

NORTH CAROLINA REAL ESTATE COMMISSION

Problem Topics on State Section of License Examination

September 27, 2012

In each of the following topic areas (with a couple of exceptions) at least one question on the state section of the license exam was answered correctly by less than 50% of candidates tested in the six-month period March 1 - August 31, 2012

The following topics are presented in the order in which they appear in the State Section of the Examination Content Outline

1. NC REAL ESTATE LICENSE LAW AND COMMISSION RULES

A. Requirement for Real Estate License

Compensation for real estate brokerage services

See the Basic Licensing Requirement (G.S. 93-A-1)
Receipt of *compensation* (something of value) is one of three factors that, in combination, trigger the licensing requirement. Students should not confuse compensation with *money*. Compensation may occasionally be paid in the form of goods or services, particularly in the case of a referral. Ask students to suggest examples.

B. License Categories and Status

Limited Nonresident Commercial Broker

Suggested study questions:

Who is required to obtain a Limited Nonresident Commercial Broker License?

What are the basic requirements for obtaining such license?

D. License Administrative /Maintenance Requirements

Postlicensing Education

Examinees often confuse the continuing education and the postlicensing education requirements.

Suggested study questions:

How many postlicensing courses must a provisional broker complete?

What is deadline for completing first postlicensing course?

*What is deadline for completing all postlicensing courses?
Consequences for failure to meet prescribed deadlines?
Any restriction on how quickly postlicensing courses may be completed?
Any prescribed sequence for completing the postlicensing courses?*

Payment of License Fees

See G.S. 93A-4(a); Rule A. 0507

Suggested study question:

What are the potential consequences of making a license fee payment to the Commission that is returned unpaid or dishonored by the bank?

E. Agency Relationships, Contracts, Disclosure and Practices

Dual Agency

See specifically Rule 58A.0104(d) concerning written authority for dual agency. See also G.S. 93A-6(a)(1) on “Misrepresentation and Omission” and G.S. 93A-6(a) (4) & (6) dealing with “Conflicts of Interest” See also the discussion of Consent to Dual Agency in *License Law and Rule Comments*

Suggested study questions:

What are important differences between a dual agent and an agent working with a buyer as a seller’s agent or as a seller’s subagent?

When may a listing agent act as a dual agent? When is s/he not a dual agent?

When may a buyer’s agent act as a dual agent? When is s/he not a dual agent?

What are requirements/deadlines for obtaining written consent to dual agency?

F. Selected Regulatory Practices

Basic Requirements for Trust Accounts and Handling Trust Monies

Students must understand the basic deposit rule and related terms such as *receipt of offer, receipt of funds, acceptance of offer, and banking days.*

Brokerage Fees and Compensation (disclosure of compensation) -

This topic is not a problem but is challenging.

[See Commission Rule A. 0109(c)(2)] Keep up your emphasis on agent’s duty to timely disclose incentive bonus.

G. Prohibited Practices

Practicing Law – Drafting Legal Instruments Rule A. 111

See Rule A. 111

Read the first phrase of the first sentence of the rule very carefully: “A broker acting as an agent in a real estate transaction..... ”

Suggested study questions:

To whom does the rule apply?

When does the rule apply?

2. OTHER NORTH CAROLINA LAWS AND PRACTICES

C. Closing Procedures

(1) Pre-closing procedures related to properties in flood hazard areas

See coverage of Flood Hazard Regulations and Insurance in Chapter 6 of *Modern Real Estate Practice in North Carolina*, 8th ed.

Suggested study questions for this topic:

How does one determine whether a property is in a flood hazard area?

Who requires the buyer to obtain flood insurance?

Would flood insurance be required in a cash sale?

Who pays for flood insurance?

If flood insurance is required, at what point in a sales transaction must it be obtained?

(2) NC Good Funds Settlement Act [Not actually a problem topic but a challenging one]

Refer to the section on Closing Procedures in the *North Carolina Real Estate Manual*, 2011-2012 edition. Note particularly the paragraph, “No Disbursement of Funds at Settlement Meeting” (pg. 540). Students should understand at what point in the closing process for a typical sales transaction in North Carolina (involving a mortgage loan) the closing attorney may disburse funds.

(3) Brokers Responsibility as to Closing Statements

See G.S. 93A-6(a)(14) ; Rule A. 0107 (c) and the treatment of this topic in *Modern Real Estate Practice in North Carolina*, 8th ed. in the *License Law and Rules Comments* or in the *North Carolina Real Estate Manual*. Key point: Licensee must verify the accuracy of closing statement entries about which the licensee has direct knowledge and its completion in accordance with the provisions of the sales contract.

