Agency Name: Department of Insurance
Statutory Authority: 1-23-10 et seq., 38-3-110(2), and 38-43-106
Document Number: 4097
Proposed in State Register Volume and Issue: 33/10
House Committee: Labor, Commerce and Industry Committee
Senate Committee: Banking and Insurance Committee
120 Day Review Expiration Date for Automatic Approval: 05/12/2010
Final in State Register Volume and Issue: 34/5
Status: Final
Subject: Continuing Insurance Education

History: 4097

By	Date	Action Description	Jt. Res. No.	Expiration Date
-	10/23/2009	Proposed Reg Published in SR		
-	01/12/2010	Received by Lt. Gov & Speaker		05/12/2010
H	01/13/2010	Referred to Committee		
S	01/13/2010	Referred to Committee		
-	05/12/2010	Approved by: Expiration Date		
-	05/28/2010	Effective Date unless otherwise provided for in the Regulation		

Document No. 4097

DEPARTMENT OF INSURANCE

CHAPTER 69

Statutory Authority: 1976 Code Sections 1-23-10 et seq., 38-3-110(2) and 38-43-106

69-50. Continuing Insurance Education

Synopsis:

The South Carolina Department of Insurance proposes to amend Regulation 69-50, Continuing Insurance Education. The amendments to Regulation 69-50 will update and provide guidance to producers, continuing education sponsors, instructors and administrators on compliance with the statutory continuing education requirements for producers. The updates will bring the regulation into compliance with the statutory amendments enacted by South Carolina Act 326 of 2008 and South Carolina Act 69 of 2009.

Notice of Drafting for the proposed regulation was published in the *State Register* on August 28, 2009.

Instructions:

Amend Regulation 69-50 as drafted below and add to the South Carolina Code of Regulations.

Text:

69-50. Continuing Insurance Education.

I. Purpose

The purpose of this regulation is to establish rules and standards which shall apply to continuing insurance education for individuals qualified or licensed to act as insurance producers in this State.

II. Scope

A. The rules contained in this regulation shall apply to all individuals qualified or licensed to act as insurance producers in this State, except:

1. Limited line insurance producers;
2. Limited line credit insurance producers; and
3. Nonresident producers who have successfully satisfied continuing insurance education requirements of their resident state, regardless of the requirements of that other state.

B. Multi-line producers who do not wish to complete the required eight hours in each line of authority held must submit a request in writing to the Department to cancel the line(s) of authority in which they do not wish to complete the eight required hours. However, the producer must complete a total of twenty-four hours of continuing education with at least three hours in courses approved as ethics.

C. The Director of Insurance at his discretion may mandate certain continuing education courses to be taken by producers to meet continuing education compliance.

III. Definitions

When used with these regulations, the following definitions apply:

(1) "Approved Course" is a course offered in a classroom environment that is approved by the South Carolina Department of Insurance for continuing insurance education credit. Approved courses may include information on specific insurance products approved for sale in the state, relevant state or national laws, taxation related to insurance, insurance practices, ethics, claim procedures and policyholder relations. Approved courses shall not include courses or portions of courses developed for prelicensing

education, for personal development, motivation, sales, or personal enrichment. Approved courses must be led or monitored by an approved instructor.

(2) "Approved Instructor" means an individual who has been approved by the Department of Insurance in accordance with Section VI of this Regulation and who teaches or otherwise instructs an approved continuing education course. The individual must have competency in the subject matter of the course.

(3) "Proctor" means a disinterested third party.

(4) "Approved Sponsor" is a responsible organization which demonstrates it is capable of offering, conducting, and maintaining quality controls of courses. Approved sponsors may include licensed insurance companies, producer associations, insurance trade associations, private organizations, and institutions of higher learning. A sponsor must be approved by the Department.

(5) "Classroom" is a location conducive to learning, and may include a traditional classroom, an auditorium, or other meeting-place, which provides an environment suitable for the transfer of information.

(6) "Classroom Hour" is at least fifty minutes of participation in an approved course in a classroom, teleconference or distance learning. Not more than ten minutes of any sixty-minute period may be used for breaks, roll taking, or administrative instructions.

(7) "Competency Examination" is a closed book examination taken and passed by the producer without assistance and personally monitored by a proctor who is not related to the producer, is not his immediate supervisor, or his employee. A score of 70 or above is required for the examinee to pass the examination.

(8) "Compliance Deadline" means every two years by 5 P.M. on the last day of the licensee's month of birth. Individuals born in an even numbered year must comply every even numbered year by the last day of the individual's month of birth. Individuals born in an odd numbered year must comply every odd numbered year by the last day of the individual's month of birth.

(9) "Compliance With Continuing Education for Resident Producers" means completing twenty-four hours of continuing education by the compliance deadline, with a minimum of eight hours in each line of authority, with at least three hours of ethics and paying a recordkeeping fee to the Continuing Education Administrator by the compliance deadline in a biennial compliance year.

(10) "Compliance With Continuing Education for Nonresident Producers" means meeting the continuing education requirements in their home state.

(11) "Continuing Education Administrator" means the Continuing Education Administrator responsible for administering the continuing insurance education requirements. The Director may designate a Continuing Education Administrator within the Department or, in the alternative, contract with an outside service provider to function as continuing education administrator and to provide record-keeping services.

(12) "Course" means an organized, outlined body of information intended to convey knowledge or information to the producer.

(13) "Credit Hour" is a value assigned to an approved course by the Department. Hours of credit are calculated in full hours.

(14) "Department" means the South Carolina Department of Insurance.

(15) "Director" means the Director of the Department of Insurance or his designee.

(16) "Product-Specific" or "Specific Insurance Products" means information about a particular policy, procedure, or coverage. This includes, but is not limited to, special rating information, special underwriting practices, and specialized or unique claim procedures of a company or group of companies.

(17) "Recordkeeping Fee" means the fee paid to the Continuing Education Administrator to cover the costs of compiling and maintaining records reflecting the continuing insurance education status of all licensed or qualified producers.

(18) "Self-study Hour" is a study period of fifty minutes from an approved course followed by a competency examination. Self-study hours may include textbook study, video study, intranet, internet, CD-ROM and other electronic means of information communication.

IV. Sponsor Approval

A. Sponsors must be approved by the Department of Insurance before they may submit courses for approval to the Department. The application to become a sponsor must be submitted to the Department at least thirty (30) days prior to the Continuing Education Advisory Committee meeting. If the applicant's type of business is a private entity, other than an insurance company, producer's trade association, institution of producer's trade association or institution of higher learning, the applicant must submit a letter explaining the applicant's type of business and how long the business has been offering insurance education courses.

B. Before an approved sponsor may offer any course, the sponsor must submit the course to the Department for approval and be assigned a course approval number by the Department.

C. Sponsors may not use another sponsor's course approval number without the prior written authorization of the sponsor. A copy of the authorization must be submitted to the Department before the course may be offered.

D. Approved sponsors of approved courses are responsible for collecting accurate attendance records and maintaining records containing the names of producers who completed all sessions of the approved course, or who successfully completed the competency examination for courses approved for self-study. Sponsors shall maintain these records for a three-year period following the date of approved course completion. These records must be made available to the Department upon request.

E. Approved sponsors are responsible for the actions of their instructors.

F. Approved sponsors may only offer courses which have been approved by the Department.

G. Approved sponsors must notify the Department in writing within thirty (30) days of any change in address and of any change in the authorized representative of the sponsor.

H. Approved sponsors must allow representatives of the Department and the continuing education administrator, in an official capacity, to audit classroom course instruction, correspondence course review sessions, course records, records of examination and attendance rosters. These representatives may attend any course offered for the purpose of the audit without paying a fee.

I. A sponsor shall report to the Director or his designee any administrative action taken against the sponsor in another jurisdiction or by another governmental agency in this State within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order or other relevant legal documents.

V. Course Approval

A. Approved Sponsors of courses presented for approval shall submit to the Department at least thirty (30) days in advance of the Continuing Education Advisory Board meeting an application for approval, which shall include the following:

(1) a detailed outline of the course;

(2) a timetable, with instruction minutes assigned to each topic;

(3) a sample competency examination if the course is self-study with text reference for each exam question;

(4) course material;

(5) self study courses must include a certification report of the number of words per document, grade level and degree of difficulty of the course;

(6) online courses must include a screen count and number of words per screen; and

(7) a nonrefundable filing fee established by the Department.

No course may be offered until written notification of its approval has been issued by the Department. Incomplete submissions will be disapproved and the application will be returned to the sponsor. The Director has the discretion to develop different standards for approval of courses offered by accredited institutions of higher learning and to waive independent approval of courses offered by nationally recognized industry organizations.

B. Courses will be approved for a period of not more than three (3) years from the approval date. Sponsors may apply to renew course approval.

C. Courses that are submitted for renewal must include all of the information requested in Section V (A) of this regulation and must include the page numbers and sections where updates to course material have been made.

D. Approved sponsors may file an appeal if a course submission is disapproved or if fewer hours are approved than were requested by the sponsor. The appeal must specify the exact disagreement and contain documentation to support the appeal. Appeals must be in writing and must be submitted to the Department within thirty (30) days of receipt of the notice of course disapproval or notice of fewer hours approved. Appeals will be submitted to three representatives of the Continuing Education Advisory Board for review and recommendation to the Department.

VI. Instructor Approval

A. Instructors must be approved by the Department of Insurance before teaching any course. The application packet must be submitted by an approved sponsor thirty (30) days prior to the instructor teaching any course and must include the following:

(1) a properly completed instructor approval application;

(2) documentation of one of the following must be submitted with the application for approval:

(a) a college degree in insurance from an accredited institution of higher learning;

(b) a professional designation of CPCU or CIC for property and casualty approval and ChFC, CFP, FLMI, LUTCF or CLU for life, accident and health approval;

(c) seven or more years of practical experience in the subject matter;

(d) or a college degree and three or more years of practical experience in the subject matter;

(e) five or more years of practical experience in the subject matter and has one or more of the following professional insurance designations or programs in the subject matter for which approval is sought: INS or AAI; or

(f) Insurance Department regulators with a minimum of one year of insurance experience; and

(3) a nonrefundable filing fee to be established by the Department of Insurance.

Incomplete submissions will be returned to the sponsor.

B. Instructors will be approved for a period of not more than three (3) years from the approval date. Sponsors may apply to renew instructor approval.

C. Instructors must ensure that attendees do not use class time for any purpose other than learning the material being presented. Instructors should deny credit to anyone who is inattentive or who does not attend the entire classroom session.

D. Instructors must distribute SCID Form 3617 prior to each continuing education classroom session.

E. Proctors are responsible for checking an examinee's photograph identification before administering an examination. Proctors are responsible for returning all examination material to the sponsor within two days following the completion of the examination.

F. Instructors/Proctors of correspondence course review sessions must not disclose the examination questions or answers to the examination questions on the competency examination during the review session.

G. An instructor shall report to the Director or his designee any administrative action taken against the instructor in another jurisdiction or by another governmental agency in this State within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

H. Within thirty (30) days, an instructor shall report to the Director any criminal prosecution of the instructor taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

VII. Certification

A. Approved Sponsors of approved courses must submit class rosters to the Continuing Education Administrator according to the following timetable:

1. Approved classroom course or seminar - within thirty (30) days of completion of the course or seminar; and

2. Approved self-study course - within thirty (30) days of the examination completion date.

Rosters must be properly completed, typewritten or computer-generated and contain the names and identification numbers of producers who completed all sessions of the approved course, or who successfully completed the competency examination for courses approved for self-study. Incomplete or inaccurate rosters will be returned to the sponsor. Subsequent submissions of any roster that has been returned must include a letter from the sponsor explaining corrections or any changes made.

B. Approved Sponsors of approved courses are required to provide a certification of course completion to each individual who successfully completes an approved course or an approved self-study course within thirty (30) business days after the course is completed or the competency examination results are received. Verification of the accuracy of the certification provided by the approved sponsor remains the responsibility of the producer.

C. A producer who successfully completes an approved course may not repeat the course and receive certification within two years of its original completion date.

D. Instructors of approved classroom courses shall be given a certification equal to the number of hours for which the course is approved. Instructors/Proctors may not be given a certification for conducting review sessions for approved correspondence courses.

E. Producers who accumulate credits in excess of the continuing insurance education requirements may apply these additional credits to the next biennial continuing insurance education period. No more than eighteen (18) credit hours in the line of authority in which they are earned may be carried forward to the next biennial continuing insurance education period. F. No credit will be given for courses taken before they have been approved by the Department. Credit may not be given for courses that have not been renewed by the sponsor.

VIII. Forms

The following items must be on forms specified or approved by the Director: (1) applications for sponsor approval, (2) applications for course approvals and (3) applications for instructor approval. Class completion rosters must be submitted electronically to the CE Administrator. However, individual course completion certificates must be provided to the producer.

IX. Advertising

A. No course may be advertised as an approved course until approval has been received from the Department.

B. Announcements, advertisements and information about courses designated as approved courses by the Department shall contain the statement "This course is approved by the South Carolina Department of Insurance for Continuing Insurance Education Credit" followed by a statement of the number of credit hours and the type of license to which the credit may apply. If the course offering contains material which is not approved, the announcement, advertisement or information must clearly state the amount of course time which is not approved for continuing insurance education credits.

C. Announcements, advertisements or information about approved courses shall contain clear and concise statements about the cost of the course, cancellation procedures, and refund policies.

X. Fees

Every producer subject to continuing insurance education requirements pursuant to Section 38-43-106 of the South Carolina Code of Laws is responsible for payment of a reasonable annual recordkeeping fee to the Continuing Education Administrator for operation of the continuing insurance education program. The license and appointment(s) of any producer who does not pay the continuing education recordkeeping fee by the biennial compliance deadline will lapse on the day following the biennial compliance deadline. The Department may reactivate the license and appointment that has lapsed if within six months of the compliance deadline the continuing education recordkeeping fee has been paid to the Continuing Education Administrator and a $50 penalty has been paid to the Department, and proof of completion of a total of twenty-four hours of continuing education credits has been received. Failure to pay the continuing education recordkeeping fee and a $50 penalty and providing proof of completion of twenty-four hours of continuing education credits within six months of the compliance deadline will result in the license and appointment being canceled. In order to regain licensure status, the producer must retake and pass the appropriate producer licensing examination, complete a new application and pay an application fee to the Department.

XI. Continuing Education Hours

Producers who fail to complete twenty-four hours of approved continuing education credits by the biennial compliance deadline will have their license and appointment(s) suspended on the day following the biennial compliance deadline. Producers may reactivate the license and appointment(s) that have lapsed, if within six months of the compliance deadline, the continuing education recordkeeping fee has been paid to the Continuing Education Administrator and a $50 penalty has been paid to the Department of Insurance and proof of completion of a total of twenty-four hours of continuing education credits has been received. The license and appointment(s) of a producer who does not provide documentation of compliance within six months of the compliance deadline will be canceled. In order to regain licensing status, the producer must retake and pass the appropriate producer licensing examination, complete a new application and pay an application fee to the Department.

XII. Non-Compliance

A. The Director shall have the authority to conduct surveys of producers, approved sponsors, and approved instructors to verify that the approved courses are administered as filed with the Department, and to determine compliance with Section 38-43-106 of the South Carolina Code of Laws and the regulations contained herein.

B. The failure of approved sponsors and instructors to comply with the provisions of Section 38-43-106 of the South Carolina Code of Laws or with the provisions of these regulations may result in a fine of not less than $1,000, suspension of approval, or termination of approval status.

XIII. Hardship Waiver

The request for a hardship waiver must be in writing and must be received by the Department on or before the individual's biennial compliance deadline. Hardship waiver requests may only be granted for good cause shown, with the recommendation of the Continuing Education Administrator and the approval of the Director. For purposes of this section, "good cause" includes, but is not limited to, illness or catastrophic events beyond the control of the producer, which preclude the producer from conducting normal work activities during the biennial compliance period. The producer must provide sufficient documentation that the hardship prevented the producer from conducting normal work activities during the biennial compliance period. A licensed insurance producer who is unable to comply with continuing education due to active military service during the biennial compliance period may request a hardship waiver by submitting a copy of his military orders with the hardship waiver request. Producers who apply for the hardship waiver must still pay the Continuing Education recordkeeping fee to the Continuing Education Administrator by the biennial compliance deadline.

XIV. Administration of Continuing Education Requirements

The Director is responsible for administering the continuing insurance education requirements contained in South Carolina Code of Laws Section 38-43-106 and in this regulation, and is responsible for the approval of courses of instruction which qualify for these purposes. Effective January 1, 2011, the compliance deadline to meet continuing insurance education requirements will be based upon the individual producer's birth month and birth year. To facilitate the transition from all producers having a

May 1 compliance deadline to individual birth month/birth year compliance deadlines, the Director may specify the continuing insurance education requirements with which producers must comply during the transition period ending December 31, 2012. In administering this program, the Director in his discretion, may designate a Continuing Education Administrator within the Department, or, in the alternative, contract with an outside service provider to function as continuing education administrator and to provide record-keeping services.

XV. Effective Date

This regulation shall become effective upon final publication in the *State Register*.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

The Continuing Insurance Education regulation is being updated to reflect the statutory amendments enacted by South Carolina Act 326 of 2008 and South Carolina Act 69 of 2009. The amendments to the regulation are needed to clarify and update the continuing insurance education requirements for producers and to provide direction to sponsors, instructors and administrators offering continuing education courses and maintaining records of continuing education compliance by producers.