

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 328
Committee Substitute Favorable 3/26/03

Short Title: Amend Real Estate Licensing Laws/Fees.-AB

(Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

1
2 AN ACT REVISING REAL ESTATE LICENSING EXAMINATION PROCEDURES,
3 CLARIFYING CONTINUING EDUCATION REQUIREMENTS FOR REAL
4 ESTATE LICENSEES, AND ENABLING THE REAL ESTATE COMMISSION
5 TO PERMIT LIMITED COMMERCIAL PRACTICE BY NONRESIDENT REAL
6 ESTATE BROKERS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 93A-4(b) reads as rewritten:

9 "(b) Except as otherwise provided in this Chapter, any person who submits an
10 application to the Commission in proper manner for a license as real estate broker or a
11 license as real estate salesperson shall be required to take an ~~oral or written~~
12 examination. ~~The Commission may allow an applicant to elect to take the examination~~
13 ~~by computer as an alternative to the written or oral examination and may be~~
14 administered orally, by computer, or by any other method the Commission deems
15 appropriate. The Commission may require the applicant to pay the Commission or a
16 provider contracted by the Commission the actual cost of administering the
17 computerized examination and its administration. ~~The cost of the~~
18 ~~computerized examination and its administration~~ shall be in addition to any other fees
19 the applicant is required to pay under subsection (a) of this section. The examination
20 shall determine the applicant's qualifications with due regard to the paramount interests
21 of the public as to the applicant's competency. A person holding a real estate
22 salesperson license in this State and applying for a real estate broker license shall not be
23 required to take an additional examination under this subsection. A person who fails the
24 license examination shall be entitled to know the result and score. A person who passes
25 the exam shall be notified only that the person passed the examination. Whether a
26 person passed or failed the examination shall be a matter of public record; however, the
27 scores for license examinations shall not be considered public records. Nothing in this
28 subsection shall limit the rights granted to any person under G.S. 93B-8.

1 An applicant for licensure under this Chapter shall satisfy the Commission that he or
2 she possesses the competency, honesty, truthfulness, integrity, and general moral
3 character necessary to protect the public interest and promote public confidence in the
4 real estate brokerage business. The Commission may investigate the moral character of
5 each applicant for licensure and require an applicant to provide the Commission with a
6 criminal record report. All applicants shall obtain criminal record reports from one or
7 more reporting services designated by the Commission to provide criminal record
8 reports. Applicants are required to pay the designated reporting service for the cost of
9 these reports. If the results of any required competency examination and investigation of
10 the applicant's moral character shall be satisfactory to the Commission, then the
11 Commission shall issue to the applicant a license, authorizing the applicant to act as a
12 real estate broker or real estate salesperson in the State of North Carolina, upon the
13 payment of privilege taxes now required by law or that may hereafter be required by
14 law."

15 **SECTION 2.** G.S. 93A-4A(a) reads as rewritten:

16 "(a) The Commission shall establish a program of continuing education for real estate
17 brokers and salespersons. ~~A person licensed as a real estate broker or salesperson must~~
18 ~~present evidence to the Commission upon the second license renewal following initial~~
19 ~~licensure, and every renewal thereafter, that during the 12 months preceding the annual~~
20 ~~license expiration date the person has completed eight classroom hours of real estate~~
21 ~~instruction in courses approved by the Commission.~~ An individual licensed as a real
22 estate broker or salesperson is required to complete continuing education requirements
23 in an amount not to exceed eight classroom hours of instruction a year during any
24 license renewal period in subjects and at times the Commission deems appropriate. Any
25 licensee who fails to complete continuing education requirements pursuant to this
26 section shall not actively engage in the business of real estate broker or salesperson."

27 **SECTION 3.** G.S. 93A-9 reads as rewritten:

28 "**§ 93A-9. Licensing nonresidents.**

29 (a) An applicant from another state, which offers licensing privileges to residents
30 of North Carolina, may be licensed by conforming to all the provisions of this Chapter
31 and, in the discretion of the Commission, such other terms and conditions as are
32 required of North Carolina residents applying for license in such other state; provided
33 that the Commission may exempt from the examination prescribed in G.S. 93A-4 a
34 broker or salesperson duly licensed in another state if a similar exemption is extended to
35 licensed brokers and salespersons from North Carolina.

36 (b) The Commission may issue a limited broker's or salesperson's license to a
37 person or an entity from another state or territory of the United States without regard to
38 whether that state or territory offers similar licensing privileges to residents in North
39 Carolina if the person or entity satisfies all of the following:

- 40 (1) Is of good moral character and licensed as a real estate broker or
41 salesperson in good standing in another state or territory of the United
42 States.
43 (2) Only engages in business as a real estate broker or salesperson in
44 North Carolina in transactions involving commercial real estate and

1 while the person or entity is affiliated with a resident North Carolina
2 real estate broker or salesperson.

3 (3) Complies with the laws of this State regulating real estate brokers and
4 salespersons and rules adopted by the Commission.

5 The Commission may require an applicant for licensure under this subsection to pay
6 a fee not to exceed three hundred dollars (\$300.00). All licenses issued under this
7 subsection shall expire on June 30 of each year following issuance or on a date that the
8 Commission deems appropriate unless the license is renewed pursuant to the
9 requirements of G.S. 93A-4. A person or entity licensed under this subsection may be
10 disciplined by the Commission for violations of this Chapter as provided in G.S. 93A-6
11 and G.S. 93A-54.

12 Any person or entity licensed under this subsection shall be affiliated with a resident
13 North Carolina real estate broker or salesperson, and the resident North Carolina real
14 estate broker or salesperson shall actively and personally supervise the licensee in a
15 manner that reasonably assures that the licensee complies with the requirements of this
16 Chapter and rules adopted by the Commission. The Commission may exempt applicants
17 for licensure under this subsection from examination and the other licensing
18 requirements under G.S. 93A-4. The Commission may adopt rules as it deems necessary
19 to give effect to this subsection, including rules establishing: (i) qualifications for
20 licensure; (ii) licensure and renewal procedures; (iii) requirements for continuing
21 education; (iv) conduct of persons and entities licensed under this subsection and their
22 affiliated resident real estate brokers or salespersons; (v) a definition of commercial real
23 estate; and (vi) any requirements or limitations on affiliation between resident real estate
24 brokers or salespersons and persons or entities seeking licensure under this subsection."

25 **SECTION 4.** G.S. 93A-10 reads as rewritten:

26 **"§ 93A-10. Nonresident licensees; filing of consent as to service of process and**
27 **pleadings.**

28 Every nonresident applicant shall file an irrevocable consent that suits and actions
29 may be commenced against such applicant in any of the courts of record of this State,
30 by the service of any process or pleading authorized by the laws of this State in any
31 county in which the plaintiff may reside, by serving the same on the Executive Director
32 of the Commission, said consent stipulating and agreeing that such service of such
33 process or pleadings on said Executive Director shall be taken and held in all courts to
34 be valid and binding as if due service had been made personally upon the applicant in
35 this State. This consent shall be duly acknowledged, and, if made by a corporation, shall
36 be ~~authenticated by its seal.~~ executed by an officer of the corporation. The signature of
37 the officer on the consent to service instrument shall be sufficient to bind the
38 corporation and no further authentication is necessary. An application from a
39 corporation or other business entity shall be ~~accompanied by a duly certified copy of the~~
40 ~~resolution of the board of directors, authorizing the proper officers to execute it.~~ signed
41 by an officer of the corporation or entity or by an individual designated by the
42 Commission. In all cases where process or pleadings shall be served, under the
43 provisions of this Chapter, upon the Executive Director of the Commission, such
44 process or pleadings shall be served in duplicate, one of which shall be filed in the

1 office of the Commission and the other shall be forwarded immediately by the
2 Executive Director of the Commission, by registered mail, to the last known business
3 address of the nonresident licensee against which such process or pleadings are
4 directed."

5 **SECTION 5.** This act is effective when it becomes law.