

NORTH CAROLINA REAL ESTATE COMMISSION

PROBLEM TOPICS FOR STATE SECTION OF LICENSE EXAMINATION

February, 2012

General advice: *Students should understand that with regard to questions concerning impermissible activities or conduct and required duties of licensees, the answer choice representing the most restrictive provision or most demanding standard is not always the correct choice.*

1. NC Real Estate License Law and Commission Rules

A. Requirement for Real Estate License

- 93A-2 (a) and (c) - Activities requiring license; activities an unlicensed salaried assistant of a licensed broker may and may not lawfully perform; exemption for bona fide employees of corporate property owners. *In determining whether or not a license is required, students should be taught to consider the relationship between the property owner and any person who performs activities related to a real estate transaction involving the owner's property in exchange for compensation.*

B. License Categories and Status

- 93A-1; Rule A.0502(a) - Specific categories of business entities required to obtain a real estate firm license in order to engage in brokerage activities.
- Rule A.0110(a) - Activities an independent broker may and may not perform without being designated a Broker-in-Charge.
- Rule A. 0110(a) - Scope of BIC responsibility

D. License Administrative/Maintenance Requirements

- Rule A. 0101 - License renewal pocket card – what the card does and does not reveal concerning the holder's license status and satisfaction of licensing requirements
- Rule A.0103, A.0113, and A.0506(e) - Deadlines for reporting to the Commission changes affecting the licensee's record and required to be reported: name or address – 10 days ; criminal convictions – 60 days; termination of PB affiliation with BIC – 10 days
- Rule A. 1702 and A. 1902 - Differences between the postlicensing and continuing education requirements, including number of classroom hours required, deadlines for completion, and requirements for re-activating license status following failure to complete either in a timely manner.

E. Agency Relationships, Contracts, Disclosure and Practices

- Listing agent's responsibility for verifying seller's title at time of listing.
- Licensee's specific responsibilities and duties with regard to preparing a property data sheet.
- Rule A. 0104(a) Requirements for oral buyer agency agreements, including concept of an "express" agreement.
- Rule A. 0104 (d) Deadline for licensee to obtain principal's written consent to dual agency.

F. Selected Regulated Practices

- Rule A. 0106(b) Delivery of Instruments: Exception to delivery of instruments rule for leases in certain situations.
- Rule A. 0115 Disclosure of Offers Prohibited: Note that the general prohibition against disclosure of competing offers is not absolute. The rule sets forth the specific condition under which disclosure may be permitted.
- Rule A. 0109 Brokerage Fees and Compensation: Licensee's obligation to disclose to his/her principal the licensee's anticipated receipt of consideration from any party other than his/her principal; manner of disclosure required and "triggering event" by which disclosure must be provided.
- Rule A. 0109 - Students should also be able to recognize when a matter involving compensation is beyond or outside the scope of the disclosure requirement.
- Licensee may share commission with his/her principal (seller or buyer). [Since the principal is a party to the transaction, the principal is not engaging in "brokerage" activity.]
- 93A-6(a)(9) Conditions under which a referral fee may and may not be paid to a person who is licensed in another state but not licensed in North Carolina.

G. Prohibited Practices: Violation of Commission Rules

- Rule A. 0504 - with regard to payment of referral fees. Requirements for both brokers and provisional brokers with regard to license status at time a referral is made- if the referral is made with the expectation of receiving compensation.
- Rule A. 0507 – Consequences for licensee whose payment for license renewal fee is returned unpaid (i.e., is dishonored by his/her financial institution)

2. Other North Carolina Laws and Practices

A. Property Taxation

- Date the ad valorem tax lien attaches to a property

B. Sales Contracts and Practices

- Provisions of the NCAR/NCBA standard form OPC with regard to earnest money and due diligence fee. Factors that determine the amount of earnest money and/or due diligence fee.

Provisions governing the refund of earnest money and/ or the due diligence fee. Students should also be able to recognize common fact situations and circumstances under which earnest money and due diligence fee are not refundable.

- Provision of the NCAR/NCBA standard form OPC with regard to permitted delay in settlement.

C. Closing Procedures

- 93A-6(a) (14) - Scope of broker's responsibilities in connection with a closing statement (HUD-1) when closing statement is prepared by a licensed attorney
- Final steps that constitute closing of a sales transaction.
- Information conveyed in a wood-destroying insect report. Students should also recognize there are important limits to the information conveyed in the report.

D. Laws Governing Residential Tenancies

- Landlord and tenant responsibilities relating to smoke detectors.
- Tenant Security Deposit Act, as revised - deadline following termination of tenancy for landlord to account to a tenant for the security deposit.

E. Residential Square Footage Guidelines

- Topic in general needs more careful and detailed coverage. Do not neglect to teach the concept of "living area", distinctions between above grade and below grade square footage, responsibility of agent working with a buyer with regard to representations concerning square footage made by the listing agent, and how to include the area occupied by stairs.

F. Miscellaneous Laws and Legal Concepts

- Sale of Lots in Unapproved Subdivisions (G.S. 153 A -330 et seq). Requirements that must be satisfied before property owners, developers or brokers representing them may begin to market and sell lots in a subdivision.
- Subdivision streets disclosure law; NCGS 136-102.6
- Regulation of residential subdivision development is handled at the local municipal or county level.