



NORTH CAROLINA
REAL ESTATE LICENSING BOARD

Real Estate Bulletin

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FIELD REPRESENTATIVES

The Field Representatives of the Licensing Board have an important role in the administration of the Real Estate Licensing Law. They maintain a close liaison between the Licensing Board and brokers and salesmen throughout the state, calling on them as often as time permits. They are not policemen or super sleuths. They make routine calls on real estate offices to see that all licenses are current and properly displayed. They also check expired licenses and assist with the investigation of complaints filed with the Board. Their calls are made in the spirit of friendliness, cooperation and assistance to the licensees and the public which they serve. They are always receptive to suggestions which may contribute to a better administration of the Licensing Law.



Rodolph Hill is Field Representative for the eastern part of the state. He has been a life-long resident of Lenoir County. After graduating from Grainger High School in Kinston, he served in the U. S. Army from 1948 to 1950, followed by fifteen years in the Army Reserve.

Mr. Hill was employed by the Kinston Police Department for over twelve years, holding the rank of Lieutenant. He is a graduate of numerous schools (both civilian and military) which were related to law enforcement and investigative procedures. He began his employment with the Licensing Board on March 15, 1969.

Mr. Hill is a member of the First Free Will Baptist Church and a former member of the Kinston Lions Club. Married to the former Dorothy Taylor of Kinston, the Hills have two daughters and reside at 1700 Temple Avenue, Kinston, N. C.



J. W. Lowrance is Field Representative for the western part of the state. He is a native of Rutherford County. After graduating from Cool Springs High School, he enlisted in the U. S. Navy and retired, after twenty years service, with the rank of Chief Warrant Officer. During World War II, he earned five battle stars and two Unit Citations and completed the equivalent of two years college credits.

After completing military service, he was employed by an insurance agency, Forest City Police Department, and Rutherford County Sheriff's Department as a Detective Captain. He began his duties with the Licensing Board on October 1, 1969.

Mr. Lowrance is a member of the First United Methodist Church and the Masonic Order. He is married to the former Ormalea Stelting of Medford, Oklahoma, and they have two daughters and one son. The Lowrances reside at 408 South Broadway, Forest City, N. C.

Field Representatives carry an official identification card with photograph as required by General Statute 128-14. Cards will be gladly displayed by Representatives on request.

NO LICENSE NO COMMISSION

Recovery of real estate commissions has been denied to a Virginia real estate corporation for engaging in the real estate business in North Carolina without a license.

Plaintiff, Raab & Co., a Virginia corporation filed suit in Mecklenburg County District Court against defendant, Independence Corporation, a North Carolina corporation, for the recovery of real estate commissions for acting as rental agent for defendant in connection with certain real estate leases.

Evidence at the trial showed that plaintiff had not secured a certificate of authority to do business in North Carolina as required in Chapter 55 of the General Statutes and that it had not secured a real estate license as provided in Chapter 93A of the General Statutes. The trial court granted the defendant's motion to dismiss the suit for failure of the plaintiff to prove a case and plaintiff appealed.

The North Carolina Court of Appeals affirmed the judgment of the trial court, holding that plaintiff's claim for commissions was properly dismissed.

As the basis for its decision, the Court quoted G.S. 93A-2(a), which defines a real estate broker, and G.S. 93A-8, which provides for criminal penalties for violating the statute, and the principles of law enunciated in the case of *McARVER v. GERUKOS*, 265 N.C. 413 (a 1965 real estate case) in which the Supreme Court said:

"If the statute, so construed, makes the doing of an act a criminal offense, one who has contracted to do the forbidden act may not, after performing his contract, sue in the courts to recover the agreed consideration for such performance."

REAL ESTATE BULLETIN

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

NORTH CAROLINA REAL ESTATE LICENSING BOARD

813 BB&T Bldg.
Raleigh, North Carolina 27602

Robert W. Scott, Governor

BOARD MEMBERS

John W. Olive, Chm. Mount Airy
J. Bart Hall, V. Chm. Belmont
A. P. Carlton Greensboro
J. Toliver Davis Forest City
Brantley Poole Raleigh
J. F. Schweidler Sec'y.-Treas.
Blanton Little Admin. Asst.

BOARD MEETINGS

Meetings of the Licensing Board are open to the public. If you wish to attend, please contact the Board office for time and place of meeting.

— CHAIRMAN'S COMMENTS —

Elsewhere in this bulletin you will read about the legislation which your Real Estate Licensing Board would like to see enacted in this session of the General Assembly. A lot of time and study have been devoted to developing these proposed changes in the law. They are for the betterment of the profession. We earnestly solicit your endorsement and ask that each licensee contact his representatives to ask that they support the program.

At the meetings of the Licensing Board we find that a large majority of the complaints come from generally poor record keeping, mishandling of trust funds, and the failure to keep an escrow account. Many times the trouble comes from verbal "understandings" rather than written records to support real estate transactions. These frequently result in serious charges. Proper and correct accounting is mandatory in the real estate profession. The Board is charged with seeing that this is done in its role of protecting the public.

J. W. Olive

NARELLO CONFERENCE

At the recent annual conference of the National Association of Real Estate License Law Officials (NARELLO), Joseph F. Schweidler, Secretary-Treasurer of the Licensing Board was elected a Director to serve during 1971. NARELLO is an organization composed of real estate licensing officials from the 50 states, District of Columbia and several Canadian Provinces. The primary purpose of the Association is to assist the member states in the better administration and enforcement of their Real Estate License Laws. Some 45 states were represented at the meeting which covered various subjects including Interstate Co-operation, Recent Court Decisions, Education, Legal and Professional Conduct, Investigation of Applicants and Complaints, Proper Hearing Procedures, Out-of-State Land Sales, and Real Estate Examinations.

SALESMEN'S LICENSES

Many brokers and salesmen are not following the proper procedure in effecting the termination or transfer of salesmen's licenses.

Rule 11 of the Board's Rules and Regulations provides as follows:

"A Salesman's license is valid only while he is associated with or engaged by a broker. Upon termination of such association, the broker shall immediately endorse the back of the salesman's license, showing date of termination, and return same to the Board for cancellation or transfer. The salesman concerned may have his license re-issued and transferred to a new broker by filing a prescribed transfer form with \$1.00 duplicate license fee."

Brokers are urged to carefully review this rule with their salesmen. Prompt compliance and cooperation will avoid misunderstandings and delays.

POOLE HONORED

Real Estate Licensing Board member Brantley Poole has been named 1970 Realtor of the Year by the Raleigh Board of Realtors. The award is given for outstanding service to the real estate profession and to the community.

LICENSE STATISTICS

Licensees as of December 31, 1970		
Brokers	8,482	
Salesmen	2,529	
<hr/>		
11,011		
Examination — October 1970		
	Passed	Failed
Brokers	98	45
Salesmen	67	27
Examination — November 1970		
	Passed	Failed
Brokers	78	39
Salesmen	112	44
Examination — December 1970		
	Passed	Failed
Brokers	103	54
Salesmen	121	33

LICENSES

SUSPENDED-REVOKED

NORWOOD E. WILSON — Winston-Salem broker — suspended 180 days—G.S. 93A-6 (12)

CONSENT JUDGMENT

As a result of an action instituted by the Real Estate Licensing Board, a consent judgment was recently entered in the Superior Court of Johnston County against W. Grover Creech of Selma, whereby he, his agents and employees were permanently restrained and enjoined from acting as real estate brokers or salesmen until properly licensed as required by Chapter 93A of the General Statutes.

Although denying the material allegations of the Board's complaint, Mr. Creech agreed to the Order in an effort to settle the matters in dispute.

DUPLICATE LICENSES

Have you lost your license or pocket card? You may obtain a duplicate by filing the required application form with \$1.00 fee. Application forms are furnished on request.

ROSTER

A current roster of licensed brokers and salesmen is maintained in the Licensing Board office. The roster is compiled and updated by computer.

The roster information carries the licensee's name, license number, trade name, business address and zip code. In order that the roster may be kept up-to-date, it is imperative that licensees notify the Board promptly of any change in business name or address.

In reporting changes of business name or address, brokers should include the names of all brokers and salesmen associated with them.

ADMINISTRATIVE PROCEDURE ACT

Chapter 150 of the North Carolina General Statutes, entitled Uniform Revocation of Licenses, sets forth the procedure followed by various licensing agencies, including the North Carolina Real Estate Licensing Board, in suspending, revoking or denying licenses. In order that licensees may be familiar with this procedure, the statute will be reproduced in this and following issues of the Bulletin.

§ 150-10. Opportunity for licensee or applicant to have hearing.—Every licensee or applicant for a license, except applicants for license by comity and applicants for reinstatement after revocation, shall be afforded notice and an opportunity to be heard before the board shall have authority to take any action, the effect of which would be

- (1) To deny permission to take an examination for licensing for which application has been duly made; or
- (2) To deny a license after examination for any cause other than failure to pass an examination; or
- (3) To withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee; or
- (4) To suspend a license; or
- (5) To revoke a license.

§ 150-11. Notice of contemplated board action; request for hearing; notice of hearing.—(a) When a board contemplates taking any action of a type specified in subdivisions (1) or (2) of § 150-10 it shall give to the applicant a written notice containing a statement:

- (1) That the applicant has failed to satisfy the board of his qualifications to be examined or to be issued a license, as the case may be;
- (2) Indicating in what respects the applicant has so failed to satisfy the board; and
- (3) That the applicant may secure a hearing before the board by depositing in the mail within twenty days after service of said notice, a registered letter addressed to the board and containing a request for a hearing.

In any board proceeding involving the denial of a duly made application to take an examination, or refusal to issue a license after an applicant has taken and passed an examination, the burden of satisfying the board of the applicant's qualifications shall be upon the applicant.

(b) When a board contemplates taking any action of a type specified in subdivisions (3), (4) or (5) of § 150-10 it shall give to the licensee a written notice containing a statement:

- (1) That the board has sufficient evidence which, if not rebutted or explained, will justify the board in taking the contemplated action;
- (2) Indicating the general nature of the evidence, and
- (3) That unless the licensee or applicant within twenty days after service of said notice deposits in the mail a registered letter addressed to the board and containing a request for a

hearing, the board will take the contemplated action.

(c) If the licensee or applicant does not mail a request for a hearing within the time and in the manner required by this section, the board may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

If the licensee or applicant does mail a request for a hearing as required by this section, the board shall, within twenty days of receipt of such request, notify the licensee or applicant of the time and place of hearing, which hearing shall be held not more than thirty nor less than ten days from the date of the service of such notice.

§ 150-12. Method of serving notice of hearing.—Any notice required by § 150-11 may be served either personally by an officer authorized by law to serve process, or by registered mail, return receipt requested, directed to the licensee or applicant at his last known address as shown by the records of the board. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept the notice.

§ 150-13. Venue of hearing.—Board hearings held under the provisions of this chapter shall be conducted in the county in which the person whose license is involved maintains his residence, or at the election of the board, in any county in which the act or acts complained of occurred; except that, in cases involving initial licensing, hearings shall be held in the county where the board maintains its office. In any case, however, the person whose license is involved and the board may agree that the hearing is to be held in some other county.

§ 150-14. Hearings public; use of trial examiner or committee.—All board hearings under this chapter shall be open to the public. At all such hearings at least a majority of the board members shall be present to hear and determine the matter; except that, in cases where the hearing is held in a county other than that in which the board maintains its office, the board may designate in writing one or more of its members to conduct the hearing as a trial examiner or trial committee, with the decision to be rendered in accordance with the provisions of § 150-20.

§ 150-15. Rights of person entitled to hearing.—A person entitled to be heard pursuant to this chapter shall have the right

- (1) To be represented by counsel;
- (2) To present all relevant evidence by means of witnesses and books, papers, and documents;
- (3) To examine all opposing witnesses on any matter relevant to the issues; and
- (4) To have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers, and documents upon making written request therefor to the board.

(To Be Continued In Next Issue)

PROPOSED LICENSING LAW AMENDMENTS

Outlined below are the amendments to the Real Estate Licensing Law which have been introduced in the General Assembly at the request of the Licensing Board.

Licensees are urged to support these changes which the Board considers necessary for the better administration of the law.

Sec. 1. G. S. 93A-3 is amended by adding at the end thereof a subsection (f) as follows:

"(f) The Board is authorized to expend funds for the purpose of conducting education and information programs relating to the real estate brokerage business for the information, education, guidance and protection of the general public, licensees, and applicants for license. The education and information programs may include preparation, printing and distribution of publications and articles and the conduct of conferences, seminars, and lectures."

Sec. 2. G. S. 93A-6 is amended by adding at the end thereof a subsection (c) as follows:

"(c) Records relative to the deposit, maintenance, and withdrawal of the money or other property of his principals shall be properly maintained by a broker and made available to the Board or its authorized representative when the Board determines such records are pertinent to the conduct of the investigation of any specific complaint against a licensee."

Sec. 3. G. S. 93A-9 is rewritten to read as follows:

"An applicant from another state, which offers licensing privileges to residents of North Carolina, may be licensed by conforming to all the provisions of this Chapter and, in the discretion of the Board, such other terms and conditions as are required of North Carolina residents applying for license in such other state; provided that the Board may exempt from the examination prescribed in G. S. 93A-4 a broker or salesman duly licensed in another state if a similar exemption is extended to licensed brokers and salesmen from North Carolina."

Sec. 4. This act shall become effective July 1, 1971.

1971 EXAMINATION SCHEDULE

The real estate examination schedule is outlined below. The exam for brokers will be held every other month starting in January while the exam for salesmen will be held every month except December.

FILING DATE

December 28, 1970
January 25
February 22
March 29
April 26
May 24
June 28
July 26
August 23
September 27
October 26

BROKERS EXAM

January 26
.....
March 23
.....
May 25
.....
July 27
.....
September 21
.....
November 23

SALESMEN EXAM

January 27
February 24
March 24
April 28
May 26
June 23
July 28
August 25
September 22
October 27
November 24

Examinations will be held simultaneously at the two examination centers listed below. Every effort will be made to assign an applicant to the center nearest his home.

Raleigh Memorial Auditorium
Fayetteville & South Streets
Raleigh, North Carolina

Winston-Salem Convention Center
301 W. Fifth Street
Winston-Salem, North Carolina

Applications for examination must be filed (received—not post-marked) in the Board office on or before the filing date established for a scheduled examination; otherwise the application will be processed for the next following examination.

RULE 4

The examination shall test the applicant's knowledge of the following required subjects, to wit:

- A practical and working knowledge of the real estate business, including fundamentals of real estate, real estate finance, real estate brokerage, real estate appraising, real property law and mechanics of closing.
- The provisions of the North Carolina Real Estate Licensing Act.
- The Rules and Regulations of the Board.

RULE 5

Applications for examination must be in proper form and filed (received—not postmarked) in the Board office on or before the filing date established by the Board for a scheduled examination. Once the application has been filed and processed, the application fee will not be refunded. If the applicant does not appear at the initial examination for which he has been scheduled or fails to pass such examination, he will be re-scheduled for the examination held 2 months later. If he again does not appear or fails to pass this examination, he will be required to file a complete new application and fee, if he wishes to continue.

NORTH CAROLINA
REAL ESTATE LICENSING BOARD
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