



## NORTH CAROLINA REAL ESTATE COMMISSION

# Real Estate Bulletin

Volume 28

Summer 1997

Number 2

## Commission welcomes new staff members

**Several new members recently joined the Real Estate Commission staff.**

**Janet B. Dutton** joins the Legal Services Division as Associate Legal Counsel. Janet graduated cum laude from Pembroke State University and received a law degree from UNC-Chapel Hill in 1988. Prior to her employment with the Commission, she worked for a law firm in Hillsborough for 8½ years, concentrating in the area of residential real estate. Janet will coordinate the activities of the Information Section of the Legal Services Division, screen consumer complaints against licensees, draft articles on legal topics and serve as Administrative Procedures Act Coordinator.

**Rebecca A. Sabel** rejoins the Legal Services Division as Information Officer, a position she left last year when she and her husband moved to Germany while he was stationed there with the military. Rebecca is a graduate of UNC-Greensboro. She has been a licensed real estate salesman in both North Carolina and Texas. Prior to her earlier employment with the Commission, she was associated with real estate firms in Wilmington and Durham. As Information Officer, Rebecca will answer inquiries from real estate licensees and consumers.

*(continued on page 7)*

## Commission elects Officers

**New Commission Chairman and Vice-Chairman will serve from August 1, 1997 - July 31, 1998.**

**Wanda J. Proffitt** of Burnsville has been elected Chairman of the Real Estate Commission for 1997 - 1998.



**Wanda J. Proffitt  
Chairman**

A licensed real estate broker and state-certified real estate appraiser, Mrs. Proffitt is owner and president of Carolina Mountain Realty, Inc., in Burnsville. She is also a Certified Residential Specialist (CRS), Certified Real Estate Brokerage Manager (CRB), and a Graduate of the REALTORS® Institute (GRI).

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**Mona S. Hill** of Pinehurst has been elected Vice-Chairman of the Real Estate Commission for 1997 - 1998.



**Mona S. Hill  
Vice-Chairman**

Mrs. Hill is a broker and has been active in real estate since 1964. She and her husband Don are co-owners of Hill Realty - with offices in Pinehurst and Southern Pines. Their son Barry is a rental agent with the firm, and their daughter Mitzie is a REALTOR® in Raleigh.

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## Fortieth Anniversary Supplement

The North Carolina Real Estate Commission celebrated its fortieth year of service to the state's real estate consumers and licensees on July 1, 1997. In honor of this occasion, a special *Anniversary Supplement* has been included in this edition of the *Real Estate Bulletin*.

## REAL ESTATE BULLETIN

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

### NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive  
P.O. Box 17100

Raleigh, North Carolina 27619 - 7100  
Phone 919/875-3700

James B. Hunt, Jr., Governor

### COMMISSION MEMBERS

Wanda J. Proffitt ..... Burnsville  
Chairman  
Mona S. Hill ..... Pinehurst  
Vice-Chairman  
Raymond A. Bass, Jr. .... Fayetteville  
John D. Bridgeman ..... Gastonia  
Sang J. Hamilton, Sr. .... Winton  
Billie J. Mercer ..... Wilson  
J. Kemp Sherron, III ..... Raleigh

Phillip T. Fisher  
Executive Director

### ADMINISTRATION

Mary Frances Whitley ..... Director  
Paula L. Lassiter ..... Financial Officer  
Vickie R. Crouse ... Data Proc. Administrator  
Carrie D. Worthington ... Publications Officer

### AUDITS & INVESTIGATIONS

Emmet R. Wood ..... Acting Director  
Gary R. Caddell ..... Sr. Auditor/Investigator  
Evelyn G. Johnston ..... Compliance Officer  
Jennifer K. Boger ..... Auditor/Investigator  
Michael B. Gray ..... Auditor/Investigator  
Warren H. Harper ..... Auditor/Investigator  
René L. Rhodes ..... Auditor/Investigator  
Jarrod L. Williams ..... Auditor/Investigator

### EDUCATION & LICENSING

Larry A. Outlaw ..... Director  
Anita R. Burt ..... Ed./Exam. Officer  
Pamela R. Milligan ..... Cont. Ed. Officer  
Diane Ursone ..... Licensing/Ed. Officer

### LEGAL SERVICES

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Spec. Dep. Attorney General  
Miriam J. Baer ..... Assistant Director  
Blackwell M. Brogden, Jr. .... Chief Dep. Lgl.  
Counsel  
Marilyn E. Tomei ..... Dep. Lgl. Counsel  
Janet B. Dutton ..... Assoc. Lgl. Counsel  
Christopher B. Smith ..... Spec. Investigator  
Stephen L. Fussell ..... Cons. Prot. Officer  
Robin F. Oliver ..... Cons. Prot. Officer  
Rebecca A. Sabel ..... Information Officer

Editor - in - Chief

Phillip T. Fisher

Editor

Carrie D. Worthington

## Commission Staff Update

The Association of Real Estate License Law Officials (ARELLO) has awarded the designation "Certified Real Estate Investigator" to Auditor/Investigator **Jennifer K. Boger**.

Auditor/Investigator **Michael B. Gray** has been designated a "Certified Investigator" by the Council on Licensure, Enforcement and Regulation (CLEAR).

**Daniel Guy** and **Dale Hensley** were employed as Legal Interns on a temporary basis this summer to assist with various projects in the

Commission's Legal Services Division. Both are rising third-year law students at UNC-Chapel Hill.

△△△△△△△

The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the **Bulletin**. Special Deputy Attorney General **Thomas R. Miller** discussed "designated agency" and other topics of special interest and concern to the

(continued on page 3)

### REGISTRATION FORM for BASIC TRUST ACCOUNT PROCEDURES COURSE MONTHLY - RALEIGH

Four (4) hours continuing education elective credit will be awarded for completion of the course. The course will begin at 1:00 p.m. and end at 5:00 p.m.

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

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

☐ September 9 ☐ October 7  
☐ November 11 ☐ December 9

Name \_\_\_\_\_ Phone \_\_\_\_\_  
(Daytime)

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

☐ Broker (License No. \_\_\_\_\_) Mail to: NC REAL ESTATE COMMISSION  
☐ Salesman (License No. \_\_\_\_\_) Attention: License Specialist  
☐ Bookkeeper P. O. Box 17100  
Raleigh, NC 27619-7100

Enclose \$35 tuition fee

# Commission Staff Update

(continued from page 2)

Real Estate Commission when he addressed the Chapel Hill Board of REALTORS®...Miriam J. Baer, the Commission's Assistant Director of Legal Services, attended a meeting of the Asheville Board of REALTORS® to talk about subjects that included agency disclosure and relationships...Chief Deputy Legal Counsel Blackwell M. Brogden, Jr.,

participated in a panel discussion entitled "State Regulators Speak Out" at the 1997 International Resort Development Convention and Exposition, sponsored by the American Resort Development Association in Orlando, Florida...Consumer Protection Officer Stephen L. Fussell discussed offers to purchase, calculating the square footage of

residential property, agency relationships and disclosure, and related issues, when he addressed the Lumberton Board of REALTORS®.

(Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Request for Program Presenter" form is available from the Commission Office or by calling (919) 850-2757.) □

## Rental brochure added to Q and A Series

The Real Estate Commission announces the publication of a new brochure, *Questions and Answers on: Renting Residential Real Estate*. The brochure will be reprinted in its entirety in future issues of the *Real Estate Bulletin*. As its title indicates, the new brochure addresses issues of interest to persons renting residential real estate.

The latest publication brings to six the number of informational brochures in the Commission's popular *Question and Answer* series. Other issues of interest to consumers addressed in the series are agency representation, Fair Housing, condominiums and townhouses, tenant security deposits and buying coastal property. All six brochures are available free from the Commission office. [Please refer to the order form on this page.]

## License Renewal Report

Renewal Applications Sent		Renewed by June 30 Deadline	
Brokers & Salesmen	75,896	62,084	(82%)
Firms	4,268	3,884	(91%)

### REAL ESTATE COMMISSION PUBLICATIONS ORDER FORM

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

( )

Name \_\_\_\_\_ Phone Number (Including Area Code) \_\_\_\_\_

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

#### Instructions

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

### EXAM RESULTS

	Passed	Failed
March		
Brokers	107	78
Salesmen	503	309
April		
Brokers	90	59
Salesmen	448	211
May		
Brokers	96	60
Salesmen	347	239



# Communicating with the Commission

If you wish to contact the North Carolina Real Estate Commission by phone or fax, mail or e-mail, please refer to the following information.

## North Carolina Real Estate Commission

### Mail

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

### Telephone

919/875-3700

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

### Subject Access Codes

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

### Interactive Voice Response

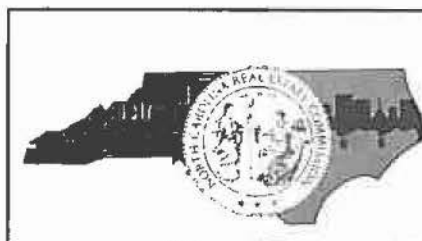
To retrieve licensee data (license status, CE credits, broker-in-charge information, etc.) from the Interactive Voice Response (IVR) system, use a touchtone phone to dial (919) 850-2753.

### E-Mail

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

### Internet

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



"Visit" the Commission on-line - your easy access to Commission information. The Internet brings to your computer

screen licensing information including the License Law, Commission Rules, Trust Account Guidelines, State Fair Housing Act, general information and guides, sample forms and real estate licensing forms. Also, exam schedules and review dates as well as Commission publications including the *Bulletin* and *CE Schedule*, Commission brochure and the complete *Question and Answer Series*.

### Fax-on-Demand

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

#### Administration/Records

- Request to Activate Broker or Salesman License, Notification of Salesman Supervision, Notification of Change of Broker's Business Address
- Broker-in-Charge Declaration
- Request for Reissuance of Real Estate License Certificate and/or Renewal Pocket Card

#### Education/Licensing

- Continuing Education Course Schedule
- Publications Order Form
- License Examination Schedule and License Examination Review Schedule
- Basic Trust Account Procedures Course Schedule and Registration Form
- Order Form for License Examination Candidate Roster
- Order Form for Register of New Licensees

#### Legal Services

- Complaint Form
- Criminal Conviction Reporting Form
- Residential Property Disclosure Statement
- Disclosure to Buyer From Seller's Agent or Subagent

#### Other

- Request for Program Presenter
- 1997 Commission Meeting Schedule

# New Officers

(continued from page 1)

## Proffitt

Founding-president of the Yancey-Mitchell Board of REALTORS®, Mrs. Proffitt is a past-president of both the N.C. Association of REALTORS® (NCAR) and the N.C. Real Estate Educational Foundation, Inc. She has served as a regional vice-president of NCAR and as associate dean of the REALTORS® Institute. In 1992, NCAR named Mrs. Proffitt "N.C. REALTOR® of the Year."

Mrs. Proffitt is a past-director of the National Association of REALTORS® and has chaired its State Leadership Forum as well as the N.C. REALTORS® Political Action Committee.

A recipient of the Governor's Individual Community Volunteer Award, Mrs. Proffitt serves on the Advantage West Economic Development Commission, is director of Blue Ridge Hospital Systems, a past-director of the Yancey County Chamber of Commerce and past-finance chairman of Higgins Memorial United Methodist Church.

Mrs. Proffitt and her husband Bob have two children - Robert and Amy - and three grandchildren.

Governor Hunt appointed Mrs. Proffitt to the North Carolina Real Estate Commission in 1994 for a three-year term which expired July 31, 1997. He recently reappointed her to another three-year term expiring July 31, 2000. □

## Hill

Mrs. Hill is a Graduate of the REALTORS® Institute (GRI) in Chapel Hill and is active in the N.C. Association of REALTORS® (NCAR), having served as a regional vice-chairman. A former chairman of the NCAR Grievance Committee, she has also served on the Finance Committee and numerous subcommittees. The Pinehurst/Southern Pines Area Board of REALTORS®, of which she is a past-president, named her "REALTOR® of the Year" in 1986.

She has served on the Board of Directors of the local Multiple Listing Service, the Administrative Board of Southern Pines United Methodist Church and the Advisory Board of Richmond Federal Savings and Loan.

A Certified Residential Specialist (CRS) and Certified Real Estate Brokerage Manager (CRB), Mrs. Hill is a past-president of the state chapters of both the CRS and CRB and was the recipient of the North Carolina CRS of the Year Award. She was also the recipient of the Sandhills Business and Professional Women's Organization's "Woman of the Year" Award, and was named "Associate of the Year" by the Moore County Homebuilders Association.

Appointed to the Commission by Governor Hunt in 1994, Mrs. Hill was recently reappointed for an additional three years. Her term will expire on July 31, 2000. □

## For your information...

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

Although advance notice is not required in order for you to attend, you are encouraged, when possible, to please notify the Commission of your plans to attend a scheduled meeting at least ten business days prior to the meeting, in order to ensure adequate parking and seating arrangements. Please mail your notice to the North Carolina Real Estate Commission, P. O. Box 17100, Raleigh, NC 27619-7100, or call the Commission office (919) 875-3700.

For your convenience, the following calendar lists the meeting dates for the next six months. □

### Commission Calendar

#### Meeting Dates

September 17

October 15

November 18

December 17

January 14, 1998

February 11

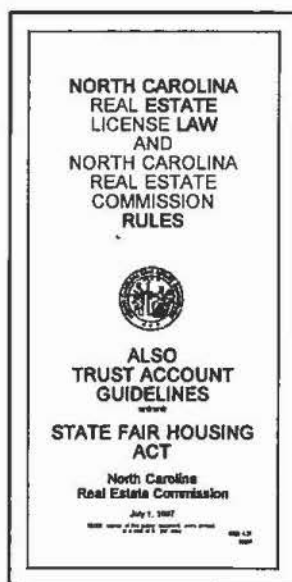
Meetings begin at 9 a.m. and are held in the conference room of the Real Estate Commission office, 1313 Navaho Drive, Raleigh, NC 27609, unless otherwise noted. [Please understand that circumstances sometimes necessitate changes in meeting dates and times.]

## In memoriam

*With deep regret, the Real Estate Commission announces the death of Mildred Combs of Raleigh. Mrs. Combs retired from the Real Estate Commission in 1991, after 14 years of employment with the Commission as an Assistant Records Specialist.*

*The Commission extends deepest sympathy to Mrs. Combs' family. ■*

# License Law and Rules pamphlet reprinted



They're back! The ever-popular pocket-size *License Law and Rules* pamphlet has been reprinted. Last reprinted in pamphlet form in 1992, the information has since been available in the Commission's larger booklet, *Real Estate Licensing in North Carolina*, which is designed for real estate license applicants.

Dated July 1, 1997, the pamphlet has been mailed to all active licensees and is now available upon request from the Commission office. Included in the current pamphlet, in addition to the License Law and Rules, are the Trust Account Guidelines and State Fair Housing Act. □

## Again in 1997... *It's Your Move!*

Again this year, the Real Estate Commission has funded the publication and delivery of *It's Your Move* to North Carolina high school students - continuing a tradition the Commission started in 1979.

Designed as a student's introduction to buying, selling, and renting real estate, the student manual is accompanied by a guide for use by classroom teachers. For the 1997-98 school year, 5,000 student manuals and 250 teacher guides are scheduled to be printed, bringing the total number of booklets distributed over the years to more than 325,000.

After the scheduled delivery at the beginning of the school year, a limited number of *It's Your Move* booklets will be available upon request from the Commission office. □

## Trust Account Courses on the move

The Commission's annual Trust Account Course Caravan has successfully completed another tour. The Commission's Audits and Investigations Division provided the Basic Trust Account Procedures course at seven locations throughout the state, with stops in Kill Devil Hills, Morehead City, Wilmington, Southern Pines, Asheville, Gastonia and Greensboro. The Trust Account Procedures for Resort Property Managers course was offered in Kill Devil Hills, Wilmington, Southern Pines and Asheville.

The Commission instituted the Caravan as a means of providing the courses to people who cannot get to Raleigh for any of the regular sessions, which are held monthly. [Please see "Registration Form" on page 2 of this *Bulletin*.] This year saw an increase in attendance - up from 161 attendees in 1996 to 218 in 1997. □

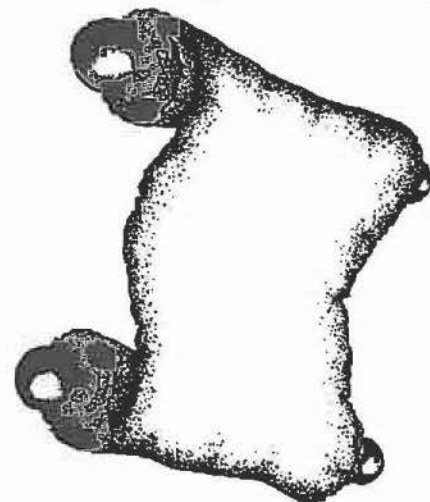
# Scholarship winners named

The North Carolina Real Estate Educational Foundation has named this year's winners of the Joe Schweidler Memorial Scholarship and Blanton Little Memorial Scholastic Achievement Award. The scholarships are sponsored by the Real Estate Commission.

The Joe Schweidler Memorial Scholarship was presented to Gordon B. Jones of Kitty Hawk, and Betty A. Hill of Greensboro received the Blanton Little Memorial Scholastic Achievement Award.

Awarded annually in honor and memory of the Real Estate Commission's former Executive Directors, the scholarships recognize outstanding achievement at the North Carolina REALTORS® Institute. Mr. Schweidler served the Commission as Executive Director from 1960 - 1975, and Mr. Little was Executive Director from 1975 - 1981.

The Commission joins the North Carolina Real Estate Educational Foundation in congratulating both scholarship recipients. □





# Educators meet in Chapel Hill

Record-setting attendance marks the Commission's eighteenth annual Real Estate Educators' conference.

*By Anita R. Burt, Education and Examination Officer*

The Real Estate Commission held its eighteenth annual state-wide conference for real estate educators on April 28 and 29 at the Omni Europa Hotel in Chapel Hill. The 163 attendees included prelicensing and continuing education instructors, school directors, course sponsors, and representatives of major publishers of real estate education materials.

Education and Licensing Director Larry Outlaw opened the conference by leading participants in an overview and discussion of proposed topics for the 1997-98 Continuing Education Update Course. Continuing Education Officer Pamela Milligan discussed the Commission's standards for approval of continuing education elective courses and presented detailed guidelines for course development. Instructors heard comments on their classroom performance from Licensing and Education Officer Diane Ursone, who had recently traveled

around the state to observe the quality of teaching in Commission-approved continuing education courses.

Highlights of the second day included presentations by John Conley, Professor of Law at UNC-Chapel Hill, and Deborah H. Long, Distinguished Real Estate Instructor (DREI) and author of numerous real estate publications. Professor Conley discussed aspects of copyright law of interest to educators, and Dr. Long explained the rapidly-occurring societal and technological changes which will affect real estate education in the 21st century. Education and Examination Officer Anita Burt described the process by which the Commission is updating its licensing examinations. She reported on the work of the Commission's Examination Subject Matter Advisory Committee and explained how the prelicensing courses and licensing examinations will be revised to include new topics and changes of

emphasis as recommended by the Committee and endorsed by the Commission.

In conjunction with the conference, the North Carolina Real Estate Educators Association (NCREEA) held its annual meeting and awards ceremony recognizing exceptional contributions to real estate education during the past year. Bill Gallagher of Charlotte was honored as "Educator of the Year" while Howard Perry and Walston Real Estate School received an award for "Program of the Year." NCREEA newsletter editor Mike Hughes received the "President's Award" for his outstanding service to the organization.

Also in attendance and assisting at the conference were Penny Childress, Assistant to the Director of Education and Licensing, and Continuing Education Specialist Faye Dunn, who helped with conference planning and pre-registration. □

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## Commission welcomes new staff members

*(continued from page 1)*

**Diane Ursone** has been employed in the Education and Licensing Division. Diane received both a B.S. and a Ph.D. from N.C. State University. A licensed broker since 1980, Diane comes to the Commission from a Raleigh real estate firm. As Licensing and Education Officer, Diane will coordinate the Commission's licensing process and evaluate instructors providing Commission-approved courses.

The Commission has filled another position in the Education and Licensing Division. **Vivian A. Sellers** has been employed as Education and Examination Specialist. Vivian moved to North Carolina

from Washington, D.C. She is a former real estate salesman and was previously employed with the national headquarters of The American Heart Association. In her new position with the Commission, Vivian will work with both the continuing education and examination programs.

The Commission has filled two vacancies in the Administration Division's Records Section. **Amanda M. Brown**, originally from Bennett, North Carolina, has been employed as a Records Specialist. Amanda attended Vance Granville Community College in Louisburg, where she majored in Business Administration. In her new position with the Commis-

sion, Amanda will assist with updating licensee records and maintaining permanent licensee files through optical imaging.

**Teresa L. Whitaker** has also been employed as a Records Specialist in the Administration Division's Records Section. She is another former employee who has recently rejoined the Commission staff. A native of Aiken, South Carolina, Teresa worked in county government in South Carolina and locally at a bank and several private businesses, and she has experience in optical imaging technology. Teresa will assist in converting microfilm files and records to optical imaging. □

# ***Your place at the beach: What real estate agents and developers should know about building, marketing and selling coastal property***

Are you a real estate agent or builder on the North Carolina coast? If so, check your calendar for these dates: **September 29** (Wilmington), **October 3** (Atlantic Beach), **October 16** (Nags Head). This is when the Real Estate Commission, in conjunction with UNC-Sea Grant and the Division of Coastal Management, will conduct a series of workshops of special interest to you.

Recognized experts will discuss such topics as erosion rates and control, construction standards, and disclosure requirements for real estate agents, as well as identify sources for additional information on buying and selling coastal real estate.



The workshops will begin at 9:00 a.m. and end at 4:00 p.m. **Real estate agents will receive four (4) hours continuing education elective credit for attending.**

Each workshop is limited to 125 persons, so registration will be on a first come-first served basis. To pre-register for one of the workshops, complete the following form (*make copies for additional persons*) and send it to the Commission with your **\$35 registration fee** (includes lunch).

Make your check payable to the N.C. Real Estate Commission. The form and fee must be received in the Commission office no later than 10 days prior to the workshop requested. Walk-ins will be accepted on a space-available basis only. □

## **YOUR PLACE AT THE BEACH: WHAT REAL ESTATE AGENTS AND DEVELOPERS SHOULD KNOW ABOUT BUILDING, MARKETING AND SELLING COASTAL PROPERTY**

### **Registration Form**

☐ **September 29**  
(Wilmington)

☐ **October 3**  
(Atlantic Beach)

☐ **October 16**  
(Nags Head)

Name \_\_\_\_\_ Phone \_\_\_\_\_  
(Daytime)

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

☐ Real Estate Agent (Lic. No. \_\_\_\_\_) ☐ Builder ☐ Other \_\_\_\_\_

Mail to: NC Real Estate Commission  
Attention: Education Specialist  
P.O. Box 17100  
Raleigh, NC 27619-7100

**ENCLOSE  
\$35  
REGISTRATION  
FEE**





**NORTH CAROLINA  
REAL ESTATE COMMISSION**

**1957 - 1997**

# **Real Estate Bulletin** *Anniversary Supplement*

Special Edition, Summer 1997

## **The North Carolina Real Estate Commission: *The First Forty Years!***

*By Phillip T. Fisher, Executive Director*

### **This is a Test**

Q. When was the Real Estate License Law enacted in North Carolina?

- (A) 1927
- (B) 1957
- (C) All of the above.

If you answered "C," go to the head of the class.

### **1927-1960**

Although it's a little-known fact, North Carolina first enacted a license law for real estate brokers and salesmen in 1927. That same year, a real estate commission was created; a secretary named (at \$75 per month); approximately 1000 licenses were issued and one revoked. However, because the law applied to only eight counties - Buncombe, Durham, Forsythe,

Guilford, Henderson, Lee, Rowan, and Wake - it was declared unconstitutional in 1939.

For the next eighteen years, North Carolina was again without any licensing requirements for real estate agents. But in 1957, the state

legislature considered another licensing bill - this one introduced by Senator Pat Cooke of Gastonia. According to newspaper accounts, the debate over the bill was lively. Nearly every occupation wanted to be exempt from licensing - farmers,

bankers, preachers and teachers. But when the dust settled, only lawyers came away with a limited exemption. The new law became effective July 1 of that year.

Governor Hodges presided over the swearing-in ceremony as Kenneth Smith (Raleigh), Hugh Mills (New Bern), E.S. Powell (Reidsville), J. Bart Hall (Belmont), and William Harrison (Rocky Mount) took the oath of office as the first members of the Real Estate Licensing Board.



**The current Real Estate Commission, left to right, seated: Wanda J. Proffitt (Burnsville), John D. Bridgeman (Gastonia), Billie J. Mercer (Wilson); standing: Sang J. Hamilton, Sr. (Winton), Mona S. Hill (Pinehurst), Raymond A. "Buddy" Bass, Jr. (Fayetteville), J. Kemp Sherron, III (Raleigh).**

*(continued on page II)*

## REAL ESTATE BULLETIN

### Anniversary Supplement

Published as a one-time special supplement in the Commission's regular quarterly newsletter to commemorate the Fortieth Anniversary of the North Carolina Real Estate Commission. 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 *Anniversary Supplement of the North Carolina Real Estate Commission Real Estate Bulletin*.

#### NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive  
P.O. Box 17100

Raleigh, North Carolina 27619 - 7100  
Phone 919/875-3700

James B. Hunt, Jr., Governor

#### COMMISSION MEMBERS

Wanda J. Proffitt ..... Burnsville  
Chairman  
Mona S. Hill ..... Pinehurst  
Vice-Chairman  
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Sang J. Hamilton, Sr. .... Winton  
Billie J. Mercer ..... Wilson  
J. Kemp Sherron, III ..... Raleigh

Phillip T. Fisher  
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#### ADMINISTRATION

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Paula L. Lassiter ..... Financial Officer  
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#### EDUCATION & LICENSING

Larry A. Outlaw ..... Director  
Anita R. Burt ..... Ed./Exam. Officer  
Pamela R. Milligan ..... Cont. Ed. Officer  
Diane Ursone ..... Licensing/Ed. Officer

#### LEGAL SERVICES

Thomas R. Miller ..... Lgl. Counsel, Director  
Spec. Dep. Attorney General  
Miriam J. Baer ..... Assistant Director  
Blackwell M. Brogden, Jr. .... Chief Dep. Lgl.  
Counsel  
Marilyn E. Tomei ..... Dep. Lgl. Counsel  
Janet B. Dutton ..... Assoc. Lgl. Counsel  
Christopher B. Smith ..... Spec. Investigator  
Stephen L. Fussell ..... Cons. Prot. Officer  
Robin F. Oliver ..... Cons. Prot. Officer  
Rebecca A. Sabel ..... Information Officer

Editor - In - Chief

Phillip T. Fisher

Editor

Carrie D. Worthington

# Real Estate Commission: The First Forty Years!

(continued from page I)

As 1957 progressed, approximately 2300 persons were issued licenses under the new law's "grandfather clause" - the first one being issued to C.E. Phillips, Jr. (Durham) on October 5 [See this *Bulletin Supplement*, page VII]. In December, the first licensing examination was administered. Fifty brokers and twenty-six salesmen passed and were licensed. Also that year, R. Harry Lewis, the Executive Secretary of the North Carolina Association of REALTORS®, was employed as the Board's Secretary-Treasurer.

#### 1960's

All was going well with the Real Estate Licensing Board as it entered the decade of the sixties. Then, in April, 1960, the constitutionality of the new Real Estate License Law was also challenged, and by the same person who successfully challenged the previous law more than twenty years earlier. But this time the challenge failed, with the North Carolina Supreme Court declaring that

It is our opinion that the real estate business affects a substantial public interest and may be regulated for the purpose of protecting and promoting the general welfare of the people. Real estate is one of the two great divisions of property rights, and bears as close a relation to public peace and welfare in our civilization as

any species of property rights. The business of acting as intermediary between seller and purchaser in real estate transactions, the business of the real estate broker or salesman, is a lawful business or calling, and anyone has a right under constitutional guarantees of liberty and pursuit of happiness to follow it.

#### 1970's

Secure in the knowledge that the license law had passed constitutional muster, North Carolina's 26th licensing board began expanding its program of service to the public during the seventies, focusing especially on real estate education. The Board began publishing the *Real Estate Bulletin* newsletter. North Carolina and Virginia inaugurated a new uniform licensing examination developed by Educational Testing Service. In 1974, the Commission's copyrighted textbook, *North Carolina Real Estate for Brokers and Salesmen*, was first published. And legislation was passed requiring persons to complete certain real estate education or experience before applying for licensure.

As the decade of the seventies drew to a close, the membership of the Licensing Board had expanded from five to seven members to include two "public members." A Recovery Fund was established for

(continued on page VIII)



# Meet the Real Estate Commission Staff

**Please note:** Staff members are listed alphabetically, left to right. Each number in parenthesis indicates the individual staff member's years of service with the Commission.



**Brenda H. Badger (8½)**  
License Specialist



**Miriam J. Baer (10)**  
Asst. Dir. of Lgl. Services



**Jennifer K. Boger (5½)**  
Auditor/Investigator



**Blackwell M.  
"Black" Brogden, Jr. (12½)**  
Chief Dep. Lgl. Counsel



**Amanda Brown (½)**  
Records Specialist



**Anita R. Burt (8½)**  
Ed./Exam. Officer



**Gary R. Caddell (7)**  
Sr. Auditor/Investigator



**Penny S. Childress (19¼)**  
Assistant to Dir. Ed./Lic.



**Naomi J. Cottle (23½)**  
Sr. Records Specialist



**Vickie R. Crouse (18½)**  
Data Proc. Admin.



**Ronald G.  
"Ron" Duranske (7½)**  
Examination Assistant



**Janet B. Dutton (½)**  
Associate Lgl. Counsel



**Phillip T. Fisher (22)**  
Executive Director



**Stephen L. Fussell (6)**  
Cons. Prot. Officer



**Michael B. Gray (2)**  
Auditor/Investigator



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# Meet the Commission Staff

*(continued from page III)*



**Jeanette H. Hamm (21)**  
Assistant to Executive Dir.



**Warren H. Harper (2)**  
Auditor/Investigator



**Wendy C. Harper (8)**  
Technical Support Mgr.



**Sammye G. Isenhour (7)**  
Legal Secretary



**Johnsie V. Jefferys (8)**  
Legal Secretary



**Frances N. Johnson (11½)**  
Assistant to Dir./Lgl. Services



**Wanda E. Johnson (5)**  
Lgl. Sec./Receptionist



**Evelyn G. Johnston (10)**  
Compliance Officer



**Vickie U. Jordan (8½)**  
Assistant to Dir. of  
Audits/Investigations



**Paula L. Lassiter, CPA (9½)**  
Financial Officer



**Thomas R. "Tom" Miller (15½)**  
Dir. of Lgl. Services, Lgl. Counsel  
Spec. Dep. Atty. Gen.



**Pamela R. Milligan (1½)**  
Continuing Ed. Officer



**Robin F. Oliver (2)**  
Cons. Prot. Officer



**Larry A. Outlaw (19)**  
Dir. of Ed. & Licensing



**Faye E. Ray (1)**  
Records Specialist



**Renée L. Rhodes (7)**  
Auditor/Investigator

*(continued on page V)*

# Commission Staff

(continued from page IV)



**Kellie T. Rimmer (6)**  
Receptionist



**Rebecca A. Sabel (1½)**  
Information Officer



**Vivian A. Sellers (½)**  
Ed./Examination Specialist



**Christopher B. Smith (8½)**  
Special Investigator



**Marilyn E. Tomei (7)**  
Deputy Legal Counsel



**Susan M. Tysor (4)**  
Records Specialist



**Diane Ursone (½)**  
Licensing/Ed. Officer



**Susanne H.  
"Susi" Viens (1½)**  
Records Specialist



**Reneé P. Weaver (7)**  
Accounting Technician



**Teresa L. Whitaker (5)**  
Records Specialist



**Mary Frances  
"Fran" Whitley (19)**  
Dir. of Administration



**Gloria T. Williams (26)**  
Sr. Applications Specialist



**Jarrod L. Williams (2)**  
Auditor/Investigator



**Emmet R. Wood, CPA (16)**  
Acting Director  
Audits/Investigations



**Carrie D. Worthington (18)**  
Publications Officer



□

# Twenty-nine...and holding!

By Carrie D. Worthington, Publications Officer

If you total her years of employment in various positions since college - elementary school teacher in Virginia, elementary, high school and substitute teacher in North Carolina, and Applications Specialist at the North Carolina Real Estate Commission - you get well over 30 years. But for Gloria Williams, the Commission's senior employee, it's 29 and holding! She isn't even *thinking* about retiring.

"I like my job," she said emphatically. And she must like it. She's worked with the Commission for almost 26 years - since the fall of 1971!

She laughed when she talked about her pre-employment interview with then Executive Director Joseph Schweidler.

"One of the things he asked me to spell was 'prosperity,'" she smiled. "I spelled it! I'm a good speller," said the former school teacher.

But Mrs. Williams' smile quickly faded when she remembered Mr. Schweidler's untimely death, and that of another former Executive Director, Blanton Little, as well as other staff and Commission members with whom she worked throughout the years.

"I've enjoyed working with the people here," she said wistfully.

When Mrs. Williams joined the Commission staff, the office was in downtown Raleigh in the BB&T Building. She compared the staff at that time to "what we have now. Back then, we had only two men and three women," she stated.

What we have now is a staff of 47, and a Commission with seven members instead of five. [The membership of the North Carolina Real Estate Licensing Board was increased from five to seven members by the 1979 Session of the General Assembly. By further legislative action in 1983, the name of the Licensing Board was changed to the North Carolina Real Estate Com-

mission. (See Commission history article starting on page I of this *Anniversary Supplement*.)]

"It's interesting seeing things change, how we've grown," Mrs. Williams said. "Of course, we didn't have computers," she continued. "We had to type or write out everything. We were self-sustaining. I was my own department - taking care of applications, doing my own letters."

Mrs. Williams still takes care of applications, and the applicants who send them. As Senior Applications Specialist, in addition to reviewing and processing all applications for salesman and broker licenses, she schedules applicants for examination and handles inquiries regarding applicant qualifications.

Much of her time is spent on the telephone, addressing topics that range from applicants' concerns about meeting the examination filing deadline, to questions about required documentation. And she answers all questions - both big and small - with the same patience and professionalism that has gained her the respect of her coworkers as well as licensees throughout the years. She is proud of her part in helping future licensees enter the real estate industry.

Mrs. Williams explained that when she joined the staff, there were only two real estate examination centers in North Carolina - one in Winston-Salem and one in Raleigh. Now the examination is given in eight cities throughout the state.

"We used to go and administer it. Mr. Little would give the instructions," Mrs. Williams reminisced. "We hire people [independent contractors] to do it now," she added.

"I forgot what year it was, but one month we had so many people - over 2,000 - we had to give the exam three or four days," she said.



Gloria Williams looks up from her work - but just briefly! She has lots of applications to process!

That year was probably 1979, when qualification requirements to sit for the broker exam increased from 30 to 60 classroom hours of instruction (or from 12 to 24 months' full-time experience as a licensed salesman). But Mrs. Williams remembers when some applicants qualified for licensure without examination.

"I had a file, and if a person called in, I checked it to see if they had a privilege license to sell real estate in 1957 [the year the Commission was founded]." If so, "we would issue them a license, under the Grandfather Clause, without having them sit for the exam."

Mrs. Williams remembers the Commission's move from the BB&T Building to the Brown-Rogers Building on Hillsborough Street, from there to 1200 Navaho Drive, and finally to our present address, 1313 Navaho.

She also remembers when we got our first computers, and lists that as one of the biggest changes she has seen since she has been employed by the Commission.

"It was a good change," she stated. "We can do more now, do things faster."

Mrs. Williams plans to be here to see additional changes in the future. She doesn't have any plans to retire.

"I'm not going to retire, to sit around and do nothing," she stated. "I enjoy working here - *really*," she exclaimed, as if, after 25+ years, anyone would doubt it! □



# He's Number 1!

*By Carrie D. Worthington, Publications Officer*



"I think the biggest thing I've seen was the establishment of the North Carolina Real Estate Licensing Board," C.E. Phillips, Jr., replied, when asked about changes in the real estate industry during his many years in the brokerage business. "I have the number one license."

Yes, Mr. Phillips received the first license ever issued by the North Carolina Real Estate Licensing Board - as the Commission was called in 1957 when it was founded by the Legislature to license and regulate the real estate industry. He was president of the North Carolina Association of REALTORS® at the time, and was active in the Association's campaign for regulation.

"When I started [in real estate], there was no regulation," Mr. Phillips continued, "except people would get a [privilege] license from the Revenue Service."

Mr. Phillips began his real estate career while he was a student at Duke University - by working part-time and during the summers at C.E. Phillips & Sons, a firm started by his father in 1926. He graduated from Duke in 1934 and began full-time employment at the firm. "I've been in it the rest of my life!" Mr. Phillips stated.

Mr. Phillips was vice-president of C.E. Phillips & Sons from 1950 to 1957 and president from 1957 to 1986. In 1986, he retired and sold the firm to his son-in-law, Jeff Jeffrey.

"The Computer Age is something that came along after I retired," Mr. Phillips said, in answer to a question on the subject. He reminisced

about how real estate was advertised only in the newspaper before the days of television and multiple listing services.

"I sold many-a-house for \$50 down and \$50 a month," Mr. Phillips said, in discussing the changes in real estate financing. He was quick to point out, "It was in the middle of the Depression."

And he remembers when the Research Triangle Park "was strictly undeveloped" and prime property there sold for as little as \$50 an acre!

Mr. Phillips has always been an advocate of continuing education for real estate agents, and was instrumental in establishing the Association of REALTORS® REALTOR® Institute for real estate studies at the University of North Carolina - Chapel Hill. We didn't have any mandatory requirements for continuing education back then," he said.

He speaks with pride of the Continuing Education Program that the Real Estate Commission

implemented in 1995. "The new program is something we worked real hard to get established," he said. "It's been so much admired by other states."

Mr. Phillips, himself, is much admired and held in high esteem by his peers - having been honored by the Association of REALTORS® as REALTOR® Emeritus, for 50 years of continuous service to the real estate business. According to his son-in-law, Mr. Phillips "is always volunteering his time and never asking for any recognition for it."

His real estate license still hangs in the office at C.E. Phillips & Sons. But C.E. Phillips, Jr., is no longer actively engaged in real estate brokerage. He keeps his license current, though, and completes the continuing education requirements necessary for active license status. And that license number? It's number 1!

**C.E. Phillips, Jr., has traded his desk at the office for a desk at home, but he hasn't lost his enthusiasm for the real estate industry that has always been such an important part of his life.**



# Real Estate Commission: *The First Forty Years!*

(continued from page II)

victims of embezzlement in real estate transactions. The position of Education Director was created. And the number of licensed brokers, salesmen and corporations had grown from approximately 10,000 in 1970 to nearly 42,000.

## 1980's

During the 1980's, women began entering the real estate business in record numbers. So too, the Real Estate Licensing Board was for the first time chaired by a woman. Dee McCandlish (Charlotte), who in 1978 became the first woman to serve on the Licensing Board, was elected chairman in 1981. Also a sign of changing times, the Real Estate Licensing Board became the "Real Estate Commission" in 1983 to distinguish it from local "boards" of REALTORS®. In the Commission's Raleigh office, typewriters were replaced by computers, and tens of thousands of records were converted to microfilm.

The Commission also undertook two very ambitious programs mandated by the General Assembly: The regulation of the timeshare industry, and a voluntary program for licensing and certifying real estate appraisers. These new programs, combined with heightened consumer expectations and a dramatic increase in the number of licensees (more than 80,000 by decade end) required a further expansion of the Commission staff and relocation to its current office.



**The North Carolina State Flag proudly waves in front of the Commission's current home on Navaho Drive in Raleigh.**

## 1990's

Enter the 1990's when the issues of "agency" and "disclosure" preoccupied the attention of the Real Estate Commission and real estate practitioners, and the Commission implemented a comprehensive continuing education program for brokers and salesmen.

Since its beginning in 1927 and renewal in 1957, the Real Estate Commission has pursued its mission, "To protect the public interest in real estate transactions," while at the same time, endeavoring to serve the needs of its licensees. Towards this end, its staff now includes attorneys, educators, auditors, investigators, information officers and other professional and support personnel available to assist licensees and consumers. It produces a variety of real estate courses and publications, and utilizes the most up-to-date technology to enhance its

communications with practitioners and the public.

As the Real Estate Commission is poised to enter the 21st century, the Commission members and staff wish to thank the many thousands of licensed real estate brokers and salesmen who, during the past forty years, have subscribed to the high standards of conduct expected of real estate professionals in North Carolina. Your continued cooperation and support in matters affecting your real estate license is appreciated. ■

**[Article's author, Phillip T. Fisher, has been the Executive Director of the Real Estate Commission since 1981.]**



# Do you need a permit? *When in doubt, find out!*

*By Connie Fraser, Paralegal Intern*

Residential real estate agents may be asked by their sales or property management clients and customers to coordinate property repairs, renovations and improvements. Agents should be aware that there are building permit requirements for such work. Permit requirements are not limited to new construction.

## **Permit Requirements**

North Carolina statutes and the residential building code mandate permits for certain repair and renovation projects. Generally, a permit is required to do work that affects a load-bearing structure, an addition or change to a heating, air conditioning and ventilation (HVAC) or plumbing system, and all electrical work.

These important safety regulations are enforced by the city or county inspections department or inspections division of the planning department which has jurisdiction over the property. The inspections department issues the permit and inspects the completed work for compliance with the code. Some inspections departments interpret the law and code more strictly than others, so permit requirements may vary locally. A good rule to follow is, "When in doubt, find out!" Call your local inspections department with your questions.

Permit requirements apply even if the homeowner does the work. The code may require that a licensed contractor do the work if a permit is required. As the owner's agent, review the contractor's proposal carefully to ensure that the permit

fee is included in the contract price and that the contractor will arrange for inspections. Be aware, however, that the homeowner is responsible for compliance with the code's requirements even if he or she hires someone to do the work.

Here are some common home repair and improvement projects and how permit requirements may apply to them.

## **Load-Bearing and External Building Components**

Decks are load-bearing structures; therefore, a permit is required to build, repair, or replace a deck, or to change its design. Decks have their own permit law.

A roof is considered a load-bearing structure; however, some roof repairs do not require a permit. A permit is required to replace any wood on the roof (for example, to repair a hole in the roof caused by a fallen tree) or to place shingles on top of existing shingles. The law does not require a permit to replace shingles with the same type, but a permit is required if the replacement shingles are of a different type (for example, replacing asbestos shingles with fiberglass or wood shakes).

Siding is not load-bearing; therefore, no permit is required for siding jobs.

Chimneys are not load-bearing structures, but some inspections departments require a permit for major chimney work, such as repairing a chimney which has separated from a building or installing a chimney liner.

## **HVAC Systems**

The law requires a permit to replace, add to or change the design of an HVAC system. An example is replacing a furnace powered by electricity with a gas furnace. A permit is usually not required to repair or replace existing HVAC components when the overall system design is unchanged. In such instances, follow the "when in doubt, find out" rule.

## **Plumbing Systems**

A plumbing permit is required to make additions to or change the design of plumbing, for example, moving a pipe to accommodate a new sink, dishwasher or garbage disposer. The same is true of changing from copper to plastic piping or installing a different size pipe. No permit is required to replace existing plumbing components with the same size and capacity. Likewise, a plumbing permit is not required for the installation of a new sink or appliance without adding pipes or disturbing the underlying plumbing.

Replacing a water heater is a common repair. A plumbing permit is required to install a different type water heater (for instance, switching from electric to gas) because this is a design change. Most inspections departments don't require a plumbing permit to replace a water heater with a new similar model.

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# Broker-in-Charge Advisory Committee submits report

Following two sessions held in Raleigh on April 2 and May 7, the Real Estate Commission's Broker-in-Charge Advisory Committee submitted a number of recommendations to the Commission regarding the functions and responsibilities of brokers-in-charge.

The Advisory Committee was formed by the Commission to examine its existing rule governing brokers-in-charge which was adopted in 1983. Serving on the Committee were: Neal Hanks (Asheville), William Lackey (Charlotte), Will Martin (Greensboro), Chet Oehme (Fayetteville), Ronald Rosenberg (Winston-Salem), Margaret Rudd (Southport), Donald Walston (Raleigh), and Assistant Attorney General Harriet Worley. Commission Executive Director Phillip Fisher acted as Moderator.

In response to the Advisory Committee's recommendations, the Commission

1. Agreed to explore ways to expedite the process for notifying the Commission of changes in broker-in-charge, including allowing additional time to furnish the signatures of salesmen.

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## *In Appreciation*

The Commission would like to thank each of you who renewed your license in a timely manner.

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2. Endorsed certain guidelines for brokers-in-charge to follow for supervising real estate salesmen.
3. Initiated rulemaking to consider amending its rules to eliminate the requirement that license certificates be displayed, to require that "Verification of Salesman Experience" forms be furnished to salesmen only upon their request, and to clarify rules regarding the maintenance and retention of transaction records.

4. Directed staff to develop a continuing education elective course on broker-in-charge functions and responsibilities.
5. Directed staff to initiate a study to determine the feasibility and advisability of eliminating the salesman license category in favor of a single license.

The Commission expressed to the Advisory Committee members its appreciation for their very positive and insightful suggestions. □

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## Do you need a permit? *When in doubt, find out!*

*(continued from page 9)*

### Electrical Work

By law and the code, all electrical work involving "hard wiring" (i.e., not plug-in appliances and cords) requires a permit. Not all inspections departments interpret the law literally, however. Some will not require a permit for minor electrical work, such as replacing a light fixture or electrical outlet. In such instances, follow the "when in doubt, find out" rule. Installing an electric water heater requires an electrical permit, even if no design change is occurring and no plumbing permit is necessary. Installing an attic fan is also a hard-wire job which requires a permit.

### Agents' Duties

The Real Estate Commission does not expect its licensees to be experts on the code requirements that apply to property repairs and renovations. However, you should be able to obtain this important information for your clients and customers. When in doubt, find out! □

[The Commission wishes to thank Grover Sawyer, P.E., from the North Carolina Department of Insurance, who contributed to this article.]

# Designated Agency — A New Dual Agency Option

On July 1, the Commission's new "designated agency" rules went into effect. The rules permit real estate firms to practice a form of dual agency, but avoid some of dual agency's more undesirable aspects.

## Basic Concept

"Designated agency" involves appointing or "designating" one or more individual agents in a firm to represent only the interests of the seller and one or more different individual agents in the firm to represent only the interests of the buyer when a firm has an "in-house" dual agency situation. In the typical situation, the agent working with a firm's buyer-client will be named as the buyer's designated agent and the listing agent will be named as the seller's designated agent.

In the past few years, a substantial majority of real estate firms have elected to represent both sellers and buyers in real estate transactions, and to practice disclosed dual agency whenever a buyer-client of the firm becomes interested in a property owned by a seller-client of the firm (and the parties consent in writing to the arrangement). A significant problem with "standard" dual agency, however, is that dual agents must temper their actions so as to avoid favoring either party. This has the effect of making the dual agent unable to act as an "advocate" for either party. This loss of agent advocacy for both clients frequently leaves the clients and the dual agent dissatisfied.

The major advantage of designated agency is that it restores "advocacy" to the services provided by the respective designated agents and allows them to more fully represent

their respective clients. Designated agency provides a way to practice dual agency in a manner that should be more compatible with the practical needs and desires of most real estate consumers and agents.

## Major Features

**Dual Agency Is Not Eliminated.** Designated agency is a method of practicing dual agency that is available when a firm represents both the seller and the buyer in the same

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*The major advantage of designated agency is that it restores "advocacy" to the services provided by the respective designated agents and allows them to more fully represent their respective clients.*

---

sales transaction. The firm and all its agents continue to be dual agents under designated agency. However, the Commission's designated agency rule allows the firm to accomplish its duty to both its buyer and seller clients by dividing up the tasks among agents designated to work for only one client or the other on what might be described as a "division of labor" theory.

**Consent of Parties Required.** The seller and buyer clients must consent in writing before a firm can practice designated agency (or, for that matter, dual agency) with regard to those particular clients.

**Who Can Designate Agents?** The rules say that the "firm" may appoint the agents who will serve as

designated agents in a particular transaction. Firm policy must specify who is authorized to make these designations. (Usually, it will be the broker-in-charge.)

**The "Confidential Information" Restriction on Agent Eligibility.** The rules prohibit an individual agent from acting as a designated agent for a party if the agent has received "confidential information" concerning the other party in connection with the transaction.

For example, suppose a firm has an in-house dual agency situation. The broker-in-charge proposes to appoint the listing agent as the seller's designated agent and the agent working with the buyer as the buyer's designated agent. However, the agent working with the buyer is already aware that the seller would be willing to accept \$10,000 less than the listing price because the listing agent had previously mentioned this to the agent working with the buyer. In this case, the agent working with the buyer may NOT be appointed as the buyer's designated agent because he/she would then have to disclose the seller's bottom line to the buyer. This would obviously be harmful to the interests of the firm's other client - the seller - and so the rules will not permit this. One option in this situation is for a different agent to be appointed as the buyer's designated agent, but this may not be feasible. More likely, in this situation, the firm would choose to continue to work with both parties in accordance with standard dual agency practice.

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# Designated Agency

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**Control of Confidential Information Is Essential.** Internal control of confidential information about a firm's clients is absolutely essential if a firm elects to practice designated agency. The firm must adopt and enforce strict policies prohibiting the sharing of confidential information about clients with other agents without the client's informed consent. Restrictions on confidential information retained in files accessible to agents and/or restricted access to files for transactions in progress will likely be necessary. Individual agents must also take all necessary steps to safeguard confidential information about any of the firm's clients that the agents are assisting. Moreover, a designated agent must not attempt to help his/her client in a particular transaction by circumventing office controls designed to protect confidential information about the firm's clients. For example, a designated buyer's agent should not review the listing file of the designated seller's agent in an effort to gather information to help the buyer.

**Special Broker-In-Charge Restriction.** The rules prohibit a broker-in-charge from acting as a designated agent for a party when a salesman under the broker's supervision is acting as a designated agent for another party with a competing interest. On the other hand, a broker-in-charge and a broker in the same office may represent opposing interests as designated agents.

**No Special Form Required.** It is NOT required that a designated agent be appointed in writing or using any particular form. As a practical matter, however, some record of appointments should be maintained.

**Restrictions on the Disclosure of Information.** The rules provide specifically that a designated agent

shall not disclose certain information of a personal nature about his/her client to the opposing party without the client's permission. The protected information is:

- The party's willingness to agree to a price, terms or any conditions of sale other than those established/offered;
- The motivation of the party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- Any information about the party which the party has identified as confidential, unless disclosure is otherwise required by statute or rule. (Note that an agent must still disclose any "material fact" even if the seller/buyer wants such information to be kept confidential.)

The rules also provide that when an individual agent acts as a dual agent in a transaction pursuant to an appropriate written agreement, the agreement may contain a provision restricting the agent's disclosure of the same information described above about one party to the other party unless permission is granted by the party who might be adversely affected by the disclosure.

**When Can Designated Agency Commence?** The point in time that designated agency should be commenced (if the firm elects to practice designated agency) depends on the circumstances of the particular transaction. The most logical point in time would be after showing a property listed by the firm to a buyer-client when the buyer expresses a serious interest in the property. In any event, there must first exist an in-house dual agency situation, and designated agency (if

practiced) must be commenced not later than presentation of the first offer to buy or sell.

**Disclosure of the Names of Designated Agents.** As soon as possible after designated agents have been appointed in a transaction, the designated agents should disclose to their clients the names of all agents designated to represent each party. This disclosure must be made no later than presentation of the first offer to buy or sell.

**Practical Restrictions.** Small firms with only a few agents may not find it feasible to implement designated agency. Also, an agent selling his/her own listing obviously cannot practice designated agency and must act as a dual agent (if authorized in writing by the parties).

*"Designated Agency" is the primary topic covered in the 1997-98 Real Estate Update mandatory continuing education course. For more detailed information about designated agency, attend the Update course at your earliest convenience.*

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## Commission brochure gets "facelift"



The Commission has updated its informational brochure, *The North Carolina Real Estate Commission*. The brochure is given to new licensees and is available free-of-charge from the Commission office.

■



# 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.*

**ALAMANCE REALTY, INC.** (Burlington) - By Consent, the Commission reprimanded Alamance Realty, Inc. effective April 1, 1997. The Commission found that Alamance Realty, Inc. had failed to adequately supervise an unlicensed employee who was able to embezzle trust monies received by the corporation in real estate transactions. The Commission noted that Alamance Realty, Inc. reimbursed to the trust account all monies which were missing and therefore there was no loss to the public.

**TIMOTHY A. BREWINGTON** (Carolina Beach) - The Commission accepted the permanent voluntary surrender of Mr. Brewington's salesman license effective March 25, 1997. The Commission dismissed without prejudice charges that Mr. Brewington had violated the Real Estate License Law and the rules of the Commission as a result of his conduct as a real estate agent acting for others in real estate transactions. Mr. Brewington neither admitted nor denied any misconduct.

**KATHLEEN A. BRUCE** (Southern Pines) - By Consent, the Commission reprimanded Ms. Bruce effective April 1, 1997. The Commission found that Ms. Bruce had arranged to receive a fee for assisting in a transaction for which a real estate license was required although she was not licensed at the time. The Commission noted that Ms. Bruce subsequently obtained a real estate salesman license, and that she received payment for assisting in the transaction after licensure.

**BUYER'S EXCLUSIVE REALTY, INC.** (Chapel Hill) - By Consent, the Commission reprimanded Buyer's Exclusive Realty, Inc. effective April 1, 1997. The Commission found that in a real estate transaction, Buyer's Exclusive Realty, Inc. had used a form Exclusive Buyer Brokerage Agreement with a non-discrimination provision which lacked handicap and familial status as protected categories. The Commission further found that Buyer's Exclusive Realty, Inc. had continued to use the noncomplying form for approximately one year. The Commission noted that Buyer's Exclusive Realty, Inc. has since brought its form agreement into compliance with the rule.

**LANNIE L. CAMPBELL** (Newport) - By Consent, the Commission revoked Mr. Campbell's broker license effective February 26, 1997. The Commission found that Mr. Campbell had participated in a program to sell residential building lots utilizing inflated values for building lots and for time shares traded for those building lots in order to qualify purchasers for loans. Mr. Campbell neither admitted nor denied any misconduct.

**GEORGE C. CRICKMORE** (Cary) - By Consent, the Commission suspended Mr. Crickmore's salesman license for three years effective June 1, 1997. Eighteen months of the suspension are to be active and the remaining period stayed for a probationary term of eighteen months. The Commission found that between 1990 and 1993, while he was licensed as a salesman and on inactive status, Mr. Crickmore had conducted a brokerage operation in his own name. The Commission further found that Mr. Crickmore had undertaken to build homes for others at a time when he did not have a valid general contractor license.

**WILLIAME E. CURRAN** (West End) - By Consent, the Commission revoked Mr. Curran's broker license effective March 1, 1997. On March 31, 1997, the real estate salesman license previously issued to Mr. Curran was reinstated on inactive status. The Commission found that Mr. Curran, while acting as broker-in-charge of a firm office, had failed to adequately supervise salesmen under his supervision.

**NORMA J. DEMOTT** (Burlington) - By Consent, the Commission suspended Ms. DeMott's broker license for six months effective April 1, 1997. The Commission then stayed the suspension for a probationary term of six months. The Commission found that Ms. DeMott, while broker-in-charge of a real estate firm, had failed to perform the monthly trust account reconciliations required by Commission rule. The Commission further found that as a result, an unlicensed employee was able to embezzle trust monies held by the firm. The Commission noted that all monies have been replaced.

**JEFFERY L. EDDINGER** (Thomasville) - By Consent, the Commission suspended Mr. Eddinger's broker license for one year effective April 15, 1997. Forty-five days of the suspension are to be active and the remaining period stayed for a probationary term of 10 months and 15 days. The Commission found that at the closing on a residential building lot which he had listed and sold, Mr. Eddinger had advised the buyers that he had obtained a septic permit but had left it at his office; in fact, the soil evaluation was performed on the day of closing and the application for a septic permit was denied. Mr. Eddinger neither admitted nor denied any misconduct.

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# Disciplinary action

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FRANK T. FOUSHEE, JR. (Pittsboro) - By Consent, the Commission revoked Mr. Foushee's broker license effective November 20, 1996. On or after November 19, 1997, Mr. Foushee shall be issued a real estate salesman license without examination, upon certain conditions. The Commission found that Mr. Foushee had failed to maintain adequate records of the funds he collected for the owners of a property he was managing. The Commission noted that Mr. Foushee has ensured that all funds belonging to the owners have been fully paid to them. Mr. Foushee neither admitted nor denied misconduct.

GMACQUISITIONS, INC. (Newport) - By Consent, the Commission revoked the corporate real estate broker license of GM Acquisitions, Inc. effective February 26, 1997. The Commission found that GM Acquisitions, Inc. had participated in a program to sell residential building lots utilizing inflated values for building lots and for time shares traded for those building lots in order to qualify purchasers for loans. GM Acquisitions, Inc. neither admitted nor denied any misconduct.

CHARLES E. GRIGGS (Emerald Isle) - By Consent, the Commission suspended Mr. Griggs' broker license for 30 days effective March 1, 1997. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Mr. Griggs, as broker-in-charge of a corporate real estate broker, had failed in his responsibility to maintain proper trust account records by failing to maintain running balances on ledgers and on a general journal and failing to perform timely bank reconciliations. The Commission noted that Mr. Griggs subsequently remedied the record-keeping problems.

VERNON C. GUTHRIE, JR. (Morehead City) - By Consent, the Commission suspended Mr. Guthrie's broker license for one year effective March 1, 1997. Ninety days of the suspension are to be active and the remaining period stayed for a probationary term of nine months. The Commission found that in his purchase contract with the United States Department of Housing and Urban Development (HUD), Mr. Guthrie had falsely represented that he would occupy a townhome as his primary residence. The Commission further found that Mr. Guthrie had received monetary concessions from HUD for being an owner-occupier purchaser, but that in fact, Mr. Guthrie had never occupied the property as his primary residence and, instead, had offered the property for sale within 10 days after closing.

DAVIS W. HOLDER (Siler City) - By Consent, the Commission suspended Mr. Holder's salesman license for one year effective February 26, 1997. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Mr. Holder, while employed under a broker-in-charge, had allowed an unlicensed person to actually control his conduct as a real estate salesman.

LOOK BROKERAGE, INC. (Emerald Isle) - By Consent, the Commission suspended the corporate real estate broker license of Look Brokerage, Inc. for 30 days effective April 1, 1997. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Look Brokerage, Inc. had failed to maintain proper trust account records by failing to maintain running balances on ledgers and on a general journal and failing to perform timely

bank reconciliations. The Commission noted that Look Brokerage, Inc. subsequently remedied the record-keeping problems.

EILEEN C. MALAN (Southern Pines) - By Consent, the Commission reprimanded Ms. Malan effective June 1, 1997. The Commission found that Ms. Malan, as a broker and rental agent, had failed to keep records of the funds she held for others in conformity with the Commission's rules.

CLYDE E. MANNING (Newport) - The Commission accepted the voluntary surrender of Mr. Manning's broker license for two years effective March 1, 1997. The Commission dismissed without prejudice charges that Mr. Manning had violated the Real Estate License Law and the rules of the Commission.

FRANK A. MARMAROSE (Newport) - The Commission accepted the voluntary surrender of Mr. Marmarose's broker license for five years effective March 1, 1997. The Commission dismissed without prejudice charges that Mr. Marmarose had violated the Real Estate License Law and the rules of the Commission.

MARY B. MARSHALL (Charlotte) - By Consent, the Commission suspended Ms. Marshall's broker license for two years effective April 10, 1997. The Commission then stayed the suspension for a probationary term of two years. The Commission found that Ms. Marshall, while acting as broker-in-charge of a corporate broker engaged in rental management, had failed to have tenant security deposits deposited in a designated and insured account. The Commission further found that Ms. Marshall had failed to adequately supervise the unlicensed site managers employed by the corporation.

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# Disciplinary action

(continued from page 14)

**MARIE D. MATOLA (West End)** - By Consent, the Commission suspended Ms. Matola's salesman license effective February 26, 1997. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Ms. Matola, while acting under the supervision of her broker-in-charge, had incorrectly completed a purchase contract.

**THOMAS M. MATOLA (West End)** - By Consent, the Commission revoked Mr. Matola's broker license effective March 1, 1997. On April 30, 1997, the real estate salesman license previously issued to Mr. Matola was reinstated on inactive status. The Commission found that Mr. Matola, while acting as broker-in-charge of a firm office, had failed to adequately supervise salesmen under his supervision and had failed to ensure that all potential customers had received the disclosure form required by Commission rule.

**WILLIAM H. MCDONALD (Durham)** - The Commission suspended Mr. McDonald's broker license for five years effective April 1, 1997. Mr. McDonald's license shall be restored to him on or after April 1, 1998, upon certain conditions. If his license is restored under these circumstances, Mr. McDonald shall be placed on probation for a period equivalent to the unserved suspension period. The Commission found that Mr. McDonald had failed to competently and properly complete a contract form in a real estate transaction, had failed to deposit a buyer's earnest money into a trust or escrow account, and had failed to account for or promptly remit the buyer's earnest money. The Commission further found that Mr. McDonald had made misrepresentations and false promises to the buyer concerning her earnest money.

**WILBURN MCLAMB (Little River, SC)** - By Consent, the Commission reprimanded Mr. McLamb effective March 25, 1997. The Commission found that Mr. McLamb had failed to use a listing contract that complied with Commission rule when he listed real property for sale by auction in North Carolina. The Commission further found that in the sale of the real property by auction, Mr. McLamb had used a sales contract that failed to fully comply with Commission rule.

**ELDON G. PENDERGRAPH (Graham)** - The Commission accepted the voluntary surrender of Mr. Pendergraph's broker license for five years effective June 1, 1997. The Commission dismissed without prejudice charges that Mr. Pendergraph had violated the Real Estate License Law and the rules of the Commission.

**THE PROPERTY EMPORIUM, INC. (Fayetteville)** - By Consent, the Commission suspended the corporate real estate broker license of The Property Emporium, Inc. for two years effective March 1, 1997. The Commission then stayed the suspension for a probationary term of two years. The Commission found that between 1988 and 1992, The Property Emporium, Inc. had failed to create the trust account records required by Commission rule. The Commission further found that between 1988 and 1996, The Property Emporium, Inc. had failed to adequately disclose to the landlords for whom it managed property and to tenants of those landlords the "overhead" or "markup" added to repair bills for repairs done or procured by the corporation. The Commission noted that The Property Emporium, Inc. has now implemented forms and procedures to correct these problems.

**ROBERT A. REYNOLDS (Fayetteville)** - By Consent, the Commission suspended Mr. Reynolds' broker license for two years effective April 1, 1997. Two months of the suspension are to be active and the remaining period stayed for a probationary term of twenty-one months. The Commission found that Mr. Reynolds, while acting as broker-in-charge for a corporate broker, had failed to create the trust account records required by Commission rule. The Commission further found that under Mr. Reynolds' supervision, the corporate broker had failed to adequately disclose to the landlords for whom it managed property and to tenants of those landlords the "overhead" or "markup" added to repair bills for repairs done or procured by the corporate broker. The Commission noted that Mr. Reynolds has now implemented forms and procedures to correct these problems.

**JOYCE SEWARD (Littleton)** - The Commission accepted the voluntary surrender of Ms. Seward's broker license for five years effective December 1, 1996. The Commission dismissed without prejudice charges that Ms. Seward had violated the Real Estate License Law and the rules of the Commission in the conduct of a real estate brokerage business.

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# Disciplinary action

(continued from page 15)

TONYA S. SIMPSON (Mount Airy) - By Consent, the Commission suspended Ms. Simpson's broker license for one year effective April 1, 1997. Six months of the suspension are to be active and the remaining period stayed for a probationary term of six months. The Commission found that Ms. Simpson had allowed a salesman under her supervision to have actual control over a branch office which was over 100 miles from Ms. Simpson's office. The Commission further found that while operating this branch office, the salesman had engaged in improper conduct and had failed to create and maintain the transaction records required by Commission rules.

SUMMIT MANAGEMENT COMPANY (Charlotte) - By Consent, the Commission suspended the corporate real estate broker license of Summit Management Company for two years effective April 9, 1997. The Commission then stayed the suspension for a probationary term of two years. The Commission found that Summit Management Company had failed to maintain tenant security deposits in a designated and insured bank account prior to December 12, 1996. The Commission noted that there was no loss to any tenant from this practice, and that Summit Management Company had cooperated with the Commission's investigation.

TETTERTON MANAGEMENT GROUP, INC. (Atlantic Beach) - By Consent, the Commission reprimanded Tetterton Management Group, Inc. effective April 15, 1997. The Commission found that Tetterton Management Group, Inc. had paid for small bills from its trust account for its property management clients in advance of receipt of rental income, thereby creating deficit spending. The Commission noted that no client or customer of Tetterton Management Group, Inc. was harmed by this practice. □



## ANNOUNCING...

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### *On the inside...*

**Broker-in-Charge  
Advisory Committee  
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New staff members  
Do you have your  
permits?  
Educators Conference  
Commission Calendar  
New Publications  
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...and more.**

### ***Attention brokers-in-charge:***

**Have you checked to be sure that all of the salesmen and brokers in your office have renewed their licenses on active status? You are reminded that inactive licensees may not engage in any activity that requires a real estate license.**

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