

5. Selling, buying, leasing, assigning or exchanging any interest in real estate, including a leasehold interest, in connection with the sale or purchase of a business.
6. Referring a party to a real estate licensee, if done for compensation. Any arrangement or agreement between a licensee and an unlicensed person that calls for the licensee to compensate the unlicensed person in any way for finding, introducing or referring a party to the licensee has been determined by North Carolina's courts to be prohibited under the License Law. Therefore, no licensee may pay a finder's fee, referral fee, "bird dog" fee or similar compensation to an unlicensed person.

#### Unlicensed Employees — Permitted Activities

The use of unlicensed assistants and other unlicensed office personnel in the real estate industry is very widespread and the Commission is frequently asked by licensees what acts such persons may lawfully perform. To provide guidance to licensees regarding this matter, the Commission has prepared the following list of acts that an unlicensed assistant or employee may lawfully perform so long as the assistant or employee is salaried or hourly paid and is not paid on a per-transaction basis.

An unlicensed, salaried employee MAY:

1. Receive and forward phone calls and electronic messages to licensees.
2. Submit listings and changes to a multiple listing service, but only if the listing data or changes are compiled and provided by a licensee.
3. Secure copies of public records from public repositories (i.e., register of deeds office, county tax office, etc.).
4. Place "for sale" or "for rent" signs and lock boxes on property at the direction of a licensee.
5. Order and supervise routine and minor repairs to listed property at the direction of a licensee.
6. Act as a courier to deliver or pick up documents.
7. Schedule appointments for showing property listed for sale or rent.
8. Communicate with licensees, property owners, prospects, inspectors, etc. to coordinate or confirm appointments.
9. Show rental properties managed by the employee's employing broker to prospective tenants and complete and execute preprinted form leases for the rental of such properties.
10. Type offers, contracts and leases from drafts of preprinted forms completed by a licensee.
11. Record and deposit earnest money deposits, tenant security deposits and other trust monies, and otherwise maintain records of trust account receipts and disbursements, under the close supervision of the

office broker-in-charge, who is legally responsible for handling trust funds and maintaining trust accounts.

12. Assist a licensee in assembling documents for closing.
13. Compute commission checks for licensees affiliated with a broker or firm and act as bookkeeper for the firm's bank operating accounts.

#### Exemptions [G.S. 93A-2]

The following persons and organizations are specifically exempted from the requirement for real estate licensure:

1. **Property owners** when selling or leasing their own property. This includes both individual property owners personally selling or leasing their property and business entities selling or leasing real estate owned by the business entity. To qualify under this exemption, the person or entity must be the actual title holder or share title with an undivided interest.

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[Note: The Commission takes the position that the *bona fide* officers and employees of a **corporation** need not be licensed to sell or lease real estate belonging to the corporation. This is because corporations have a separate legal identity and can only function through its officers and employees, thus such officers and employees must be exempt when selling or leasing the corporation's property in order to give effect to the corporation exemption. However, the officers and employees of other business entities are considered to be exempt only if they personally are title owners of the property to be sold or leased. Thus, a partner in a general partnership is exempt as an owner when selling or leasing partnership-owned real estate, but an officer or employee of the partnership who is not also a partner is not exempt.]

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2. Persons acting as **attorneys-in-fact** under a power of attorney in consummating performance under a contract for the sale, lease or exchange of real estate. (Note: This limited exemption applies only to the final completion of a transaction already commenced. The licensing requirement may not be circumvented by obtaining a power of attorney.)
3. **Attorneys-at-law** when performing real estate activities in the normal course of providing legal services to their clients, such as when administering an estate or trust. Attorneys may NOT otherwise engage in real estate brokerage practice without a real estate license.
4. **Persons acting under court order** (e.g., receivers, trustees in bankruptcy, guardians or personal representatives)
5. **Trustees** acting under a trust agreement, deed of trust or will.
6. Certain **salaried employees of broker-property managers**. (See G.S. 93A-2(c)(6) for details.)