

**North Carolina  
Postlicensing Course Syllabus**

**POST 303  
SELECTED TOPICS**

**February 2018 Edition**



**North Carolina Real Estate Commission**

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## INTRODUCTION

**Course Description:** The *Post 303 Selected Topics* course is one of the three 30-classroom hour mandatory Postlicensing courses that must be completed by newly licensed North Carolina provisional brokers within three (3) years after licensure. The primary objective of the course is to provide instruction at a level beyond that provided in Prelicensing courses on topics deemed to be of special importance to licensees. Topics addressed in this course include commercial real estate brokerage, residential property management, land use controls, loan fraud, brokerage compensation issues, license law issues and case studies, selected fair housing issues and case studies, establishing a brokerage firm, manufactured and modular homes, and issues relating to short sales.

**Requirements for Teaching the Course:** This course may only be taught by schools and instructors approved by the North Carolina Real Estate Commission to teach Prelicensing and Postlicensing courses. Rules governing the conduct of the course, including scheduling, course completion standards, course delivery, course completion reporting and other related matters may be obtained from the Commission. The *Post 303 Selected Topics* course must be taught as prescribed by this syllabus.

**Prerequisite:** Possession of a North Carolina broker license (either provisional or non-provisional).

**Textbook:** The current edition of the *North Carolina Real Estate Manual*.

**Course Final Examinations and Completion Standards:** Schools and instructors are required to utilize end-of-course examinations provided by the Commission in accordance with Commission rules for such examinations. Schools and instructors shall safeguard and protect at all times the confidentiality of examinations provided by the Commission. The examination minimum passing standard is 75%. Schools and instructors may, at their discretion, also require completion of in-class or out-of-class graded assignments that may count for up to 25% of a student's grade for the course.

**Order of Topic Presentation and Recommended Topic Emphasis:** Instructors may present the topics in the order they deem most appropriate. Instructors may make reasonable minor adjustments in subject area emphasis as needed to facilitate instruction, but should be careful not to overemphasize or underemphasize any topic.

**General Instructional Approach:** Instructors are expected to utilize real world illustrative examples, to employ instructional techniques that encourage active student participation in class, and to employ practical in-class and out-of-class work assignments to the maximum extent possible in this course.

**Syllabus Copies:** The Commission provides this Syllabus for use by school officials and instructors. Schools are authorized to reproduce all or part of this syllabus for student use at their own expense, and may charge students for the cost of reproduction.

## **POST 303 SELECTED TOPICS POSTLICENSING COURSE**

### **RECOMMENDED TOPIC EMPHASIS**

	<b>Hours</b>
Section 1: Introduction to Commercial Real Estate Brokerage	7.5
Section 2: Landlord-Tenant Law & Residential Property Management	6
Section 3: Land Use Controls and the Real Estate Agent	2
Section 4: Loan Fraud	1.5
Section 5: Brokerage Compensation Issues	3
Section 6: Miscellaneous License Law and Rule Issues	0.75
Section 7: License Law Case Studies	3
Section 8: Fair Housing Case Studies	2
Section 9: Legal Requirements for Establishing a Real Estate Brokerage Firm	0.75
Section 10: Manufactured and Modular Homes	0.5
Section 11: Issues Related to Short Sales	1
Section 12: Local Issues	0.5
 Final Examination	 <u>1.5</u>
 <b>Total Hours</b>	 <b>30</b>

## **Post 303 Selected Topics Postlicensing Course Outline**

*References to **Manual** in this outline refer to the **North Carolina Real Estate Manual**, which is the prescribed text for this course. Page number references in the syllabus are to the edition of the Real Estate Manual published in 2017.*

### **Section 1: Introduction to Commercial Real Estate Brokerage (7½ hours) - Chapter 19 and portions of Chapters 15 & 16**

- I. Introductory Concepts and Issues (1 hour)
  - A. Basic Distinctions between Residential & Commercial Practice - pp 640-650
    - 1. Multiple Product Types and Specialized Areas of Practice
    - 2. Transaction Cycle Time
    - 3. Multiple Listing Service® (MLS)® vs. Database
    - 4. Special Importance of Zoning and Other Land Use Restrictions
    - 5. Leasing
    - 6. Contracts and Contract Forms
    - 7. Financing
    - 8. Higher Stakes
    - 9. Business Relationships
    - 10. Working Hours
    - 11. Cooperating with Out-of-State Brokers & Licensing Requirements
    - 12. Commercial Real Estate Broker Lien
  - B. Special Considerations in Commercial Practice - pp 651-660
    - 1. Zoning and Other Land Use Restrictions
    - 2. Financing
    - 3. Client and Customer Perspectives

## II. Commercial Property Classifications, Features & Market Factors (1 hour)

### A. Office Properties or Space - *pp 660-666*

1. Office Space Classifications
2. Factors Affecting Value/Desirability
3. Common Special Office Lease Provisions

### B. Retail Properties or Space - *pp 666-670*

1. Retail Space Classifications
2. Factors Affecting Value/Desirability
3. Common Special Retail Lease Provisions

### C. Industrial Properties - *pp 670-674*

1. Industrial Property Classifications
2. Factors Affecting Value/Desirability
3. Leases for Industrial Properties

### D. Land - *pp 674-677*

1. Factors Affecting Value/Desirability
2. Marketing Considerations

### E. Specialty Properties - *pg 678*

## III. Market Comprehension and Analysis (½ hour) - *pp 678-681*

### A. Understanding Market Factor Concepts

1. Linkages
2. Demographics
3. Absorption
4. Others

### B. Understanding Your Market

#### IV. Pricing and Analysis Issues (3½ hours)

A. Sale Pricing - pp 681-682

B. Lease Pricing - pp 682-685

C. Performing a Comparative Market Analysis (CMA) or Broker Price Opinion (BPO) on a Commercial Property (Residential 5+ Unit Property or any Other Income-Producing Property) - pp 515-534

1. Review of Laws & Rules Governing Broker Price Opinions (BPOs) and Comparative Market Analyses (CMAs) Performed by Real Estate Brokers

*[Additional References: Article 6 of Real Estate License Law; Commission Rules 58A .2201 & .2202 and 58A .0108.]*

2. Review of Income (Direct) Capitalization Methodology

3. Performing a BPO or CMA

Special emphasis should be placed on the material relating to analysis using the income capitalization approach to estimate a probable selling price and/or probable leasing price (lease rate).

D. Lease vs. Purchase Analysis - pp 683-684

E. Investment Analysis [Only Brief Intro with Caution] - pp 684-685

F. Like-kind (Section 1031) Exchange [Only Brief Intro with Caution] - pp 685-688

#### V. The Commercial Transaction Cycle (1¼ hour)

A. The Typical Sales Transaction Cycle - pp 688-693

1. Negotiation
2. Contract Preparation Generally
3. Selected Contract Provisions
4. Due Diligence
5. Financing
6. Closing and Post-Closing

B. The Typical Lease Transaction Cycle - pp 693-695;

## VI. Real Property Leases – *pp 695-714*

### A. Statute of Frauds

### B. Recording the Lease

### C. Major Types of Leases

1. Fixed Rental (Flat) Lease
2. Percentage Lease
3. Net Lease
4. Graduated Lease
5. Index Lease
6. Full Service Lease
7. Leases for Special Circumstances

### D. Common Lease Provisions

1. Tenant's Proposed Use
2. Environmental Matters
  - a. Lessor's Perspective
  - b. Lessee's Due Diligence
3. Lessee's Trade Fixtures
4. Repairs
5. Upfitting Improvements
6. Assignments and Subleases
7. Lease Renewal
8. Options for Purchase and Preemptive Rights
9. Lessor's Right to Enter Premises During Lease Term
10. Lessor's Implied Covenant of Quiet Enjoyment

E. Breach of Lease by Lessor or Lessee

VI. Securities Law & the Commercial Real Estate Broker-*Brief Intro Only* (¼ hour)  
- pp 714-715

**Section 2: Laws Governing Residential Tenancies & Residential Property Management (6 hours) - Chapters 16 & 17**

I. Laws Protecting Residential Tenants (1½ hours) - pp 536-555

A. Residential Rental Agreements Act

1. Waiver of Act is prohibited
2. “Mutuality of Obligations”
3. Tenant’s Statutory Duties
4. Landlord’s Statutory Duties
5. Broker’s Duties under Act
6. Allocation of Public Utility Costs
7. Tenant Remedies for Breach by Landlord
8. Landlord's Liability under the Law of Negligence

B. Act Prohibiting Retaliatory Eviction

C. Tenant Security Deposit Act

1. Permitted Uses of Security Deposits
2. Accounting to the Tenant
3. Security Deposit Limits
4. Pet Fee
5. Limits on Late Payment Fees

D. Summary Ejectment (Eviction Procedure)

1. Self-help Eviction Prohibited
2. Seizure of Tenant’s Personal Property



3. Expedited Eviction for Criminal Activity
- E. Additional Laws Protecting Residential Tenants
1. Fair Housing Laws (covered later in this course)
  2. Sexual Harassment
  3. Laws Protecting Public Housing (Section 8) Tenants
  4. Federal Service Members Civil Relief Act
  5. Laws Protecting Tenants in Foreclosure Situations
  6. Lead-Based Paint Hazard Disclosure – Form on pp 192-193
- II. Residential Leases (1 hour) - *pp 559-560*
- A. Review and Proper Completion of Standard Form #410-T – *Residential Rental Contract* - *pp 575-582*
- B. Requirement that Leases be in Writing and Recorded
- III. North Carolina Vacation Rental Act (½ hour) - *pp 560-563*
- IV. Introduction to Property Management (½ hour) - *pp 583-586*
- A. What Constitutes “Property Management”
- B. Licensing Requirement for Property Managers
1. General Requirement
  2. Exemption for Certain W-2 Employees of Brokers Acting as Property Managers
- C. Laws Governing Property Management Relationships
- V. Property Management Agreements (½ hour) - *pp 586-588*
- VI. Principal Functions of Property Managers (2 hours) - *pp 588-599*
- A. Preparing a Management Plan
- B. Establishing a Rental Schedule

- C. Preparing an Operating Budget
- D. Marketing and Renting the Property
- E. Collecting Rents and Security Deposits
- F. Maintaining and Protecting the Property
- G. Preparing and Enforcing Rules and Regulations
- H. Performing Landlord's Duties under Leases
- I. Instituting Legal Actions
- J. Maintaining Property Insurance
- K. Maintaining Records and Accounting to Owner

### **Section 3: Land Use Controls & the Real Estate Broker (2 hours) - Chapter 7**

- I. Public Land Use Controls (1 hour) - *pp 102-113*
  - A. Zoning
    - 1. Unified Development Ordinances
    - 2. Authority for Governmental Zoning and Land Use Control
    - 3. Extraterritorial jurisdiction
  - B. Zoning and Planning Administration
  - C. Zoning and Planning Concepts and Terms
    - 1. Mixed-Use Districts
    - 2. Overlay Districts
    - 3. Historic Preservation Zoning
    - 4. Special Uses and Special-Use Permits
    - 5. Conditional-Use Zoning
    - 6. Nonconforming Uses

7. Zoning Amendments (Rezoning)
  8. Variances
  9. Illegal Contract Zoning
  10. Illegal Uses
  11. Aesthetic Zoning
  12. Spot Zoning
- D. Urban and Regional Planning
- E. Subdivision Approval
1. Brokers' General Obligations
  2. Subdivision Streets Disclosure Laws
- F. Building Codes
- G. Highway Access Control
- H. Federal Regulation of Interstate Land Sales
- I. Environmental Issues and Due Diligence
- J. Environmental Laws and Regulations
1. CERCLA
  2. NC Coastal Area Management Act
  3. NC Mountain Ridge Protection Act
  4. Waterway Vegetation Buffer Zones
  5. Scenic Corridor Zones
  6. NC Leaking Petroleum Underground and Storage Tank Cleanup Act
  7. NC Sediment Pollution Control Act
  8. Solar Collectors on Homes

- 9. Clean Water Acts
- 10. Wastewater Systems
- K. Flood Hazard Area Regulations & Insurance
- L. Government Ownership
- II. Private Land Use Controls (1 hour) - *pp 120-126*
  - A. Restrictive/Protective Covenants
  - B. NC Planned Community Act
  - C. Conservation and Preservation Agreements

**Section 4: Loan Fraud (1½ hours) *pp 427-434***

- A. Loan Fraud Background
- B. Elements of Loan Fraud
- C. Some Examples of Loan Fraud
- D. Organized Mortgage Fraud

**Section 5: Brokerage Compensation Issues (3 hours) - *Chapter 21***

- I. Compensation for Brokerage Services Requires a Real Estate License - (¼ hour)
  - A. General Prohibition of Compensating Unlicensed Persons
  - B. Exceptions
    - 1. Sharing Compensation with Parties to the Transaction
    - 2. Payments to Travel Agents for Vacation Rentals
- II. Compensating Affiliated Licensees (1 hour)
  - A. Broker Eligibility for Compensation
  - B. Paying Provisional Brokers

- C. Paying Brokers NOT on Provisional Status
- D. Paying Assistants
- E. Paying Brokers No Longer Affiliated w/Firm, Inactive Brokers or Expired Brokers
- F. Miscellaneous Situations
- G. Paying Business Entities Created by Broker Associates for Compensation Purposes

### III. Sharing Compensation with Non-Affiliated Brokers or Firms (1 hour)

- A. Basic Licensure Requirements
- B. Sharing Brokerage Fees through Cooperative Listing Services
- C. Sharing Brokerage Fees Outside of Cooperative Listing Services
- D. Compensation Agreements “Should” be Written
- E. Listing Company Limitations on Sharing Compensation
- F. Sharing Compensation with Foreign (Out-of-State) Brokers
  - 1. Examples Involving Foreign Brokers
  - 2. Commercial Brokerage
  - 3. Limited Non-Resident Commercial License

### IV. Third Party Payments to Brokers ( $\frac{3}{4}$ hour)

- A. Review of Rule 21 NCAC 58A .0109
- B. Restrictions on Kickbacks, Rebates, Referral Fees, etc.
- C. Compensation, Incentives Bonuses, etc. to Broker From Anyone Other Than Broker's Principal

**Section 6: Miscellaneous License Law and Commission Rule Issues ( $\frac{3}{4}$  hour) - North Carolina License Law and Commission Rules (*Also including the License Law and Rule Comments*); *Real Estate Licensing in North Carolina (RELINC)*; *Broker-in-Charge Guide***

- I. Broker-in-Charge Overview ( $\frac{1}{4}$  hour) - Rule 58A .0110
  - A. When Broker-in-Charge Designation Is Required
  - B. General Duties of Broker-in-Charge
  - C. Education and Experience Requirements
- II. Using Unlicensed Personal Assistants ( $\frac{1}{4}$  hour)
  - A. Permitted Duties
  - B. Prohibited Activities
- III. License Status and Education Issues ( $\frac{1}{4}$  hour)
  - A. License Status: Meaning of provisional broker, active, inactive, expired, suspended, and revoked status.
  - B. Postlicensing Education Requirement (and consequences of failure to satisfy)
  - C. Continuing Education Requirement (and consequences of failure to satisfy)
  - D. Requirements and procedures to activate an inactive license
  - E. Requirements and procedures to reinstate an expired license
    - 1. License expired for not more than 6 months
    - 2. License expired for more than 6 months

**Section 7: License Law Case Studies (3 hours) - *Chapter 20***

Review and discussion of disciplinary case summaries of actual cases handled by the Real Estate Commission

- (Case study results are provided in Appendix C, pp 841-842.)

## **Section 8: Fair Housing Case Studies (2 hours) – pp 623-627**

Review and discussion of fair housing laws and practices illustrated by the case studies provided

- (Case study results are provided in Appendix C, pp 839-840.)

## **Section 9: Legal Requirements for Establishing a Real Estate Brokerage Firm (¾ hour) - *Appendix A and Broker-in-Charge Guide***

### **I. Real Estate Companies**

#### **A. Sole Proprietorship**

#### **B. Business Entities**

##### **1. Required Application Information**

##### **2. Creating an Entity**

###### **a. Corporation**

###### **b. Limited Liability Company (LLC)**

###### **c. Partnership**

##### **3. Permissible Names of Entities**

##### **4. Failure to Renew Firm License**

##### **5. Lack of Qualifying Broker**

##### **6. Change in Structure or Merger**

### **II. Real Estate FIRM License Requirements - Rule 58A .0502**

**A.** A firm application must be filed with NCREC.

**B.** Firm must be legally formed and authorized by NC Secretary of State to do business in NC. Name on firm application must be identical to name registered with the Office of the Secretary of State.

**C.** One actively-licensed principal of the business entity (e.g., a general partner of a partnership, a manager of an LLC, or an officer of a corporation) must serve as “Qualifying Broker.”

D. Firm must have a broker-in-charge for each office. (Exception for certain Subchapter S corporations.)

E. All principals must satisfy “character” requirement.

F. Firm licensure does not extend to any individual.

G. Firm license must be renewed annually like an individual broker license.

III. Qualifying Broker Duties – Rule 58A .0502(d)

**Section 10: Manufactured and Modular Homes (½ hour) - pg 8**

I. Characteristics of Manufactured and Modular Homes

II. How to determine if a Manufactured Home is Real or Personal Property

**Section 11: Issues Relating to Short Sales (1 hour) - pp 434-437**

I. Introduction

A. What is a Short Sale?

B. Brokers' Responsibility to Identify Potential Short Sale Situation

II. The Short Sale Process

A. The Approval Process

B. Brokers' Roles

**Section 12: Local Issues (½ hour)**

Instructor discretionary time for discussion of real estate issues of particular interest and significance in the local area where the course is being taught. *Examples:* Vacation Rental Act in areas with a lot of vacation rental property; special considerations in the sale or purchase of coastal property in coastal areas; local zoning issues; and local school reassignment issues and the impact on a particular address's assigned base schools.

**End of Course Syllabus**