

§ 93A-2. Definitions and exceptions.

(a) A real estate broker within the meaning of this Chapter is any person, partnership, corporation, limited liability company, association, or other business entity who for a compensation or valuable consideration or promise thereof lists or offers to list, sells or offers to sell, buys or offers to buy, auctions or offers to auction (specifically not including a mere crier of sales), or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or who sells or offers to sell leases of whatever character, or rents or offers to rent any real estate or the improvement thereon, for others.

(a1) The term broker-in-charge within the meaning of this Chapter means a real estate broker who has been designated as the broker having responsibility for the supervision of brokers on provisional status engaged in real estate brokerage at a particular real estate office and for other administrative and supervisory duties as the Commission shall prescribe by rule.

(a2) The term provisional broker within the meaning of this Chapter means a real estate broker who, pending acquisition and documentation to the Commission of the education or experience prescribed by either G.S. 93A-4(a1) or G.S. 93A-4.3, must be supervised by a broker-in-charge when performing any act for which a real estate license is required.

(b) The term real estate salesperson within the meaning of this Chapter shall mean and include any person who was formerly licensed by the Commission as a real estate salesperson before April 1, 2006.

(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

(1) Any partnership, corporation, limited liability company, association, or other business entity that, as owner or lessor, shall perform any of the acts aforesaid with reference to property owned or leased by them, where the acts are performed in the regular course of or as incident to the management of that property and the investment therein. The exemption from licensure under this subsection shall extend to the following persons when those persons are engaged in acts or services for which the corporation, partnership, limited liability company, or other business entity would be exempt hereunder:

- a. The officers and employees whose income is reported on IRS Form W-2 of an exempt corporation.
- b. The general partners and employees whose income is reported on IRS Form W-2 of an exempt partnership.
- c. The managers, member-managers, and employees whose income is reported on IRS Form W-2 of an exempt limited liability company.
- d. The natural person owners of an exempt closely held business entity. For purposes of this subdivision, a closely held business entity is a limited liability company or a corporation, neither having more than two legal owners, at least one of whom is a natural person.
- e. The officers, managers, member-managers, and employees whose income is reported on IRS Form W-2 of a closely held business entity when acting as an agent for an exempt business entity if the closely held business entity is owned by a natural person either (i) owning fifty percent (50%) or more ownership interest in the closely held business entity and the exempt business entity or (ii) owning fifty percent (50%) or more of a closely held business entity that owns a fifty percent (50%) or more ownership interest in the exempt business entity. The closely held business entity acting as an agent under this sub-subdivision must file an annual written notice with the Secretary of State, including its legal name and physical address. The

exemption authorized by this sub-subdivision is only effective if, immediately following the completion of the transaction for which the exemption is claimed, the closely held business entity has a net worth that equals or exceeds the value of the transaction.

When a person conducts a real estate transaction pursuant to an exemption under this subdivision, the person shall disclose, in writing, to all parties to the transaction (i) that the person is not licensed as a real estate broker or salesperson under Article 1 of this Chapter, (ii) the specific exemption under this subdivision that applies, and (iii) the legal name and physical address of the owner of the subject property and of the closely held business entity acting under sub-subdivision e. of this subdivision, if applicable. This disclosure may be included on the face of a lease or contract executed in compliance with an exemption under this subdivision.

- (2) Any person acting as an attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation of performance of any contract for the sale, lease or exchange of real estate.
- (3) Acts or services performed by an attorney who is an active member of the North Carolina State Bar if the acts and services constitute the practice of law under Chapter 84 of the General Statutes.
- (4) Any person, while acting as a receiver, trustee in bankruptcy, guardian, administrator or executor or any person acting under order of any court.
- (5) Any person, while acting as a trustee under a written trust agreement, deed of trust or will, or that person's regular salaried employees. The trust agreement, deed of trust, or will must specifically identify the trustee, the beneficiary, the corpus of trust, and the trustee's authority over the corpus.
- (6) Any salaried person employed by a licensed real estate broker, for and on behalf of the owner of any real estate or the improvements thereon, which the licensed broker has contracted to manage for the owner, if the salaried employee's employment is limited to: exhibiting units on the real estate to prospective tenants; providing the prospective tenants with information about the lease of the units; accepting applications for lease of the units; completing and executing preprinted form leases; and accepting security deposits and rental payments for the units only when the deposits and rental payments are made payable to the owner or the broker employed by the owner. The salaried employee shall not negotiate the amount of security deposits or rental payments and shall not negotiate leases or any rental agreements on behalf of the owner or broker. However, in a vacation rental transaction as defined by G.S. 42A-4(6), the employee may offer a prospective tenant a rental price and term from a schedule setting forth prices and terms and the conditions and limitations under which they may be offered. The schedule shall be written and provided by the employee's employing broker with the written authority of the landlord.
- (7) Any individual owner who personally leases or sells the owner's own property.
- (8) Any housing authority organized in accordance with the provisions of Chapter 157 of the General Statutes and any regular salaried employees of the housing authority when performing acts authorized in this Chapter with regard to the sale or lease of property owned by the housing authority or the subletting of property which the housing authority holds as tenant. This exception shall not apply to any person, partnership, corporation, limited

liability company, association, or other business entity that contracts with a housing authority to sell or manage property owned or leased by the housing authority. (1957, c. 744, s. 2; 1967, c. 281, s. 1; 1969, c. 191, s. 2; 1975, c. 108; 1983, c. 81, ss. 4, 5; 1985, c. 535, s. 1; 1995, c. 351, s. 20; 1999-229, ss. 2, 3; 1999-409, s. 1; 2001-487, s. 23(a); 2005-395, ss. 2, 3; 2011-217, s. 1; 2011-235, s. 1; 2015-286, s. 2.1; 2016-98, s. 1.8.)