



NOTICE OF PROPOSED RULEMAKING

In accordance with N.C.G.S. § 150B-19.1(c), the Real Estate Commission (“Commission”) hereby gives notice that it has submitted to the Office of Administrative Hearings - Rules Review Commission for publication in the *North Carolina Register* the Notice of Text for proposed rule adoptions and repeal under consideration by the Commission.

The summary of proposed rule changes under consideration cites each rule affected and a brief summary of the proposed change. Changes in the proposed rule text are reflected by underscoring text that will be added and striking through text that will be deleted.

A public hearing on the proposed rule changes is scheduled on Wednesday, **May 20, 2026**, at 8:30 a.m. at the Commission’s office located at 1313 Navaho Drive, Raleigh, North Carolina.

The Commission invites members of the public to submit written comments on the proposed rules during the designated comment period, **May 1 to July 3, 2026**. Comments should be directed to the Commission’s Rulemaking Coordinator.

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North Carolina Real Estate Commission
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Procedure for Subjecting a Proposed Rule to Legislative Review

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission (“RR”). If the RRC receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the RRC approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The RRC will receive written objections until 5:00 p.m. on the day following the day the RRC approves the rule. The RRC will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the RRC, please call a RRC staff attorney at 984-236-1850.

SUMMARY OF PROPOSED RULE CHANGES UNDER CONSIDERATION

21 NCAC 58A .0104 - AGENCY AGREEMENTS AND DISCLOSURE

Repeal this Rule to establish a new section, 58A .0200s on Agency Relationships, that reorganizes its content into three separate rules, 21 NCAC 58A .0205, .0206, and .0207.

21 NCAC 58A .0205 - WORKING WITH REAL ESTATE AGENTS; AGENCY DISCLOSURES

Adopt this Rule to clarify existing brokerage practices on agency disclosure requirements.

21 NCAC 58A .0206 - AGENCY AGREEMENTS

Adopt this Rule to clarify existing brokerage practices on agency agreement requirements.

21 NCAC 58A .0207 - DUAL AGENCY

Adopt this Rule to clarify dual agency requirements and limitations.

21 NCAC 58A .0104 is proposed for repeal as follows:

21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE

History Note: Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-6(a);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2015; July 1, 2014; July 1, 2009; July 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; July 1, 1997; August 1, 1996; July 1, 1995;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest

Eff. ~~May 1, 2018~~. ~~May 1, 2018~~;

Repealed Eff. October 1, 2026.

21 NCAC 58A .0205 is proposed for adoption as follows:

21 NCAC 58A .0205 WORKING WITH REAL ESTATE AGENTS; AGENCY

DISCLOSURES

(a) In every real estate sales transaction, a broker shall, no later than first substantial contact with a consumer, provide the consumer with a copy of the “Working with Real Estate Agents” disclosure. The “Working with Real Estate Agents” disclosure may be obtained on the Commission’s website or upon request to the Commission.

(b) For purposes of this Rule, “first substantial contact” shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information.

(c) At the time of providing the “Working with Real Estate Agents” disclosure to the consumer, the broker shall review the publication with the consumer and shall:

- (1) check all agency options offered to consumers by the broker’s firm or sole proprietorship;
- (2) disclose to an unrepresented consumer that they represent the opposing party in the potential transaction, if applicable;
- (3) identify the broker’s name and license number, consumer’s name, and date the disclosure is provided to the consumer;

- (4) obtain the consumer's written signature or document on the disclosure the consumer's refusal to sign; and
- (5) provide a copy of the completed disclosure to the consumer within three days of the review.

(d) If the first substantial contact with a consumer occurs by telephone or other electronic means of communication where it is not practical to provide and review the "Working with Real Estate Agents" disclosure, the broker shall at the earliest practicable opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the consumer and review it with the consumer at the earliest practicable opportunity thereafter.

(e) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales transaction, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing the broker's license number and that the broker represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase.

(f) The provisions of Paragraphs (a) through (d) of this Rule do not apply to real estate brokers representing sellers in auction sales transactions. A broker representing a buyer in an auction sales transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or the seller's agent with a written confirmation disclosing the broker's license number and that the broker represents the interests of the buyer. The written confirmation may be made in the written agreement.

History Note: Authority G.S. 93A-3(c); 93A-6(a);

Eff. October 1, 2026.

21 NCAC 58A .0206 is proposed for adoption as follows:

21 NCAC 58A .0206 AGENCY AGREEMENTS

(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing and signed by the parties thereto.

(b) The following agreements required to be in writing pursuant to Paragraph (a) of this Rule shall be signed by the parties prior to providing brokerage services:

- (1) agreements with sellers to provide brokerage services regarding the listing, marketing and sale of a property;
- (2) agreements with owners of property to provide brokerage services regarding the rental or management of a property; and
- (3) agreements for services connected with the management of a property owners association.

(c) Every agreement for brokerage services between a broker and a buyer or tenant that seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and signed by the parties no later than the time the broker presents an offer to purchase, sell, rent, lease, or exchange real estate to another on behalf of the buyer or tenant. However, a broker may represent a potential buyer or prospective tenant following the agency disclosure required pursuant to Rule .0205 of this Section with the establishment of an express oral agreement. Such an express oral agreement cannot seek to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent. A broker shall not continue to represent a buyer or tenant without a written, signed agreement when such agreement is required by this Rule.

(d) Every agreement subject to this Rule shall set forth any penalty for early termination in a clear and conspicuous manner that shall distinguish it from other provisions of the agreement and include:

- (1) the firm or sole proprietorship's name and license number, if any;
- (2) the individual broker's name and license number;
- (3) a definite expiration date;
- (4) termination without prior notice at expiration, except that an agency agreement with a landlord to procure tenants or receive rents for a property may allow for automatic renewal, so long as the landlord may terminate with notice at the end of any agency agreement period including any subsequent renewals; and
- (5) the provision: "The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin,

handicap, or familial status of any party or prospective party." The provision shall be set forth in a clear and conspicuous manner that shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, "familial status" shall be defined as it is in G.S. 41A-3(1b).

(e) An agreement between brokers to cooperate or share compensation pursuant to Rule .1807 of this Subchapter shall be exempt from this Rule.

History Note: Authority G.S. 93A-3(c); 93A-6(a);

Eff. October 1, 2026.

21 NCAC 58A .0207 is proposed for adoption as follows:

21 NCAC 58A .0207 DUAL AGENCY

(a) A firm or sole proprietorship that represents more than one party in the same real estate transaction is a dual agent and, through the brokers associated with the firm or sole proprietorship, shall disclose its dual agency to the parties in writing.

(b) When a firm or sole proprietorship represents both the buyer and seller in the same real estate transaction, the firm or sole proprietorship shall, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm or sole proprietorship to represent only the interests of the seller and one or more other individual brokers associated with the firm or sole proprietorship to represent only the interests of the buyer in the transaction. The authority for designated agency shall be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Rule .0206 of this Section. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under their supervision will act as a designated broker for another party with a competing interest.

(c) When a firm or sole proprietorship acting as a dual agent designates an individual broker to represent either the seller-client or the buyer-client, the broker so designated shall represent only the interest of that client and shall not, without that client's permission, disclose to the other party or a broker designated to represent that other party:

- (1) that their designated client may agree to a price, terms, or any conditions of sale other than those communicated;
- (2) their designated client's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about their designated client that the client has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(d) A broker designated to represent a buyer or seller in accordance with Paragraph (b) of this Rule shall disclose in writing the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(e) An individual broker shall not represent both the buyer and seller in the same real estate sales transaction.

(f) A broker, firm, or sole proprietorship selling property in which the broker, firm, or sole proprietorship has an ownership interest shall not undertake to represent a buyer of that property except that a broker selling commercial real estate as defined in Rule .1802 of this Subchapter in which the broker has less than 25 percent ownership interest may represent a buyer of that property if the buyer consents to the representation after full written disclosure of the broker's ownership interest. A firm listing a property owned by a broker affiliated with the firm may represent a buyer of that property so long as any individual broker representing the buyer on behalf of the firm does not have an ownership interest in the property and the buyer consents to the representation after full written disclosure of the broker's ownership interest.

(g) A broker or firm with an existing listing agreement for a property shall not enter into a contract to purchase that property unless, prior to entering into the contract, the listing broker or firm first discloses in writing to their seller-client that the listing broker or firm may have a conflict of interest in the transaction and that the seller-client may want to seek independent counsel of an attorney or another licensed broker. Prior to the listing broker entering into a contract to purchase the listed property, the listing broker and firm shall either terminate the listing agreement or transfer the listing to another broker affiliated with the firm. Prior to the listing firm entering into a contract to purchase the listed property, the listing broker and firm shall disclose to the seller-client in writing that the seller-client has the right to terminate the

listing and the listing broker and firm shall terminate the listing upon the request of the seller-client.

History Note: Authority G.S. 93A-3(c); 93A-6(a);

Eff. October 1, 2026.