



# South Carolina Department of Insurance

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## BULLETIN NUMBER 2009-16

TO: All Insurers, Producers, Agencies and Brokers Transacting the Business of Insurance in South Carolina

FROM: Scott H. Richardson, CPCU *SAR*  
Director

SUBJECT: 2009 Producer Licensing Changes

DATE: September 9, 2009

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### I. PURPOSE AND SCOPE OF THIS BULLETIN

The purpose of this bulletin is to highlight some of the more significant producer licensing changes effected by 2009 S.C. Act No. 69 (Act) and Budget Proviso 62.3<sup>1</sup>. These laws implement additional segments of uniform and reciprocal licensing standards adopted by the National Association of Insurance Commissioners.

Additional bulletins will be issued to address the Act's changes relating to S.C. Code § 38-39-20(b), license renewal requirements for premium service companies; S.C. Code § 38-43-80(B), initial and biennial appointment renewal requirements; S.C. Code § 38-43-200, splitting commissions and payments to unlicensed persons; and S.C. Code § 38-45-10 and § 38-45-20, broker licensing requirements.

### II. PRODUCER LICENSE REQUIREMENTS

#### A. Fees for Licenses

Proviso 62.3 and S.C. Code § 38-43-80 as amended by Act No. 69 identify the fees that may be charged for an insurance producer license, appointment of a producer by an insurer, and an insurance agency license.

#### Initial Producer License: Twenty-five Dollars (\$25)

The new law increases the initial producer license fee to \$25. This fee must be paid by all applicants at the time of application for producer licensure. An application for licensure will not be processed until this fee is paid in full.

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<sup>1</sup> Included in 2009 S.C. Act No. 23 (R.49, H. 3560), the General Appropriations Act for Fiscal Year 2009-10

Biennial Producer License Renewal: Twenty-five Dollars (\$25)

The \$25 license renewal fee must be paid upon renewal of a producer's license. The deadline for license renewals and payment of the \$25 license renewal fee is May 1, 2010. Failure to pay the renewal fee by the renewal deadline will result in the lapse of the producer's license, appointment(s), and any other license tied to the producer license (i.e. broker's license, agency license).

Insurance Producer Appointments

Insurers may appoint a producer to act on the insurer's behalf in a capacity designated by the type of appointment. An appointment may be a (1) general appointment, (2) local appointment, or (3) special appointment as those terms are defined in S.C. Code § 38-1-20(8). The fees for initial appointment and biennial appointment renewals remain unchanged and are as follows:

- Local appointment initial and biennial fee – Forty Dollars (\$40)
- Special appointment initial and biennial fee – One-hundred Dollars (\$100)
- General appointment initial and biennial fee – One-hundred Dollars (\$100)

The initial appointment fee must be paid in advance. The Department will be issuing a separate bulletin by October 1, 2009 to address the requirements for biennial appointment renewals as they relate to the September 30, 2010 compliance deadline.

Insurance Agency License: Forty Dollars (\$40)

The fees for an initial agency license and the biennial agency license renewal remain unchanged.

Insurance Producer with Travel/ Baggage Authority License and Appointment: Twenty Dollars (\$20)

The license and appointment fee applicable to a producer of a common carrier who sells only transportation ticket policies on accident and health insurance or baggage insurance on personal effects continues to be twenty dollars (\$20).

**B. Continuing Insurance Education Requirements**

**1. 2010 Compliance Period**

S.C. Code § 38-43-106(B)(1) provides the deadline for compliance with the State's continuing insurance education (CE) requirements and is based on NAIC uniformity standards. Previously, the statute required all producers to comply with CE requirements for the two-year period ending May 1 in even-numbered years. **The final May 1<sup>st</sup> compliance deadline is May 1, 2010.** Additional information regarding the May 1, 2010 compliance deadline is detailed in Section III, beginning on Page 4, of this bulletin.

**2. Birth Month/ Birth Year Compliance Periods**

The statute has been amended to provide individualized deadlines based on the licensee's birth month and birth year. Beginning January 2011, producers will be required to comply with continuing education and license renewal requirements by the last day of the producer's month of birth. An individual born in an odd-numbered year must comply every odd-numbered year. An individual born in an even-numbered year must comply every even-numbered year. For example, a producer born in May 1971 will be required to comply by May 31, 2011 and every odd-numbered year thereafter whereas a producer born in May 1970 will be required to comply by May 31, 2012 and every even-numbered year thereafter.

Additional information regarding the transition process and birth month/ birth year compliance requirements will be posted on the Department's website under the "Continuing Education" and "Producer" sections by October 31, 2009.

## **C. Insurance Producer License Duration and Renewal Requirements**

### **1. Resident Producers**

This section sets forth license renewal requirements for South Carolina resident producers.

#### **a. 2010 Compliance Period**

**For the 2008-2010 biennial compliance period, a producer must fulfill the following requirements by May 1, 2010 in order for the producer's license to continue:**

- (1) renew the producer license;**
- (2) pay the \$25 biennial license renewal fee to the Department;**
- (3) comply with the state's continuing education requirements; and**
- (4) pay the \$15 recordkeeping fee to Prometric, the CE Administrator.**

Additional information regarding compliance requirements for the 2008-2010 biennial compliance period is detailed in Section III, beginning on Page 4, of this bulletin.

#### **b. Birth Month/ Birth Year Compliance Periods**

Beginning January 2011, a producer's license is effective for a two-year term based on the individual's birth month and birth year. In order for a producer's license to continue, a producer must (1) renew the license; (2) pay the biennial license renewal fee to the Department; (3) comply with the state's continuing education requirements; and (4) pay the recordkeeping fee to Prometric, the CE Administrator. The license will remain active if renewed by the last day of the licensee's month of birth on a biennial basis so long as the license has not been suspended or revoked.

### **2. Non-Resident Producers**

This section sets forth license renewal requirements for South Carolina non-resident producers.

#### **a. 2010 Compliance Period**

**For the 2008-2010 biennial compliance period, a producer must fulfill the following requirements by May 1, 2010 in order for the producer's license to continue:**

- (1) renew the producer license;**
- (2) pay the \$25 biennial license renewal fee to the Department; and**
- (3) pay the \$15 recordkeeping fee to Prometric, the CE Administrator.**

Additional information regarding compliance requirements for the 2008-2010 biennial compliance period is detailed in Section III, beginning on Page 4, of this bulletin.

#### **b. Birth Month/ Birth Year Compliance Periods**

Beginning January 2011, a producer's license is effective for a two-year term based on the individual's birth month and birth year. In order for a producer's license to continue, a producer must (1) renew the license; (2) pay the biennial license renewal fee to the Department; and (3) pay the recordkeeping fee to Prometric, the CE Administrator. The license will remain active if renewed by the last day of the licensee's month of birth on a biennial basis so long as the license has not been suspended or revoked.

### **III. MAY 1, 2010 PRODUCER LICENSE RENEWAL AND CE COMPLIANCE**

What follows is an explanation of the producer license renewal and continuing insurance education compliance requirements that must be met by May 1, 2010. Attached and labeled as Exhibit A is an overview of the compliance requirements detailed below.

***FOR THE 2008-2010 BIENNIAL COMPLIANCE PERIOD, A PRODUCER MUST FULFILL THE FOLLOWING REQUIREMENTS BY MAY 1, 2010 IN ORDER FOR THE PRODUCER'S LICENSE TO CONTINUE:***

#### **(1) RENEW THE PRODUCER LICENSE**

All producers licensed as of June 2, 2009 must renew their producer license and pay the \$25 biennial license renewal fee. The deadline for all producer license renewals is May 1, 2010 to coincide with the deadline for compliance with the state's continuing insurance education requirements. The Department encourages producers to renew their licenses as soon as possible.

License renewals will be processed electronically. All producers licensed as of June 2, 2009 were mailed a written notice with instructions on the license renewal process on June 19, 2009. If you have not received this notice, your address on file with the Department may be incorrect. By law, all producers must have on file with the Department an up-to-date mailing address. For additional information regarding how to update a licensee's mailing address and the state's change of address notification requirements, please refer to Bulletin 2009-05 or visit the Address Change Request section of the "Producer" page on the Department's website.

Producers that did not receive the notice dated June 19, 2009 and were licensed as of June 2, 2009 are still required to comply with license renewal requirements. A copy of the notice is available on the Department's website under the "Producer" section or by clicking [here](#).

A demonstration of the online license renewal process is available on the Department's homepage and is labeled "License Renewal Demonstration." For assistance with completing the license renewal process, please call (803) 737-6095 or email [agntmail@doi.sc.gov](mailto:agntmail@doi.sc.gov).

#### **(2) PAY THE \$25 BIENNIAL LICENSE RENEWAL FEE TO DOI**

The \$25 license renewal fee must be paid upon renewal of a producer's license. Producer license renewal fees can be paid online as a part of the license renewal application. As noted above, all producers licensed as of June 2, 2009 are required to comply with this requirement and should have received a notice with instructions on how to access the online licensing process. A demonstration of the online license renewal process is also available on the Department's homepage, [www.doi.sc.gov](http://www.doi.sc.gov), and is labeled "License Renewal Demonstration."

Fees may be paid by electronic check, credit card, debit card, or prepaid card. Credit, debit, and prepaid cards must bear the VISA, MasterCard or Discover Card logo in order to be used. Please note that a \$1.43 processing and portal fee applies to all credit, debit, and prepaid card transactions.

For assistance with payment of the biennial license renewal fee, please call (803) 737-6095 or email [agntmail@doi.sc.gov](mailto:agntmail@doi.sc.gov).

### **(3) COMPLY WITH THE STATE'S CONTINUING EDUCATION REQUIREMENTS**

#### **a. Resident Producers**

Resident producers subject to a CE requirement and licensed through April 30, 2009 must comply by earning twenty-four (24) hours of credit, including three (3) hours of ethics, and paying the two-year recordkeeping fee of \$15 as set forth in Item (4) on Page 7 by May 1, 2010. Multi-line producers must complete a minimum of eight (8) credit hours in each line of authority in addition to meeting the ethics hours requirement.

Resident producers subject to a CE requirement and licensed on or after May 1, 2009 and before November 1, 2009 must comply by earning three (3) hours of ethics and paying the one-year recordkeeping fee of \$7.50 as set forth in Item (4) on Page 7 by May 1, 2010.

Resident producers licensed on or after November 1, 2009 and before May 1, 2010 do not have to comply with CE requirements or pay the CE recordkeeping fee for the biennial compliance period ending May 1, 2010.

#### **b. Non-Resident Producers**

Non-resident producers may comply by paying the recordkeeping fee as set forth in Item (4) on Page 7 and meeting the requirements of their home state. Non-resident producers are no longer required to certify their credit hours compliance to Prometric, South Carolina's CE Administrator.

#### **c. Limited Lines Producers**

Producers licensed for limited lines insurance are exempt from compliance with the state's CE requirements, including payment of the CE recordkeeping fee. This exemption applies to producers licensed solely for one or more of the below forms of insurance:

(1) Limited line insurance: crop, travel, surety, marine, preneed, title, and Federal Crop Insurance Program; and

(2) Limited line credit insurance: credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, and guaranteed automobile protection insurance.

#### **d. Requests for Exemptions, Reduced Compliance**

S.C. Code § 38-43-106(G) includes "age" exemptions from compliance with the state's CE requirements for the following:

(1) a licensed producer reaching the age of fifty-five (55), for any lines of authority for which he has a minimum of twenty (20) years of *continuous* licensure in that line or lines of authority; and

(2) a licensed producer reaching the age of sixty (60), for any lines of authority for which he has a minimum of twenty (20) years of *active* licensure in that line or lines of authority.

**Requests for exemptions based upon age and years of licensure pursuant to Subsection (G) of S.C. Code § 38-43-106 must be submitted in writing to the Department and must be received by December 31, 2009. This subsection has been repealed effective January 1, 2010. No requests submitted after the December 31, 2009 deadline will be honored.**

Written requests for “age” exemptions must be submitted by the deadline using the following information:

Department of Insurance  
Attn: Agent Licensing  
Post Office Box 100105  
Columbia, South Carolina 29202-3105

Fax: (803) 737-6100  
Email: agntmail@doi.sc.gov

S.C. Code § 38-43-106(H) provides “professional designation” reduced compliance requirements as set forth below:

(1) a licensed producer, for any lines of authority for which he has a minimum of twenty (20) years of *continuous* licensure in that line or lines of authority, is required to complete twelve (12) hours of continuing education biennially;

(2) a licensed producer, for any lines of authority for which he has a minimum of twenty-five (25) years of *active* licensure in that line or lines of authority, is required to complete twelve (12) hours of continuing education biennially; and

(3) a licensed producer, for any lines of authority for which he has been *continuously* licensed for ten (10) years and has achieved one of the following designations, is required to complete twelve (12) hours of continuing education biennially:

(a) if applying for a life, accident, and health license:

- (i) Chartered Life Underwriter (CLU);
- (ii) Fellow, Life Management Institute (FLMI);
- (iii) Certified Financial Planner (CFP);
- (iv) Registered Health Underwriter (RHU);
- (v) Registered Employee Benefit Consultant (REBC);
- (vi) Life Underwriter Training Council Fellow (LUTCF); or
- (vii) Chartered Financial Consultant (CHFC); and

(b) if applying for a Property, Casualty, Surety, and Marine license:

- (i) Chartered Property and Casualty Underwriter (CPCU); or
- (ii) Certified Insurance Counselor (CIC).

Producers receiving reduced compliance requirements are still required to pay the CE recordkeeping fee to Prometric as detailed in Item (4) on Page 7. Multi-line producers subject to the requirements of Subsection (H) must complete a minimum of six (6) hours of CE for each line of authority and a minimum of three (3) hours of ethics.

**Requests for reduced compliance requirements based upon professional designation and years of licensure pursuant to Subsection (H) of S.C. Code § 38-43-106 must be submitted in writing to Prometric and must be received by December 31, 2009. If the request is based upon achieving a professional designation as detailed in item (3) above, such a request must include proof that the producer has achieved and currently holds the professional designation in order to be processed. This subsection has been repealed effective January 1, 2010. No requests submitted after the December 31, 2009 deadline will be honored.**

Written requests for “professional designation” reduced compliance requirements must be submitted by the deadline using the following information:

Prometric  
Attn: South Carolina CE  
1260 Energy Lane  
St. Paul, Minnesota 55108

Fax: (800) 735-7977  
Email: pro.ce-services@prometric.com

*Subsections (G) and (H) of S.C. Code § 38-43-106 have been repealed effective January 1, 2010. Producers eligible for exemption or reduced compliance on or before December 31, 2009 must submit a written request as specified above in order to obtain the exemption or reduced compliance requirement. In order to receive the “age” exemption pursuant to Subsection (G), the Department must receive the written request by December 31, 2009. In order to receive the “professional designation” reduced compliance requirement pursuant to Subsection (H), Prometric must receive the written request by December 31, 2009. Eligible producers that do not submit a written request by the deadline will not receive the respective exemption or reduced compliance requirement. Exemptions and reduced compliance requirements granted pursuant to these subsections will be honored as long as the producer maintains continuous licensure. A producer receiving reduced compliance requirements based upon achieving a professional designation pursuant to Subsection (H) must also maintain the professional designation in order to maintain the reduced compliance requirement. The cancellation of a producer’s license will result in the permanent revocation of the exemption or reduced compliance requirement.*

**d. Requests for Extensions or Waivers**

Requests for extensions and hardship waivers must be received by May 1, 2010. Producers that submit a request for extension or hardship waiver must still pay the CE recordkeeping fee by May 1, 2010 as specified in Item (4) below.

Requests for extensions must be submitted in writing to Prometric and may be submitted via facsimile to (800) 735-7977, via email to [pro.ce-services@prometric.com](mailto:pro.ce-services@prometric.com), or via postal service to:

Prometric  
Attn: South Carolina CE  
1260 Energy Lane  
St. Paul, Minnesota 55108

Requests for hardship waivers must be submitted in writing to the Department and must include documentation or other appropriate information to demonstrate the need for such a waiver. Requests may be submitted via facsimile to (803) 737-6100, via email to [agntmail@doi.sc.gov](mailto:agntmail@doi.sc.gov), or via postal service to:

Department of Insurance  
Attn: Agent Licensing  
Post Office Box 100105  
Columbia, South Carolina 29202-3105

**(4) PAY THE \$15 RECORDKEEPING FEE TO PROMETRIC, THE CE ADMINISTRATOR**

Resident and non-resident producers are required to pay the CE recordkeeping fee of \$15 for the biennial compliance period. This fee is separate and distinct from the biennial license renewal fee and is due to Prometric, the CE Administrator, by May 1, 2010.

For the 2008-2010 biennial compliance period, producers licensed as of April 30, 2009 are required to pay the two-year recordkeeping fee of \$15. Producers licensed on or after May 1, 2009 and before November 1, 2009 must pay the one-year recordkeeping fee of \$7.50. Producers licensed on or after November 1, 2009 and before May 1, 2010 do not have to pay a CE recordkeeping fee for the 2008-2010 biennial compliance period.

Limited lines producers and producers exempt from CE compliance pursuant to S.C. Code § 38-43-106(G) are not required to pay the recordkeeping fee.

***FAILURE TO COMPLETE THE ABOVE REQUIREMENTS BY MAY 1, 2010 WILL RESULT IN THE LAPSE OF THE PRODUCER'S LICENSE, APPOINTMENT(S), AND ANY OTHER LICENSE TIED TO THE PRODUCER LICENSE (I.E., BROKER'S LICENSE, AGENCY LICENSE).***

Producers whose license(s) and appointment(s) have lapsed for failure to comply with the state's producer license renewal and CE requirements as detailed above will have until November 1, 2010 to reinstate the license(s) and appointment(s). Additional information regarding the reinstatement process will be posted on the Department's website following the May 1, 2010 compliance deadline.

Producers whose license(s) and appointments(s) have lapsed are prohibited from transacting any insurance business until the license(s) and appointment(s) have been reinstated. To do so constitutes a violation of South Carolina law and the unauthorized transaction of insurance business. A producer who fails to demonstrate compliance by November 1, 2010 will have their producer license, appointment(s), and any other license(s) tied to the producer license immediately canceled.

#### **IV. QUESTIONS**

Questions regarding this bulletin may be submitted to the Agent Mailbox at [agntmail@doi.sc.gov](mailto:agntmail@doi.sc.gov) or by contacting the Office of Individual Licensing and Continuing Education at (803) 737-6095.

#### **V. APPENDIX**

The following exhibits are attached:

- Exhibit A: May 1, 2010 Producer License Renewal and CE Compliance Requirements Chart
- Exhibit B: 2009 S.C. Act No. 69

Bulletins are the method by which the Director of Insurance formally communicates with persons and entities regulated by the Department. Bulletins are departmental interpretations of South Carolina insurance laws and regulations and provide guidance on the Department's enforcement approach. Bulletins do not provide legal advice. Readers should consult applicable statutes and regulations or contact an attorney for legal advice or for additional information on the impact of that legislation on their specific situation.

# Exhibit A

## May 1, 2010 Producer License Renewal and CE Compliance Requirements Chart

What follows is a brief overview of the producer license renewal and continuing insurance education compliance requirements for the 2008-2010 biennial compliance period. Additional details are provided in Bulletin 2009-16. The deadline for compliance is May 1, 2010.

<b>Resident Producers with a CE Requirement</b>				
Producer Licensure Date	License Renewal Requirement	Biennial License Renewal Fee	CE Requirement	CE Recordkeeping Fee
Through April 30, 2009	Yes	\$25	24 hrs	\$15
May 1 - June 2, 2009	Yes	\$25	3 hrs ethics	\$7.50
June 3 - October 31, 2009	n/a	n/a	3 hrs ethics	\$7.50
November 1, 2009 - April 30, 2010	n/a	n/a	n/a	n/a

<b>Non-Resident Producers</b>				
Producer Licensure Date	License Renewal Requirement	Biennial License Renewal Fee	CE Requirement	CE Recordkeeping Fee
Through April 30, 2009	Yes	\$25	n/a	\$15
May 1 - June 2, 2009	Yes	\$25	n/a	\$7.50
June 3 - October 31, 2009	n/a	n/a	n/a	\$7.50
November 1, 2009 - April 30, 2010	n/a	n/a	n/a	n/a

<b>Limited Lines Producers</b>				
Producer Licensure Date	License Renewal Requirement	Biennial License Renewal Fee	CE Requirement	CE Recordkeeping Fee
Through June 2, 2009	Yes	\$25	n/a	n/a
June 3, 2009 - April 30, 2010	n/a	n/a	n/a	n/a

<b>Resident Producers Receiving an Exemption from CE Requirements</b>				
Producer Licensure Date	License Renewal Requirement	Biennial License Renewal Fee	CE Requirement	CE Recordkeeping Fee
Through June 2, 2009	Yes	\$25	n/a	n/a
June 3, 2009 - April 30, 2010	n/a	n/a	n/a	n/a

**NOTE: THIS COPY IS A TEMPORARY VERSION. THIS DOCUMENT WILL REMAIN IN THIS VERSION UNTIL PUBLISHED IN THE ADVANCE SHEETS TO THE ACTS AND JOINT RESOLUTIONS. WHEN THIS DOCUMENT IS PUBLISHED IN THE ADVANCE SHEET, THIS NOTE WILL BE REMOVED.**

(A69, R106, H3562)

**AN ACT TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 PERTAINING TO INSURANCE, SO AS TO ADD THE DEFINITIONS OF "GENERAL APPOINTMENT", "LOCAL APPOINTMENT", "SPECIAL APPOINTMENT", "CROP INSURANCE", AND "TRAVEL INSURANCE", CORRECT ARCHAIC LANGUAGE, AND MAKE CONFORMING AMENDMENTS; TO AMEND SECTION 38-39-20, RELATING TO PREMIUM SERVICE COMPANIES, SO AS TO PROVIDE THAT THE FEE FOR LICENSURE TO ENGAGE IN SERVICING INSURANCE PREMIUMS IN THIS STATE IS DUE ON A BIENNIAL BASIS RATHER THAN ON AN ANNUAL BASIS; TO AMEND SECTION 38-43-80, AS AMENDED, RELATING TO LICENSE FEES FOR INSURANCE PRODUCERS AND AGENCIES, SO AS TO PROVIDE FOR A BIENNIAL PRODUCER LICENSE RENEWAL FEE OF TWENTY-FIVE DOLLARS, INCREASE THE INITIAL PRODUCER LICENSE RENEWAL FEE FROM TWENTY DOLLARS TO TWENTY-FIVE DOLLARS, AND PROVIDE FOR THE REQUIREMENTS RELATING TO THE PAYMENT OF APPOINTMENT FEES; TO AMEND SECTION 38-43-106, AS AMENDED, RELATING TO CONTINUING EDUCATION REQUIREMENTS FOR INSURANCE PRODUCERS, SO AS TO PROVIDE THAT THE BIENNIAL COMPLIANCE PERIOD IS BASED ON THE LICENSEE'S MONTH AND YEAR OF BIRTH; TO AMEND SECTION 38-43-110, AS AMENDED, RELATING TO THE DURATION OF AN INSURANCE PRODUCER'S LICENSE, SO AS TO PROVIDE THAT INDIVIDUAL LICENSES MUST BE RENEWED BIENNIALLY BASED ON THE LICENSEE'S MONTH AND YEAR OF BIRTH AND PROVIDE FOR THE REQUIREMENTS RELATING TO RENEWAL; TO AMEND SECTION 38-43-200, AS AMENDED, RELATING TO THE PROHIBITION ON SPLITTING COMMISSIONS WITH AN**

**UNLICENSED PERSON BY AN INSURANCE PRODUCER, SO AS TO DELETE THE EXISTING PROVISIONS AND PROVIDE FOR THE REQUIREMENTS RELATING TO THE SPLITTING AND SHARING OF COMMISSIONS; TO AMEND SECTION 38-45-10, RELATING TO THE DEFINITIONS OF AN INSURANCE BROKER, SO AS TO PROVIDE FOR THE QUALIFYING DUTIES AND PROVIDE FOR EXCEPTIONS; AND TO AMEND SECTION 38-45-20, AS AMENDED, RELATING TO THE REQUIREMENTS FOR LICENSURE AS AN INSURANCE BROKER, SO AS TO DELETE THE REQUIREMENTS THAT A BROKER HOLD AT LEAST ONE APPOINTMENT.**

Be it enacted by the General Assembly of the State of South Carolina:

**Definitions**

SECTION 1. Section 38-1-20 of the 1976 Code, as last amended by Act 290 of 2004, is further amended to read:

“Section 38-1-20. As used in this title, unless the context otherwise requires:

(1) ‘Accident and health insurance’ means insurance of human beings against death or personal injury by accident, and each insurance of human beings against sickness, ailment, and any type of physical disability resulting from accident or disease, and prepaid dental service, but not including coverages required by the Workers’ Compensation Law of this State.

(2) ‘Accommodation bondsman’ means as defined in Section 38-53-10.

(3) ‘Adjuster’ means an individual who determines the extent of insured losses and assists in settling or attempts to settle claims.

(4) ‘Admitted assets’ means assets of an insurer considered admitted under Section 38-11-100.

(5) ‘Admitted insurer’ means an insurer licensed to do business in this State.

(6) ‘Alien insurer’ means an insurer incorporated or organized under the laws of a country other than the United States of America, its states, commonwealths, territories, or insular possessions.

(7) ‘Annuity’ means each contract or agreement to make periodic payments, whether in fixed or variable dollar amounts, or both, at specified intervals.

(8)(a) 'Appointment' means an individual designated by an official or authorized representative of an authorized insurer to act on its behalf as a producer.

(b) 'General appointment' means an appointment of a person who, as a representative of an insurer or insurers, is vested with authority to supervise producers and to exercise this management authority as is delegated to him by the principal. A producer appointed as a general also may perform the duties of a producer who holds a local or special appointment.

(c) 'Local appointment' means an appointment of a producer who has been authorized by an insurer to sell, solicit, or negotiate policies on an insurer's behalf.

(d) 'Special appointment' means an individual designated by an insurer to supervise and assist other producers in the proper discharge of their duties under an insurer's policy contract. A special appointment grants no authority to sell, solicit, or negotiate policies of insurance on behalf of an insurer.

(9) 'Bail bondsman' means as defined in Section 38-53-10.

(10) 'By' means on or before.

(11) 'Casualty insurance' means each insurance against legal liability of the insured for bodily injury to or death of another person, including workers' compensation insurance, and for damages to or loss or destruction of the property of another person; medical payments insurance when written in conjunction with insurance covering liability for the deaths or bodily injuries of another person; guaranteeing the fidelity of a person holding a position of public or private trust; loss of or damage to property caused by burglary, theft, larceny, robbery, fraud, or unlawful taking or secretion of property owned by or entrusted to the insured; loss of or damage to property of the insured resulting from the explosion of or damage to a fired or unfired boiler or other pressure vessel, engine, turbine, compressor, pump, wheel, or an apparatus generating, transmitting, or using electric power, and machinery or equipment connected with any of them; loss resulting from nonpayment of debts owed to merchants or another person extending credit.

(12) 'Certificate of insurance' means a memorandum copy, complete or abbreviated, of an insurance contract.

(13) 'Coinsurance' means a stipulation or requirement that the insured undertakes to be his own insurer to the extent that he fails to maintain insurance of a given percentage of the value of the property against loss or damage.

(14) 'Commission' means the part of the premium paid to the producer as compensation for his services.

(15) 'Company' includes a corporation, fraternal organization, burial association, other association, partnership, society, order, individual, or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and corporations.

(16) 'Crop insurance' includes insurance providing protection against damage to crops from unfavorable weather conditions, fire, lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

(17) 'Department' means the Department of Insurance of South Carolina.

(18) 'Designee or deputy director' means the person or persons appointed by the director, serving at the will and pleasure of the director as his designee, to supervise and carry out the functions and duties of the department as provided by law. A duty or function of the director to manage and supervise the department may be conferred by the director's authority upon his designee or deputy director.

(19) 'Director' means the person who is appointed by the Governor upon the advice and consent of the Senate and who is responsible for the operation and management of the department. The director has the authority to appoint or designate the person or persons who shall serve at the pleasure of the director to carry out the objectives or duties of the department as provided by law. Furthermore, the director may bestow upon his designee or deputy director a duty or function required of him by law to manage and supervise the department.

(20) 'Domestic insurer' means an insurer incorporated or organized under the laws of this State.

(21) 'Eligible surplus lines insurer' means a nonadmitted insurer with which a licensed broker may place surplus lines insurance.

(22) 'Exempt commercial policies' means policies for commercial insureds as may be provided for in regulation issued by the director. Exempt commercial policies include all property and casualty coverages except for insurance related to credit transactions written through financial institutions.

(23) 'Foreign insurer' means an insurer incorporated or organized under the laws of the United States or of any jurisdiction within the United States other than this State.

(24) 'Home state' means the District of Columbia and a state or territory of the United States in which an insurance producer maintains

his principal place of residence or principal place of business and is licensed to act as an insurance producer.

(25) 'Insurance' means a contract where one undertakes to indemnify another or pay a specified amount upon determinable contingencies. The term 'insurance' includes annuities.

(26) 'Insurance agency' means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity in which more than one person has a financial interest.

(27) 'Insurance broker' means an individual licensed by the department to represent citizens of this State in placing their insurance. An insurance broker may place that insurance either with an eligible surplus lines insurer or with a licensed insurance producer in an insurance carrier licensed in this State.

(28) 'Insurance company' means an 'insurer'.

(29) 'Insurance premium service company' means a person engaged in the business of entering into insurance premium service agreements.

(30) 'Insurance producer' or 'producer' means a person who represents an insurance company and is required to be licensed pursuant to Section 38-43-10.

(31) 'Insurance rate' means the price of insurance for each unit of exposure.

(32) 'Insurance-support organization' means a person who regularly engages, in whole or in part, in the practice of assembling or collecting information about natural persons for the primary purpose of providing the information to an insurer or agent for insurance transactions, including: (i) the furnishing of consumer reports or investigative consumer reports to an insurer or agent for use in connection with an insurance transaction; or (ii) the collection of personal information from insurers, agents, or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation, or material nondisclosure in connection with insurance underwriting or insurance claim activity. However, the following are not considered insurance-support organizations for purposes of this chapter: agents, governmental institutions, insurers, modeling organizations, consumer reporting agencies, medical care institutions, and medical professionals.

(33) 'Insurer' includes a corporation, fraternal organization, burial association, other association, partnership, society, order, individual, or aggregation of individuals engaging or proposing or attempting to engage as principals in any kind of insurance or surety business, including the exchanging of reciprocal or interinsurance contracts between individuals, partnerships, and corporations.

(34) 'License' means a document issued by the state's director or his designee authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier.

(35) 'Life insurance' means a contract of insurance upon the lives of human beings. The following contracts are considered to be contracts of life insurance within the meaning of this definition:

(a) a contract providing acceleration of life benefits, beginning on the contract's original effective date, in advance of the time they otherwise would be payable for long-term care as defined in Section 38-72-40;

(b) a contract providing acceleration of life benefits, beginning on the contract's original effective date, in advance of the time they otherwise would be payable for a life-threatening illness or a terminal illness as specified in the contract.

(36) 'Limited line credit insurance' includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and another form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the director or his designee determines should be designated a form of limited line credit insurance.

(37) 'Limited line credit insurance producer' means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(38) 'Limited line insurance' includes crop, travel surety, Federal Crop Insurance Program, and any other form of insurance that the director considers necessary in order to ensure compliance with the reciprocal provisions of this chapter.

(39) 'Limited line insurance producer' means a person authorized by the director or his designee to sell, solicit, or negotiate limited line insurance.

(40) 'Marine insurance' means each insurance against loss or destruction of or damage to aircraft, vessels, or watercraft and their cargoes; insurance covering the risks or perils of navigation, transit, or transportation of all forms of property, including the liability of a carrier for hire for the loss of property of shippers delivered for transporting; marine builder's risks; bridges, tunnels, piers, wharves, docks and slips, dry docks, marine railways, and other aids to navigation and transportation, precious stones, precious metals, and

jewelry, whether in the course of transportation or otherwise; coverage of personal property by all risk forms known as the 'Personal Property Floater'; and coverage of mobile machinery and equipment.

(41) 'Modeling organization' means a corporation, unincorporated association, partnership, or individual, whether located within or outside this State, that prepares a catastrophe model that is used by an insurer in a rate filing. A catastrophe model is a computer program that estimates losses from a potential upcoming disaster. Catastrophe modeling combines data on property exposures with information on hazards, such as storms or earthquakes, to generate estimates of potential losses.

(42) 'Negotiate' means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(43) 'Nonadmitted insurer' means an insurer not licensed to do an insurance business in this State.

(44) 'Person' means a corporation, agency, partnership, association, voluntary organization, individual, or another entity, organization, or aggregation of individuals.

(45) 'Policy' means a contract of insurance.

(46) 'Premium' means payment given in consideration of a contract of insurance.

(47) 'Premium service agreement' means an agreement by which an insured or prospective insured promises to pay to an insurance premium service company the amount advanced or to be advanced under the agreement to an insurer or to an insurance producer or insurance broker in payment of premiums on an insurance contract together with a service charge as authorized by Chapter 39 of this title.

(48) 'Probation' means allowing a licensed person the director has found to have violated South Carolina, any United States territory, or another state's laws to continue selling, soliciting, or negotiating insurance on behalf of an insurer. A person convicted of a felony or those crimes listed in 18 U.S.C. 1033 or 1034 does not qualify for probation.

(49) 'Professional bondsman' means as defined in Section 38-53-10.

(50) 'Property insurance' means each insurance against direct or indirect loss of or damage to a property resulting from fire, smoke, weather disturbances, climatic conditions, earthquake, volcanic eruption, rising waters, insects, blight, animals, war damage, riot, civil commotion, destruction by order of civil authority to prevent spread of conflagration or for other reason, water damage, vandalism, glass

breakage, explosion of a water system, collision, theft of automobiles, and personal effects in them (but no other forms of theft insurance), loss of or damage to domestic or wild animals, and any other perils to property which in the discretion of the director or his designee form proper subjects of property insurance, if not specified in items (1), (7), (11), (35), (40), (54), or (59) of this section.

(51) 'Runner' means as defined in Section 38-53-10.

(52) 'Sell' means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(53) 'Solicit' means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(54) 'Surety' includes insurance or a bond that covers obligations to pay the debts, or answer for the default, of another, including faithlessness in a position of public or private trust.

(55) 'Surety bondsman' means as defined in Section 38-53-10.

(56) 'Surplus lines insurance' means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop-loss insurance coverage upon group life, accident, and health insurance or upon a self-insured's life, accident, and health benefits program may be approved as surplus lines insurance.

(57) 'Surplus to policyholders' is the excess of total admitted assets over the liabilities of an insurer which is the sum of all capital and surplus accounts minus any impairment of them.

(58) 'Terminate' means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

(59) 'Title insurance' means insurance of the owners of real property and other persons lawfully interested in the title insurance against loss by reason of defective titles and undisclosed liens and encumbrances affecting the property.

(60) 'Travel insurance' includes insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability, and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

(61) 'Uniform agency application' means the current version of the National Association of Insurance Commissioners Uniform Business Entity Application for resident and nonresident business entities.

(62) ‘Uniform application’ means the current version of the National Association of Insurance Commissioners Uniform Application for resident and nonresident producer licensing.”

### **License fee**

SECTION 2. Section 38-39-20(b) of the 1976 Code is amended to read:

“(b) The biennial license fee is one thousand dollars payable to the department by March 1, 2010, and biennially after that time. These funds are to be deposited in the general fund of the State.”

### **Certain fees altered**

SECTION 3. Section 38-43-80 of the 1976 Code, as last amended by Act 326 of 2008, is further amended to read:

“Section 38-43-80. (A)(1) Unless otherwise changed by regulation or statute, the following fees are applicable to producer licenses, agency licenses, and insurer appointments:

(a) initial producer license fee: twenty-five dollars; biennial producer license renewal fee: twenty-five dollars;

(b) local appointment initial and biennial fee: forty dollars; special appointment initial and biennial fee: one hundred dollars; general appointment initial and biennial fee: one hundred dollars;

(c) agency initial and biennial license fee: forty dollars.

(2) However, the license and appointment fee applicable to a producer of a common carrier who sells only transportation ticket policies on accident and health insurance or baggage insurance on personal effects is twenty dollars.

(B) The fees provided for in subsection (A)(1)(b) are subject to the following requirements on each appointment basis:

(1) initial fees are due and payable in advance of the appointment;

(2) fees are due on a biennial basis and must be paid to the department by September thirtieth of an even-numbered year;

(3) if a fee is not paid by September thirtieth of an even-numbered year, the appointment must be canceled; and

(4) an appointment must be reactivated if by December first of the even-numbered year the appointment fee and a two hundred fifty-dollar penalty has been paid to the department.

(C) Fees must be paid in advance. The department shall promulgate regulations specifying the time and manner of payment of fees. If payment is rejected by the bank, the producer has thirty days from the rejection date to pay the license fee. If payment is not made to the department within this period, the license must be canceled. To reinstate the license, the producer is required to pay a license fee plus any charges resulting from rejection by the bank.

(D) Fees provided for in subsection (A)(1)(a) and (B)(4) are to be retained by the department as other funds for purposes of implementing and administering individual licensing requirements and the provisions of this title. License and appointment fees must be deposited into the general fund of this State.

(E) A fee provided for in this section may be paid by credit card.”

### **Continuing education requirements, administration of**

SECTION 4. Section 38-43-106(B)(1) of the 1976 Code, as last amended by Act 326 of 2008, is further amended to read:

“(1) The director or his designee shall administer these continuing education requirements and shall approve courses of instruction which qualify for these purposes. However, the director may enter into reciprocal agreements with the insurance commissioners of other states regarding the approval of continuing education courses, sponsors, instructors, or proctors if, in his judgment, the arrangements or agreements are in the best interest of the State and if the proposed courses, sponsors, instructors, or proctors submitted meet the minimum statutory requirements of this State for approval. However, the director or his designee may not enter into or continue a reciprocal agreement unless the other state has requirements similar to this State in approving courses, sponsors, instructors, or proctors. In administering this program, the department, in its discretion, may promulgate regulations producers provide to a continuing education administrator established within the department proof of compliance with continuing education requirements as a condition of license renewal or, in the alternative, contract with an outside service provider to provide recordkeeping services as the continuing education administrator. The costs of the continuing education administrator must be paid from the continuing insurance education fees paid by producers in the manner provided by this section, except that course approval responsibilities may not be designated to the continuing education administrator. The continuing education administrator shall compile and maintain, in conjunction with insurers and producers, records reflecting the continuing insurance

education status of all licensed or qualified producers subject to the requirements of this section. The continuing education administrator shall furnish to the insurer, as specified by regulation, a report of the continuing insurance education status of all of its producers. All licensed producers shall provide evidence of their continuing insurance education status to the continuing education administrator by the last day of the individual's month of birth. An individual born in an odd-numbered year shall comply every odd-numbered year. An individual born in an even-numbered year shall comply every even-numbered year."

### **Producer's license**

SECTION 5. Section 38-43-110 of the 1976 Code, as last amended by Act 326 of 2008, is further amended to read:

"Section 38-43-110. (A) A producer's license continues on a biennial basis unless revoked or suspended subject to the following requirements:

(1) an individual producer license must be renewed by the last day of the licensee's month of birth based on the producer's year of birth as provided for in regulation;

(2) an individual producer license may not be renewed unless the continuing education requirements of Section 38-43-106 are met; and

(3) an individual producer license may not be renewed unless the biennial license renewal fee is paid as provided in Section 38-43-80.

(B) A producer who allows his license to lapse for failure to comply with Section 38-43-106, within six months from the compliance deadline, may reinstate the same license if continuing education requirements have been met and a penalty fee set forth by regulation is paid.

(C) A licensed insurance producer who is unable to comply with license renewal procedures due to active military service or some other extenuating circumstance (e.g., a long-term medical disability) may request a waiver of those procedures. The producer also may request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures."

### **Prohibition of certain commissions, fees, etc.**

SECTION 6. Section 38-43-200 of the 1976 Code, as last amended by Act 291 of 2004, is further amended to read:

“Section 38-43-200. (A) An insurance company or insurance producer may not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed pursuant to the provisions of this chapter and is not licensed.

(B) A person may not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed pursuant to the provisions of this chapter and is not licensed.

(C) A renewal or other deferred commission may be paid to a person for selling, soliciting, or negotiating insurance in this State if the person was required to be licensed pursuant to the provisions of this chapter at the time of the sale, solicitation, or negotiation and was licensed at that time.

(D) An insurer or insurance producer may pay or assign service fees or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in this State, unless the payment violates another provision of Title 38. A payment made pursuant to the provisions of this subsection must not be based on completion of the sale of the insurance policy.

(E) Nothing in this section may be construed to prohibit a licensed insurance producer from rebating a portion of his commission collected on automobile insurance premiums to the insured upon that automobile insurance policy.

(F) This section does not prohibit the payment of a fee to a trade or professional association exempt from income tax under Section 501(c) of the Internal Revenue Code.”

### **Insurance broker, definition**

SECTION 7. Section 38-45-10 of the 1976 Code is amended to read:

“Section 38-45-10. (A)(1) An ‘insurance broker’, as used in this chapter, means a property and casualty insurance producer licensed by the director or his designee who:

(a) sells, solicits, or negotiates insurance on behalf of an insured;

(b) takes or transmits other than for himself an application for insurance or a policy of insurance to or from an insured;

(c) advertises or otherwise gives notice that he receives or transmits a surplus lines application or policies;

(d) receives or delivers a policy of surplus lines insurance for an insured on behalf of a surplus lines insurer;

(e) receives, collects, or transmits a premium of surplus lines insurance; or

(f) performs another act in the making of a surplus lines insurance contract for or with an insured.

(2) However, an insurance broker's license is not required of a broker's office employee acting within the confines of the broker's office, under the direction and supervision of the licensed broker and within the scope of the broker's license, in the acceptance of request for insurance and payment of premiums and the performance of clerical, stenographic, and similar office duties.

(B) An insurance broker may place that insurance either with an eligible surplus lines insurer or with a licensed insurance producer appointed by an insurance carrier licensed in this State."

### **Licensing of insurance broker, requirements**

SECTION 8. Section 38-45-20 of the 1976 Code, as last amended by Act 326 of 2008, is further amended to read:

"Section 38-45-20. A resident property and casualty-licensed insurance producer may be licensed as an insurance broker by the director or his designee if the following requirements are met:

(1) licensure of the resident as an insurance producer for the same lines of insurance for which he proposes to apply as a broker of this State;

(2) successfully passed the South Carolina broker licensing examination;

(3) payment of a biennial license fee of two hundred dollars which is earned fully when received, not refundable;

(4) filing of a bond with the department in a form approved by the Attorney General in favor of South Carolina of ten thousand dollars executed by a corporate surety licensed to transact surety insurance in this State and personally countersigned by a licensed resident agent of the surety. The bond must be conditioned to pay a person insured or seeking insurance through the broker who sustains loss as a result of:

(a) the broker's violation of or failure to comply with an insurance law or regulation of this State;

(b) the broker's failure to transmit properly a payment received by him, cash or credit, for transmission to an insurer or an insured; or

(c) an act of fraud committed by the broker in connection with an insurance transaction. Instead of a bond, the broker may file with the department certificates of deposit of ten thousand dollars of building and loan associations or federal savings and loan associations located

within the State in which deposits are guaranteed by the Federal Savings and Loan Insurance Corporation, not to exceed the amount of insurance, or of banks located within the State in which deposits are guaranteed by the Federal Deposit Insurance Corporation, not to exceed the amount of insurance. An aggrieved person may institute an action in the county of his residence against the broker or his surety, or both, to recover on the bond or against the broker to recover from the certificates of deposit, and a copy of the summons and complaint in the action must be served on the director, who is not required to be made a party to the action;

(5) payment to the department, within thirty days after March thirty-first, June thirtieth, September thirtieth, and December thirty-first each year, of a broker's premium tax of four percent upon premiums for policies of insurers not licensed in this State. In computing total premiums, return premiums on risks and dividends paid or credited to policyholders are excluded. Such credit must be refunded to the policyholder."

**Time effective**

SECTION 9. This act takes effect upon approval by the Governor.

Ratified the 27<sup>th</sup> day of May, 2009.

Approved the 2<sup>nd</sup> day of June, 2009.