



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

Volume 30

Fall 1999

Number 3

Commission proposes to adopt and amend rules

The Real Estate Commission, pursuant to authority vested in it by N.C. General Statutes, proposes to adopt, amend and repeal certain rules contained in Title 21, Chapter 58 of the N.C. Administrative Code, to:

Brokers and Salespersons

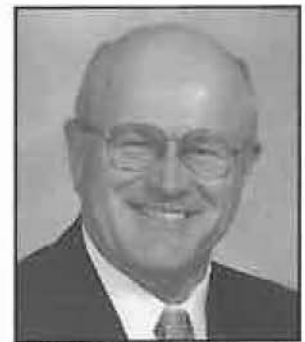
1. Reflect the recent amendment to the Real Estate License Law changing the term "salesman" to "salesperson."
2. Clarify that licensees who arrange for certain goods and services incidental to real estate transactions are not required to disclose to consumers any nominal compensation received for making the referral.
3. Require licensees to report to the Commission any disciplinary actions taken against them in connection with any other professional license they may hold.
4. Increase the annual license renewal fee to \$35 (now \$30).
5. Clarify the continuing education required to activate a license that has not properly been on active status since the preceding July 1 due to a continuing education deficiency for the previous license period.

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Jordan and Lackey appointed to Commission



Marsha H. Jordan



William C. Lackey, Jr.

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Governor reappoints Bass and Dameron

Governor Hunt has reappointed Raymond A. "Buddy" Bass, Jr., of Fayetteville and Allan R. Dameron of Holden Beach to the Real Estate Commission for three-year terms which will expire July 31, 2002.

First appointed to the Commission by Governor Hunt in 1993, Mr. Bass was reappointed for a second term in 1996. He is part-owner and president of Dickens-Bass Realty & Construction Company, Inc., in

Fayetteville and president of Bass Construction Company of Fayetteville, Inc.

The Governor appointed Mr. Dameron to the Commission last spring to complete the unexpired term of John D. Bridgeman, who now serves in the North Carolina House of Representatives. Mr. Dameron is a Broker Associate with Alan Holden Realty/RE/Max at the Beach. ■

A Commission appeal to licensees

The Real Estate Commission encourages brokers and salespersons to heed Governor Hunt's request for aid for victims of Hurricane Floyd. Please send your tax-deductible donation to:

**The N.C. Hurricane Floyd Disaster Relief Fund
Office of the Governor
20301 Mail Service Center
Raleigh, North Carolina 27699-0301**

**REAL ESTATE
BULLETIN**

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law and Commission Rules, and proficiency in 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**

1313 Navaho Drive
P.O. Box 17100
Raleigh, North Carolina 27619 - 7100
Phone 919/875-3700
James B. Hunt, Jr., Governor

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- Sang J. Hamilton, Sr. Winton
Vice-Chairman
- Raymond A. Bass, Jr. Fayetteville
- Allan R. Dameron Holden Beach
- Mona S. Hill Pinehurst
- Marsha H. Jordan Lincolnton
- William C. Lackey, Jr. Charlotte
- Wanda J. Proffitt Burnsville
- Lanny T. Wilson Wilmington

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Editor - in - Chief
Phillip T. Fisher

Editor

Carrie D. Worthington

Commission Staff Update



William F. Dowd

William F. "Bill" Dowd has been employed by the Commission as an Auditor/Investigator.

A Georgia native and a Georgia Tech graduate, Bill moved to Raleigh from Albemarle, where he worked in real estate as a licensed broker. He served in the U.S. Air Force as a B52 Captain. A former revenue agent and supervisor, Bill retired from the I.R.S. in 1996.

In September, the Commission held its 1999 Continuing Education Update Instructor Seminar in Charlotte. It was conducted by Director of Education and Licensing Larry A. Outlaw. Special Deputy Attorney General Thomas R. Miller assisted Larry in teaching the seminar, which was coordinated by Continuing Education Officer Pamela R. Milligan. . . Larry, Pam, and Licensing and Education Officer Ginger L. Schultz-Lamitie went to Pinehurst for the Fall Conference of the North Carolina Real Estate Educators' Association (REEA).

(continued on page 3)

REGISTRATION FORM

for

**BASIC TRUST ACCOUNT PROCEDURES COURSE
MONTHLY - RALEIGH**

Four (4) hours continuing education elective credit will be awarded for completion of the course. The course begins at 1:00 p.m. and ends at 5:00 p.m. It is held at the McKimmon Center.

The course is intended for brokers and trust account bookkeepers. Salesmen will be admitted on a space available basis. Each session is limited to 40 participants, scheduled according to date received.

Complete this form (make copies for additional persons) and mail with a check for \$35 tuition fee to be received by the Commission no later than 7 working days prior to date of preferred session. Walk-ins will be accepted on a space available basis only.

- December 14
- February 8
- * April
- January 4
- March 7
- May 9

Name _____ Phone _____
(Daytime)

Address _____
(Street, P.O. Box, etc.) (City) (State) (Zip)

- Broker (License No. _____) Mail to: **NC REAL ESTATE COMMISSION**
 - Salesman (License No. _____) Attention: Audits and Investigations Division
 - Bookkeeper P. O. Box 17100
Raleigh, NC 27619-7100
- Enclose \$35 tuition fee

* No class in Raleigh in April due to Trust Account Caravan.

Commission Staff Update

(continued from page 2)

The following Commission and staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Commission Chairman **Billie J. Mercer** was at a meeting of the Topsail Island Association of REALTORS® to talk about the Vacation Rental Act as well as the general operations of the Real Estate Commission . . . Commission Member **Allan R. Dameron** and Assistant Director of Legal Services **Miriam J. Baer** discussed licensing reciprocity between the two Carolinas when they addressed the Grand Strand Board of REALTORS® in Myrtle Beach, South Carolina, and Miriam discussed topics of special concern to the Real Estate Commission when she addressed the Brunswick County Board of REALTORS® in Supply . . . Chief Deputy Legal Counsel **Blackwell M. Brogden, Jr.**, spoke to the Tarboro Board of REALTORS® about agency disclosure and to the Rotary Club of North Raleigh about the Commission's regulation of the real estate brokerage industry in North Carolina . . . **Janet Thoren**, the Commission's Deputy Legal Counsel, appeared before the Johnston

County Board of REALTORS® at a meeting in Smithfield to discuss the duties and functions of brokers-in-charge . . . and Consumer Protection Officer **Joan H. Floyd** went to North Wilkesboro to appear before the Wilkes County Board of REALTORS® and deliver a presentation entitled "The Most

Common Complaints Received by the Commission." (*Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Request for Program Presenter" form is available from the Commission Office or by calling (919) 850-2757 for Document No. 510.*) □

REAL ESTATE COMMISSION PUBLICATIONS ORDER FORM

	No. Copies Requested
<i>Res. Property Disclosure Statement and Guidelines (Please limit request to one copy.)</i>	_____
<i>Res. Square Footage Guidelines (Please limit request to one copy per agent per firm.)</i>	_____
<i>Questions and Answers on: Tenant Security Deposits</i>	_____
<i>Questions and Answers on: Fair Housing</i>	_____
<i>Questions and Answers on: Condos and Townhouses</i>	_____
<i>Questions and Answers on: Who Agents Represent</i>	_____
<i>Questions and Answers on: Purchasing Coastal Real Estate in North Carolina</i>	_____
<i>Questions and Answers on: Renting Residential Real Estate</i>	_____

()

Name _____ Phone Number (Including Area Code) _____

Street Address (NOT P.O. BOX) _____ City _____ State _____ Zip _____

Instructions

1. You may request single copies of these free publications by returning this Order Form or calling the Commission office (919) 875-3700, menu option 3.
2. To order multiple copies of these publications, please complete this Order Form and return it to the N.C. Real Estate Commission, P.O. Box 17100, Raleigh, N.C. 27619-7100. Attention: Publications.
3. Please allow two weeks for delivery.
4. Please understand that orders of more than 50 copies require special consideration.
5. The Residential Property Disclosure Statement and Guidelines may be duplicated as needed.

EXAM RESULTS

	Passed	Failed
June		
Brokers	137	102
Salespersons	357	297
July		
Brokers	101	66
Salespersons	355	316
August		
Brokers	95	77
Salespersons	277	256

Jordan and Lackey appointed to Commission

(continued from page 1)

Marsha H. Jordan of Lincolnton and William C. Lackey, Jr., of Charlotte have been appointed to three-year terms on the North Carolina Real Estate Commission. Court of Appeals Judge John C. Martin administered their oaths of office on August 11 at the Commission's office in Raleigh. Their appointments followed legislation passed during the 1999 Session of the General Assembly which increased membership on the Commission from seven to nine members.

Under a new amendment to the Real Estate License Law, the Commission's membership now includes two members appointed by the General Assembly - one member upon the recommendation of the Senate Pro Tem and the other upon the recommendation of the Speaker of the House. The Commission's other seven members remain gubernatorial appointees.

Mrs. Jordan was appointed upon the recommendation of Senate President Pro Tem Marc Basnight. She is a graduate of the University of Virginia.

Mrs. Jordan entered the real estate business in 1986 and is currently owner of Apple Realty in Lincolnton. An active REALTOR®, she is a Graduate of the REALTORS® Institute, a Certified Residential Specialist, past-president of the Lincolnton Board of REALTORS®, and Dean of the REALTORS® Institute.

She is also active in community affairs, having served on the board of directors of the Chamber of Commerce and as president for Downtown Development. She is a member of the Lincolnton Rotary Club.

Mrs. Jordan and her husband Max have three children and three grandchildren.

Mr. Lackey was appointed to the Real Estate Commission upon the recommendation of House Speaker Jim Black. He is vice-president of Allen Tate Company, a Charlotte real estate brokerage firm with 15 branch offices.

Mr. Lackey is a former president of the Charlotte Regional REALTOR® Association, and he received the Association's President's Award in 1997. He has also served as chairman of the Piedmont Regional Multiple Listing Service. Currently, Mr. Lackey is a director of both the North Carolina Association of REALTORS® and the National Association of REALTORS®.

Mr. Lackey is married to Barbara Broadway. They have three children and three grandchildren. □

The current Real Estate Commission, left to right: Allan R. Dameron (Holden Beach); Mona S. Hill (Pinehurst); William C. Lackey, Jr. (Charlotte); Sang J. Hamilton, Sr., Vice-Chairman (Winton); Billie J. Mercer, Chairman (Wilson); Wanda J. Proffitt (Burnsville); Marsha H. Jordan (Lincolnton); Raymond A. "Buddy" Bass, Jr. (Fayetteville); Lanny T. Wilson (Wilmington); and Commission Executive Director Phillip T. Fisher.



Communicating with the Commission

Mail

1313 Navaho Drive
Post Office Box 17100
Raleigh, North Carolina 27619-7100

Fax (Area Code 919)

Admin 877-4217 Ed. & Lic. 877-4216
Audits/Inves. . . 877-4218 Legal Services . 877-4220
Records 877-4221

Telephone

919/875-3700

You will receive more prompt service if you use this directory when calling the Commission. If the automated telephone attendant answers your call, you may access the section or division shown in the "Access Code" column by dialing on your touchtone phone the number shown parenthetically ().

Subject	Access Codes
• Application form requests	Receptionist (0)
• Real estate license renewals and record changes	Records Section (1)
• Complaints and legal matters (Consumer complaints/inquiries, pending cases/hearings)	Legal Services Division (2)
• Education matters	Education Section (3)
• Real estate license qualifications and examinations	Application Section (4)
• Real estate firm licensing and licensing by reinstatement or reciprocity	Licensing Section (5)
• Complaint investigations and audits	Audits and Investigations Division (6)
• Administration, personnel matters and accounting	Administration Division (7)
• Other matters	Receptionist (0)

Interactive Voice Response

To retrieve licensee data (license status, CE credits, broker-in-charge information, etc.) from the Interactive Voice Response (IVR) system, use a touchtone phone to dial (919) 850-2753.

Internet

"Visit" the Commission on-line at **Web Site: www.ncrec.state.nc.us** - your easy access to Commission information. The Internet brings to your computer screen licensing information including the License Law, Commission Rules, Trust Account Guidelines, State Fair Housing Act, general information and guides, sample forms and real estate licensing forms. Also, exam schedules and review dates as well as Commission publications including the *Bulletin* (and index of *Bulletin* articles), *CE Schedule*, Commission brochure and the complete *Question and Answer Series*.

E-Mail

• Executive	exec@ncrec.state.nc.us
• Administration	admin@ncrec.state.nc.us
• Education & Licensing	educ@ncrec.state.nc.us
• Audits & Investigations	ai@ncrec.state.nc.us
• Legal Services	legal@ncrec.state.nc.us
• Records	records@ncrec.state.nc.us

Fax-on-Demand

The following documents are available from the various Commission Divisions/Sections by dialing on your touchtone phone (919) 850-2757.

Document #	Administration/Records
200	Request to Activate Broker or Salesman License, Notification of Salesman Supervision, Notification of Change of Broker's Business Address
210	Broker-in-Charge Declaration
220	Request for Reissuance of Real Estate License Certificate and/or Renewal Pocket Card
	Education/Licensing
300	Continuing Education Course Schedule
310	Publications Order Form
320	License Examination Schedule and License Examination Review Schedule
330	Basic Trust Account Procedures Course Schedule and Registration Form
340	Order Form for License Examination Candidate Roster/Order Form for Register of New Licensees
350	Verification of Salesman Experience
360	Request for Equivalent Education Credit
	Legal Services
400	Complaint Form
410	Criminal Conviction Reporting Form
420	Residential Property Disclosure Statement
430	Disclosure to Buyer From Seller's Agent or Subagent
	Other
500	1999 Commission Meeting Schedule
510	Request for Program Presenter

Here's a handy list of addresses for you to copy, clip and save for your ready-reference when communicating with the Commission


Mail



1313 Navaho Drive
Post Office Box 17100
Raleigh, NC 27619-7100

Fax
(Area Code 919)

Admin 877-4217
Audits/Inves. . . 877-4218
Ed. & Lic. 877-4216
Legal Ser. 877-4220
Records 877-4221



Fax-on-Demand
919/850-2757

Interactive Voice Response
(919) 850-2753



Web Site
www.ncrec.state.nc.us

Phone
919/875-3700

E-Mail

Exec. exec@ncrec.state.nc.us
Admin. admin@ncrec.state.nc.us
Ed. & Lic. educ@ncrec.state.nc.us
Audits & Inv. ai@ncrec.state.nc.us
Legal Ser. legal@ncrec.state.nc.us
Records records@ncrec.state.nc.us

Commission proposes to adopt and amend rules

(continued from page 1)

6. Permit carry-over continuing education elective credit to a subsequent license period for unapproved courses or activities for which equivalent continuing education credit is granted.

Brokers-In-Charge

1. Require brokers-in-charge to complete at least every five years a special course of instruction not exceeding six classroom hours. [Effective October 1, 2000] [See "Commission proposes Broker-in-Charge Course" on page 8 of this *Bulletin*.]
2. Change the requirements for handling and accounting for trust funds, including (1) clarifying that the term "transaction" refers to a real estate transaction; (2) clarifying that salespersons must not violate Commission rules governing trust account record-keeping; (3) permitting the use of property ledger sheets; (4) requiring the use of supplemental disbursement worksheets for trust account checks covering multiple properties; (5) requiring subsidiary owner or property ledger sheets when appropriate; (6) requiring the referencing of canceled checks or supplemental disbursement worksheets to corresponding ledger sheets; (7) requiring journals or check stubs to identify in chronological sequence bank deposits and disbursement transactions; and

- (8) requiring journals or supplemental worksheets to identify corresponding ledger sheets.

License Applicants and Examinations

1. Authorize the Commission to require applicants to provide proof of identity other than photographs with their license applications.
2. Establish procedures for allowing license applicants to take the license examination by computer. Procedures will address examination fees, scheduling, reexamination and examination review by failing candidates. (Note: The current paper-and-pencil examination option will be retained.) [Effective October 1, 2000]
3. Clarify that the Commission can take action against license examinees who fail to comply with instructions or engage in improper conduct during a license examination.
4. Change the time period for recognizing license examination scores of persons who are scheduled for hearing before the Commission regarding their license applications.
5. Delete the fixed license examination passing score in the current rule and provide instead that the Commission may set the passing score in accordance with generally accepted standards for occupational licensure testing.

Real Estate Schools and Instructors

Schools Other Than Private Real Estate Schools

1. Raise the standard expected for the performance of students on the real estate license examination.
2. Eliminate the requirement to obtain advance approval from the Commission for changes in program structuring, course content and course completion standards.

Private Real Estate Schools

1. Clarify that schools must assure that school facilities comply with applicable health and safety laws.
2. Require that facilities have certain instructional aids and equipment.
3. Eliminate the requirement to have a separate performance bond for branch locations.

All Prelicensing Schools, Courses and Instructors

1. Require that student evaluations of courses and instructors be submitted to the Commission upon request.
2. Clarify that, for the purpose of certifying course completion to the Commission, schools may require a higher passing grade than the grade required for granting college credit or continuing education units.

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Commission proposes to adopt and amend rules

(continued from page 6)

3. Require that when students are allowed to take a missed course examination or retake a failed course examination, the exam used must be substantially different from the initial examination.
4. Provide for the approval of instructors separate from the licensing and approval of schools, and prescribe new criteria for such approval and for instructor performance. [Effective October 1, 2000]
5. Require schools to retain copies of grade and attendance records for three years (now five years). [Effective October 1, 2000]
6. Require that accommodations for persons with disabilities be reasonably appropriate.
7. Eliminate the requirement for schools to include in any advertisement which cites examination performance a statement that the data was provided by the Commission.
8. Increase the maximum number of classroom hours schools are permitted to conduct per day and during any seven-day period. [Effective October 1, 2000]
9. Prescribe the specific standards and procedures used by the Commission to approve textbooks and other instructional materials. [Effective October 1, 2000]
10. Establish the structure for salesperson and broker prelicensing education programs and modify the enrollment requirements for

the broker course(s) in accordance with recent statutory changes in license requirements. [Effective October 1, 2000]

Continuing Education Courses and Instructors

1. Permit course sponsors and instructors to modify the update course in certain situations with Commission approval.
2. Provide for a longer approval period for update course instructors.
3. Clarify that the Commission can deny or withdraw the approval of an update course instructor who has been disciplined by the Commission or any other occupational licensing agency.
4. Change the minimum number of classroom hours required for approval of an elective course to four hours (now two hours).
5. Provide more current and comprehensive guidelines for the approval of "distance education" courses.
6. Clarify that the Commission can deny or withdraw approval of any course or sponsor when an official or instructor in the employ of the sponsor has been disciplined by the Commission or other occupational licensing agency.
7. Clarify that the Commission can discipline a continuing education course sponsor who collects money for a course but fails to provide the promised instruction.
8. Require that accommodations for persons with disabilities be reasonably appropriate.

Other

1. Define the term "property" in the *Residential Property Disclosure Statement* and include in the Statement the disclosure of newly subdivided parcels of land, "straight pipe" sewer systems, and past or current use of temporary sandbag erosion control structures.
2. Delete the reference in Rule .1402 to claims against the *Real Estate Recovery Fund* for which the Commission has received no notice.
3. Clarify the type of financial information which applicants for timeshare project registration must furnish to the Commission, establish a graduated fee schedule, and allow the Commission to retain the application fee if a developer withdraws its application.
4. Require settlement negotiations in contested cases to be completed within a certain period of time prior to the hearing date.

Unless otherwise indicated, the rule changes would become effective July 1, 2000. Anyone interested in the Commission's proposals may present comments at a public rulemaking hearing to be held at 3:00 p.m. December 7, 1999, at the Real Estate Commission office, 1313 Navaho Drive, Raleigh, NC. Persons wishing to submit written comments should deliver them as soon as possible (but in no event later than the hearing date) to:
N.C. Real Estate Commission
P.O. Box 17100
Raleigh, NC 27619-7100 □

Commission proposes *Broker-in-Charge Course*

Beginning October 1, 2000, brokers-in-charge would be required to complete a special five- or six-hour course every five years.

The N.C. General Assembly recently amended the Real Estate License Law authorizing the Commission to adopt rules requiring brokers-in-charge of real estate offices to complete a course of instruction prescribed by the Commission. The Commission is now proposing a rule to implement this broker-in-charge education requirement.

Under the proposed rule, brokers-in-charge will have to complete a special *Broker-In-Charge Course* consisting of five or six classroom hours every five years. Brokers taking the course will receive four hours of continuing education elective credit for the course.

Here's how it would work:

If you are designated the broker-in-charge of a real estate office *on or after October 1, 2000* (and you have not completed the course within the past five years), you will have to complete the course within 90 days of being designated in order to continue as broker-in-charge.

If you have been designated as broker-in-charge *before October 1, 2000*, you will have five years to complete the course. But, if your service as the broker-in-charge is terminated for any reason (e.g., failure to renew your license by June 30 or failure to meet your continuing education requirements) and you are subsequently re-designated broker-in-charge of the same office or a different office, you will

be treated as a newly designated broker-in-charge and required to complete the course within 90 days.

For brokers-in-charge who do not comply with the new rule, their status as broker-in-charge will be immediately terminated.

The Commission will begin offering the *Broker-In-Charge Course* in September, 2000. Although course content has not been finalized, current plans call for emphasis on trust account rules and record-keeping and the legal and practical responsibilities of being a broker-in-charge. The course will be offered several times each month at various locations around the state. Look in future issues of the *Real Estate Bulletin* for course schedules. □

A timely reminder . . .

It is not too early to schedule the continuing education courses necessary to renew your real estate license on active status for 2000 - 2001!

Licensee data now available "on-line"

The Commission recently added active broker, salesperson and firm information to its Web Site to assist real estate licensees as well as consumers.

Director of Administration Mary Frances Whitley reports that North Carolina real estate licensee data is now available on the Internet. By visiting the Commission's web site at www.ncrec.state.nc.us, computer users can access the Commission's records and make inquiries/searches by licensee and/or firm name, by license number, and by broker-in-charge number.

That information is also available for individual counties in the state by entering the county's name or by "clicking" the county on the state map. "The information is updated daily," said Mrs. Whitley.

Mrs. Whitley states that the database includes only persons with active real estate licenses. For information on inactive licensees, you are asked to contact the Commission office at 875-3700. □

Please note...

The annual *Trust Account Course Caravan* starts in March. Courses for the 2000 Caravan are scheduled to be held in Asheville, Banner Elk, Charlotte, Fayetteville, Greensboro, Kill Devil Hills and Wilmington.

Please refer to the registration form on page 12 of this *Bulletin* for course dates and times. The registration form for the regularly scheduled courses in Raleigh appears on page 2. ■

Thomas receives ARELLO award

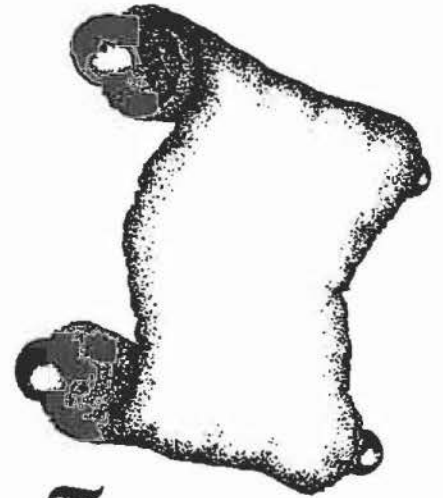
Auditor/investigators from around the nation submitted investigation reports to ARELLO for consideration as Investigator of the Year.



Brian Thomas Commission Auditor/Investigator Brian Thomas has been selected by ARELLO as "runner-up" for Investigator of the Year. A graduate of Clarion University of Pennsylvania, Brian has degrees in Accounting and Computer Science.

Brian has been with the Commission as an auditor/investigator since February 1998. □

Announcing Scholarship winners



The North Carolina Real Estate Educational Foundation announces this year's recipients of scholarships recognizing achievement at the North Carolina REALTORS® Institute.

Sponsored by the Real Estate Commission, the scholarships are awarded annually in honor and memory of former Commission Executive Directors Joe Schweidler and Blanton Little. Mr. Schweidler served as the Commission's Executive Director from 1960 - 1975, and Mr. Little served from 1975 - 1981.

At an October meeting of the Wilmington Regional Association of REALTORS®, Commission Member Lanny T. Wilson presented the Joe Schweidler Memorial Scholarship to Martha P. Blacher of Wilmington and the Blanton Little Scholastic Achievement Award to Jennifer C. Baugher, also of Wilmington. The Commission joins the Real Estate Educational Foundation in congratulating Ms. Blacher and Ms. Baugher. □

WANTED: Advisory Committee Volunteers

The Commission is currently compiling a roster of persons interested in serving on advisory committees.

The Real Estate Commission is constantly faced with policy-making decisions on a variety of issues affecting real estate consumers and practitioners. To assist with examining issues and recommending action, the Commission sometimes forms advisory committees consisting of real estate licensees and other professionals, and when appropriate, members of the public.

Advisory committee meetings are held in the Commission's Raleigh office and usually begin at 9:00 or 10:00 a.m. and conclude by 4:00 p.m. Depending upon the scope and complexity of the issue under discussion, committees may conduct from two to five monthly meetings.

Although committee members are not compensated for their participation, their travel and

subsistence expenses are usually reimbursed by the Commission (at state employee rates).

If you would like to be considered for appointment by the Commission to an advisory committee, please contact Executive Director Fisher via fax, mail, or e-mail. [See "Communicating with the Commission" on page 5 of this *Bulletin* for addresses.] Send a brief letter stating your interest in serving; include your résumé or other description of your real estate education and experience, identifying any specialized real estate training or experience you possess.

The Commission will keep your information on file for future reference. ■

For your information...

You are reminded that the Real Estate Commission's meetings are open to the public. Real estate licensees and consumers are always welcome.

Although advance notice is not required in order for you to attend, you are encouraged, when possible, to please notify the Commission of your plans to attend a scheduled meeting at least ten business days prior to the meeting, in order to ensure adequate parking and seating arrangements.

Please mail your notice to the North Carolina Real Estate Commission, P. O. Box 17100, Raleigh, NC 27619-7100, or call the Commission office (919) 875-3700.

For your convenience, the calendar at the bottom of this page lists the meeting dates for the next four months. ■

Commission Calendar

Meeting Dates

December 8, 1999

January 13, 2000

February 9, 2000

March 8, 2000

Meetings begin at 9 a.m. and are held in the conference room of the Real Estate Commission office, 1313 Navaho Drive, Raleigh, NC 27609, unless otherwise noted. *[Please understand that circumstances sometimes necessitate changes in meeting dates and times.]* ■

1999-2000 *Real Estate Update* course proves interesting, informative

Course features *Residential Square Footage Guidelines* . . . and more!

By **Larry A. Outlaw**
Director of Education and Licensing

The mandatory *Real Estate Update* continuing education course for the 1999-2000 license year is proving to be a particularly interesting and informative one for licensees. The primary focus of this year's course is on the Real Estate Commission's recent publication, *Residential Square Footage Guidelines*. Other topics include "Auctioning Real Estate" and "License Law Changes."

Residential Square Footage Guidelines

The Commission developed its *Residential Square Footage Guidelines* booklet to encourage



greater uniformity and accuracy in determining the square footage of residential properties and in reporting it to real estate consumers. The *Guidelines* address the respective responsibilities of listing agents and agents working with buyers in regard to determining and reporting square footage, how to deal with dwellings having complex or unusual design features, what constitutes "living area" for purposes of reporting square footage, and how to measure dwellings and calculate square footage. Instruction

features the use of various illustrations to assist in student understanding. Approximately three hours of the four-hour course are devoted to this topic.

Auctioning Real Estate

With regard to the subject of "Auctioning Real Estate," the *Update* course reviews the licensing requirements for conducting real estate auctions in North Carolina, addresses how real estate brokers and auctioneers can cooperate to lawfully conduct a real estate auction, and reviews some of the key points that are important for real estate brokers to consider before they get involved with conducting real estate auctions.

License Law Changes

Finally, this year's *Update* course reviews the numerous significant changes to the Real Estate License Law that were recently made by the General Assembly. [Please see "Commission proposes to adopt and amend rules," starting on page 1 of this *Bulletin*.] Of special interest are the following changes:

- △ Increasing the salesperson prelicensing education requirement and changes in the

broker prelicensing requirements, including elimination of a separate broker license examination, all effective October 1, 2000.

- △ Permitting the Commission to offer the option for license applicants to take the license examination by computer beginning in October 2000.
- △ Allowing the Commission to require brokers-in-charge to complete a special course not to exceed six hours every three years. (To be implemented by the Commission in October 2000.)
- △ Changing the term "salesman" to "salesperson" effective October 1, 1999.

Update course sessions conducted to date have evoked substantial discussion and participation from licensees in attendance. Plan to attend an *Update* course soon to obtain specific information on the subjects described above. □

2000 Trust Account Caravan Registration Form

Four (4) hours continuing education elective credit will be awarded for completion of each course. Courses are intended for brokers and trust account bookkeepers. Salesmen will be admitted on a space available basis.

Asheville - Ramada Plaza Hotel
435 Smoky Park Highway

- Basic Trust Account Procedures Course
March 28, 2000 9:00 am - 1:00 pm
- Trust Account Procedures for Resort Prop. Mgrs.
March 29, 2000 9:00 am - 1:00 pm

Banner Elk - Holiday Inn-Banner Elk
NC Highway 184

- Basic Trust Account Procedures Course
April 25, 2000 9:00 am - 1:00 pm
- Trust Account Procedures for Resort Prop. Mgrs.
April 26, 2000 9:00 am - 1:00 pm

Charlotte - Hilton Charlotte University Place
8629 J.M. Keynes Dr.

- Basic Trust Account Procedures Course
April 13, 2000 9:00 am - 1:00 pm
- Basic Trust Account Procedures Course
April 14, 2000 9:00 am - 1:00 pm

Fayetteville - Holiday Inn Bordeaux
1707 Owen Dr.

- Basic Trust Account Procedures Course
April 5, 2000 9:00 am - 1:00 pm

Greensboro - Ramada Inn-Greensboro Airport
7067 Albert Pick Rd.

- Basic Trust Account Procedures Course
April 27, 2000 9:00 am - 1:00 pm
- Basic Trust Account Procedures Course
April 28, 2000 9:00 am - 1:00 pm

Kill Devil Hills - Ramada Inn Outer Banks Resort & Conference Center
1701 South Virginia Dare Trail

- Basic Trust Account Procedures Course
April 18, 2000 9:00 am - 1:00 pm
- Trust Account Procedures for Resort Prop. Mgrs.
April 19, 2000 9:00 am - 1:00 pm

Wilmington - Coast Line Convention Center
501 Nutt Street

- Basic Trust Account Procedures Course
April 3, 2000 1:00 pm - 5:00 pm
- Trust Account Procedures for Resort Prop. Mgrs.
April 4, 2000 9:00 am - 1:00 pm

Complete this form (*make copies for additional persons*) and mail with a check for **\$35 tuition fee** to be received by the Commission no later than 10 working days prior to date of preferred session. Each session is limited to 40 participants, scheduled according to date received. **Walk-ins will be accepted on a space available basis only.**

Name _____ Phone _____ (Daytime)

Address _____ (Street, P.O. Box, etc.) (City) (State) (Zip)

- Broker (License No. _____)
- Salesman (License No. _____)
- Bookkeeper

Mail to: NC REAL ESTATE COMMISSION
Attention: Audits and Investigations Division
P. O. Box 17100
Raleigh, NC 27619-7100
Enclose \$35 tuition fee

Legislature passes Vacation Rental Act into law

New law goes into effect on January 1, 2000, and applies to vacation rentals transacted (placed under contract) after that date.

By Thomas R. Miller, Special Deputy Attorney General

During its 1999 session, the North Carolina General Assembly passed into law the Vacation Rental Act. The new statute establishes uniform rules governing tenants, landlords and their agents in short term rentals of residential properties. In North Carolina, these transactions are concentrated in our beach, mountain, and golfing resort areas and are vital to our state's overall economy because of our position as a national tourist destination.

The legislation resulted from a Vacation Rental Advisory Committee review of the state's law affecting resort rentals. Created by the North Carolina Real Estate Commission in 1998, the committee was composed of representatives from the vacation management business, the North Carolina Association of REALTORS®, and public and private consumer advocacy organizations. The Commission created the advisory group at the request of the Vacation Rental Managers Association (VRMA), a trade organization made up primarily of real estate licensees whose principal practice is the management of beach and mountain homes and condos. The VRMA appealed to the Commission because of growing concerns that North Carolina's landlord-tenant law no longer adequately addressed the increasingly specialized short-term vacation rental transaction.

After a series of meetings, the advisory committee determined that new legislation was necessary and drafted proposals for a bill to be introduced in the 1999 session of the General Assembly. Their efforts took on added importance in April 1999, when the North Carolina Supreme Court handed down its ruling in a

case involving serious injury at a vacation rental property; i.e., members of a family renting a beach home were seriously injured when the second story deck collapsed underneath them. Although the Court found that the deck was unsafe, it held that the tenant protections in the landlord-tenant statutes did not apply since a property rented for vacation purposes is not the tenant's "primary residence." In its written opinion, the Court requested the General Assembly to enact new laws to govern vacation rentals.

Here is a summary of the new Vacation Rental Act. The Act:

- △ Applies to all landlords (whether or not they use an agent), and to the landlord's agents who rent residential property to any person for vacation, recreation or leisure purposes for periods of less than 90 days. [Motel, hotel, and other specified lodgings are exempt from the Act but are subject to other legislation.]
- △ Requires all agreements for vacation rentals to be in writing.
- △ Authorizes the landlord to collect payments from the tenant in advance of the tenancy, but requires the landlord to deposit the monies so paid in a trust account. Prior to the tenant's occupancy, the landlord may withdraw from trust and use money equaling no more than 50% of the gross rent to be paid by the tenant.
- △ Requires that the landlord refund the tenant's payments if the landlord is unable to provide the property to the tenant in a fit and habitable condition or to substitute a reasonably comparable property.
- △ Governs any monies collected as a security deposit in connection with a vacation rental.
- △ Provides that when property subject to vacation rentals is voluntarily sold or transferred, the grantee takes the property subject to rentals which are scheduled to end not later than 180 days following the recording of the grantee's interest. Landlords selling such properties are required to disclose the existence of vacation rentals to the purchaser and the purchaser must disclose to the tenants their rights under the Act immediately following the sale. Tenants whose rentals are not protected by the Act are entitled to a refund of any monies paid.
- △ Creates an expedited eviction procedure to remove tenants in vacation rentals of 30 days or less when the tenants have held over or materially breached their rental agreements. The magistrate must hear such cases not sooner than 12 hours, but not later than 48 hours after service of the complaint and summons on the tenant. If the landlord prevails, the tenant must vacate at a time set by the court, but not later than eight hours following service of the order. The Act provides significant penalties for abuse of the expedited eviction procedure.
- △ Imposes upon the landlord the duty to provide the tenant with fit premises and to keep the property repaired and safe.

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Disciplinary action



Penalties for violations of the Real Estate License Law and Commission Rules 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.

NIELDRE ALTMAN (Murphy) - By Consent, the Commission revoked Ms. Altman's broker license effective August 1, 1999. Upon her application anytime up to and including six months following August 1, 1999, the Commission shall issue a salesperson license to Ms. Altman without examination or fee. The Commission found that Ms. Altman had allowed a salesperson under her supervision to take a listing on property in Georgia where Ms. Altman was licensed but the salesperson was not. The Commission also found that Ms. Altman had engaged in property management without a property management agreement from a branch office that did not have a broker-in-charge, failed to keep proper trust account records, allowed the account to be overdrawn because of bank service charges, and transferred \$1,400 from her trust account to her operating account without a proper purpose. The Commission noted that Ms. Altman did replace the funds before the end of the month. Ms. Altman neither admitted nor denied any misconduct.

JOSEPH F. AUGUSTINE (Wilmington) - By Consent, the Commission reprimanded Mr. Augustine effective September 8, 1999. The Commission found that Mr. Augustine, while licensed as a salesperson with a real estate firm, had engaged in

a sales transaction without a written agency agreement as required by Commission Rule and used a sales contract form that violated the Commission Rule for such forms.

BALLANTINE CORP. (Wilmington) - By Consent, the Commission reprimanded Ballantine Corp. effective September 8, 1999. The Commission found that Ballantine Corp. had engaged in a sales transaction without a written agency agreement as required by Commission Rule and used a sales contract form that violated the Commission Rule for such forms.

BARBARA E. BROWN (Lumberton) - By Consent, the Commission suspended Ms. Brown's salesperson license for one year effective September 1, 1999. The Commission found that Ms. Brown, while acting as a listing agent for unimproved real property and without making adequate inquiry into the facts, had advertised the property as suitable for mobile home use when, in fact, no mobile home could be installed on the property because it lacked either a suitable septic site or access to off-site sewer service. Ms. Brown neither admitted nor denied any misconduct.

EDWARD J. CHASE (Greensboro) - The Commission accepted the voluntary surrender of Mr. Chase's salesperson license for one year effective August 1, 1999. The Commission dismissed without prejudice charges that Mr. Chase had violated the provisions of the Real Estate License Law. Mr. Chase neither admitted nor denied any misconduct.

JOHN H. CUTTER, IV (Charlotte) - The Commission accepted the voluntary surrender of Mr. Cutter's salesperson license for five years effective August 1, 1999. The Commission

dismissed without prejudice charges that Mr. Cutter had violated the provisions of the Real Estate License Law. Mr. Cutter neither admitted nor denied any misconduct.

JANET M. GRIFFIN (Fayetteville) - By Consent, the Commission revoked Ms. Griffin's broker license effective June 15, 1999. The Commission found that Ms. Griffin had misappropriated funds from the law firm where she was employed as a paralegal and trust account bookkeeper. The Commission noted that Ms. Griffin has repaid the monies she took. Ms. Griffin neither admitted nor denied any misconduct.

DAVID M. HENNESSEY (Kill Devil Hills) - By Consent, the Commission suspended Mr. Hennessey's salesperson license for four years effective October 1, 1999. Two years of the suspension are to be active and the remaining period stayed for a probationary term of two years. The Commission found that on his application for real estate licensure in 1994, Mr. Hennessey had failed to disclose that he had been convicted of possession of a malt beverage while underage and of driving while his license was revoked. Following his licensure, Mr. Hennessey was convicted of possession of marijuana up to ½ oz.

RUSSELL B. KNOX, JR. (Davidson) - By Consent, the Commission suspended Mr. Knox's salesperson license for 30 days effective August 1, 1999. The Commission found that Mr. Knox, while acting as an agent for the buyers in a real estate transaction, had given incorrect information to the buyers with respect to the

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Disciplinary action

(continued from page 14)

length of time the property had been on the market. The Commission also found that Mr. Knox was aware that at closing, a \$10,000 rebate to the buyers for repairs or upgrades was not shown on the closing statement but was paid to the buyers by personal check from the sellers. The Commission further found that the closing statement did not accurately reflect the \$400 escrowed for repairs related to the transaction.

SUZAN L. KOESTER (Kill Devil Hills) - By Consent, the Commission revoked Ms. Koester's salesperson license effective June 9, 1999. The Commission found that Ms. Koester, while employed by a real estate firm, had failed to turn over to her broker-in-charge all funds of others received by her on behalf of the firm. Ms. Koester neither admitted nor denied any misconduct.

HERB E. MCCANDLESS, JR. (Burlington) - The Commission accepted the voluntary surrender of Mr. McCandless' salesperson license for one year effective April 1, 1999. The Commission dismissed without prejudice charges that Mr. McCandless had violated various provisions of the Real Estate License Law and rules of the Commission. Mr. McCandless neither admitted nor denied any misconduct.

LYNN M. MEGEL (Winnabow) - By Consent, the Commission suspended Ms. Megel's salesperson license for one year effective September 1, 1999. Six months of the suspension are to be active and the remaining period stayed for a probationary term of six months. The Commission found that Ms. Megel had marketed property which she did not own while her salesperson license was on inactive status and she was not being

supervised by a broker-in-charge. The Commission further found that Ms. Megel had failed to obtain a written agency agreement or to provide the parties with the required agency disclosures, and that she had subsequently filed an improper claim of lien against property owned by the seller for payment of her commission and other expenses.

ROBERT L. MILLER, JR. (Pinehurst) - By Consent, the Commission suspended Mr. Miller's salesperson license for one year effective June 15, 1999. The Commission found that Mr. Miller had participated in a "time share trade-in scheme" that used contracts falsely reciting the existence of earnest money payments and representing residential building lots as "good investments that enabled purchasers to get rid of their unsalable time shares." The Commission noted that Mr. Miller did not originate this program and that he did cooperate with the Commission's investigation.

NANCY V. PETERSON (Mill Springs) - The Commission accepted the voluntary surrender of Ms. Peterson's broker license for one year effective September 10, 1999. The Commission dismissed without prejudice charges that Ms. Peterson had violated provisions of the Real Estate License Law and Commission rules in connection with the sale of real property for another. Ms. Peterson neither admitted nor denied any misconduct.

JOHN W. PIERSON (Wilmington) - By Consent, the Commission reprimanded Mr. Pierson effective September 8, 1999. The Commission found that Mr. Pierson, while broker-in-charge of a real estate firm, had allowed a salesperson under his supervision to engage in a sales transaction without a written agency agreement as

required by Commission Rule and used a sales contract form that violated the Commission Rule for such forms.

FRANCIS L. PULSIPHER (Atlantic Beach) - The Commission accepted the voluntary surrender of Mr. Pulsipher's salesperson license for one year effective October 1, 1999. The Commission dismissed without prejudice charges that Mr. Pulsipher had violated various provisions of the Real Estate License Law. Mr. Pulsipher neither admitted nor denied any misconduct.

GENETTE M. ROSE (Fayetteville) - The Commission revoked Ms. Rose's salesperson license effective June 8, 1999. The Commission found that Ms. Rose, a rental bookkeeper, had failed to account for and remit rent and the security deposit for property in which she resided as a tenant and instead converted more than \$5,000 of these funds to her own use. The Commission further found that Ms. Rose had regularly made false entries into her employers' trust account records to conceal her theft of other monies and conversion of those funds.

ARVIND M. SHAH (Cary) - The Commission accepted the voluntary surrender of Mr. Shah's salesperson license for five years effective September 9, 1999. The Commission dismissed without prejudice charges that Mr. Shah had violated various provisions of the Real Estate License Law and rules of the Commission. Mr. Shah neither admitted nor denied any misconduct.

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Disciplinary action

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KIRK W. WAGENSELLER, III (Cary) - By Consent, the Commission suspended Mr. Wagenseller's salesperson license for three years effective November 1, 1999. Six months of the suspension are to be active and the remaining period stayed for a probationary term of four years. The Commission found that in 1998 while he was licensed as a salesman, Mr. Wagenseller had been convicted of two misdemeanor offenses.

GOLD W. WALKER (Wilmington) - The Commission accepted the permanent voluntary surrender of Ms. Walker's salesperson license effective September 15, 1999. The Commission dismissed without prejudice charges that Ms. Walker had violated the Real Estate License Law and the administrative rules of the Commission. Ms. Walker neither admitted nor denied any misconduct.

W.S. WELLONS REALTY, INC. (Spring Lake) - By Consent, the Commission reprimanded W.S. Wellons Realty, Inc. effective August 11, 1999. The Commission found that the corporation, which had an unlicensed employee who filed reports on sewage discharge levels for a system serving rental property the corporation managed, had entered a plea of

guilty to, and was convicted of, one count of reporting violations under the Federal Clean Water Act in the United States District Court. W.S. Wellons Realty, Inc. failed to file the criminal conviction reporting form with the Commission. The Commission noted that W.S. Wellons Realty, Inc. cooperated with the Commission's inquiry into this matter. ■



Vacation Rental Act

(continued from page 13)

- △ Provides that the tenant must maintain the property and not deliberately or negligently damage it.
- △ Provides that tenants required to evacuate a vacation prop-

erty by state or local authorities are entitled to a refund of their rent unless the landlord or landlord's agent previously had offered the tenant insurance to cover the potential risk. ■

On the inside...

New Commission Members

Governor reappoints Bass and Dameron to Commission

Commission proposes to adopt/amend rules

Commission proposes Broker-in-Charge Course

2000 Update Course

Vacation Rental Act

Thomas runner-up for "Investigator of Year"

Scholarships awarded

WANTED: Advisory Committee Volunteers

Licensee data on the Internet

...and more.

Please check your label

The Commission reminds you that your license status as "ACTIVE" or "INACTIVE" appears on the mailing label affixed below. (Look at the top line directly to the right of the date.) Please check your label each time you receive your quarterly *Real Estate Bulletin* to be sure that you are in agreement with the Commission's records of your status. ■

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