

South Carolina Department of Insurance

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

FROM: Scott H. Richardson, CPCU 
Director

SUBJECT: 2009 Appointment Changes

DATE: February 3, 2010

I. PURPOSE

This bulletin is the third in a series of bulletins¹ published to educate the South Carolina insurance industry on recent changes in South Carolina law effected by 2009 S.C. Act No. 69 and Budget Proviso 62.3². The purpose of this bulletin is to 1) provide an overview of the changes in the law affecting insurer appointments and appointment renewals; and 2) set forth the requirements relating to insurer appointments and appointment renewals.

II. OVERVIEW OF STATUTORY CHANGES

A. INITIAL AND BIENNIAL APPOINTMENT FEES

Proviso 62.3 and S.C. Code § 38-43-80 as amended by Act No. 69 set forth the fees that may be charged for the initial appointment of a producer by an insurer and the biennial appointment renewal. What follows is a summary of the producer appointment fees.

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). Appointment fees must be paid by the insurer and may not be passed on to the producer. The fees for initial appointment and biennial appointment renewals remain unchanged and are as follows:

Local appointment initial and biennial fee – Forty Dollars (\$40)

¹ Previous bulletins: Bulletin 2009-16, Bulletin 2009-17 and Bulletin 2009-21

² Included in 2009 S.C. Act No. 23 (R.49, H. 3560), the General Appropriations Act for Fiscal Year 2009-10

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

Additionally, the 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. INITIAL APPOINTMENT AND APPOINTMENT RENEWAL REQUIREMENTS

S.C. Code Ann. §38-43-80(B) sets forth the requirements for insurer appointments of producers as follows:

1. The initial appointment fee must be paid in advance by the insurer.
2. Appointment renewal fees are due on a biennial basis. The biennial appointment renewal fee must be paid by September 30th of an even-numbered year.
3. If the biennial appointment renewal fee is not paid by September 30th of an even-numbered year, the appointment must be canceled.
4. An insurer may reactivate an appointment that was canceled due to the insurer's nonrenewal by December 1st of the same even-numbered year. In order to reactivate a canceled appointment, the insurer must pay the biennial appointment renewal fee and a two hundred fifty dollar (\$250) penalty to the Department by December 1.

Summarized in Section III of this bulletin are the appointment renewal requirements for the September 2010 appointment renewal period.

III. SEPTEMBER 2010 APPOINTMENT RENEWAL PROCESS

A. MAY 1, 2010 PRODUCER COMPLIANCE DEADLINE AND EFFECT OF FAILURE TO COMPLY

As specified in Bulletin 2009-16, the deadline for licensed producers to comply with the state's licensing requirements for the 2008-2010 biennial compliance period is May 1, 2010. Producer licenses will lapse effective May 3, 2010 if the producer fails to comply with license renewal and/ or continuing insurance education (CE) requirements. Failure to comply by the May 1, 2010 deadline will also result in the lapse of the producer's appointment(s) and any other license tied to the producer license. The producer's license, appointment(s), and any contingent license(s) will remain in lapsed status unless reinstated before November 1, 2010.

A producer whose license(s) and appointment(s) have lapsed for noncompliance is unlicensed and is prohibited from transacting the business of insurance until the license(s) have been reinstated and the producer has been reappointed. Similarly, insurers are prohibited from accepting business from producers whose license has lapsed until the license and appointment have been reinstated. Insurers accepting business from an unlicensed individual will be considered to have violated the unauthorized transaction of insurance business provisions of Title 38.

Insurers may be able to minimize their potential liability risk for engaging in the unauthorized transaction of insurance business by requiring their appointed producers to provide evidence that they have complied with all licensing and CE requirements by May 1, 2010. Similarly, an insurer should notify its producers immediately if the producer's name does not appear on its Appointment Renewal List as this means the Department's records indicate that the producer has not yet complied with licensing and/or CE requirements.

B. NOTICE OF APPOINTMENT RENEWAL PERIOD

Insurers will receive a written notice from the South Carolina Department of Insurance in July 2010 regarding the September 2010 appointment renewal process. Insurers should encourage their appointed producers whose licenses and appointments have lapsed for noncompliance to become compliant by August 15, 2010 in order to ensure that the license and appointment is reinstated prior to the September 1, 2010 start of the appointment renewal period.

C. SEPTEMBER 1 – 30, 2010 APPOINTMENT RENEWAL PERIOD

Producer appointments must be renewed from September 1 through September 30, 2010. The names of producers whose licenses have lapsed for noncompliance and have not reinstated their producer license and appointment(s) will not appear on the insurer's Appointment Renewal List. Insurers will not be able to renew the appointments of producers whose license and appointments have lapsed for failure to comply with license renewal or continuing insurance education requirements.

D. EFFECT OF FAILURE TO RENEW

Appointments not renewed by September 30, 2010 will cancel effective October 1, 2010. Pursuant to South Carolina Code of Laws Section 38-43-55, insurers must provide notice of cancellation to all producers appearing on the insurer's Appointment Renewal List and whose appointment is canceled due to the insurer's nonrenewal of the appointment by September 30, 2010. . Within fifteen (15) days after canceling an appointment, the insurer must mail a notice to the producer.

Insurers accepting business from producers whose appointment has canceled will have engaged in the unauthorized transaction of insurance business. Both the producer and the insurer will be subject to the penalties set forth under South Carolina law.

E. APPOINTMENT REINSTATEMENT PROCESS

Insurers may reactivate an appointment or appointments that were canceled for nonrenewal upon payment of the biennial appointment renewal fee and a \$250 penalty fee per individual appointment. Such an appointment will be reactivated from the date of its cancellation without a break in the appointment's active status. The deadline for appointment reactivation is December 1, 2010.

Producer appointments must be reactivated through the South Carolina Department of Insurance. Information concerning the reactivation process will be available on the Department's website at <http://www.doi.sc.gov>.

Insurers that do not renew any of its appointment will not be able to re-appoint (i.e., complete a new, initial appointment) a producer whose appointment has canceled for nonrenewal during the reactivation period of October 1 – December 1, 2010.

IV. QUESTIONS

Questions regarding this bulletin should be submitted in writing to Mary Ann O'Brien, Licensing Manager:

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