

Article 3.

Private Real Estate Schools.

§ 93A-32. (Effective until July 1, 2020) Definitions.

As used in this Article:

- (1) "Commission" means the North Carolina Real Estate Commission.
- (2) "Private real estate school" means any real estate educational entity which is privately owned and operated by an individual, partnership, corporation, limited liability company, or association, and which conducts, for a profit or tuition charge, real estate broker prelicensing or postlicensing courses prescribed by G.S. 93A-4(a) or (a1), provided that a proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 to conduct courses other than those real estate courses described herein shall not be considered to be a private real estate school. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 3; 1993, c. 419, s. 11; c. 553, s. 29.1.; 2000-140, s. 19(b); 2005-395, s. 16.)

Article 3.

Private Real Estate Education Providers and Continuing Education Requirements

§ 93A-32. (Effective July 1, 2020) Definitions.

As used in this Article:

- (1) "Commission" means the North Carolina Real Estate Commission.
- (2) "Private real estate education provider" or "education provider" means any individual or real estate educational entity which is privately owned and conducting, for a profit or tuition charge, real estate broker prelicensing, postlicensing, or continuing education courses prescribed by G.S. 93A-4(a) or (a1) or G.S. 93A-38.5, provided that a proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 to conduct courses other than those real estate courses described herein shall not be considered to be a private real estate education provider. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 3; 1993, c. 419, s. 11; c. 553, s. 29.1.; 2000-140, s. 19(b); 2005-395, s. 16; 2019-195, s. 3.)

§ 93A-33. (Effective until July 1, 2020) Commission to administer Article; authority of Commission to conduct investigations, issue licenses, and promulgate regulations.

The Commission shall have authority to administer and enforce this Article and to issue licenses to private real estate schools as defined herein which have complied with the requirements of this Article and regulations promulgated by the Commission. Through licensing applications, periodic reports required of licensed schools, periodic investigations and inspections of schools, and appropriate regulations, the Commission shall exercise general supervisory authority over private real estate schools, the object of such supervision being to protect the public interest and to assure the conduct of quality real estate education programs. To this end the Commission is authorized and directed to promulgate such regulations as it deems necessary which are not inconsistent with the provisions of this Article and which relate to the subject areas set out in G.S. 93A-34(c). (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, s. 2.)

§ 93A-33. (Effective July 1, 2020) Commission to administer Article.

The Commission shall have authority to administer and enforce this Article and to certify private real estate education providers as defined herein which have complied with the requirements of this Article and regulations promulgated by the Commission. Through certification applications, periodic reports required of education providers, periodic investigations, and appropriate regulations, the Commission shall exercise general supervisory authority over private real estate education providers, the object of such supervision being to protect the public interest and to assure the conduct of quality real estate education programs. To this end the Commission is authorized and directed to promulgate such regulations as it deems necessary which are not inconsistent with the provisions of this Article and which relate to the subject areas set out in G.S. 93A-34(c). (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, s. 2; 2019-195, s. 3.)

§ 93A-34. (Effective until July 1, 2020) License required; application for license; fees; requirements for issuance of license.

(a) No person, partnership, corporation or association shall operate or maintain or offer to operate in this State a private real estate school as defined herein unless a license is first obtained from the Commission in accordance with the provisions of this Article and the rules and regulations promulgated by the Commission under this Article. For licensing purposes, each branch location where a school conducts courses shall be considered a separate school requiring a separate license.

(b) Application for a license shall be filed in the manner and upon the forms prescribed by the Commission for that purpose. The Commission may by rule set nonrefundable application fees not to exceed two hundred fifty dollars (\$250.00) for each school location and fifty dollars (\$50.00) for each real estate broker prelicensing or postlicensing course. The application for a license shall be accompanied by the appropriate fees and shall contain the following:

- (1) Name and address of the applicant and the school;
- (2) Names, biographical data, and qualifications of director, administrators and instructors;
- (3) Description of school facilities and equipment;
- (4) Description of course(s) to be offered and instructional materials to be utilized;
- (5) Information on financial resources available to equip and operate the school;
- (6) Information on school policies and procedures regarding administration, record keeping, entrance requirements, registration, tuition and fees, grades, student progress, attendance, and student conduct;
- (7) Copies of bulletins, catalogues and other official publications;
- (8) Copy of bond required by G.S. 93A-36;
- (9) Such additional information as the Commission may deem necessary to enable it to determine the adequacy of the instructional program and the ability of the applicant to operate a school in such a manner as would best serve the public interest.

(c) After due investigation and consideration by the Commission, a license shall be issued to the applicant when it is shown to the satisfaction of the Commission that the applicant and school are in compliance with the following standards, as well as the requirements of any supplemental regulations of the Commission regarding these standards:

- (1) The program of instruction is adequate in terms of quality, content and duration.

- (2) The director, administrators and instructors are adequately qualified by reason of education and experience.
- (3) There are adequate facilities, equipment, instructional materials and instructor personnel to provide instruction of good quality.
- (4) The school has adopted adequate policies and procedures regarding administration, instruction, record keeping, entrance requirements, registration, tuition and fees, grades, student progress, attendance, and student conduct.
- (5) The school publishes and provides to all students upon enrollment a bulletin, catalogue or similar official publication which is certified as being true and correct in content and policy by an authorized school official, and which contains the following information:
 - a. Identifying data and publication date;
 - b. Name(s) of school and its full-time officials and faculty;
 - c. School's policies and procedures relating to entrance requirements, registration, grades, student progress, attendance, student conduct and refund of tuition and fees;
 - d. Detailed schedule of tuition and fees;
 - e. Detailed course outline of all courses offered.
- (6) Adequate records as prescribed by the Commission are maintained in regard to grades, attendance, registration and financial operations.
- (7) Institutional standards relating to grades, attendance and progress are enforced in a satisfactory manner.
- (8) The applicant is financially sound and capable of fulfilling educational commitments made to students.
- (9) The school's owner(s), director, administrators and instructors are of good reputation and character.
- (10) The school's facilities and equipment comply with all applicable local, State and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act and other laws relating to accessibility standards for places of public accommodation.
- (11) The school does not utilize advertising of any type which is false or misleading, either by actual statement, omission or intimation.
- (12) Such additional standards as may be deemed necessary by the Commission to assure the conduct of adequate instructional programs and the operation of schools in a manner which will best serve the public interest. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 4; 1993, c. 419, s. 12.; 2000-140, s. 19(b); 2005-395, s. 17.)

§ 93A-34. (Effective July 1, 2020) Certification required; application for certification; fees; requirements for certification.

(a) No person, partnership, corporation, association, individual, or other entity shall operate or offer to operate in this State, whether live or in any online format, as a private real estate education provider as defined herein unless a certification is first obtained from the Commission in accordance with the provisions of this Article and the rules and regulations promulgated by the Commission under this Article. For certification purposes, each branch location where an

education provider conducts courses shall be considered a separate location requiring a separate certification.

(b) Application for certification shall be filed in the manner and upon the forms prescribed by the Commission for that purpose. The Commission may by rule set nonrefundable application fees not to exceed two hundred fifty dollars (\$250.00) for each education provider and fifty dollars (\$50.00) for each real estate broker prelicensing or postlicensing course. The application for certification shall be accompanied by the appropriate fees.

(b1) Applications for education providers utilizing methods other than only distance education shall contain all of the following:

- (1) Name and address of the applicant.
- (2) Names, biographical data, and qualifications of director, administrators, and instructors.
- (3) Description of education provider school facilities and equipment, if any.
- (4) Description of course or courses to be offered and instructional materials to be utilized.
- (5) Information on policies and procedures regarding administration, record keeping, entrance requirements, registration, tuition and fees, grades, student progress, attendance, and student conduct.
- (6) Copies of bulletins, catalogues, and other official publications.
- (7) Copy of bond required by G.S. 93A-36.
- (8) Any additional information as the Commission may deem necessary to enable it to determine the adequacy of the instructional program and the ability of the applicant to operate in such a manner as would best serve the public interest.

(c) After due investigation and consideration by the Commission, certification shall be issued to the applicant when it is shown to the satisfaction of the Commission that the applicant and school are in compliance with the following standards, as well as the requirements of any supplemental regulations of the Commission regarding these standards:

- (1) The program of instruction is adequate in terms of quality, content and duration.
- (2) The director, administrators and instructors are adequately qualified by reason of education and experience.
- (3) There are adequate facilities, equipment, instructional materials and instructor personnel to provide instruction of good quality.
- (4) The education provider has adopted adequate policies and procedures regarding administration, instruction, record keeping, entrance requirements, registration, tuition and fees, grades, student progress, attendance, and student conduct.
- (5) The education provider publishes and provides to all students upon enrollment a bulletin, catalogue or similar official publication which is certified as being true and correct in content and policy by an authorized school official, and which contains all of the following information:
 - a. Identifying data and publication date.
 - b. Name or names of education provider or providers and its full-time officials and faculty.
 - c. Education provider's policies and procedures relating to entrance requirements, registration, grades, student progress, attendance, student conduct and refund of tuition and fees.
 - d. Detailed schedule of tuition and fees.

- e. Detailed course outline of all courses offered.
- (6) Adequate records as prescribed by the Commission are maintained in regard to grades, attendance, registration and financial operations.
 - (7) Institutional standards relating to grades, attendance and progress are enforced in a satisfactory manner.
 - (8) The applicant is financially sound and capable of fulfilling educational commitments made to students.
 - (9) The education provider's owner(s), director, administrators and instructors are of good reputation and character.
 - (10) The education provider's facilities and equipment comply with all applicable local, State and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act and other laws relating to accessibility standards for places of public accommodation.
 - (11) The education provider does not utilize advertising of any type which is false or misleading, either by actual statement, omission or intimation.
 - (12) Such additional standards as may be deemed necessary by the Commission to assure the conduct of adequate instructional programs and the operation of education providers in a manner which will best serve the public interest. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 4; 1993, c. 419, s. 12; 2000-140, s. 19(b); 2005-395, s. 17; 2019-195, s. 3.)

§ 93A-35. (Effective until July 1, 2020) Duration and renewal of licenses; transfer of school ownership.

- (a) All licenses issued shall expire on June 30 following the date of issuance.
- (b) Licenses shall be renewable annually on July 1, provided that a renewal application accompanied by the appropriate renewal fees has been filed not later than June 1 in the form and manner prescribed by the Commission, and provided further that the applicant and school are found to be in compliance with the standards established for issuance of an original license. The Commission may by rule set nonrefundable renewal fees not to exceed one hundred twenty-five dollars (\$125.00) for each school location and twenty-five dollars (\$25.00) for each real estate broker prelicensing and postlicensing course.
- (c) In the event a school is sold or ownership is otherwise transferred, the license issued to the original owner is not transferable to the new owner. Such new owner must make application for an original license as prescribed by this Article and Commission regulations. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 5; 1993, c. 419, s. 13.; 2000-140, s. 19(b); 2011-217, s. 18.)

§ 93A-35. (Effective July 1, 2020) Duration and renewal of certifications; transfer of school ownership.

- (a) All certifications issued shall expire on June 30 following the date of issuance.
- (b) Certifications shall be renewable annually on July 1, provided that a renewal application accompanied by the appropriate renewal fees has been filed not later than June 1 in the form and manner prescribed by the Commission, and provided further that the applicant and education provider are found to be in compliance with the standards established for issuance of an original certification. The Commission may by rule set nonrefundable renewal fees not to exceed

one hundred twenty-five dollars (\$125.00) for each education provider location and twenty-five dollars (\$25.00) for each real estate broker prelicensing and postlicensing course.

(c) In the event an education provider entity is sold or ownership is otherwise transferred, the certification issued to the original owner is not transferable to the new owner. The new owner must apply for an original certification as prescribed by this Article and Commission regulations. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, ss. 1, 2; 1989, c. 563, s. 5; 1993, c. 419, s. 13; 2000-140, s. 19(b); 2011-217, s. 18; 2019-195, s. 3.)

§ 93A-36. (Effective July 1, 2020) Execution of bond required; applicability to branch schools; actions upon bond.

(a) Before the Commission shall issue a certification the applicant shall execute a bond in the sum of five thousand dollars (\$5,000), payable to the State of North Carolina, signed by a solvent guaranty company authorized to do business in the State of North Carolina, and conditioned that the principal in said bond will carry out and comply with each and every contract or agreement, written or verbal, made and entered into by the applicant's education provider acting by and through its officers and agents with any student who desires to take any courses offered by the education provider and that said principal will refund to such students all amounts collected in tuition and fees in case of failure on the part of the party obtaining a certification from the Commission to operate as a private real estate education provider or to provide the instruction agreed to or contracted for. Such bond shall be required for each education provider for which a certification is required and shall be first approved by the Commission and then filed with the clerk of superior court of the county in which the school is located, to be recorded by such clerk in a book provided for that purpose. A separate bond shall not be required for each location of an education provider.

(b) In any and all cases where the party licensed by the Commission fails to fulfill its obligations under any contract or agreement, written or verbal, made and entered into with any student, then the State of North Carolina, upon the relation of the student(s) entering into said contract or agreement, shall have a cause of action against the principal and surety on the bond herein required for the full amount of payments made to such party, plus court costs and six percent (6%) interest from the date of payment of said amount. Such suits shall be brought in Wake County Superior Court within one year of the alleged default. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, s. 2; 1999-229, s. 12; 2019-195, s. 3.)

§ 93A-37. (Repealed effective July 1, 2020) Contracts with unlicensed schools and evidences of indebtedness made null and void.

All contracts or agreements entered into on or after October 1, 1980, by private real estate schools, as defined in this Article, with students or prospective students, and all promissory notes or other evidence of indebtedness taken on or after October 1, 1980, in lieu of cash payments by such schools, shall be null and void unless such schools are duly licensed as required by this Article on the date of such contract or agreement or taking of any promissory note or other evidence of indebtedness. (1979, 2nd Sess., c. 1193, s. 1.)

§ 93A-37: Repealed by Session Laws 2019-195, s. 3, effective July 1, 2020. (1979, 2nd Sess., c. 1193, s. 1; repealed by 2019-195, s. 3, effective July 1, 2020.)

§ 93A-38. (Effective until July 1, 2020) Suspension, revocation or denial of license.

The Commission shall have the power to suspend, revoke, deny issuance, or deny renewal of license to operate a private real estate school. In all proceedings to suspend, revoke or deny a license, the provisions of Chapter 150B of the General Statutes shall be applicable. The Commission may suspend, revoke, or deny such license when it finds:

- (1) That the applicant for or holder of such license has refused or failed to comply with any of the provisions of this Article or the rules or regulations promulgated thereunder;
- (2) That the applicant for or holder of such license has knowingly presented to the Commission false or misleading information relating to matters within the purview of the Commission under this Article;
- (3) That the applicant for or holder of such license has presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions or to employment opportunities;
- (4) That the applicant for or holder of such license has failed to comply with the provisions of any contract or agreement entered into with a student;
- (5) That the applicant for or holder of such license has at any time refused to permit authorized representatives of the Commission to inspect the school, or failed to make available to them upon request full information relating to matters within the purview of the Commission under the provisions of this Article or the rules or regulations promulgated thereunder; or
- (6) That the applicant for or holder of such license or any officer of a corporate licensee or corporation applying for a license, any partner of a partnership licensee or partnership applying for a license, or any member of a limited liability company licensee or limited liability company applying for a license has pleaded guilty, entered a plea of nolo contendere or been found guilty of a crime involving moral turpitude in any state or federal court. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, s. 2; 1987, c. 827, s. 1; 2005-395, s. 18.)

§ 93A-38. (Effective July 1, 2020) Suspension, revocation or denial of certification.

The Commission shall have the power to suspend, revoke, deny issuance, or deny renewal of certification of a private real estate education provider. In all proceedings to suspend, revoke or deny a certification, the provisions of Chapter 150B of the General Statutes shall be applicable. The Commission may suspend, revoke, or deny such certification or renewal thereof when it finds that the applicant or principal thereof or holder of such certification has done any of the following:

- (1) Refused or failed to comply with any of the provisions of this Article or the rules or regulations promulgated thereunder.
- (2) Knowingly presented to the Commission false or misleading information relating to matters within the purview of the Commission under this Article.
- (3) Presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions or to employment opportunities.
- (4) Failed to comply with the provisions of any contract or agreement entered into with a student.
- (5) At any time refused to permit authorized representatives of the Commission to inspect the school, or failed to make available to them upon request full

information relating to matters within the purview of the Commission under the provisions of this Article or the rules or regulations promulgated thereunder.

- (6) Pleaded guilty, entered a plea of nolo contendere or been found guilty of a crime involving moral turpitude in any state or federal court. (1979, 2nd Sess., c. 1193, s. 1; 1983, c. 81, s. 2; 1987, c. 827, s. 1; 2005-395, s. 18; 2019-195, s. 3.)

§ 93A-38.5. (Effective July 1, 2020) Continuing education.

(a) The Commission shall establish a program of continuing education for real estate brokers. An individual licensed as a real estate broker is required to complete eight hours of instruction a year during any license renewal period in subjects the Commission deems appropriate. Any licensee who fails to complete continuing education requirements pursuant to this section shall not actively engage in the business of real estate broker.

(b) The Commission may, as part of the broker continuing education requirements, require real estate brokers-in-charge to complete during each annual license period a special continuing education course consisting of not more than four hours of instruction in subjects prescribed by the Commission.

(c) The Commission shall establish procedures allowing for a deferral of continuing education for brokers while they are not actively engaged in real estate brokerage.

(d) The Commission may adopt rules not inconsistent with this Chapter to implement the continuing education requirement, including rules that govern:

- (1) The content and subject matter of continuing education courses.
- (2) The curriculum of courses required.
- (3) The criteria, standards, and procedures for the approval of courses, real estate education providers, and course instructors.
- (4) The methods of instruction.
- (5) The computation of course credit.
- (6) The ability to carry forward course credit from one year to another.
- (7) The deferral of continuing education for brokers not engaged in brokerage.
- (8) The waiver of or variance from the continuing education requirement for hardship or other reasons.
- (9) The procedures for compliance and sanctions for noncompliance.

(e) The Commission may establish a nonrefundable course application fee to be charged to private real estate education providers for the review and approval of a proposed continuing education course. The fee shall not exceed one hundred twenty-five dollars (\$125.00) per course. The Commission may charge the private real estate education providers of an approved course a nonrefundable fee not to exceed seventy-five dollars (\$75.00) for the annual renewal of course approval.

A private real estate education provider shall pay a fee of ten dollars (\$10.00) per licensee to the Commission for each licensee completing an approved continuing education course conducted by the sponsor.

The Commission shall not charge a course application fee, a course renewal fee, or any other fee for a continuing education course sponsored by a community college, junior college, college, or university located in this State and accredited by the Southern Association of Colleges and Schools.

(f) The Commission may award continuing education credit for an unapproved course or related educational activity. The Commission may prescribe procedures for a licensee to submit

information on an unapproved course or related educational activity for continuing education credit. The Commission may charge a fee to the licensee for each course or activity submitted. The fee shall not exceed fifty dollars (\$50.00). (2019-195, s. 3.)