

## **21 NCAC 58A .0110      BROKER-IN-CHARGE**

(a) Every real estate firm shall designate one BIC for its principal office and one BIC for each of its branch offices. No office of a firm shall have more than one designated BIC. A BIC shall not serve as BIC for more than one office unless each of those offices share the same physical office space and delivery address.

(b) Every sole proprietorship shall designate a BIC if the sole proprietorship:

- (1) engages in any transaction where a broker is required to deposit and maintain monies belonging to others in a trust account;
- (2) engages in advertising or promoting services as a broker in any manner; or
- (3) has one or more other brokers affiliated with the sole proprietorship in the real estate business.

(c) A licensed real estate firm shall not be required to have a BIC if it:

- (1) is organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is treated for tax purposes as a pass-through business by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no licensed person associated with it other than its qualifying broker.

(d) A broker who maintains a trust or escrow account for the sole purpose of holding residential tenant security deposits received by the broker on properties owned by the broker in compliance with G.S. 42-50 shall not be required to be a BIC.

(e) In order for a broker to designate as a BIC for a sole proprietor, real estate firm, or branch office, a broker shall apply for BIC Eligible status by submitting an application on a form available on the Commission's website. The BIC Eligible status form shall include the broker's:

- (1) name;
- (2) license number;
- (3) telephone number;
- (4) email address;
- (5) criminal history and history of occupational license disciplinary actions;
- (6) certification of compliance with G.S. 93A-4.2, including that:
  - (A) his or her broker license is on active status;
  - (B) the broker has obtained at least two years of real estate brokerage experience equivalent to 40 hours per week within the previous five years or shall be a North Carolina licensed attorney with a practice that consisted primarily of handling real estate closings and related matters in North Carolina for three years immediately preceding application; and
  - (C) the broker completed the 12-hour Broker-in-Charge Course no earlier than one year prior to application and no later than 120 days after application; and
- (7) signature.

(f) A broker who holds BIC Eligible status shall submit a form to become the designated BIC for a sole proprietor, real estate firm, or branch office. The BIC designation form shall include:

- (1) the broker's:
  - (A) name;
  - (B) license number;
  - (C) telephone number;
  - (D) email address; and
  - (E) criminal history and history of occupational license disciplinary actions; and
- (2) the firm's:
  - (A) name; and
  - (B) license number, if applicable;

(g) A designated BIC shall:

- (1) assure that each broker affiliated at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;
- (2) notify the Commission of any change of firm's business address or trade name and the registration of any assumed business name adopted by the firm for its use;
- (3) be responsible for the conduct of advertising by or in the name of the firm at such office;
- (4) maintain the trust or escrow account of the firm and the records pertaining thereto;
- (5) retain and maintain records relating to transactions conducted by or on behalf of the firm, including those required to be retained pursuant to Rule .0108 of this Section;

- (6) supervise provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
  - (7) supervise all brokers affiliated at the office with respect to adherence to agency agreement and disclosure requirements;
  - (8) notify the Commission in writing that he or she is no longer serving as BIC of a particular office within 10 days following any such change;
  - (9) complete the Commission's Basic Trust Account Procedures Course within 120 days of assuming responsibility for a trust account in accordance with G.S. 93A-6(g), however the BIC shall not be required to complete the course more than once in three years; and
  - (10) supervise all unlicensed individuals employed at the office and ensure that unlicensed individuals comply with G.S. 93A-2(c)(6).
- (h) A broker holding BIC Eligible status shall take the Broker-in-Charge Update Course during the license year of designation, unless the broker has satisfied the requirements of Rule .1702 of this Subchapter prior to designation.
- (i) A broker's BIC Eligible status shall terminate if the broker:
- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
  - (2) fails to complete the 12-hour Broker-in-Charge Course pursuant to Paragraph (e) of this Rule;
  - (3) fails to renew his or her broker license pursuant to Rule .0503 of this Subchapter, or the broker's license has been suspended, revoked, or surrendered; or
  - (4) fails to complete the Broker-in-Charge Update Course and a four credit hour elective course pursuant to Rules .1702 and .1711 of this Subchapter, if applicable.
- (j) In order to regain BIC Eligible status after a broker's BIC Eligible status terminates, the broker shall complete the 12-hour Broker-in-Charge Course prior to application and then submit a BIC Eligible status form pursuant to Paragraph (e) of this Rule.
- (k) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.
- (l) A broker shall not be granted BIC Eligible status or designated as BIC of a firm if there is a pending Commission investigation against the broker.

*History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.2; 93A-9; 93A-38.5; Eff. September 1, 1983; Amended Eff. July 1, 2014; May 1, 2013; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018; Amended Eff. July 1, 2021; July 1, 2020; July 1, 2018.*