

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**HOUSE BILL 328
RATIFIED BILL**

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

The General Assembly of North Carolina enacts:

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

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

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

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

"(a) The Commission shall establish a program of continuing education for real estate brokers and salespersons. ~~A person licensed as a real estate broker or salesperson~~

~~must present evidence to the Commission upon the second license renewal following initial licensure, and every renewal thereafter, that during the 12 months preceding the annual license expiration date the person has completed eight classroom hours of real estate instruction in courses approved by the Commission. An individual licensed as a real estate broker or salesperson is required to complete continuing education requirements in an amount not to exceed eight classroom hours of instruction a year during any license renewal period in subjects and at times 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 or salesperson.~~"

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

"§ 93A-9. Licensing nonresidents.

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

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

- (1) Is of good moral character and licensed as a real estate broker or salesperson in good standing in another state or territory of the United States.
- (2) Only engages in business as a real estate broker or salesperson in North Carolina in transactions involving commercial real estate and while the person or entity is affiliated with a resident North Carolina real estate broker or salesperson.
- (3) Complies with the laws of this State regulating real estate brokers and salespersons and rules adopted by the Commission.

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

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

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

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

Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any of the courts of record of this State, by the service of any process or pleading authorized by the laws of this State in any county in which the plaintiff may reside, by serving the same on the Executive Director of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Executive Director shall be taken and held in all courts to be valid and binding as if due service had been made personally upon the applicant in this State. This consent shall be duly acknowledged, and, if made by a corporation, shall be ~~authenticated by its seal, executed by an officer of the corporation. The signature of the officer on the consent to service instrument shall be sufficient to bind the corporation and no further authentication is necessary.~~ An application from a corporation or other business entity shall be ~~accompanied by a duly certified copy of the resolution of the board of directors, authorizing the proper officers to execute it, signed by an officer of the corporation or entity or by an individual designated by the Commission.~~ In all cases where process or pleadings shall be served, under the provisions of this Chapter, upon the Executive Director of the Commission, such process or pleadings shall be served in duplicate, one of which shall be filed in the office of the Commission and the other shall be forwarded immediately by the Executive Director of the Commission, by registered mail, to the last known business address of the nonresident licensee against which such process or pleadings are directed."

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

In the General Assembly read three times and ratified this the 19th day of July, 2003.

Beverly E. Perdue
President of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____, m. this _____ day of _____, 2003