



REAL ESTATE BULLETIN

Volume 34 • May 2003 • Number 1

RENEW ONLINE

Time to Renew Your Real Estate License

It's that season...time to renew your real estate license. Renewal forms will be mailed on May 16 to the delivery address we have on record for you.

See
Online
Renewal
Primer
Page 11

If you are active, that address will be the address of your broker-in-charge. If you are inactive, the address will be that of your residence. You can verify your address online and make changes to your residence and email addresses and fax number, if needed.

Renewal Fee Now \$40

Due to a recent change in the Real Estate License Law, the fee to renew a real estate license will be \$40 effective with the 2003-04 license renewal. The Commission also eliminated the additional \$2 cost associated with online renewal. Whether online or by check, the fee is the same: \$40.

(See **Time to Renew**, page 3)



Michael F. Easley
Governor



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

Dear Friends,

When elected Governor, I promised the people of North Carolina that we would move beyond the status quo, make progress, and work together to build One North Carolina.

Your North Carolina Real Estate Commission is working hard for you. They are working with my office to reduce barriers for the commercial practitioner. They are working with us to develop consumer information, including information for our Spanish-speaking residents, and they are ensuring that consumers are protected by strengthening the requirements on continuing education for our licensees.

I am proud to announce that your Real Estate Commission received four of the seven awards given annually by the Association of Real Estate License Law Officials (ARELLO) for excellence in education and communications. North Carolina was also selected by Egypt as the model for their country's regulatory real estate agency. Other countries are also looking to North Carolina as the guidepost in real estate regulation.

The North Carolina Real Estate Commission, like many boards and commissions, obtains all operating costs from its licensees. No tax dollars are used. My charge to these boards is to give the people of North Carolina a dollar value for a dollar spent. Only three states have a lower fee for real estate licenses than North Carolina, yet our Commission is viewed with respect and admiration across this country and around the world. I am proud of the Commission and of the 79,000 licensed real estate agents that work in North Carolina.

I look forward to working with you in the future. With warmest personal regards I remain,

Very truly yours,

Michael F. Easley

Lackey Reappointed to Real Estate Commission

William C. Lackey, Jr., of Cornelius, has been reappointed to the the Real Estate Commission for a three-year term that will expire July 31, 2005.

First appointed to the Commission in 1999, Mr. Lackey is General Manager of Coldwell Banker Triad, REALTORS® in Winston-Salem.

Commission Eliminates Fee

The transaction fee to renew your license online has been eliminated. You can now renew your license completely free of any additional charge.

Renewing online only takes about two minutes. Compare that with the time it takes to renew by mail.

www.ncrec.state.nc.us

REAL ESTATE BULLETIN

Published 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 Commission's Real Estate Bulletin.

NORTH CAROLINA REAL ESTATE COMMISSION

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P.O. Box 17100
Raleigh, North Carolina 27619-7100
Phone (919) 875-3700

Michael F. Easley, Governor

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People

Katherine B. Kader has assumed the position of Licensing Officer in the Education and Licensing Division. She is responsible for administering the Commission's licensing operation. Prior to joining the Commission, Mrs. Kader



worked in real estate sales and in the timeshare industry. She received her education and degrees from Indiana and Purdue Universities.

To request a speaker from the Commission, please submit the "Request for Program Presenter" form available on the Commission's Web site, www.ncrec.state.nc.us.

Appearances

Stephen L. Fussell, Consumer Protection Officer, spoke to the High Point Regional Association of REALTORS® and the Asheville Board of Realtors®.

Blackwell M. Brogden, Jr., Chief Deputy Legal Counsel, spoke to the Winston-Salem Regional Association of REALTORS®.



Senator Rand Commends Staff; Three Receive Service Awards

Senate Majority Leader Tony Rand commended Commission staff for its work in administering the real estate licensing program for North Carolina's 79,000 licensees and presented service awards to staff members (from l. to r.) Wanda E. Johnson, Chief License Specialist, 10 years; Miriam J. Baer, Assistant Director of Legal Services, 15 years; and Penny S. Childress, Assistant to the Director of Education and Licensing, 25 years;



Time to Renew

(Continued from page 1)

In addition, online renewal can be verified by a printed confirmation notice upon completing the payment process. You should keep this for your records in the event proof is needed prior to receiving your pocket renewal card. Plus, there is no more guessing if your renewal has been received by the Commission and whether it was received on time.

Renewing online will save you the cost of a stamp, envelope and any bank fees.

Reinstatement Law Changes

A change in the Real Estate License Law shortens the period within which you can reinstate the expired license by simply paying the \$55 reinstatement fee. If your license is expired for more than six months (i.e., after December 31), you must complete a new application form, submit a criminal record report and may be required to take all prelicense education and/or pass the real estate examination.

Commission Travels

As part of its goal to meet twice yearly outside of Raleigh, the Commission held its March meeting in Southport. Mayor Norman Holden and Dick Marshall, president of the Brunswick County Association of REALTORS®, welcomed the Commission.

The next out-of-town meeting will be held in July at Asheville.

June 18
July 16
(Asheville)
August 13
September 10
October 18

All meetings, unless otherwise noted, begin at 9 a.m. and are held in Raleigh in the Commission's Conference Room at 1313 Navaho Drive (27609). Occasionally, circumstances necessitate changes in meeting times and locations.

2003 REGISTRATION FORM

BASIC TRUST ACCOUNT PROCEDURES COURSE MONTHLY - RALEIGH

CONTINUING EDUCATION ELECTIVE CREDIT: FOUR HOURS
TIME: 1:00—5:00 P.M.

LOCATION: MCKIMMON CENTER AT NCSU

TUITION: \$45.00

Each session is limited to 40 participants, scheduled according to the date the registration information is received.

The fastest way to register is online at www.ncrec.state.nc.us.

Otherwise, complete and mail this form with a check for the tuition fee to the NC Real Estate Commission at the address below. Receipt must be no later than seven (7) days prior to the date of the preferred session. (Make additional copies, if needed.) Walk-ins accepted on a space available basis only.

- | | | |
|--------------------------------------|-------------------------------------|-------------------------------------|
| <input type="checkbox"/> June 10 | <input type="checkbox"/> July 1 | <input type="checkbox"/> August 5 |
| <input type="checkbox"/> September 2 | <input type="checkbox"/> October 1 | <input type="checkbox"/> November 4 |
| | <input type="checkbox"/> December 2 | |

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(Lic # _____)

Mail to: NC Real Estate Commission,
Audits and Investigations Division
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Raleigh, NC 27619-7100

Registering online is easier, faster. Just have your credit card information and license number available.

For many years, wood was one of the preferred siding options for homes and buildings.

But, as demand for wood increased and supply decreased, alternatives to real wood were developed. Today's property owners can choose from an array of siding products for their homes and buildings, including many products that look, paint and nail like wood, and that can last for thirty years or more. One of the most prevalent is composite hardboard siding.

Hardboard is a generic term for panels manufactured from wood chips which have been converted to fibers that are bonded together under heat and pressure. It includes products manufactured by Masonite Corporation, Louisiana Pacific ("L-P") and Georgia Pacific, among many others. Waferboard is a type of hardboard composed of layers of hardwood strands laid at right angles for strength, and bonded together under high pressure.

Hardboard siding comes in a variety of configurations and specifications, colors and textures. For instance, there are eighty different Masonite products alone. And, hardboard products come with a variety of warranties against design and manufacturing defects, including some that have no warranty at all!

In recent years, consumers have filed claims asserting that certain types of hardboard are unable to withstand normal weather conditions. They alleged that the material in the hardboard is poorly bonded, allowing moisture intrusion that leads to cracking, warping and delamination. In fact, there have been several class action lawsuits filed concerning certain types of hardboard, alleging that the siding led to structural damage. However, the results of these suits have been mixed.

It does appear that a factor influencing the durability of hardboard is the method of its installation. When carefully and correctly installed, most hardboard provides ample protection from the elements.



THE HARD FACTS ABOUT HARDBOARD

*By Pamela V. Millward,
Associate Legal Counsel
and Jason Kay, Legal Intern*

However, installation is not as simple as putting hammer to nail, and improperly installed hardboard can lead to water intrusion, rot and structural damage. Problems resulting from improper installation are typically not covered by the manufacturer's standard warranty, which protects only against manufacturing defects.

Unfortunately, most consumers are ill-equipped to determine whether the exterior finish on their home or building was installed properly to prevent mois-

ture intrusion: problems are often uncovered after the damage has been done.

So what's a conscientious real estate professional to do to protect his or her client when faced with a home or building clad with a hardboard product? Act with care, and be careful what you say. The Real Estate Com-

mission does not require its licensees to distinguish between the different types of hardboard products on the market or to know exactly which ones have been or now are the subject of a lawsuit. There are many similar hardboard products on the market, and the services of a professional may be necessary to determine exactly which one clads a particular house or building. (In fact, the National Organization of Exterior Finishing System Inspectors offers specialized training and certification in the identification and inspection of these products.)

However, if you, as a licensee, make a claim or assertion in your listing, advertisement or elsewhere that a property has a particular type of siding on it, you should be right. You are responsible for the accuracy of the representations you make about a property. If you're not sure, don't guess. Instead, if working with a buyer, encourage the buyer to get an inspection that covers the siding. If working with a seller, simply note that the siding is "hardboard" without going into any detail, unless you're sure. And, be especially careful not to confuse hardboard siding with some other type of siding, such as a cement-based product. Cement-based products have a heavier feel than hardboard, and typically come with a longer warranty.

One important caveat must be made regarding Exterior Insulation Finishing Systems ("EIFS"), also called synthetic stucco. These products are applied differently than hardboard, and have had a high failure rate in the Southeastern United States. Remember that a property is or has been clad with synthetic stucco is a material fact and must be disclosed to potential purchasers.

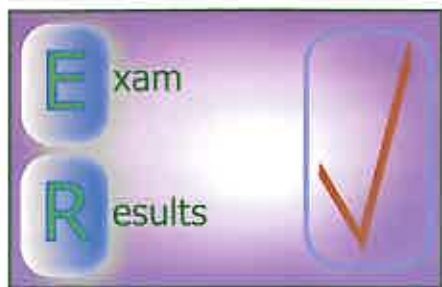
Other Choices

Here's an idea of some of the other products found on the market today which serve as an alternative to wood:

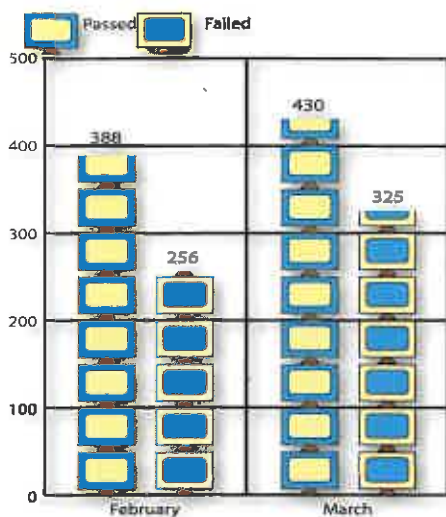
- Fiber cement siding is a combination of cement, ground sand, cellulose fiber, additives and water formed into panels. One commonly known brand is Hardiplank, named for its developer, James Hardie. Manufacturers of this product claim that it will not rot and will withstand termites.

- Vinyl siding is a plastic-based product which is colored and pressed into sheets.

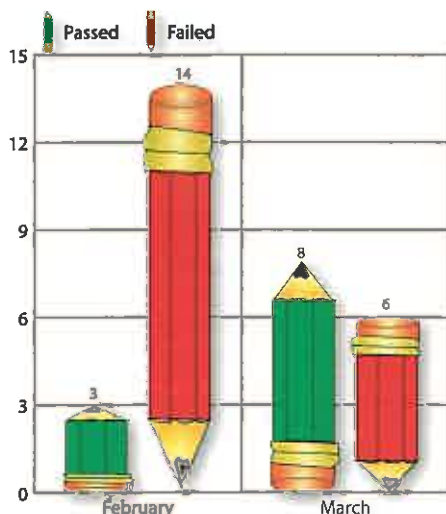
- Aluminum siding is a pressed aluminum product.



By Computer



By Paper and Pencil



E&O Proposal Tabled

The Real Estate Commission has tabled further consideration of a proposal to seek legislation permitting the Commission to require real estate licensees to be covered by errors and omissions insurance (See October 2002 *Real Estate Bulletin*). The Commission thanks those licensees who contacted it concerning this proposal.

The North Carolina State Bar recently announced two related opinions affecting real estate closings in this state. The opinions:

- permit a lawyer's properly supervised non-lawyer assistant to oversee execution of the closing documents and disburse proceeds even if the attorney is not physically present; and
- allow non-lawyers not acting under an attorney's supervision to present and identify closing documents, collect signatures and disburse closing funds.

These opinions do not give real estate licensees (or other non-lawyers) free reign to conduct real estate closings themselves!

"LAWYERLESS" CLOSINGS

identified as the functions include:

- abstracting the title opinion;
- explaining the legal status of title to real estate, alternate forms of taking title, or the effect of anything found in the chain of title;
- advising the parties about their rights or responsibilities in connection with the promissory note including the rights and obligations it creates, the effect of a prepayment penalty, the parties' right to rescission and the rights of a lender;
- drafting legal documents for a party;
- explaining or recommending a course of action to a party that requires any legal judgment or that affects the party's legal rights and responsibilities; and
- attempting to resolve disputes that will affect a party's legal rights.

Licensees may continue to assist parties in filling in the blanks on pre-printed contract forms, but must leave all legal services in the hands of an attorney. In light of the importance of a real estate purchase or sale to most consumers, licensees should strongly encourage their clients and customers to seek the assistance of an attorney for closing.

Continuing Education Checklist

- ✓ Make absolutely certain that you provide the course sponsor your correct license number. If you became a broker recently, be sure to use your broker number, not your old salesperson number.
- ✓ Check your course completion certificate to see that it has your correct and current license number.
- ✓ Check your continuing education credits online at www.ncrec.state.nc.us to confirm their accuracy.
- ✓ The CE requirement for each license period is the currently offered Real Estate Update Course plus one approved elective course.
- ✓ Real estate CE must be completed by June 10. Courses are not available between June 11 and June 30.
- ✓ DO NOT PROCRASTINATE TOO LONG! If you wait until the last minute, courses may be full and you may have difficulty finding readily available courses.
- ✓ If you were issued a salesperson or broker license since July 1, 2002, you do not have to complete CE this license period.

Update Course Highlights RESPA, Common Complaints and Claims

By Patricia A. Moylan, Education Officer

Commission staff is in the process of writing the mandatory continuing education Update course for 2003-2004. All licensees must take the Update course each year in order to renew their licenses on active status, unless they are exempt from the continuing education requirement because their licenses were just issued during that license year.

The two primary subjects on which

the 2003-2004 Real Estate Update course will focus are: 1) RESPA (Real Estate Settlement Procedures Act) and 2) common complaints or claims against licensees by consumers or other licensees. Three-quarters of the course will be devoted to exploring these two topics. A related topic, namely, the value of maintaining errors and omissions insurance coverage, also will be discussed.

The RESPA section will address transactions to which RESPA applies, mandatory disclosures, provision of settlement statements (i.e. HUD-1s), prohibited kickbacks, unearned fees and affiliated business arrangements, enforcement provisions, and impending or anticipated revisions to the existing law or rules.

The topic covering complaints and claims will be drawn both from past Commission disciplinary cases as well as claims most frequently encountered by insurance carriers. They include issues of misrepresentation/omissions,

(See Update, page 7)

FREE PUBLICATIONS

**Quantity
Requested**

Questions and Answers on:

Fair Housing

Tenant Security Deposits

Condos and Townhouses

Residential Subdivisions and Planned Communities

Purchasing Coastal Real Estate in North Carolina

Renting Residential Real Estate

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(Working With Real Estate Agents)

Preguntas y Respuestas sobre: (Questions and Answers On:)

Vivienda Justa
(Fair Housing)

El Depósito de Seguridad del Inquilino
(Tenant Security Deposits)

Alquiler de Inmuebles para Viviendo
(Renting Residential Real Estate)

Real Estate Licensing in North Carolina
(Contains license application)

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Update

(Continued from page 6)

drafting language to include in pre-printed documents, mishandling of trust account monies, disputed earnest money deposits, conflicts of interest, false or misleading advertising, and discrimination against protected classes, among other issues.

Lastly, as always, a brief segment of the Update course will be devoted to a review of the Real Estate License Law and Commission Rules which either have been revised within the last year or which will change during the 2003-2004 license year, as well

as certain administrative issues about which there appears to be ongoing confusion or ignorance. It is recommended that licensees who truly wish to be "on the cutting edge" and have the most current information take the Update course in the Fall of each year, rather than waiting until the Spring rush, when most of the statute and rule changes will already have been in effect for several months.



PURCHASE PUBLICATIONS

Publication	Quantity Requested	Totals
Residential Square Footage Guidelines (\$.65 per copy)	_____	\$ _____
Working With Real Estate Agents (\$.25 per copy)	_____	\$ _____
Questions and Answers on: Home Inspections (\$.25 per copy)	_____	\$ _____
Questions and Answers on: Earnest Money Deposits NEW (\$.25 per copy)	_____	\$ _____
North Carolina Real Estate Law and Commission Rules (\$3.00 per copy)	_____	\$ _____
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Credit card orders must be a minimum of \$1.00.

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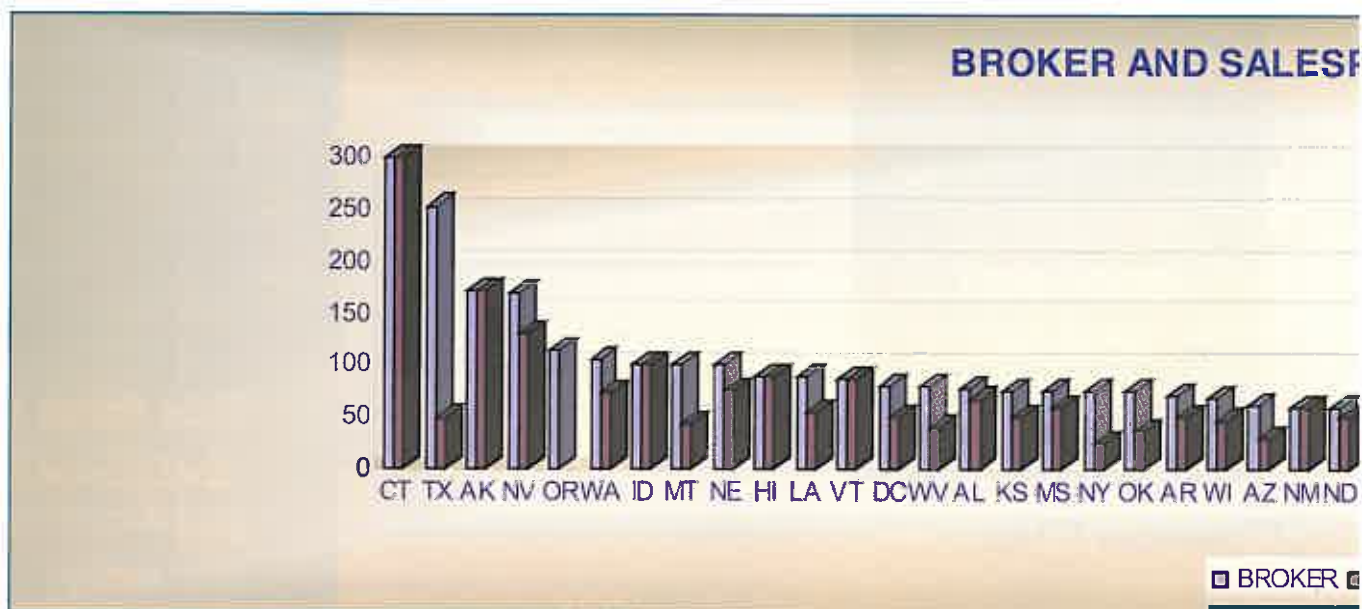
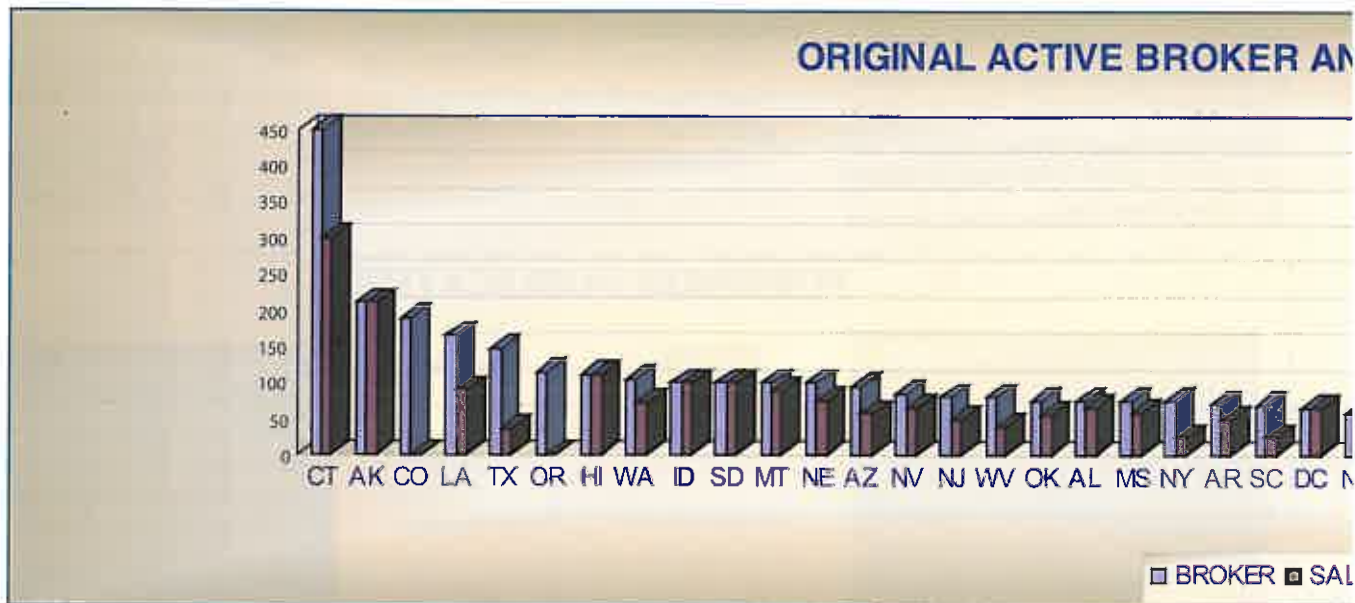
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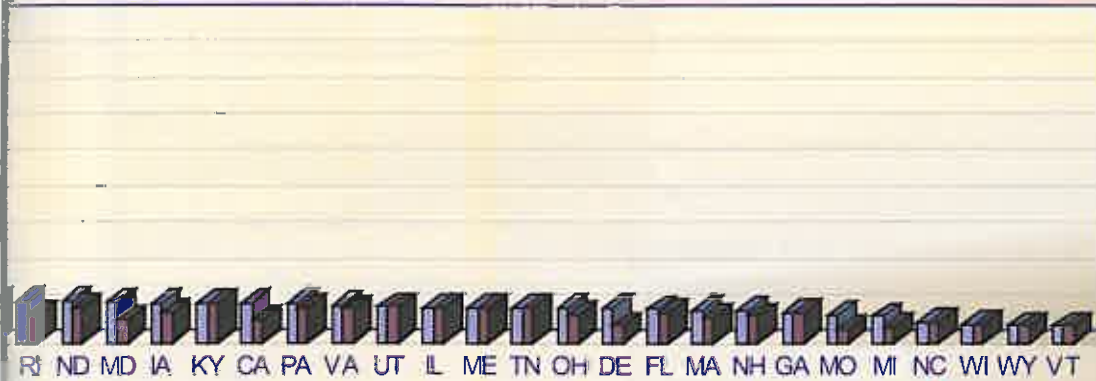
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How We



Stack Up

SALESPERSON LICENSE FEES



SPERSON

PERSON RENEWAL FEES



SALESPERSON

*Information from the Association of Real Estate License Law Officials not available for certain states. Some states do not issue salesperson licenses or charge salesperson license renewal fees.

AUDITOR'S CORNER



Depositing Property Owner Association Receipts

Licensees who collect, maintain, disburse or otherwise control the funds of a property owner association are required to maintain a deposit ticket that identifies the monies collected and deposited into the property owner association trust account with the:

1. Property or property interest for which payment is made →
2. Property or interest owner, or →
3. Remitter (If other than owner) and →
4. Purpose of payment →

To the right is an illustration of a deposit ticket prepared in compliance with Commission Rule A.0107(e)(3). You can also comply with the Commission rule by including the information above on a supplemental deposit worksheet, but you must cross-reference the worksheet to the deposit ticket. The supplemental deposit worksheet may be prepared manually (handwritten) or with the aid of computer software.

YOUR REALTY COMPANY, INC. TRUST ACCOUNT FOR WIND CHIME POA		
DATE	# 0X-1	
	DOLLARS	CENTS
CURRENCY		
COINS		
CHECKS		
1. Unit 100 Wind Chime	\$25	00
2. Jane Doe		
3. January POA Dues		
4.		
5.		
TOTAL	\$25	00

License applicants are required to disclose all criminal convictions, regardless of when they occurred. In addition, since January 1, applicants have been required to submit with their applications a criminal record report provided by a reputable reporting agency. A North Carolina statewide report is required if the applicant has resided in North Carolina during the previous seven years, and a report is also required for each out-of-state county in which the applicant has resided during this period. Applicants undergo a character review only after having fully satisfied all other licensing requirements.

Early results indicate that this requirement is having a significant impact. The number of license applications requiring special review has more than doubled since implementation of the criminal record report requirement. Of the 600-700 applicants eligible for licensure each month, over 100 currently require special review due to matters such as criminal convictions, license disciplinary actions, outstanding judgments, etc. While most of these involve relatively minor issues that do not prevent or significantly delay licensure, many require special review by the Commission. These frequently result in the applicant being offered the opportunity for an informal conference with designated Commission members to discuss their applications. Decisions on some applications are deferred pending a formal hearing before the Commission.

Criminal Record Reports Update

Of special concern to the Commission is the number of broker applicants who, because of the new criminal record report requirement, are found to have had criminal convictions they did not disclose when they applied for a salesperson license or convictions they failed to report to the Commission as required by Commission rule. These applicants run the risk of not only having their broker license application denied, but also having their salesperson license revoked or suspended!

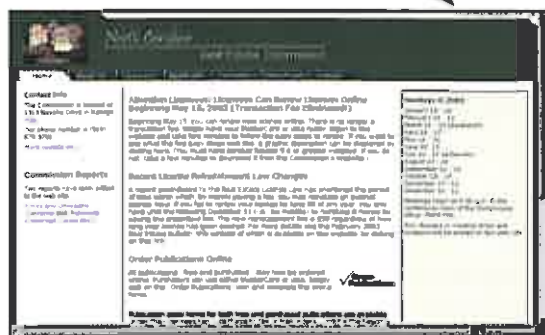
If you or anyone you know is applying for a license, be sure to disclose all criminal convictions, including DWI convictions. Failure to disclose a criminal conviction is frequently viewed by the Commission as being worse than the act that resulted in the conviction. Also remember to report any state in which you have ever held a real estate license and any disciplinary action taken against you because the Commission checks all applicants against information in the Association of Real Estate License Law Officials' "Disciplinary Data Bank."

No Online Fee!

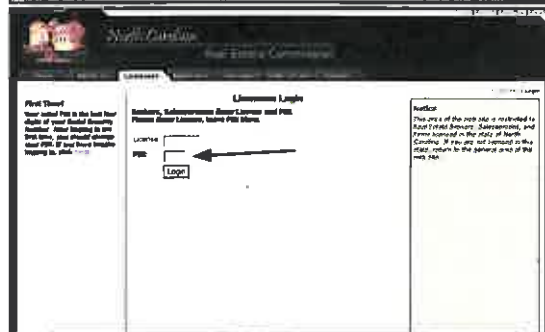
Renew Your License Online In Five Fast, Real Easy Steps

Click on Login here

Place your credit card (Visa or MasterCard only) in front of you. Know your card's billing address (your home address or your business).



1 Any time beginning May 15, go to the North Carolina Real Estate Commission Web site at www.ncrec.state.nc.us and click on login.



2 Enter your license number and your PIN number and click on Login. Your initial PIN number is the last four digits of your Social Security number. We recommend that you change it after logging in for the first time and an option to do so appears on the next screen.



3 Click on Renew, the first of five choices on this screen. (Take note that on this screen you can also view and update your data record and report changes to the Commission, display your continuing education information, change your login PIN and logout.)



4 Update, if needed, your residence and email addresses and/or fax number. Then, click on Next to proceed to the screen that will take your credit card information.

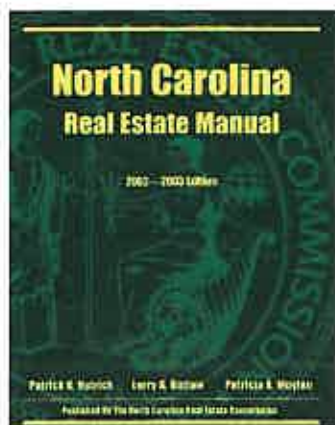


5 Enter your credit card number and the expiration date (the drop-down menus will enable you to enter the date in the correct format). Be certain the information shown for your address is the same as the billing address for your credit card. If not, change it on this screen. Click on the Submit button. The message "Please wait..." will appear as the credit card charge is processed. When this is complete, a final screen will appear confirming your license renewal and asking you to print it out as a receipt. That's it! You're done!

2002-2003 Edition

NORTH CAROLINA REAL ESTATE MANUAL

The *North Carolina Real Estate Manual*, published by the Real Estate Commission, is a comprehensive reference addressing real estate law and brokerage practice, North Carolina Real Estate License Law and Commission rules. It includes updated coverage of the July 1, 2001 agency rule changes and an expanded discussion of federal Lead Based Paint Disclosure laws. It serves as the authorized textbook for the real estate broker pre-licensing course and is highly recommended for licensees, attorneys, instructors and anyone else engaged or interested in real estate law and brokerage practice.



HOW TO ORDER: ONLINE

At the Commission's web site, www.ncrec.state.nc.us, select the Manual icon to link directly with the book distributor. Follow the instructions for ordering with your MasterCard or Visa credit card.

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Quantity

TOTAL \$ _____

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Exp Date

Signature: _____

*Manual sales price is \$34.95 plus \$2.45 sales tax and shipping. Please allow 7 days from receipt of payment for delivery.

Offers to time share owners to sell their time shares are generally too good to be true. For many years the most common form of consumer abuse was a solicitation to list a time share for a

non-refundable fee. Variations on that theme were requests to send money for an appraisal, closing costs, title search, or guaranteed purchase at appraised value, because the caller had a buyer waiting. These abuses were so often repeated that most time share owners became immune to these pitches.

Since 1995, the Commission and the North Carolina Attorney General's Consumer Protection Section have investigated numerous examples of a much more sophisticated scheme to prey upon time share owners desiring to dispose of their property. Here's how it works.

Typically, a time share owner is contacted about selling his or her time share directly to a purchaser who claims to want a limited number of time shares. The time share owner is invited to meet to sell the time share. At the meeting, the time share owner gradually discovers that the only way the time share will be purchased is if the time share owner buys a residential building lot at the same time. If the time share owner does buy a lot, the lot seller will buy the time share, typically at a price far above market value and perhaps even in excess of the original purchase price.

And this deal gets better! There is enough money from the "sale" of the

TIME SHARE SCAM

*By Blackwell M. Brogden, Jr.
Chief Deputy Legal Counsel*

time share to make a down payment on the lot purchase price, pay the closing costs, and then make the loan payments on the residential building lot for many months, sometimes more than a year! Then the former time share owner, now the owner of a valuable residential building lot, can put the lot on the market and sell it for a profit! Usually this pitch is accompanied by claims of rising market value, the inherent value of building lots, maybe even a promise to re-purchase it at its sales price if the property does not sell.

CAVEAT

If you are asked to participate in a sales promotion that involves trading time shares for lot purchases, please contact the Commission legal staff. If a time share owner asks you about this type of proposition, please refer that owner to the Commission legal staff or the Consumer Protection Section of the North

market demand. In some cases it may simply be unbuildable, either completely or only with prohibitively expensive improvements.

The lot seller never "pays" anything for the time share. The time share seller/lot purchaser typically borrows 90 percent of the lot sales price from a lender, most of which is then paid to the lot seller, with a smaller portion paid back to the time share seller/lot purchaser. Even after giving part of the loan proceeds back to the lot purchaser, the lot seller typically has a profit of

four to five times its initial investment in the lot sold.

The former time share owner, after making payments for awhile, then decides to cash out by selling the lot only to discover that he now owns a lot on which he owes much more money than anyone is willing to pay him.

And what happened to the time share traded for the lot? With luck, it was transferred to some one else. Unfortunately, in a number of cases, the lot seller doesn't even bother and the purchaser eventually discovers that he or she is not a "former" time share owner after all!

The truth is something else. Typically the sales price of the residential lots offered is between \$25,000 to \$35,000. The lot seller has typically paid between \$2,000 to \$5,000 for the lot in a recent acquisition (in some cases the lot seller does not even take title to the lot until it is under contract to a time share owner). The lot has little or no



Educators Conference Huge Success; Highlights Effective Teaching Methods

By Larry Outlaw, Director of Education and Licensing

An enthusiastic crowd of 160 instructors, school officials, authors and publisher representatives attended the Real Estate Commission-sponsored **2003 Real Estate Educators Conference** held in Raleigh on March 13-14. The number of participants equals the record established in 1994 when the continuing education program was implemented.

A conference highlight was a panel discussion on prelicense course standards and successful teaching methods. The panelists were: Jerry Thomas, Sea Coast Real Estate Academy, Wilmington; Sandra Martin, Central Piedmont Community College, Charlotte; Lois Branning, Rowan-Cabarrus Community College, Kannapolis; and Roy Faron, J.Y. Monk Real Estate Training Center, Charlotte. Participants were very excited about the excellent ideas shared by these outstanding instructors.

In keeping with the conference's primary emphasis on prelicense course standards and instructor performance, attendees participated in an Examination Item Crafting Workshop conducted by John Morgan of Morgan Testing Services, New London, CT. Mr. Morgan discussed and illustrated standards for examinations and question writing principles to assist instructors in developing effective course examinations.

"Update" sessions on prelicense education, the license examination and continuing education were conducted by Commission Education and Examination Officer Anita Burt, Pamela Rorie, Continuing Education Officer Pamela Rorie, and Director of Education and Licensing Larry Outlaw. These sessions addressed matters of special interest to instructors, such as school and instructor license examination performance, the updated salesperson course syllabus, course

examinations, problem topics on the license examinations, planned topics for the *2003-04 CE Update Course*, and plans to reduce CE course completion reporting errors. In addition, Legal Education Officer Tricia Moylan conducted a forum on selected frequently misunderstood legal issues.

During the first day's luncheon, the North Carolina Real Estate Educators Association (NCREEA) held its spring meeting and annual awards program under the capable direction of President Deborah Carpenter of the Fonville-Morisey Center for Real Estate Studies in Raleigh. The

Association presented its "Program of the Year" award to Central Piedmont Community College in Charlotte and its "Educator of the Year" award to Anne Rasheed of Boone, who teaches for the J. Y. Monk Real Estate Training Center.

Also during the luncheon, Allan Dameron, Real Estate Commission Chairperson from Holden Beach, presented the first annual *Billie J. Mercer Excellence in Education Award* to NCREEA's Educator of the Year, Anne Rasheed. This award was recently established by the Commission in memory of Mrs. Mercer who, as a member and former chairperson of the Commission, was especially dedicated to furthering the education of real estate practitioners and persons entering the real estate business. In a special

presentation ceremony honoring Ms. Rasheed and the late Mrs. Mercer, Mr. Dameron and others paid tribute to Mrs. Mercer, who lived and operated her own real estate company in Wilson. Those participating in this special presentation included Connie Corey,

President of the North Carolina Association of REALTORS®, who was a close personal friend, and David Cockrell, Immediate Past President of the Wilson Board of REALTORS®. Other special guests in attendance at the presentation included C. H. Mercer (Billie's husband), Fran Cockrell (close friend and fellow

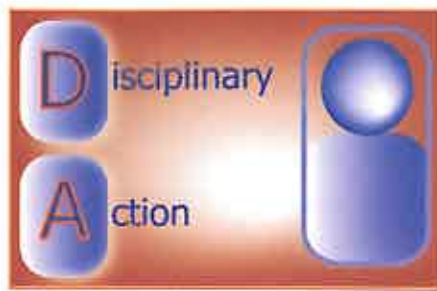


Rasheed Receives Mercer Award

Anne Rasheed takes the spotlight as the first annual *Billie J. Mercer Excellence in Education Award* recipient. With Rasheed, l. to r., are Allan R. Dameron, Real Estate Commission Chairman; Larry A. Outlaw, Director, Education and Licensing; and Phillip T. Fisher, Commission Executive Director.

REALTOR®), Commission members Wanda J. Proffitt of Burnsville, Sang Hamilton of Winton and Mona Hill of Pinehurst, and Commission Executive Director Phillip T. Fisher. Mrs. Mercer would have been extremely pleased to see the tremendous attendance at this year's conference and the level of dedication demonstrated by North Carolina's real estate educators.

The Commission thanks North Carolina's real estate educators for their support and congratulates Anne Rasheed and Central Piedmont Community College for their achievements.



Penalties for violations of the Real Estate 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.

MAURICE E. BETHEA (Charlotte) – The Commission revoked the salesperson license of Mr. Bethea effective February 1, 2003. The Commission found that Mr. Bethea misrepresented to a listing agent and seller that he had collected earnest money from a buyer and that it was being held in a trust account. The Commission also found that Mr. Bethea made a false assertion to a listing agent that a buyer was pursuing a loan with another lender, conducted brokerage activities without the knowledge and supervision of his broker-in-charge and accepted commissions from someone other than his broker-in-charge.

JON M. BUTTERFIELD (Charlotte) – By Consent, the Commission suspended the salesperson license of Mr. Butterfield for a period of one year effective May 1, 2003. One month of the suspension is to be active with the remainder stayed for a probationary period of one year. The Commission found that Mr. Butterfield failed to report a misdemeanor conviction as required by Commission rules.

ROBERT E. DRAG, JR. (Cornelius) – By Consent, the Commission reprimanded Mr. Drag effective March 1, 2003. The Commission found that Mr. Drag, as broker-in-charge of a real estate brokerage firm, listed and sold property with advertising describing it as having a “True Water View” and then on his own adjacent property planted trees that would, over time, eliminate the view.

TERRY L. FERGUSON (Waynesville) – By Consent, the Commission suspended the broker license of Mr. Ferguson for a period of one year effective March 1, 2003. Ninety days of the suspension are to be active with the

remainder stayed for a probationary period of one year upon certain conditions. The Commission found that Mr. Ferguson sold an incomplete townhouse. As part of the sales contract, he undertook to complete it, but failed to obtain the necessary permits and conveyed the property without a certificate of occupancy. The Commission also found that Mr. Ferguson, in another transaction, failed to establish and disclose an agency relationship with the parties, and drafted a contract securing the rights of the parties to the transaction without a license to practice law.

TINA M. HOWARD (Ocean Isle Beach) – By Consent, the Commission revoked the broker license of Ms. Howard effective March 3, 2003. The Commission found that Ms. Howard, while employed as a financial officer of a resort development and construction company, failed to keep complete and accurate financial records and to produce them for review. The Commission also found that Ms. Howard wrote checks from the company and other accounts for her own benefit and signed the owner's name without authority.

BRYON N. JOHNSON (Erwin) – By Consent, the Commission suspended the broker license of Mr. Johnson for a period of five years effective May 1, 2003. The Commission found that Mr. Johnson pleaded guilty to and was convicted of the offense of assault with a deadly weapon inflicting serious injury.

KEN WEATHERBY & ASSOCIATES, INC. (Cornelius) – By Consent, the Commission suspended the firm license of Ken Weatherby & Associates for a period of one year effective May 1, 2003. The Commission then

stayed the suspension for a probationary period of two years effective May 1, 2003. The Commission found that Ken Weatherby & Associates deposited a check payable to a landlord into its operating account when a portion of the amount of the check was owed to the landlord. The Commission also found that the landlord obtained a judgment for the amount and that judgment has been paid.

LAKE PROPERTIES, LTD (Cornelius) – By Consent, the Commission reprimanded Lake Properties effective March 1, 2003. The Commission found that Lake Properties, a real estate brokerage firm, listed and sold property with advertising describing it as having a “True Water View” and then the firm's broker-in-charge on adjacent personally owned property planted trees that would, over time, eliminate the view.

JOHN K. MARKS (Greensboro) – By Consent, the Commission suspended the broker license of Mr. Marks for a period of one year effective March 15, 2003. The Commission then stayed the suspension for a probationary period of two years effective March 15, 2003. The Commission found that Mr. Marks unintentionally allowed his real estate license to expire June 30, 1999 while continuing to conduct a real estate brokerage office. The Commission noted that Mr. Marks, upon discovering that his license had expired, ceased his brokerage operations, applied for reinstatement and fully cooperated with the Commission in its investigation.

DOUGLAS J. MILLSAPS (Charlotte) – By Consent, the Commission suspended the broker license of
(See **Disciplinary**, page 16)

Disciplinary

(Continued from page 15)

Mr. Millsaps for a period of one year effective May 1, 2003. The Commission then stayed the suspension for a probationary period of two years effective May 1, 2003. The Commission found that Mr. Millsaps failed to create and maintain trust account records as required by Commission rules.

PEELER/LAVECCHIA REAL ESTATE, INC. (Shelby) - By Consent, the Commission suspended the broker license of Peeler/LaVecchia Real Estate for a period of eight months effective January 1, 2002. The Commission then stayed the suspension effective January 1, 2002 for a probationary period of 11 months on certain conditions. The Commission found that Peeler/LaVecchia listed a subdivision for sale and continued to advertise it as having lakefront lots with direct access to the lake, state maintained streets and a common area with boat access for interior lots after knowing the developer would not be able to provide the amenities.

MARLENE G. PEELER (Shelby) - By Consent, the Commission suspended the broker license of Ms. Peeler for a period of eight months effective January 1, 2002. The Commission then stayed the suspension for a probationary period of 11 months on certain conditions. The Commission found that Ms. Peeler listed a subdivision for sale and continued to advertise it as having lakefront lots with direct access to the lake, state maintained streets and a common area with boat access for interior lots after she knew the developer would not be able to provide the amenities.

SKYNET REALTY, INC. (Charlotte) - The Commission accepted the voluntary surrender of the firm license of Skynet Realty for a period of one year effective May 1, 2003. The Commission dismissed without prejudice allegations that Skynet Realty violated provisions of the Real Estate License Law and Commission rules. Skynet

Licensees Must Report Convictions

Commission Rule A.0113 requires any licensee who is convicted of a misdemeanor or felony or who has disciplinary action taken against him or her by any occupational licensing board to file a report with the Real Estate Commission.

The reporting requirement includes convictions for driving while impaired ("DWI"). The report must be filed within sixty (60) days of the final judgment or board action.

If you have questions about this rule, please call the Commission's Legal Services Division at 919-875-3700 for more information.

convictions to the Commission until applying for a broker license in 2002. The Commission noted that Ms. Turner cooperated with the Commission in its investigation.

JACK R. WATTS (Fayetteville) - By Consent, the Commission reprimanded Mr. Watts effective April 1, 2003. The Commission found that Mr. Watts, as a real estate broker, negotiated an increase in his commission with a seller, purportedly to provide a bonus for an unlicensed assistant. The Commission also found that Mr. Watts did not pay the assistant any portion of the commission. The Commission noted that Mr. Watts later refunded the seller the difference.

Realty neither admitted nor denied misconduct.

ELIZABETH J. TURNER (Duck) - By Consent, the Commission suspended the salesperson license of Ms. Turner for a period of one year effective February 15, 2003. Thirty days of the suspension are to be active with the remainder stayed for a probationary period of one year. The Commission found that Ms. Turner failed to properly and timely report 1997 criminal



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