



# NORTH CAROLINA REAL ESTATE COMMISSION REAL ESTATE BULLETIN

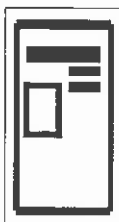
Volume 32

Spring 2001

Number 1

*Beginning July 1, a new agency brochure must be given to buyers and sellers. The brochures are available from the Commission office and a fully reproducible copy of the new brochure is in the center of the Bulletin.*

**T**his  
**I**ssue



New Agency Disclosure Rules  
Effective July 1 Page 1

Remember June 30 Deadline for  
License Renewal Page 1

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But Full Page 4

Licensing Exam Results: Computers  
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Your Own Copy of the New  
*WORKING WITH REAL ESTATE  
AGENTS* brochure Pages 9-12

By the Sea: Q&A on Coastal Cot-  
tage Zoning Page 14

## Agency Agreements, Disclosure Rules Change Effective July 1

New rules governing agency agreements and disclosure (Rule A.0104) and new procedures for compliance become effective July 1.

The rule changes attempt to provide a reasonable way for buyers' agents to handle the widespread problem of buyers being reluctant to sign a buyer agency agreement at the very beginning of their relationship with a buyer's agent. Under the revised rules, brokers and salespersons may, for a limited period of time, work with a buyer as a buyer's agent under an oral (unwritten) buyer agency agreement by com-



plying with the following procedures:

>The agent must provide and review with the buyer at first substantial contact the new *Working with Real Estate Agents* brochure.

>The buyer and the agent must have an oral agreement regarding the buyer agency relationship. (Note that, as a practical matter, this oral agreement needs to address all key issues of the relationship, including agent compensation.

>If the oral agreement seeks to either bind the buyer to the agreement for any specific period of time (See New Rules, page 6)

## Now Is The Time to Renew Your License

*By Mary Frances Whitley, Director of Administration*

The deadline of June 30 for renewing your broker or salesperson license is approaching rapidly. It's not a date you want to miss, especially if you're a broker-in-charge.

To help you expedite the process, the Commission has introduced online renewal through its web site. The combination of convenience, speed and ease is unbeatable. You'll be done in minutes.

If you wish, however, you can still renew by mail. Just be certain to allow time for your renewal form and payment to reach the Commission's office by June 30. Otherwise, your license will expire.

### Renewal Instructions

By mail:

- 1) Complete your renewal application form (to have been mailed to you on May 11, 2001).
- 2) Return it and your \$35 fee to the Commission at the address on the application.

By Internet:

- 1) Go to the Commission's web site at [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us).
- 2) Click on "Licensees Only" in the menu at the bottom of the page.
- 3) Enter your real estate license number and your PIN (the last four digits of your Social Security number) (See Renew Now, page 6)

## 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 Commission's Real Estate Bulletin.

### NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive  
P. O. Box 17100  
Raleigh, North Carolina 27619-7100  
Phone (919) 875-3700  
Michael F. Easley, Governor

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## Staff Update



### New to the Commission



**Carolyn Haase (Ovenden)** has been appointed Information Officer in the Legal Services Division. She is responsible for answering inquiries from real estate licensees and consumers. Carolyn has been a corporate real estate manager for NCNB in Charlotte and both a commercial and residential real estate salesperson and manager in Charlotte, New Bern and Albuquerque, New Mexico. She is a graduate of the University of North Carolina at Charlotte with a BA in political science.



**Lisa Johnson** has assumed a part-time position as Records Specialist in the Administration Division. She assists in the maintenance and conversion of licensee records from microfilm to an imaging system. Lisa is a resident of Smithfield and a junior at Meredith College where she is majoring in Child Development. Before joining the Commission, she worked as an administrative assistant with an insurance company in Raleigh.

To request a speaker from the Commission, please submit the "Request for Program Presenter" form, which is available by calling Fax-on-Demand at (919) 850-2757 for Document No. 510.

### Appearances

**Thomas R. Miller**, the Commission's Legal Counsel, conducted an afternoon session on the implementation of the North Carolina Vacation Rental Act with the *Eastern Regional Conference of Vacation Rental Managers* in Charlotte.

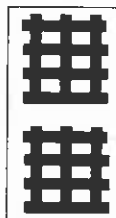
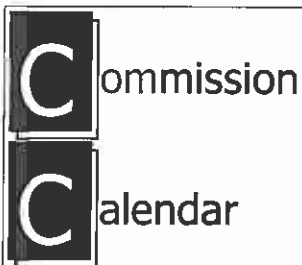
**Miriam J. Baer**, Assistant Director of Legal Services, spoke to the *Albemarle Area Association of REALTORS®*.

**Blackwell M. Brogden, Jr.**, Chief Deputy Legal Counsel, spoke on agency relationships, disclosure and similar topics before the *Winston-Salem Regional Association of REALTORS®*.

**Janet Thoren**, Deputy Legal Counsel discussed common problems encountered by real estate agents complying with real estate law and rules with the *Catawba Valley Association of REALTORS®*.

**Ginger Schultz-Lamitie**, Licensing and Education Officer, made a presentation on new licensing requirements to the *Carteret County Association of REALTORS®*.





June 6

July 12  
(Nags Head)

August 8

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.

[www.ncrec.state.nc.us](http://www.ncrec.state.nc.us)

### Trust Account Registration

If you will be attending a session in Raleigh on one of the dates listed, please use the registration form to the right. ➡

If you would find it convenient to attend the Basic Trust Account Procedures course at the North Carolina Association of REALTORS® Annual Convention, please use the registration form below. ↴

Thank you.

### BASIC TRUST ACCOUNT PROCEDURES COURSE AT THE NORTH CAROLINA ASSOCIATION OF REALTORS® ANNUAL CONVENTION

LOCATION: WYNDHAM MYRTLE BEACH RESORT  
DATE/TIME: OCTOBER 7, 2001, 1:00—5:00 P.M.  
TUITION: \$35.00  
CONTINUING EDUCATION ELECTIVE CREDIT:  
FOUR (4) HOURS

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_  
Include Area Code

☐ Broker ☐ Salesperson ☐ Bookkeeper

(Lic # \_\_\_\_\_)

Mail to: NC Real Estate Commission, Audits and Investigations Division, P. O. Box 17100, Raleigh, NC 27619-7100

For registering online, remember to have your credit card information available.

### 2001 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: \$35.00

The course is intended for brokers and trust account bookkeepers. Salespersons will be admitted on a space available basis. 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](http://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.

☐ June 5 ☐ July 10 ☐ August 7  
☐ September 4 ☐ October 9 ☐ November 6  
☐ December 4

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone \_\_\_\_\_  
Include Area Code

☐ Broker ☐ Salesperson ☐ Bookkeeper

(Lic# \_\_\_\_\_)

Mail to: NC Real Estate Commission, Audits and Investigations Division, P. O. Box 17100, Raleigh, NC 27619-7100

For registering online, remember to have your credit card information available.

# BIC Classes Bursting at the Seams



By Patricia Moylan Sullivan, Legal Education Officer

Since early January, 2001, the response to the Commission's broker-in-charge (BIC) course has been overwhelming, with the Commission receiving more registration requests than it can accommodate. Virtually all classes have been filled to capacity which, at most locations, means about 100 students.

Registrations for the course exploded following the January 5, 2001 letter from the Commission to all brokers-in-charge informing them of this new requirement. The winter issue of the *Bulletin* also featured a major article on the BIC course.

Total attendance for the first eight classes in November and December, 2000, was only 201. That compares with 920 at the first ten classes in 2001 (through March 19) — only two additional classes, but nearly *four times the number of attendees*. Classes are filling up from 3-6 weeks in advance!

## Course Requirement Reminder

Readers will recall that *newly designated brokers-in-charge are required by rule to take the course within 90 days of being designated broker-in-charge*. (NOTE: The submission to the Commission of a Broker-in-Charge Declaration form for any reason will result in the broker being classified as a newly designated broker-in-charge, thereby triggering the 90-day requirement.)

Brokers-in-charge who were designated prior to October 1, 2000 have five years (until September 30, 2005) to complete the BIC course, so long as they remain at the same office.

The Commission attempts to give preference in registration to newly designated brokers-in-charge who must complete the course within 90 days.

## High Demand

Due to high demand from experienced brokers-in-charge, however, a "90-day BIC" who delays in

registering may find nearby courses full and have to attend a session further away in order to meet the course time requirement. Consequently, *brokers-in-charge who must complete the course within 90 days are strongly urged to register as soon as they receive acknowledgment from the Commission of their broker-in-charge status*.

The Commission is making every effort to accommodate the "90-day BICs" at the location of their choice. Please remember, however, that procrastination on your part until the last minute does not constitute an emergency on our part.

Brokers who have five years to take the course, (i.e., those who already were designated broker-in-charge at their current location prior to October 1, 2000) should consider registering for a class offered *after July 1, 2001*. This would help spread demand over a longer period of time and help alleviate the cur-

rent registration crunch. It would also make it easier for newly designated "90-day BICs" to obtain the course at reasonably convenient locations.

Brokers and salespersons who want the course only for continuing education elective credit and do not anticipate becoming a broker-in-charge in the very near future should wait until the summer or fall. They are being admitted only on a space available basis through June.

The course is offered several times per month at different locations in North Carolina: monthly in Raleigh and Charlotte, bimonthly in Greensboro and Asheville, once every three to four months in Wilmington and Greenville, and twice each year in Atlantic Beach, Boone, Fayetteville, and Nags Head. One of several Commission staff members serves as principal instructor at each class session.

(See BIC Classes, page 5)

## BIC Course Content

The purpose of the course is to inform or remind brokers-in-charge of their obligations and responsibilities and of the Commission's interpretation of pertinent statutes and rules.

Topics addressed include:

¶ Review of activities requiring a license and exceptions to the licensing requirement.

¶ Requisites for business entity licensing and the consequences of an expired firm license or absence of principal broker.

¶ Factors the Commission will consider in determining whether a broker-in-charge is fulfilling

duties related to salesperson supervision.

¶ Various compensation issues.

¶ Factors to consider in determining whether a location is an office or branch office (thus requiring a broker-in-charge).

¶ Discussion of the responsibilities of a broker-in-charge.

¶ Components of an effective supervision program.

¶ An overview of trust account record-keeping requirements.

¶ "Red flags" which may alert brokers-in-charge to potential problems in their trust accounts and internal controls to prevent trust account problems.

# BIC Classes Bursting

Continued from page 4



## How to Register

A course schedule for the remainder of 2001 and the registration form can be obtained either through the Commission's fax-on-demand line (919-850-2757, Document #370) or by downloading it from the Commission's web site at [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us), under either "Schedules" or "Online Registration."

The easiest and most effective way to register for the course is online at the Commission's website, where you may use a Visa or MasterCard to charge the \$35.00 course fee. Online registration is immediate, allowing you to see which classes are full or still have available seats. After registering, you can print a notice confirming your enrollment in a particular class.

Mailed or faxed registration forms with checks or credit card numbers must be processed manually. *Do not assume that you are registered for a class merely because you sent the registration form to the Commission. If you register by mail or fax, you are not registered for a class until you receive written confirmation from the Commission.*

If you are mailing or faxing your registration request, then be sure to list at least three alternate dates and locations for taking the course. If necessary, we may hold a registration form to see if a seat becomes available at any of the alternate locations requested.

You will receive a written confirmation from the Commission once you are registered for a class. If no seats are available for any of the requested dates/locations, then the registration form and any check, if applicable, will be returned.

Comments from attendees have been positive. While the material presented is a review for most brokers-in-charge, the majority of at-

tendees have found the class informative and welcomed the opportunity to learn more about the interpretation and application of the License Law and Commission rules.

[www.ncrec.state.nc.us](http://www.ncrec.state.nc.us)

## Prior Preparation Prevents Poor Performance!

*The Audits and Investigations Division of the Commission conducts random "spot" audits. Are your records ready for review?*

## REAL ESTATE COMMISSION PUBLICATIONS ORDER FORM

	Quantity Requested
Residential Property Disclosure Statement and Guidelines (Please limit request to one copy; duplicate as needed.)	_____
Residential Square Footage Guidelines (One free copy per agent per firm; \$.65 each additional copy.)	_____
Working With Real Estate Agents <b>NEW</b> (One free copy per agent per firm; \$.20 each additional copy.)	_____
<u>Questions and Answers On:</u>	
Tenant Security Deposits	_____
Fair Housing	_____
Condos and Townhouses	_____
Purchasing Coastal Real Estate in North Carolina	_____
Renting Residential Real Estate	_____
Home Inspections <b>NEW</b>	_____
Preguntas y Respuestas sobre Alquiler de Inmuebles para Viviendo (Spanish version of Renting Residential Real Estate)	_____

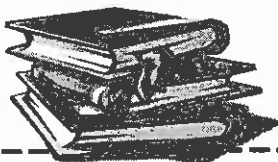
Name \_\_\_\_\_ Phone (include area code) \_\_\_\_\_

Street Address (NOT P.O. BOX) \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Please allow two weeks for delivery. All brochures (other than additional copies of the Residential Square Footage Guidelines and the new two-color version of Working With Real Estate Agents) are free of charge.

**Return the completed form to:**  
**North Carolina Real Estate Commission**  
**ATTN: Publications**  
**P. O. Box 17100**  
**Raleigh, NC 27619-7100**



**Bookmark This  
REAL ESTATE COMMISSION  
Handy Reference List**

**MAIL**

1313 Navaho Drive  
P. O. Box 17100  
Raleigh, NC 27619-7100

**PHONE**

919/875-3700

**INTERACTIVE  
VOICE RESPONSE**

919/850-2753

**FAX**

(Area Code 919)

Administration 877-4217

Audits/  
Investigation 877-4218

Education/  
Licensing 877-4216

Legal Services 877-4220

Records 877-4221

**FAX-ON-DEMAND**

919/850-2757

**WEB SITE**

www.ncrec.state.nc.us

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All @ncrec.state.nc.us

Executive exec@

Administration admin@

Education/  
Licensing educ@

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Investigation al@

Legal Services legal@

Records records@

## New Rules

*Continued from page 1*

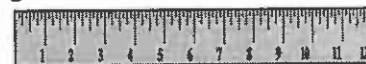
or restrict the buyer's right to work with another agent or to purchase property without the assistance of any agent, then the buyer agency agreement must be in writing.

>The agent must obtain a written buyer agency agreement not later than the time an offer to purchase is presented to the seller (or seller's agent).

To facilitate and document disclosure to buyers and sellers at the point of first substantial contact, the

Commission is publishing a new brochure explaining agency relationships.

Brokers and salespersons are required to give this brochure to buyers and sellers and receive from them signed acknowledgment of its receipt. A panel in the brochure, to be retained in agents' files, provides the form for documenting acknowledgment.



## Renew Now

*Continued from page 1*

ber initially and easily changed to a number of your choice once your individual record comes up on the screen).

4) Provide your Visa or MasterCard number and address information.

5) Wait while the system processes your card and gives you a confirmation on the screen.

6) Print out the confirmation. A Pocket Renewal Card will arrive in the mail as verification.

7) (Optional, but a good idea) – Update your residence and email addresses and fax number, and check your continuing education credits.

Either way, mail or internet, do it now and you're done. Your broker-in-charge (who has responsibility for seeing that all licenses are renewed in the office) will appreciate your punctuality.

### Avoid Consequences

But, wait and be late and here are the consequences:

If you are a *Broker-in-Charge*, your failure to renew your own individual license or to complete the required continuing education will cause the license status of all salespersons under your supervision to become *Inactive*. When that happens, the Commission's record for each salesperson will be changed to his or her residence address. All brokers will remain on Active Status, but their addresses will also be changed to their residence.

Furthermore, because there is no Broker-In-Charge, the office cannot engage in the business of real estate brokerage.

### Return to Normal Operations

Once a new BIC is designated or the former BIC completes license renewal and required continuing education, a new Broker-In-Charge Declaration form and activation forms for each agent associated with the office must be filed with the Commission to update all of the records.

If you were designated Broker-In-Charge prior to October 1, 2000, your change of status from either Expired or Inactive will require you to take the BIC course within 90 days of re-designation. Similarly, failure of a principal broker to renew or obtain continuing education affects all licensees associated with the firm.

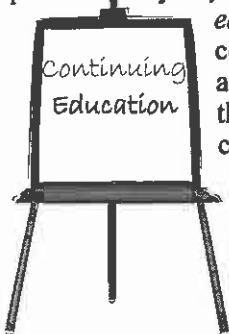
As an ongoing procedure, every salesperson and broker receives notice from the Commission whenever there is a change in records including those of the individuals' broker-in-charge that affect their license status.

Keep in mind that failure to complete continuing education requirements is no reason not to renew your license. Your license simply changes to Inactive Status until you do obtain the necessary continuing education credits. ■

# Continuing Education Courses At Record Number; First Distance Education Elective Courses Approved

By Pamela R. Rorie, Continuing Education Officer

Completing annual continuing education requirements is one of the major responsibilities you have to maintain your real estate license on active status. Opportunities for learning abound with greater variety than ever before. And in this past year, the first distance



education elective courses have been approved, making the process more convenient and more easily adapted to busy schedules.

Commission records show that most North Carolina real estate licensees take their continuing education courses in the final quarter of the license year with 50 - 52% of those who complete the requirements doing so between April 1 and June 10 — the last possible 71 days!

## Courses Offer Variety

Especially for those still at work on CE credits, here's an update of what's new with this vital part of the business:

As of mid-March 2001, the Education Division reported 184 Commission-approved continuing education sponsors. Of those, 109 sponsors offer both the mandatory Update course and electives, 59 offer elective courses only and 16 offer only the mandatory Update course.

Currently, there is a greater number of different elective courses approved than ever before with a total of 329 as of mid-March, and still growing. In fact, in the current license year (since July 1, 2000) a total of 60 brand new courses have received Commission approval. That's over seven new courses a month thus far. Hopefully, this increased variety will enable licensees to attend courses on new areas of interest and to receive updated

materials on topics with which they have basic familiarity.

The Commission approves continuing education courses on a variety of elective topics such as agency, appraisal, brokerage practices, building styles and designs, closing procedures, commercial real estate, contracts, environmental issues, ethics, fair housing, finance, investment, land use, legal issues, property management, and taxation.

As noted, this year has also seen the approval of the first continuing education courses available through distance education delivery methods, with a total of 13 computer-based courses among the 329 approved elective courses.

For an idea of the variety of offerings, look at the Commis-

sion's web site or the final printed Continuing Education Schedule for the 2000-2001 license year, which lists course offerings for April 16 through June 10. Highlighted are course offerings in the areas of Commercial Real Estate and Property Management as well as information about sponsors with currently approved distance education CE elective courses.

## Update Course Preview

For those licensees who have completed the current year's continuing education requirement and are looking forward to course offerings for the 2001-2002 license year, here is a preview of the mandatory Update course which will be offered beginning July 1, 2001:

Approximately two hours of the coming year's Update course will be devoted to amendments to the Commission's rule on agency agreements and disclosure, which become effective July 1, 2001 and modify current procedures for establishing buyer agency relationships. A key part of the disclosure process is a new brochure that agents will give to their customers/clients at the time of the first substantial contact.

*(A reproducible copy of the brochure is included in the center of this issue of the Bulletin).*

One to one and a half hours will be devoted to home inspections. This portion of the course will contain instruction designed to promote a better understanding of the home inspection process including the duties of real estate agents and home inspectors, common problems encountered and suggestions as to how to minimize them.

The remaining time of the Update course will cover any law changes enacted by the 2001 General Assembly that impact real estate brokerage or other topics to be determined.



## Use Web To File CE Credits Faster

*Continuing education sponsors can now file student course completion information and fees at the Commission's web site, [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us), or by mailing a diskette.*

*The newly available process can replace use of ScanTron forms, saving time, effort and expense and eliminating the possibility of student "bubbling" errors resulting from the incorrect shading of circles on the forms.*

*Electronic filing — either online or by using a mailed diskette — dramatically speeds up the Commission's updating of licensee records. The step of scanning data into the system is omitted. Electronic data can be uploaded directly into a licensee record.*

*The Commission mailed to all course providers instructions on file creation and transmittal procedures. They are also available online at the web site under CE Transmittal or from the Commission office.*

# Taking Licensing Exam by Computer Popular; Passing Scores on Paper Exams Fall Behind

By Anita R. Burt, Education and Examination Officer

The long-anticipated option to take the real estate licensing examination by computer became available to license applicants in October 2000.

The new testing method immediately proved to be popular and was chosen by a significant majority of applicants in the earliest months the option was available. Those "early adopters" enjoyed a very high rate of success. From November 1, 2000, through March 31, 2001, a total of 1,216 license applicants took the examination by computer, and 897 of those applicants or 73.8% passed their examination.

These results contrast starkly with the passing rates for applicants who elected the traditional paper and pencil method of testing. From November 2000, the first month valid comparisons between the two methods of testing could be made, through March 31, 2001, a total of 293 license applicants took the examination by paper and pencil. Only 132 of those applicants or 45.1% passed their examination – even though the examinations given by computer and by paper and pencil are identical!

## Dramatic Difference

The Commission staff has carefully studied the examination results reported for that four-month period to see what might explain the dramatic difference in performance between the two groups of applicants. Preliminary findings suggest that the much shorter lapse of time between course completion and examination by computer (as few as 5-7 days) is the primary reason for the significantly higher passing rate obtained by applicants

who elected the new testing option.

Applicants electing to take the examination by computer have reported extremely high levels of satisfaction with the testing process. They have found the technical aspects of taking the exam by computer to be simple and user-friendly – not at all intimidating.

siderable latitude in choice of examination dates and locations plus the significantly reduced time between course completion and license issuance, including elimination of the application filing deadline, are advantages well worth the \$58 computer testing fee.

Upon receipt of a properly completed application, the Commission is usually able to mail to an applicant who elects to take the examination by computer a notice of examination eligibility within three-five days, and the applicant will usually be able to schedule an examination within one or two business days of calling PSI.

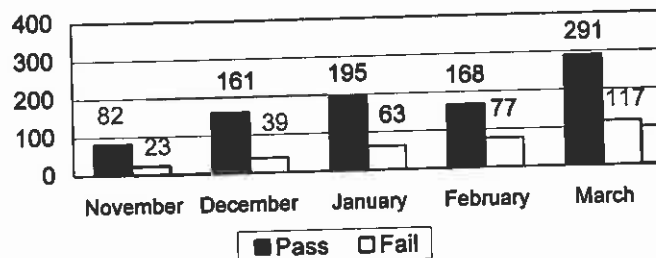
Also, electronic transmission of the applicant's examination results to the Commission from PSI allows the Commission to issue licenses to persons who passed the examination the very next business day, provided those applicants have no issues to be resolved concerning their character or fitness for licensure.

*Thus, it is quite feasible for applicants who choose examination by computer to*

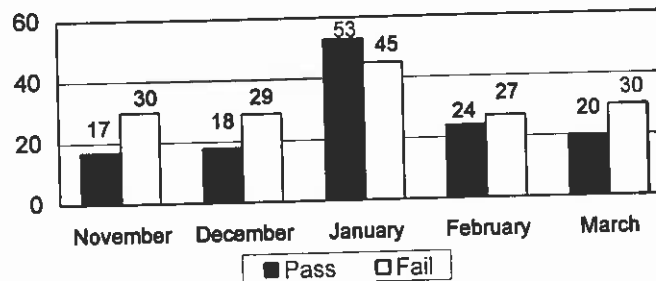
*have their licenses within 10-12 days of completing the pre-licensing course.*

By contrast, applicants who elect the paper and pencil examination must still meet the monthly application filing deadline (usually 30 days in advance of the examination date) and will not usually receive examination results until two weeks after their examination. The paper and pencil examination is administered only one day each month and offered only in Raleigh and Charlotte.

By Computer



By Paper and Pencil



The Commission's authorized testing service, PSI Examination Services of Glendale, California, has established testing centers in Asheville, Charlotte, Winston-Salem, Raleigh, Greenville and Wilmington. For the convenience of license applicants who live in northeastern North Carolina, PSI also offers the examination by computer at its testing facility in Norfolk, Virginia.

## Faster Licensing

Applicants who have elected to take the licensing examination by computer have found that the con-



**SEE REVERSE SIDE FOR INSTRUCTIONS ON REMOVAL AND USE**

Some firms also offer a form of dual agency called “designated agency” where one agent in the firm represents the seller and another agent represents the buyer. This option (when available) may allow each “designated agent” to more fully represent each party.

If you choose the “dual agency” option, remember that since a *dual agent’s* loyalty is divided between parties with competing interests, it is especially important that you have a clear understanding of

- what your relationship is with the *dual agent* and
- what the agent will be doing for you in the transaction.

This can best be accomplished by putting the agreement in writing at the earliest possible time.

***Seller’s Agent Working With a Buyer***

If the real estate agent or firm that you contact does not offer *buyer agency* or you do not want them to act as your *buyer agent*, you can still work with the firm and its agents. However, they will be acting as the *seller’s agent* (or “subagent”). The agent can still help you find and purchase property and provide many of the same services as a *buyer’s agent*. The agent must be fair with you and provide you with any “material facts” (such as a leaky roof) about properties.

But remember, the agent represents the seller—not you—and therefore must try to obtain for the seller the best possible price and terms for the seller’s property. Furthermore, a *seller’s agent* is required to give the seller any information about you (even personal, financial or confidential information) that would help the seller in the sale of his or her property. Agents must tell you *in writing* if they are *sellers’ agents* before you say anything that can help the seller. But **until you are sure that an agent is not a *seller’s agent*, you should avoid saying anything you do not want a seller to know.**

*Sellers’ agents* are compensated by the sellers.

WORKING  
WITH  
REAL  
ESTATE  
AGENTS

WORKING WITH REAL ESTATE AGENTS (Cut & Copy)

## Instructions for Removal and Use

- Open the closed staples and remove the page.
- Cut along the dotted line.
- Duplicate front and back on 8 ½ x 14" paper with your office copier.

### WORKING WITH REAL ESTATE AGENTS

When buying or selling real estate, you may find it helpful to have a real estate agent assist you. Real estate agents can provide many useful services and work with you in different ways. In some real estate transactions, the agents work for the seller. In others, the seller and buyer may each have agents. And sometimes the same agents work for both the buyer and the seller. It is important for you to know whether an agent is working for you as **your agent** or simply working **with** you while acting as an agent of the other party.

This brochure addresses the various types of working relationships that may be available to you. It should help you decide which relationship you want to have with a real estate agent. It will also give you useful information about the various services real estate agents can provide buyers and sellers, and it will help explain how real estate agents are paid.

#### SELLERS

##### ***Seller's Agent***

If you are selling real estate, you may want to "list" your property for sale with a real estate firm. If so, you will sign a "listing agreement" authorizing the firm and its agents to represent you in your dealings with buyers as your *seller's agent*. You may also be asked to allow agents from other firms to help find a buyer for your property.

Be sure to read and understand the listing agreement before you sign it.

***Duties to Seller:*** The listing firm and its agents must • promote your best interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have signed the listing agreement, the firm and its agents may not give any confidential information about you to prospective buyers or their agents

without your permission. But until you sign the listing agreement, you should avoid telling the listing agent anything you would *not* want a buyer to know.

***Services and Compensation:*** To help you sell your property, the listing firm and its agents will offer to perform a number of services for you. These may include • helping you price your property • advertising and marketing your property • giving you all required property disclosure forms for you to complete • negotiating for you the best possible price and terms • reviewing all written offers with you and • otherwise promoting your interests.

For representing you and helping you sell your property, you will pay the listing firm a sales commission or fee. The listing agreement must state the amount or method for determining the commission or fee and whether you will allow the firm to share its commission with agents representing the buyer.

##### ***Dual Agent***

You may even permit the listing firm and its agents to represent you **and** a buyer at the same time. This "dual agency relationship" is most likely to happen if an agent with your listing firm is working as a *buyer's agent* with someone who wants to purchase your property. If this occurs and you have not already agreed to a dual agency relationship in your listing agreement, your listing agent will ask you to sign a separate agreement or document permitting the agent to act as agent for both you and the buyer.

It may be difficult for a *dual agent* to advance the interests of both the buyer and seller. Nevertheless, a *dual agent* must treat buyers and sellers fairly and equally. Although the *dual agent* owes them the same duties, buyers and sellers can prohibit *dual agents* from divulging **certain** confidential information about them to the other party.

Some firms also offer a form of dual agency called "designated agency" where one agent in the firm represents the seller and another agent represents the buyer. This option (when available) may allow each "designated agent" to more fully represent each party.

If you choose the "dual agency" option, remember

- After copying, fold into four panels or provide to your buyers or sellers without folding.
- Give this brochure to your buyers or sellers at the time of first substantial contact. If that contact is by phone, fax or email, mail the brochure to them within three days.
- Once your buyers or sellers complete the panel acknowledging receipt of this brochure, retain the panel in your files.

that since a dual agent's loyalty is divided between parties with competing interests, it is especially important that you have a clear understanding of • what your relationship is with the *dual agent* and • what the agent will be doing for you in the transaction.

## BUYERS

When buying real estate, you may have several choices as to how you want a real estate firm and its agents to work with you. For example, you may want them to represent only you (as a **buyer's agent**). You may be willing for them to represent both you and the seller at the same time (as a **dual agent**). Or you may agree to let them represent only the seller (**seller's agent** or **subagent**). Some agents will offer you a choice of these services. Others may not.

### **Buyer's Agent**

**Duties to Buyer:** If the real estate firm and its agents represent you, they must • promote your best interests • be loyal to you • follow your lawful instructions • provide you with all material facts that could influence your decisions • use reasonable skill, care and diligence, and • account for all monies they handle for you. Once you have agreed (either orally or in writing) for the firm and its agents to be your *buyer's agent*, they may not give any confidential information about you to sellers or their agents without your permission. But **until you make this agreement with your buyer's agent, you should avoid telling the agent anything you would *not* want a seller to know.**

**Unwritten Agreements:** To make sure that you and the real estate firm have a clear understanding of what your relationship will be and what the firm will do for you, you may want to have a written agreement. However, some firms may be willing to represent and assist you for a time as a *buyer's agent* without a written agreement. But if you decide to make an offer to purchase a particular property, the agent must obtain a written agency agreement. If you do not sign it, the agent can no longer represent and assist you and is no

*Continued on the back*

## WORKING WITH REAL ESTATE AGENTS

### ***This is not a contract***

By signing, I acknowledge that the agent named below furnished a copy of this brochure and reviewed it with me.

\_\_\_\_\_  
*Buyer or Seller Name (Print or Type)*

\_\_\_\_\_  
*Buyer or Seller Signature*

\_\_\_\_\_  
*Buyer or Seller Name (Print or Type)*

\_\_\_\_\_  
*Buyer or Seller Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Firm Name*

\_\_\_\_\_  
*Agent Name*

### ***Disclosure of Seller Subagency***

☐ *When showing you property and assisting you in the purchase of a property, the above agent and firm will represent the SELLER. For more information, see "Seller's Agent Working with a Buyer" in the brochure.*

*Buyer's Initials Acknowledging Disclosure:* \_\_\_\_\_

*Agents must retain this acknowledgment for their files.*

WORKING WITH REAL ESTATE AGENTS (Cut & Copy)

**Do Not Use Until July 1, 2001.**



longer required to keep information about you confidential. Furthermore, if you later purchase the property through an agent with another firm, the agent who first showed you the property may seek compensation from the other firm.

Be sure to read and understand any agency agreement before you sign it.

**Services and Compensation:** Whether you have a written or unwritten agreement, a *buyer's agent* will perform a number of services for you. These may include helping you • find a suitable property • arrange financing • learn more about the property and • otherwise promote your best interests. If you have a **written** agency agreement, the agent can also help you prepare and submit a written offer to the seller.

A *buyer's agent* can be compensated in different ways. For example, you can pay the agent out of your own pocket. Or the agent may seek compensation from the seller or listing agent first, but require you to pay if the listing agent refuses. Whatever the case, be sure your compensation arrangement with your *buyer's agent* is spelled out in a buyer agency agreement before you make an offer to purchase property and that you carefully read and understand the compensation provision.

#### **Dual Agent**

You may permit an agent or firm to represent you **and** the seller at the same time. This "dual agency relationship" is most likely to happen if you become interested in a property listed with your *buyer's agent* or the agent's firm. If this occurs and you have not already agreed to a dual agency relationship in your (written or oral) buyer agency agreement, your *buyer's agent* will ask you to sign a separate agreement or document permitting him or her to act as agent for both you and the seller. It may be difficult for a *dual agent* to advance the interests of both the buyer and seller. Nevertheless, a *dual agent* must treat buyers and sellers fairly and equally. Although the *dual agent* owes them the same duties, buyers and sellers can prohibit *dual agents* from divulging **certain** confidential information about them to the other party.

# New Topics, Cover Designs, Some Text Changes In Progress for Popular Q&A Brochure Series



The popular series of seven *Questions and Answers* brochures is undergoing expansion along with new cover designs and some text changes. The Real Estate Commission started the series in the early 1990s.

A new topic, *Questions and Answers on: Home Inspections*, will be available. It will discuss the various facets of the home inspection process for the prospective homeowner and is being published by the Commission in partnership with the North Carolina Home Inspector Licensure Board.

Later this year, a brochure on subdivisions and planned communities is planned for publication as part of the series.

## New Agency Brochure

Being phased out is *Questions and Answers on: Who Real Estate Agents Represent*. The new *Working With Real Estate Agents*, a copy of which appears in the center of this *Bulletin*, takes its place.

New cover designs using bold, bright colors will differentiate the Q&A brochures from a distance when they are displayed in a rack in your brokerage offices.

In addition, some minor text changes are being made. *Questions and Answers on: Purchasing*

*Coastal Real Estate in North Carolina* will contain more emphasis on the details of construction features best utilized to reduce or prevent storm damage.

## Printing Underway

*Questions and Answers on: Condos & Townhouses* is being revised to incorporate information from the recently enacted Planned Communities Act.

Five brochures are being printed

now: *Fair Housing*, *Tenant Security Deposits*, *Coastal Real Estate*, *Home Inspections* and *Condos & Townhouses*. Only the cover is being changed on the first two.

*Renting Residential Real Estate* must await further depletion of inventory. Its Spanish language counterpart, *Preguntas y Respuestas sobre Alquiler de Inmuebles para Vivienda*, already bears the new cover design. ■

## Spanish Language Brochure Popular With Brokerage Firms

Strong demand for the Real Estate Commission's new Spanish language brochure, *Preguntas y Respuestas sobre Alquiler de Inmuebles para Vivienda*, affirms the U.S. Census figures that report significant increases in North Carolina's Hispanic population.

Published last fall, the brochure is already a "best seller", ranking as the third most requested publication out of seven in the *Questions and Answers* series in the four months through March 2001.

Only *Questions and Answers On: Who Real Estate Agents Represent* and *Fair Housing* outdraw the new publication and the latter just barely. The brochure is a direct translation of the Commission's *Questions and Answers On: Renting Residential Real Estate*.

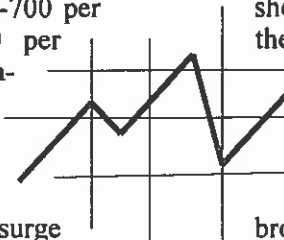
Licensees may request this free brochure on the order form found in every issue of the *Bulletin*.

## Application Numbers in State of Flux

For several years, the number of license applications accepted by the Commission was very steady, with salesperson applications numbering about 500-700 per month and broker applications at 125-150 per month. The increase in the salesperson education requirement to 67 hours effective October 1, 2000 has had a substantial effect on salesperson applications during the past several months.

First, the planned change precipitated a big surge in applications last summer by those wanting to qualify prior to the education increase. Then, for the first few months following October 1, the number of salesperson applications declined dramatically to only about 200 per month. Now, the Commission is seeing the number of salesperson applicants steadily increase again, with the

present application level running at about 420 per month. So, while the education increase had a significant short-term effect, it remains to be seen what the long-term effect will be.



The October 1, 2000 license law changes also had a major impact on broker license applications. Now that salespersons can qualify for a broker license simply by completing a 60-hour broker course, with **no additional license examination**, the number of broker applications

has increased to nearly 500 per month. With some 36,500 salesperson licensees who are eligible to upgrade to a broker license without examination, the number of broker applications could remain high for a long time. ■

# Zoning, Insurance, Flood, Setback Issues Important When Selling Beach Properties

By Thomas R. Miller, Legal Counsel

John was feeling pretty good about himself. He had a signed contract in his pocket; the ink on the seller's signature was barely dry. In all his years as a real estate broker at the beach, he had seldom sold one of his listings so quickly or so easily.

The property was a nice ocean-front duplex. When it was built in 1995 the structure was originally a single-family house on pilings. Two years after it was finished, however, the owners enclosed the area underneath into another, entirely separate dwelling unit containing two bedrooms, a living room, kitchen and bath. Although the owners had done the work themselves, it looked really good and the income from summer rentals for the two units combined would make a significant contribution toward the buyer's mortgage payments. The property had practically sold itself.

## Potential Disaster

Little does John know that his self-congratulations are premature. The deal he thought was so easy is, in fact, a potential disaster.

First, the property is in a single-family home zone under the local zoning ordinance. Under the ordinance, it was unlawful for the owners to add the second unit and operate the property as a duplex. John had ignored the clear "red flags" warning of the problem. He should have noticed that this was the only duplex in the area and that all of the nearby houses were single-family dwellings. He should have been

concerned when he learned that the owners had built the downstairs unit themselves.

Second, because the property is right on the ocean, it is located in the "V Zone" or highest risk area on the flood map promulgated by the Federal Emergency Management Administration or FEMA. Under



FEMA's rules and the local flood plain ordinance, it is usually impermissible to enclose the ground-level space under buildings in the highest risk zone unless the enclosure is for storage, parking, or access only. Space enclosed in violation of applicable flood hazard laws is uninsurable. John did not consult the FEMA map. Again, John should have been worried about the potential flood hazard when he learned that his seller-clients had enclosed living space in the area below their oceanfront property.

Third, because the house is located only 30 feet behind the vegetation along the beach, it does not conform with the current ocean setback requirements established un-

der the North Carolina Coastal Area Management Act. This setback line is at least 60 feet behind the first line of stable, natural vegetation in all ocean front areas and in some areas along the North Carolina coast, the minimum setback may be even greater. When John's seller-clients enclosed the lower unit, they neglected to apply for and obtain the required CAMA permit. John paid no attention to the proximity of the house to the vegetation line when he listed it.

## Expensive Surprises

Because John failed to heed the clear warning signals, he disclosed no problems to the buyers. His sellers checked only the "no representation" boxes on the Residential Property Disclosure Form.

If John's unsuspecting buyers close the deal without discovering the

substantial code violations affecting the property, they may face some very unpleasant and expensive surprises. State and local enforcement officials could require them to pay fines and bring the property into compliance by eliminating the lower level living space. Not only would this be costly in terms of labor and materials, the buyers would lose the rental income from the unit as well.

Even if the violations slipped the attention of enforcement officials, the buyers would not be able to collect on insurance or obtain permits to restore the lower unit if it were significantly damaged by a storm, fire, or other calamity. When these

(See *Selling*, page 15)

# Selling Beach Properties

*Continued from page 14*

problems finally surface, the buyers will surely blame John for failing to disclose them.

What should John have done differently? As a real estate professional active in a coastal community, John should have been more aware of the serious risks that erosion, flooding, and storms pose for nearly all man-made structures on the beach. And while the Real Estate Commission does not expect all real estate agents to become master builders or environmental experts, the Commission does expect its licensees to be generally familiar with the regulatory requirements which govern the homes and other properties they sell in their market areas.

## Only Duplex

John should have noticed that the subject property was the only duplex in a neighborhood of single-family houses. When his seller-clients informed him that they had added the second unit themselves, he should have thought to inquire about building and zoning code compliance. After years of selling homes at the beach, John should have been aware of the strict building setback rules imposed under CAMA and he should have known that houses separated from the sandy beach by little or no vegetation may have problems.

Had John paid attention to these warning signals, he could have easily discovered the zoning, flood hazard, and CAMA violations simply by contacting the local government inspections office with jurisdiction over the property. Not only does that office issue building permits and enforce the local zoning ordinance, it also acts as the permitting authority for the state under CAMA.

With the information he obtained from the building inspector, John could have discharged his duty

under the Real Estate License Law by counseling his seller-clients about the violations and disclosing the problems to the buyers. Unfortunately, John failed to anticipate the problems. He did not call the building inspector and now the buyers and sellers are headed for trouble - trouble that could involve the courts, the Real Estate Commission, and maybe John's real estate license.

## Caveat

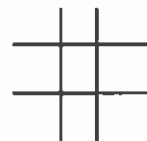
Licensees working at the beach should be especially sensitive to potential zoning, flood hazard, insurance, and CAMA setback issues. Whenever the property in question is in close proximity to the shoreline or includes ground level living space, it is reasonable to be concerned about possible ordinance violations, insurance coverage, and the ability to repair or rebuild the property if it should suffer significant damage.

Agents dealing with such properties would always be wise to consult with local building inspections officials when listing or selling such properties. Agents working with coastal real estate should be familiar with the Commission's publication, *Questions and Answers on: Purchasing Coastal Real Estate in North Carolina* and should distribute copies to their buyer and seller clients. This brochure may be ordered using the publications order form on page 5 of the *Bulletin*.



## Ways the Commission Web Site Makes Things Faster and Easier for You!

- 1) Renew your license online in minutes.
- 2) Change your residence and email address, phone and fax numbers.
- 3) Check on your completed continuing education credits.
- 4) Plan class attendance with the frequently updated continuing education schedule.
- 5) Also, plan class attendance and register online with the complete Broker-in-Charge course schedule.
- 6) Register for the Basic and Resort Trust Account courses.
- 7) Download any of 20 forms.
- 8) Research past issues of the Bulletin.
- 9) Purchase rosters of new licensees and/or applicants.



[www.ncrec.state.nc.us](http://www.ncrec.state.nc.us)

# Survey Types Vary for Land Use, Loan Approvals, Subdivision Plans



*Know more about the different types of surveys in this article reprinted from the brochure, Facts You Should Know About Having Your Land Surveyed, by permission of the North Carolina Society of Surveyors, Inc.*

## BOUNDARY SURVEY

A survey of the boundary of property according to the description in the recorded deed. Interior improvements such as: buildings, drives, etc., are not located. Any improvements along the boundary affecting the use of or title to the property are located, such as: fences, drives, utilities, buildings, sheds, streets, etc. Missing corner markers are replaced. A map showing the boundaries and improvements along the boundaries is prepared.

## LOCATION SURVEY

A boundary survey with the additional location of all the interior improvements. Missing corner markers are replaced. A map showing the boundaries and improvements is prepared. This type of survey is required for the acquisition of a loan.

## TOPOGRAPHIC SURVEY

A survey locating all improvements and topographic features such as: elevations of the land, embankments, contours, trees, watercourses, roads, ditches, utilities, etc. This survey can be used in conjunction with a Location Survey in order to prepare a Site Design Map, a Subdivision Map, or an Erosion Control Plan.

## SITE PLANNING SURVEY

This survey uses a boundary and topographic survey as a base to design future improvements. It can be a design for a house, a residential subdivision, a store, a shopping center, a new street or highway, a playground, or anything else.

## SUBDIVISION SURVEY

This often includes a topog-

raphic survey of a parcel of land that will be divided into two or more smaller tracts, lots or estate division. This can also be used for site design of lots, streets and drainage. It is for construction and recording.

## CONSTRUCTION SURVEY

Using surveying techniques to stake out buildings, roads, walls, utilities, etc. This includes: horizontal and vertical grading, slope staking, and final as-built surveys.

## ALTA/ACSM SURVEY

This survey is a very detailed survey often required by lending institutions. The request for this survey must be in writing and be accompanied by all of the deeds and easements affecting the subject property, as well as the deeds to adjoining properties. A list of items to be located as noted in the ALTA/ACSM publication can also be included. ■

## Commission's Extern Program Earns UNC Law Student Full Course Credit

Patricia Boyer, a third-year law student at the University of North Carolina, earned a full three-hour course credit for working as an extern with the Real Estate Commission's Legal Services Division during the spring semester.

"It also gave me experience working in a public environment," the Columbus, Ohio, native pointed out as she neared semester's end and graduation in May. "I now know government is one area where I might find work that interests me."

### Job Hunt Ahead

With the Ohio state bar exam and a job hunt immediately ahead of her, the externship will be especially valuable in guiding her choices for employment. She adds it to an internship held last summer in the corporate practice of a large Columbus law firm.

Each year, the Commission's Legal Services Division provides "real world" working experience through intern and extern placement. Part of Patricia's work during this past semester involved conducting preliminary research to make factual determinations in complaints and observing hearings before the Commission. Each week, she emailed a journal of her activi-

ties to her professor.

Application for the externship was made through the UNC Law School extern office where the Commission posts its availability as a public interest placement site for law students. An extern may also be chosen for the fall semester of each year. Under the program, a student works 10 hours per week or a total of 140 hours for one semester's three-hour course credit.

### Summer Internships

In addition to fall and spring semester externships, one or two students, usually from area law schools and with an interest in public service, are chosen for summer internships. The Commission conducts interviews and then chooses the one or two students most qualified overall. They work full time for 10 weeks and, like externs, assist with consumer complaints and other legal issues.

"Both the Commission and the students benefit from working together," said Miriam Baer, Assistant Director of the Legal Services Division. "The Commission gains extra assistance on legal matters while the student gains experience and education in his or her chosen profession."





# NORTH CAROLINA REAL ESTATE MANUAL

The *North Carolina Real Estate Manual* is a publication of the North Carolina Real Estate Commission. The *Manual* addresses the basics of the state's real estate law and brokerage practice. It is intended to serve both as the textbook for the real estate broker pre-licensing course (60 hours) and as a reference book 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](http://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.

### BY MAIL, FAX OR EMAIL

Mail, fax or email the form below with payment. For credit card payments, MasterCard and Visa are accepted. For checks, please send only cashier's or certified check or money order, payable to: North Carolina Real Estate Manual.

MAILING ADDRESS:	FAX/VOICE MAIL:	EMAIL:
North Carolina Real Estate Manual P. O. Box 7484 Winston-Salem, NC 27109	1-800-529-9162	manual@ncrec.state.nc.us

**PLEASE DO NOT ORDER THE MANUAL FROM THE REAL ESTATE COMMISSION.**

### Order Form

## NORTH CAROLINA REAL ESTATE MANUAL

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Street (NOT P.O. BOX)

(City, State Zip)

( )

Telephone

Email

Single Manual @ \$37.75\* (incl. S&H) \$ 37.75

Additional Manuals @ \$32.75\* each (incl. S&H) X \_\_\_\_\_ \$ \_\_\_\_\_

Quantity

TOTAL \$ \_\_\_\_\_

☐ MasterCard ☐ Visa

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Exp Date

Signature: \_\_\_\_\_

\*Manual sales price is \$29.95 plus tax at \$1.80 and shipping. Please allow 7 business days from receipt of payment for delivery.

# 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.*

**AALL STARR REALTY GROUP LLC, T/A ALL AMERICAN REALTY (Yadkinville)** - The Commission accepted the permanent voluntary surrender of the firm broker license of Aall Starr Realty Group LLC, t/a All American Realty effective April 30, 2001. The Commission dismissed without prejudice allegations that Aall Starr Realty Group violated provisions of the Real Estate License Law and Commission rules. Aall Starr Realty Group neither admitted nor denied any misconduct.

**TERRY L. BRAY (Charlotte)** - The Commission accepted the permanent voluntary surrender of Mr. Bray's broker license effective January 16, 2001. The Commission dismissed without prejudice allegations that Mr. Bray violated provisions of the Real Estate License Law and Commission rules in connection with his handling of tenant security deposits for his own residential units. Mr. Bray neither admitted nor denied any misconduct.

**LEONARD M. BROOKS (Fayetteville)** - By Consent, the Commission suspended Mr. Brooks' salesperson license for one year effective December 1, 2000. 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 Mr. Brooks failed to determine the accuracy of material facts concerning the septic system, type of heat and suitability for a pool of a property sold to buyers he represented. The Commission noted that Mr. Brooks compensated the buyers for their loss.

**CAROLINA REALTY OF CHAPEL HILL, INC. (Chapel Hill)** - By Consent, the Commission reprimanded Carolina Realty of

Chapel Hill, Inc., effective March 1, 2001. The Commission found that the firm did not properly maintain trust account records and failed to disclose its interests in a mortgage company and a maintenance and cleaning service to property owner-clients. The Commission noted that the trust account has been fully funded and no consumer was harmed as a result.

**ELDON W. COX (Southern Pines)** - By Consent, the Commission suspended Mr. Cox's broker license for six months effective December 1, 2000. The Commission found that Mr. Cox, while broker-in-charge of a real estate brokerage firm, was responsible for holding in escrow a \$25,000 earnest money deposit. The Commission further found that after a dispute arose between the buyer and seller prior to closing, Mr. Cox disbursed the money to the seller despite the fact that Mr. Cox was personally aware of the dispute and had received specific instructions from the buyers to leave the money in escrow. The Commission further found that the buyers had to institute a civil suit to recover their earnest money.

**NORWOOD F. CRAWFORD (Wilmington)** - The Commission accepted the permanent voluntary surrender of Mr. Crawford's broker license effective March 1, 2001. The Commission dismissed without prejudice allegations that Mr. Crawford violated provisions of the Real Estate License Law and Commission rules. Mr. Crawford did not admit any misconduct.

**HELEN S. DANIEL D/B/A DANIEL ASSETS, LTD. (Charlotte)** - By Consent, the Commission revoked Ms. Daniel's broker license effective November 20, 2000. The Commission found that from July 1996 until June 1997,

Ms. Daniel conducted real estate brokerage while her license was on inactive status. The Commission further found that while Ms. Daniel allowed her broker license to become inactive again in July 1998, and expire on June 30, 2000 for five weeks, she continued to conduct brokerage services until November 2000. The Commission further found that Ms. Daniel had failed to maintain her trust account records as required by the License Law and Commission rules, and an audit of her trust accounts revealed that her liabilities exceeded her assets in those accounts by at least \$10,000.

**FONVILLE-MORISEY REALTY, INC., dba FONVILLE-MORISEY CENTER FOR REAL ESTATE STUDIES (Raleigh)** - By Consent, the Commission reprimanded Fonville-Morisey Center for Real Estate Studies effective November 28, 2000. The Commission found that the Center commenced a broker prelicensing course at a location in Cary without first obtaining licensure from the Commission for that location.

**LARRY D. FORBES (Wilson)** - By Consent, the Commission reprimanded Mr. Forbes effective November 1, 2000. The Commission found that Mr. Forbes had failed to ascertain the true location of a lot listed by his firm, and that he had shown a lot that was not for sale to a representative for a church. The Commission further found that the church purchased the listed lot, believing it to be the one Mr. Forbes had shown to the church's representative, and that the purchased lot was in fact unsuitable for the church. The Commission noted that the church and its representative have been reimbursed for their expenses in this transaction.

*(See Disciplinary, page 19)*

# Disciplinary Action

*Continued from page 18*

**LAFAN FORBES (Wilson)** - By Consent, the Commission reprimanded Mr. Forbes effective November 1, 2000. The Commission found that Mr. Forbes had failed to ascertain the true location of a lot listed by the firm where he was principal broker and broker-in-charge, and that an agent in the firm had shown a lot that was not for sale to a representative for a church. The Commission further found that the church purchased the listed lot, believing it to be the one Mr. Forbes' agent had shown to the church's representative, and that the lot was in fact unsuitable for the church. The Commission noted that Mr. Forbes has paid the church \$11,000 in restitution.

**FORBES REALTY, INC. (Wilson)** - By Consent, the Commission reprimanded Forbes Realty, Inc. effective November 1, 2000. The Commission found that Forbes Realty, Inc. had failed to ascertain the true location of a lot listed by the firm, and that the firm had shown a lot that was not for sale to a representative for a church. The Commission further found that the church purchased the listed lot, believing it to be the one Forbes Realty, Inc. had shown to the church's representative, and that the lot was in fact unsuitable for the church. The Commission noted that Forbes Realty, Inc. has paid the church \$11,000 in restitution.

**COWAN L. GRIFFIN (Chapel Hill)** - By Consent, the Commission reprimanded Mr. Griffin effective March 1, 2001. The Commission found that Mr. Griffin, as broker-in-charge of a licensed firm, did not properly maintain trust account records and failed to disclose to property owner-clients his interests in a mortgage company and maintenance and cleaning service. The Commission noted that the trust account has been fully funded and no consumer was harmed as a result.

**IQ REALTY CONSULTANTS, INC. (Charlotte)** - By Consent, the

Commission revoked IQ Realty Consultants, Inc.'s broker license effective December 14, 2000. The Commission found that IQ Realty Consultants, Inc.'s liabilities to the property owners for whom it managed properties exceeded the balance of funds on hand in its trust account by a minimum of \$13,500.

**INNA DENG (JOHNSON) (Raleigh)** - By Consent, the Commission reprimanded Ms. Deng effective February 8, 2001. The Commission found that Ms. Deng acted as a buyer agent without first obtaining a written agreement as required by Commission Rule.



**KATHLEEN M. JOHNSON (Garner)** - The Commission accepted the voluntary surrender of Ms. Johnson's broker license for two years effective August 1, 2000. The Commission dismissed without prejudice allegations that Ms. Johnson violated the Real Estate License Law and Commission rules. Ms. Johnson did not admit any misconduct.

**LIFESTYLE COMMUNITIES, LTD. (Southern Pines)** - By Consent, the Commission reprimanded Lifestyle Communities, Ltd. effective November 16, 2000. The Commission found that Lifestyle Communities, Ltd., while engaged in the real estate brokerage business, failed to use properly designated trust accounts for the funds of others. The Commission further found that after Lifestyle Communities, Ltd. decided to discontinue its resort rental business and noti-

fied its clients that it would no longer rent their properties, the firm continued to act as a rental broker for these properties without the knowledge or consent of its former clients.

**JOHN N. MICHELOTTI (Yadkinville)** - The Commission accepted the permanent voluntary surrender of Mr. Michelotti's broker license effective April 30, 2001. The Commission dismissed without prejudice allegations that Mr. Michelotti violated the Real Estate License Law and Commission rules. Mr. Michelotti neither admitted nor denied any misconduct.

**CHRISTINE F. MICHELOTTI (Yadkinville)** - The Commission accepted the permanent voluntary surrender of Ms. Michelotti's broker license effective April 30, 2001. The Commission dismissed without prejudice allegations that Ms. Michelotti violated provisions of the Real Estate License Law and Commission rules. Ms. Michelotti neither admitted nor denied any misconduct.

**DIXIE L. POWELL (Greenville)** - By Consent, the Commission reprimanded Ms. Powell effective February 7, 2001. The Commission found that Ms. Powell, a licensed salesperson, failed to amend her contract to purchase a home to disclose the withdrawal of earnest money from the trust account of her broker-in-charge, failed to notify the lender or the closing attorney of this withdrawal and signed a false settlement statement indicating that the earnest money was on deposit.

**ARVIL L. PRICE, JR. (Mooresville)** - By Consent, the Commission accepted the voluntary surrender of Mr. Price's broker license for a period of two years, effective April 1, 2001. The Commission dismissed without prejudice allegations that Mr. Price violated the Real Estate License Law. Mr. Price did not admit any misconduct.

*(See Disciplinary, page 20)*

# Disciplinary Action

*Continued from page 19*

**ROBERT L. SCHMITZ** (Durham) - The Commission accepted the voluntary surrender of Mr. Schmitz's broker license for a period of one year effective November 16, 2000. The Commission dismissed without prejudice allegations that Mr. Schmitz violated provisions of the Real Estate License Law and Commission rules in connection with his handling of tenant security deposits for his own residential rental units. Mr. Schmitz neither admitted nor denied any misconduct.

**MARQX A. SCOTT** (Charlotte) - By Consent, the Commission revoked Mr. Scott's broker license effective December 14, 2000. The Commission found that Mr. Scott's liabilities to the property owners for whom he managed properties exceeded the balance of funds on hand in his trust account by a minimum of \$13,500.

**JAMES A. SMITH, III** (Fayetteville) - By Consent, the Commission reprimanded Mr. Smith effective December 1, 2000. The Commission found that Mr. Smith failed to make certain that advertising done in the name of the firm where he was broker-in-charge was accurate and proper and failed to properly supervise two salespersons under his supervision. The Commission noted that Mr. Smith has since compensated buyers of property listed by the firm who suffered a loss as a result of false advertising by the salespersons.

**TWIDDY & COMPANY** (Duck) - By Consent, the Commission suspended the license of Twiddy & Company for 90 days effective April 1, 2001. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Twiddy & Company charged and deducted from owner proceeds a \$150 fee for each short-term rental unit when such a fee was not authorized by the management agreement between the Company and re-

spective property owners. The Commission noted that Twiddy & Company voluntarily agreed to refund the fee to each owner charged.

**DANNY K. WAFFER** (Fayetteville) - The Commission accepted the voluntary surrender of Mr. Waffer's salesperson license for three years effective November 30, 2000. The Commission dismissed allegations that Mr. Waffer violated provisions of the Real Estate License Law and Commission rules. Mr. Waffer did not admit any misconduct.

**LINDA M. WARD** (Greenville) - By Consent, the Commission reprimanded Ms. Ward effective October 1, 2000. The Commission found that Ms. Ward had failed to obtain the signatures of all of the sellers on a listing contract and on a listing contract extension. The Commission further found that Ms. Ward had obtained the signature of only one seller on the *Offer to Purchase and Contract*

when an offer was made on the property, and that another seller who had never signed the purchase contract chose not to proceed.

**WARD CREEK FARMS, INC.** (Greenville) - By Consent, the Commission reprimanded Ward Creek Farms, Inc. effective October 1, 2000. The Commission found that Ward Creek Farms, Inc. had failed to obtain the signatures of all of the sellers on a listing contract and on a listing contract extension. The Commission further found that Ward Creek Farms, Inc. had obtained the signature of only one seller on the *Offer to Purchase and Contract* when an offer was made on the property, and that another seller who had never signed the purchase contract chose not to proceed.

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