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**To:** Joint Legislative APO Committee  
Joint Legislative Oversight Committee on Justice and Public Safety

**From:** North Carolina Real Estate Commission

**Re:** Session Law 2018

Statutory Reference for Criminal Violations	Does the board have rulemaking authority to make conduct criminal?	Reference to Commission Rules	Comments
<b>N.C.G.S. § 93A-8. Penalty for violation of Chapter.</b> “Any person violating the provisions of this Chapter shall upon conviction thereof be deemed guilty of a Class 1 misdemeanor. [1957, c. 744, s. 8; 1993, c. 539, s. 657; 1994, Ex. Sess., c. 24, s. 4(c)].”	The Commission has authority to create reasonable rules not inconsistent with Chapter 93A or other statutes. Rules are enacted by the Commission only when authorized by statute. Violations of the statute may be prosecuted as criminal acts by the appropriate authorities, not the Real Estate Commission.	The Commission rules are set out on the OAH website: <a href="http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2021%20-%20Occupational%20Licensing%20Boards%20and%20Commissions\Chapter%2058%20-%20Real%20Estate%20Commission">http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2021%20-%20Occupational%20Licensing%20Boards%20and%20Commissions\Chapter%2058%20-%20Real%20Estate%20Commission</a>	The Commission only determines what conduct constitutes a violation of Chapter 93A. Where such conduct might be considered criminal in nature, such as the theft of trust money, the Commission may refer such cases to the appropriate federal or state authorities for a determination as to whether or not the conduct in question warrants criminal prosecution by said authorities, not by the Commission.