



NORTH CAROLINA  
REAL ESTATE LICENSING BOARD

# Real Estate Bulletin

VOLUME 7

FALL QUARTER 1976

NUMBER 3





## REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate Licensing Law, Rules and Regulations, and proficiency in ethical real estate practice.

### NORTH CAROLINA REAL ESTATE LICENSING BOARD

115 Hillsborough St.

Raleigh, North Carolina 27602

James E. Holshouser, Jr., Governor

#### BOARD MEMBERS

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Chm. .... Chapel Hill

Rufus L. Brock

V. Chm. .... Mocksville

Joe O. Brewer ..... Wilkesboro

J. Edward Poole ..... Spring Lake

C. Bayless Ridenhour ..... Concord

Blanton Little ..... Sec'y. Treas.

Phillip T. Fisher ..... Admin. Asst.

#### RIDENHOUR RE-APPOINTED

C. Bayless Ridenhour of Concord was re-appointed to the Licensing Board by Governor Holshouser for a new term expiring July 31, 1979.

Mr. Ridenhour, who was also recently re-elected as Director of the National Association of Real Estate License Law Officials, was originally appointed to the Licensing Board by Governor Holshouser on October 31, 1973.

#### NEW "OFFER TO PURCHASE" FORM ADOPTED

The North Carolina Bar Association has adopted and copyrighted a standard "offer to purchase" form which is designed to deal with many of the problems encountered in a simple residential sales transaction.

Permission has been given by the Bar Association to have the form reprinted by local printers. The Bar Association, however, retains the copyright, and those who reprint the form should contact the Bar Association so that any future revisions

authorized by the Bar Association may be incorporated into the form. Only the Bar Association may make changes to the printed form.

For a sample copy or information on ordering forms, contact The Graphic Press, Inc., P. O. Box 26808, Raleigh, North Carolina 27611.

#### REALTORS INSTITUTE

COURSE A ..... Dec. 5-11  
COURSES B, C ..... Dec. 12-18

## NOTICE OF HEARING

Notice is hereby given that the North Carolina Real Estate Licensing Board, pursuant to authority vested in it by Section 93A-4(a), (c) and (d) of the General Statutes of North Carolina, proposes to amend Rules .0103, .0502 (a), .0503, .0504, .0505, and .1004 of Chapter 58, Title 21 of the North Carolina Administrative Code, to be effective January 1, 1977, in substance as follows:

1. Rule .0103 to be amended by deleting the requirement that licensees notify the Board of each change of residence.

2. Rule .0502 (a) to be amended by deleting from the description of the application form used to obtain a corporation license that part which refers to a resolution of the board of directors.

3. Rules .0503, .0504, and .0505 to be amended by providing that all licenses shall be renewed for a two-year period upon payment of a \$20.00 fee except that licenses issued or reinstated within 12 months following a renewal date shall be initially renewed for one year upon payment of a \$10.00 fee and thereafter shall be renewed on a two-year basis.

4. Rule .1004 to be amended by adding a requirement that schools shall furnish each successful student an official certification upon a form prescribed by the Board.

Notice is also given that any person may present written or oral statements or arguments relevant to the action proposed at a hearing to be held at the offices of the Real Estate Licensing Board, 115 Hillsborough Street, Raleigh, North Carolina on December 15, 1976 at 2:00 p.m.

Written statements not presented at hearing should be directed before December 25, 1976, to the following address: North Carolina Real Estate Licensing Board, P. O. Box 266, Raleigh, North Carolina 27602.

A copy of the proposed changes is available for public inspection, or may be obtained upon request to the Real Estate Licensing Board.

This the 16th day of November, 1976.

BLANTON LITTLE

Blanton Little, Secretary-Treasurer

#### EXAMINATION SCHEDULE

##### FILING DATE

December 9, 1976  
January 6, 1977  
January 6, 1977  
February 10, 1977  
March 10, 1977  
April 14, 1977  
May 12, 1977

##### EXAM DATE

January 18, 19 and 20, 1977  
February 15 and 16 (Raleigh)  
February 16 and 17 (Winston-Salem)  
March 22 and 23  
April 19 and 20  
May 24 and 25  
June 21 and 22

#### EXAMINATION RESULTS

Examination — August, 1976

	Passed	Failed
Brokers	273	368
Salesmen	16	58

Examination — September, 1976

	Passed	Failed
Brokers	306	245
Salesmen	35	54

Examination — October, 1976

	Passed	Failed
Brokers	350	285
Salesmen	50	55



## YOU AND YOUR REAL ESTATE LICENSE

### Real Estate Transactions

In every real estate brokerage transaction you confront face-to-face the North Carolina Real Estate Licensing Law and the Rules and Regulations of the North Carolina Real Estate Licensing Board. Observance of and strict compliance with these Laws, Rules and Regulations is not a matter of choice — it is an absolute necessity! To illustrate their practical significance, the following "typical" real estate transaction has been constructed which points out (in parenthesis) the specific Rule, Regulation, or Section of the Licensing Law applicable to the particular situation; "LL" refers to the North Carolina Real Estate Licensing Law, and "RR" refers to the Rules and Regulations of the North Carolina Real Estate Licensing Board. Consult your copy of the Licensing Law and Rules and Regulations for complete information, and if copies are not readily accessible in your office, you are strongly urged to request them from the Licensing Board. Your license and your livelihood may depend upon it.

### THE SETTING

You are a duly licensed North Carolina real estate broker. You have received your privilege license from the N. C. Department of Revenue for the current year (LL 93A-4 (b)), you have renewed your real estate license for the current year (LL 93A-4 (c), RR .0503), your real estate license and the licenses of your salesmen and associates are prominently displayed in your place of business (RR .0101), and the Licensing Board is aware of your current business address and name (RR .0103). Also, since you have recently incorporated your real estate brokerage company, you have secured the required corporate real estate broker's license (LL 93A-1, RR .0502) which is also prominently displayed in your office.

### THE LISTING

Your telephone rings!!! A Mr. Samuel L. Seller has learned of your reputation as an honest and capable real estate broker, and he wants you to sell his home. You make an appointment with Mr. Seller to inspect his property and discuss the terms of your employment.

Upon arriving at Mr. Seller's home, you begin inspecting the property and assembling the multitude of facts and figures necessary to accurately answer the questions of prospective purchasers. Afterwards, you join Mr. Seller in his den to ask him additional questions concerning the property and to discuss the listing contract. Although Mr. Seller suggests a simple, oral agreement "sealed with a hand-shake", you point out that in order to avoid the possibility of future misunderstandings and to protect the interests of all parties concerned, the listing agreement should be in writing. Mr. Seller is impressed with your business attitude and agrees to a written listing agreement. You prepare your listing contract form which includes, among other things, that you have been employed by the seller; your name and the names of the sellers; a clear and specific description of the property (you copy the full legal description from his deed); the selling price and terms of the sale; the commission you are to receive for your

services; and the period during which the listing will be effective, including a definite termination date (RR .0104). Mr. Seller and his wife then sign the listing contract and you immediately give them a copy (RR .0106) retaining a copy for your records (RR .0108). With Mr. Seller's approval, you place your "For Sale" sign on the property (RR .0105 (c) (2)).

You advertise the property in your local newspaper clearly indicating that you are a broker or brokerage firm (RR .0105 (a)).

### THE "SHOWING"

Your telephone rings!!! Billy B. Buyer has read your advertisement and is interested in seeing the property. A "showing" is arranged at which Mr. Buyer is permitted to examine the property to his complete satisfaction. Although your thorough information enables you to answer almost all questions posed by Mr. and Mrs. Buyer, several questions require additional information from the seller; to avoid the possibility of misrepresenting the property (LL 93A-6 (a) (1) (2)), you inform Mr. Buyer that you will refer his questions to Mr. Seller. After receiving this additional information, Mr. Buyer wants to make an offer to purchase the property.

### THE OFFER

At Mr. Buyer's request, you assist him in preparing in quadruplicate (4 copies) the Offer to Purchase form which contains, among other things, Mr. and Mrs. Buyer's names; the offer itself; a description of the property (preferably the full legal description you obtained from Mr. Seller's deed); the sale price, terms and conditions; the type of conveyance to be furnished Mr. Buyer; the termination date of the offer; and a statement of the amount of earnest money accompanying the offer with provisions regarding the disposition of the earnest money in the event the purchase is not consummated. Mr. and Mrs. Buyer sign all four copies of the offer, and they retain a copy (RR .0106). You then immediately deposit the earnest money in your escrow or trust account (LL 93A-6 (a) (12), RR .0107 (a)) and arrange to promptly meet with the Sellers to deliver and discuss the Offer to Purchase (RR .0106).

Mr. and Mrs. Seller accept the offer in its entirety and sign the three remaining copies (at which point the Offer to Purchase becomes a Contract of Sale). The Sellers retain a copy (LL 93A-6 (a) (13), RR .0106), you keep a copy for your files (RR .0108), and you promptly deliver a copy to the Buyers (LL 93A-6 (a) (13), RR .0106). In accordance with the terms of the Contract of Sale, a closing date is set.

### THE CLOSING

The transaction is closed, and you immediately prepare and deliver complete detailed closing statements to both the Buyers and the Sellers showing all receipts and disbursements handled by you during the course of the transaction (LL 93A-6 (a) (14), RR .0107 (b)), and you retain copies of these signed statements for your files (RR .0108).



## COURT REVIEWS JUDGMENT OF BOARD

The Superior Court of Onslow County reviewed a decision of the Licensing Board which had suspended for sixty days the licenses of Basil B. Hurst and Wilda Hurst. The Court reversed the decision of the Board against Basil B. Hurst as being unsupported by substantial evidence. As to Wilda Hurst, the Court modified the judgment of the Board and affirmed the order for a sixty-day suspension.

## COURT RULES ON RENTEX

On October 6, 1976 the North Carolina Court of Appeals reversed an order entered in Superior Court and in doing so held as unconstitutional the last sentence contained in G. S. 93A-2 (a). The matter reached the Court of Appeals after the Real Estate Licensing Board filed suit against Rentex in the Superior Court of Forsyth County alleging that the unlicensed rental locator service was acting in violation of a recent amendment to the licensing law. The amendment to G. S. 93A-2 (a) had extended the definition of real estate broker to include "a person, partnership, association, or corporation who for a fee sells or offers to sell the name or names of persons, partnerships, associations, or corporations who have real estate for rental, lease, or sale". The Superior Court granted the Board's request for a preliminary injunction and Rentex appealed.

In its opinion the Court of Appeals stated that the activities of Rentex were clearly within the definition of real estate broker as recently changed by the General Assembly. The Court, however, found that the business of Rentex was significantly different from that of a real estate broker and concluded that the activities of Rentex "do not fall within those which the legislature may constitutionally regulate as constituting the practice of real estate brokering".

## Disciplinary Action

LAWRENCE E. COLEMAN, Kernersville — Broker's License No. 23391 revoked for violation of G. S. 93A-6(a) (7), (8) (failing within a reasonable time to account for or to remit money coming into his possession which belongs to others) and (12) (failing to maintain and deposit in a trust or escrow account money received by him while acting as a real estate broker and commingling the funds of his principal in an office checking account containing his own funds).

WILTON P. MITCHELL and TIDEWATER CONSULTANTS, INC., Kinston — Brokers' Licenses Nos. 20272 and C-928 revoked for violation of G. S. 93A-6(a) (1), (7), (8) and (12).

JAMES E. SPENCE, Fayetteville — Broker's License No. 16903 suspended for sixty (60) days for violation of G. S. 93A-6(a) (12) (failing to deposit money in an escrow or trust account).

WILLARD RAY WESTBROOK, Fayetteville — Broker's License No. 14565 — Reprimanded for violation of G. S. 93A-6(a) (12) (failing to place rent monies in an escrow or trust account).

FREDERICK (RICK) N. BOSWELL, Pinehurst — Broker's License No. 26413 revoked for violation of G. S. 93A-6(a) (prior conviction of conspiracy to defraud by mail and wire, mail fraud and aiding and abetting in same, and fraud by wire).

H. FRANK FAUCETTE, JR., Wrightsville Beach — Broker's License No. 2220 revoked for violation of G. S. 93A-6(a) (8) and (9) (failure to account for rent monies; delivering worthless check for rent monies; failure to license corporation).

GEORGE A. DOWNING, Burnsville — Salesman's License No. 24770 — Reprimanded for violation of G. S. 93A-6(a) (15) (Real Estate advertisement failed to include the name of the broker with whom Mr. Downing was associated in violation of Rule .0105 of the Rules and Regulations of the Licensing Board).

RICHARD E. WATSON, Greensboro — Broker's License No. 29738 — Reprimanded for violation of G. S. 93A-6(a) (12) (commingled the money of his principals with the money of his corporation in an escrow account).

ALFRED EUGENE SUTTON, Louisville — Broker's License No. 30912 suspended for 30 days for violation of G. S. 93A-6(a) (12) (failed to deposit rental payments in an escrow or trust account).

CLYDE E. FORSYTHE, Fayetteville — Broker's License No. 15801 suspended for ninety (90) days for violation of G. S. 93A-6(a) (1), (2), (4), (8) and (10) (broker was represented as buyer when in fact he was acting in capacity of broker).

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