere else? If so, how?
see Public Offering Statement page _____
7. How and when will the title to my time share be recorded?
see Public Offering Statement page _____

NOTICE

UNDER NORTH CAROLINA LAW, YOU MAY CANCEL YOUR TIME SHARE PURCHASE WITHOUT PENALTY WITHIN FIVE (5) DAYS AFTER SIGNING YOUR CONTRACT. TO CANCEL YOUR TIME SHARE PURCHASE, YOU MUST MAIL OR

HAND DELIVER WRITTEN NOTICE OF YOUR DESIRE TO CANCEL YOUR PURCHASE TO NAME AND ADDRESS OF PROJECT. IF YOU CHOOSE TO MAIL YOUR CANCELLATION NOTICE, THE REAL ESTATE COMMISSION RECOMMENDS THAT YOU USE REGISTERED OR CERTIFIED MAIL AND THAT YOU RETAIN YOUR POSTAL RECEIPT AS PROOF OF THE DATE YOUR NOTICE WAS MAILED. UPON CANCELLATION, ALL PAYMENTS WILL BE REFUNDED TO YOU.

Complaints concerning your time share purchase should be directed to the North Carolina Real Estate Commission, Post Office Box 17100, Raleigh, North Carolina 27619.

March 1, 1984"

(b) Copies of the Public Offering Statement Summary form may be obtained from the Commission.

**SECTION B .0300 —
CANCELLATION**

B .0301 Proof of Cancellation

(a) The postmark date affixed to any written notice of a purchaser's intent to cancel his time share purchase shall be presumed by the Commission to be the date the notice was mailed to the developer. Evidence tending to rebut this presumption shall be admissible at a hearing before the Commission.

(b) Upon receipt of a purchaser's written notice of his intent to cancel his time share purchase, the developer, his agent or representative, shall retain the notice and any enclosure, envelope or other cover in the developer's files at the project according to G.S. 93A-54(d), and shall produce the file upon the Commission's request.

**SECTION B .0400 —
TIME SHARE SALES OPERATIONS**

B .0401 Retention of Time Share Records

A time share developer and a time share salesman shall retain or cause to be retained for a period of three (3) years complete records of every time share sale, rental, or exchange transaction made by or on behalf of the developer. Records

required to be retained shall include but not be limited to offers, applications and contracts to purchase, rent or exchange time shares; records of the deposit, maintenance and disbursement of funds required to be held in trust; receipts; notices of cancellation and their covers if mailed; records regarding compensation of salesmen; public offering statements; and any other records pertaining to time share transactions. Such records shall be made available to the Commission and its representatives upon request.

**SECTION B .0500 —
HANDLING AND ACCOUNTING OF FUNDS**

B .0501 Time Share Trust Funds

(a) Except as may be otherwise accepted by the Commission pursuant to G.S. 93A-45(c), all monies received by a time share developer or a time share salesman in connection with a time share sales transaction shall be deposited into a trust or escrow account not later than three (3) banking days following receipt and shall remain in such account for ten (10) days from the date of sale or until cancellation by the purchaser, whichever first occurs.

(b) All monies received by a person licensed as a salesman in connection with a time share transaction shall be delivered immediately to his supervising broker.

(c) A developer shall refund to a time share purchaser all monies paid by the purchaser in connection with a time share purchase no later than thirty (30) days following the date of execution of the contract, provided that the purchaser has properly and timely cancelled his purchase. Where the time share purchaser has paid with a bank card or credit card, the developer shall refund those payments by issuing a credit voucher to the purchaser within thirty (30) days following the date of sale, provided that the purchaser has properly and timely cancelled his purchase.

Please send me the book listed below for a 10-day **FREE** examination:

**NORTH CAROLINA REAL ESTATE FOR BROKERS AND SALESMEN,
3rd Edition, by Webster, Hetrick and Outlaw
(Order # 62383-5)**

- ☐ Please bill me \$27.95 (plus sales tax and postage and handling charges), to be payable only after the 10-day free trial period.
- ☐ Payment in the amount of \$29.21 (\$27.95 plus 4½% sales tax) is enclosed. Prentice-Hall pays all postage and handling charges. Same return privilege with money-back guarantee.

NAME Mr./Mrs./Ms. _____

ADDRESS _____

CITY/STATE/ZIP _____

Mail to: Prentice-Hall, Inc.
Book Distribution Center
Route 59 at Brookhill Drive
West Nyack, New York 10995



North Carolina Real Estate Commission
P.O. Box 17100, Raleigh, N. C. 27619 • Phone (919) 733-9580

SUPERVISION OF SALESMAN NOTIFICATION

Instructions

1. After carefully reading these instructions, this form must be properly completed and signed by the salesman and the Broker-In-Charge of the office where the salesman will be employed. *(The Broker-In-Charge should retain a copy of this completed form for his/her files.)*
2. **The salesman named in this form may begin working as a real estate salesman under the supervision of the Broker-In-Charge when the Broker-In-Charge has either mailed or delivered this properly completed form to the Real Estate Commission. *(No fee is required.)***
3. The Real Estate Commission will send the Broker-In-Charge a written Acknowledgement confirming that this form has been received and accepted. *(The Broker-In-Charge should retain the Acknowledgement for his/her files.)* **If the Broker-In-Charge has not received the Acknowledgement by 30 calendar days after the date entered below on this "Supervision of Salesman" form, the salesman must immediately cease any further activity for which a real estate license is required until the Acknowledgement has been received. *(Brokers-In-Charge are advised to contact the Records Department at the Commission Office if the Acknowledgement has not been received by 25 days after the date entered on this form.)***
4. **The salesman's real estate license certificate is the property of the salesman.** The license certificate must be prominently displayed in the office of the Broker-In-Charge while the salesman is under the supervision of the Broker-In-Charge, and must be returned to the salesman *(not the Real Estate Commission)* upon the termination of his/her association with the Broker-In-Charge or firm.
5. **Upon termination of the salesman's association with the Broker-In-Charge or firm, the Broker-In-Charge must immediately notify the Real Estate Commission in writing,** giving the salesman's *current residence address and date of termination.* The Commission will furnish the Broker-In-Charge and salesman a written Acknowledgement confirming that the notification has been received and that the Broker-In-Charge has been released from further supervisory responsibility over the salesman's real estate activities. *(The Broker-In-Charge should retain this Acknowledgement for his/her files.)*

TYPE OR PRINT IN INK

TO BE COMPLETED BY SALESMAN:

I hereby advise the North Carolina Real Estate Commission that I am (as of the date shown below) engaged in the business of a real estate salesman under the supervision of the Broker-In-Charge listed below. I further certify to the Real Estate Commission that I shall engage in acts which require a real estate license only while under the active, personal supervision of said Broker-In-Charge.

SIGNATURE OF SALESMAN _____

SALESMAN'S FULL NAME _____ LIC. # _____

RESIDENCE ADDRESS _____

TO BE COMPLETED BY BROKER-IN-CHARGE:

I hereby certify that the above salesman is (as of the date shown below) engaged in the business of a real estate salesman under my active, personal supervision and will remain under my supervision until I otherwise give written notice to the Real Estate Commission. I further certify that thirty (30) calendar days following the date shown below, such salesman shall discontinue any and all licensed activity in the event that I have not received from the Commission written acknowledgement of the receipt and acceptance of this form.

SIGNATURE OF BROKER-IN-CHARGE _____

BROKER-IN-CHARGE'S FULL NAME _____ LIC. # _____

BUSINESS NAME _____

BUSINESS STREET ADDRESS _____

BUSINESS MAILING ADDRESS _____

DATE: _____

(MAKE COPIES FOR YOUR OFFICE USE)

DISCIPLINARY ACTION

Penalties for violations of the Real Estate License Law and Commission Rules and Regulations vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.

HENRY C. EDMISTON (Chapel Hill) — By Consent, the Commission revoked Mr. Edmiston's broker's license effective June 13, 1986 for converting to his own use a \$4000 earnest money deposit and for failing to maintain and provide proper trust account records.

FIRST RESORT PROPERTIES OF NORTH CAROLINA, INC. (Foxfire Village) — By Consent, the Commission revoked the corporate real estate broker's license of First Resort Properties of N. C., Inc. effective April 30, 1986. The Commission found that the corporation failed to provide to purchasers of building lots valid and complete public offering statements as required under the Federal Interstate Land Sales Act. The Commission also found that the corporation failed to disclose to purchasers that paved roads and installed water lines were required before any buildings could be erected on their lots, and that they conveyed to purchasers warranty deeds which were actually subject to prior deeds of trust.

GOLDEN STRAND; HATTERAS HIGH; STRAND SOUTH (Dare County) — By Consent, the Commission suspended for three years the registration certificates of the time share projects Golden Strand, Hatteras High, and Strand South effective June 1, 1986, as a result of the improper acts committed by the projects' developers, Lifestyle Homes, Inc. and Strand South Ltd., in their diversion of funds from the Golden Strand Interval Owners Association to the projects. The Commission suspended its Order and placed the projects on probation for three years.

GREAT SMOKIES HOTEL ASSOCIATES (Asheville) — By Consent, the Commission, effective July 15, 1986, fined Great Smokies Hotel Associates \$6,000 for using improper mail solicitations to attract time share purchasers to the project.

LUCILLE WALSH HALL (Triplett) — The Commission suspended Ms. Hall's broker's license for six months effective June 15, 1986. The Commission found that Ms. Hall as President, Assistant Secretary, Director and salesman for Horne Developers, Inc., reassured purchasers of time shares at the Powder Horne Mountain time share project that certain promises made by other employees at the project would be honored when, in fact, she knew that such promises were false.

SAMMY GENE HARPER (Wilmington) — By Consent, the Commission suspended Mr. Harper's broker's license for one year effective May 1, 1986. Four months of the suspension are to be active and one year on probation on condition that he attend the Commission's Trust Account Short Course. The Commission found that Mr. Harper had converted tenant security deposits and rents to his own use, had failed to maintain proper trust account records, and commingled his own money with that of his principals.

WILLIAM W. HENDERSON (Charlotte) — The Commission suspended Mr. Henderson's broker's license for two years effective May 15, 1986. One year of the suspension is to be active and the remaining one year on probation on condition that he attend the Commission's Trust Account Short Course. The Commission found that Mr. Henderson had converted tenant security deposits and rents to his own use, had failed to maintain proper trust account records and to make such records available to the Commission's auditor, and made false statements to the auditor. The Commission noted that Mr. Henderson subsequently reimbursed all parties.

WILL A. HUDSON (Raleigh) — By Consent, the Commission reprimanded Mr. Hudson for failing to deposit and maintain rents in a trust account, and for failing to properly account for his client's funds.

ROBERT C. McLAUGHLIN; DEBORAH M. McLAUGHLIN (Kill Devil Hills) — By Consent, the Commission suspended for three years the brokers' licenses of Robert C. McLaughlin and Deborah M. McLaughlin effective June 1, 1986. The Commission found that they, while serving as President and Broker-In-Charge respectively of Resort Condominium Management, Inc., falsely represented to

time share purchasers that the purchasers owned their time shares when in fact, legal title was held by a third party. The Commission also found that they loaned to certain other entities, funds belonging to the Golden Strand Interval Owners Association without the knowledge or permission of the Association's members.

LAURA A. MUSIC (Jacksonville) — The Commission suspended Ms. Music's salesman's license for one year effective April 23, 1986. The Commission then suspended its Order and placed Ms. Music on probation for one year. The Commission found that Ms. Music, while affiliated with a private real estate school, aided a student in making a false statement in the student's application for a real estate license.

KARL P. NOONAN (Charlotte) — By Consent, the Commission suspended Mr. Noonan's broker's license for one year effective April 18, 1986. Two months of the suspension are to be active and the remaining ten months on probation. The Commission found that Mr. Noonan had made a false statement in his application for licensure.

OUTER BANKS BEACH CLUB, INC. (Kill Devil Hills) — By Consent, the Commission, effective July 15, 1986, fined Outer Banks Beach Club, Inc. \$6,000 for using improper mail solicitations to attract time share purchasers to the project.

PEPPERTREE RESORTS, LTD. (Asheville) and PEPPERTREE-ATLANTIC BEACH ASSOCIATES (Atlantic Beach) — By Consent, the Commission, effective July 15, 1986, reprimanded the corporate real estate broker, Peppertree Resorts, Ltd., and fined Peppertree-Atlantic Beach Associates \$14,000 for using improper mail solicitations to attract time share purchasers to the project, for employing two unlicensed salesmen, and for failing to properly inform a purchaser regarding the right to rescind time share purchase agreements within the five-day "cooling off" period.

PEPPERTREE MAGGIE VALLEY ASSOCIATES (Maggie Valley) — By Consent, the Commission, effective July 15, 1986, fined Peppertree Maggie Valley Associates \$8,000 for using improper mail solicitations to attract purchasers to the project, and for failing to properly inform a purchaser regarding the right to rescind time share purchase agreements within the five-day "cooling off" period.

(Continued on Next Page)

DISCIPLINARY ACTION

(Continued from Page 3)

BARBARA A. PIERCE (Jacksonville) — By Consent, the Commission suspended Ms. Pierce's salesman's license for one year effective April 18, 1986. The Commission then suspended its Order and placed Ms. Pierce on probation for one year. The Commission found that Ms. Pierce had made a false statement in her application for licensure.

BENJAMIN PIGGIE (Sanford) — By Consent, the Commission suspended Mr. Piggie's broker's license for three years effective May 23, 1986. The Commission then ordered that the active period of suspension be lifted and the remainder on probation upon the satisfaction by Mr. Piggie of certain claims due others, provided that he serve at least one year active suspension. The Commission found that Mr. Piggie had made false promises to sellers in two separate real estate transactions, had commingled the monies of others with his own funds, and had failed to remit and account for rents collected in a timely manner.

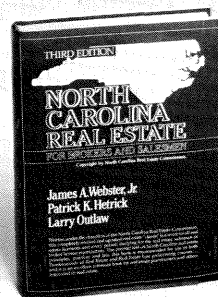
RESORT CONDOMINIUM MANAGEMENT, INC. d/b/a RESORT CONDOMINIUM PROPERTIES, INC. (Dare County) — By Consent, the Commission revoked the corporate real estate broker's license of Resort Condominium Management, Inc. effective June 1, 1986. The Commission found that the corporation, while engaged in marketing time shares at the Hatteras time share project, falsely represented to purchasers that the purchasers owned the time shares when, in fact, legal title was held by a third party. The Commission also found that funds managed by the corporation for the Golden Strand Interval Owners Association were loaned to other entities without the knowledge or permission of the Association's members.

LLOYD C. TRUESDALE, JR. (Gastonia) — The Commission revoked Mr. Truesdale's broker's license effective May 12, 1986. The Commission found that Mr. Truesdale had failed to promptly remit rent proceeds to property owners, had failed to deposit rents in his trust account, and had commingled the monies of others with his own funds. The Commission also found that Mr. Truesdale had failed to provide or maintain adequate records necessary to perform an accurate audit.

NORTH CAROLINA REAL ESTATE FOR BROKERS AND SALESMEN 3rd Edition

The North Carolina Real Estate Commission is pleased to announce the publication by Prentice-Hall, Inc. of the revised 3rd Edition of its authoritative and widely-used text and reference book, **NORTH CAROLINA REAL ESTATE FOR BROKERS AND SALESMEN**.

The original edition was written for the Commission by Dr. James A. Webster, Jr. (now deceased) of the Wake Forest University School of Law and was published in 1974. The revised 2nd Edition, published in 1983, was authored by Patrick K. Hetrick of the Campbell University School of Law, with assistance from Larry A. Outlaw, the Commission's Education Director, and other contributors. The revised 3rd Edition, published in July, 1986, is co-authored by Messrs. Hetrick and Outlaw, with significant contributions from Robert O. Loftis, Jr. of Campbell University School of Law (Chapter on "Federal Income Taxation of Real Estate"), John A. K. Tucker of North Carolina State University (Chapter on "Basic House Construction"), and Jeffrey S. Taylor, President of Wendover Funding, Inc. (Chapters relating to "Real Estate Finance"). [NOTE: Royalties from the sale of this book are paid by the publisher to the North Carolina Real Estate Commission, which holds the copyright, and are used to defray the cost of continuing revisions. The



authors and contributors do not receive any portion of the royalties.]

A few of the 3rd Edition's most important features are:

- New chapters on "Basic House Construction" and "Securities Law Aspects of Real Estate Transactions."
- Significantly improved and updated coverage of most topics, especially the real estate agent's duties under agency and related law, listing and sales contracts and practices, financing practices, closing statements and practices, federal income taxation of real estate, and real estate mathematics.
- End-of-chapter questions to assist the prelicensing course student.
- Additional examples to enhance the reader's understanding of textual material.
- Expanded glossary and improved index.

Real estate brokers and salesmen will find that the 3rd Edition contains extremely valuable coverage of real estate practices as well as real estate principles and law, making it an excellent reference book for their everyday use.

ORDER FORM INSIDE

NORTH CAROLINA
REAL ESTATE COMMISSION
P.O. Box 17100
Raleigh, N.C. 27619

BULK RATE
U. S. Postage Paid
Permit No. 99
RALEIGH, N.C.