

# CHAPTER 105

## Department of Labor, Licensing and Regulation— South Carolina Real Estate Commission

### Editor's Note

**2016 Act No. 170, § 2**, provides:

“SECTION 2. A regulation that was promulgated to effectuate the purpose of Chapter 57, Title 40 and which is in effect on the effective date of this act is considered to be effective regardless of whether its authorizing provisions are redesignated as a new or different code section, or moved in part to a different code section by this act.”

(Statutory Authority: 1976 Code §§ 40-57-05, et seq. and 27-32-10 et seq.)

### **105-2. Vacation Time Sharing Ownership Plans Defined.**

Vacation time sharing ownership plans shall specifically include:

A. time sharing ownership plans, whereby purchasers are deeded an undivided interest in the facilities with a right to use designated accommodations for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one (1) year; and

B. interval ownership plans, whereby purchasers are deeded title to designated time sharing units, accommodations, or facilities for a specific period of time during any given year, but not necessarily for consecutive years, which extends for a period of more than one (1) year, with remainder after such period to interval owners as tenants in common.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

### **105-3. Sale of Vacation Time Sharing Plan Receivables.**

The provisions of Section 27-32-80 shall not be construed to prevent the seller's right to sell, discount, or hypothecate for value receivables in favor of any bank, mortgage company, or other lending institution, and such purchasers shall be exempt from the requirements of this section.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

### **105-4. Providers of Courses.**

A. As used throughout these regulations, the term “provider” shall mean any school, organization, association, institution, or instructor.

B. Courses taught as part of a degree program at an accredited college or university and courses taught by a federal or state agency shall be deemed approved by the Commission if the courses are equivalent in hours and subject matter to those specified by the Commission. These providers are exempt from regulation by the Commission, and original transcripts or other proof of course completion with a passing grade may be recognized and accepted as a prerequisite for examination or for meeting the requirements of continuing education.

C. Accredited colleges or universities or technical, community, or junior colleges teaching courses which are not part of a degree program shall be approved if they comply with the regulations of the Commission with regard to curriculum, instructors, hours of attendance, classroom facilities, texts, examinations, and Certificates of Completion, as well as the policies and procedures of the appropriate department of the institution.

D. Courses offered by other providers shall be approved if they comply with the regulations of the Commission with regard to curriculum, instructors, hours of attendance, classroom facilities, texts, examinations, Certificates of Completion, and if the policies and procedures of the provider are also approved by the Commission.

E. All schools, organizations, associations, institutions, and other educational providers must be in good standing, and must be competent to administer and supervise the instruction of real estate subjects to the public.

F. Providers seeking approval to offer and conduct real estate or property management pre-licensing instruction and/or real estate continuing education instruction must apply on a form approved by the Commission and must be approved by the Commission and issued a Certificate of Approval prior to the commencement of any instruction. Providers offering courses prior to approval shall not have their Certificates of Completion recognized by the Commission.

**HISTORY: Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.**

### **105-5. Application for Approval.**

A. Prospective providers of courses must furnish to the Commission completed applications for provider and course approval and all supporting documentation as required by the Commission.

B. If an application is disapproved, reason(s) for disapproval will be detailed and the provider will be given thirty (30) days to cure any deficiencies. If deficiencies are cured, the application will be approved.

C. Upon approval the Commission will issue its Certificates of Approval for provider and courses, to be renewed biennially in even-numbered years. If the Certificate of Approval is issued in an odd-numbered year, it shall be renewed the following year, and then biennially thereafter.

D. Each provider must make available, upon request, copies of the Certificates of Approval issued by the Commission when an approved course is offered.

**HISTORY: Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.**

### **105-6. Course Curriculum and Attendance.**

A. Providers must teach qualifying courses in separate and distinct units consisting of at least the minimum number of classroom hours as follows:

(1) the pre-licensing course for sales license applicants (Unit I) must include instruction in fundamentals of real estate principles and practices; and

(2) the Unit II courses must include instruction in advanced real estate principles and practices; and

(3) the pre-licensing course for broker license applicants (Unit III) must include instruction in advanced real estate principles and practices; and

(4) the course for property management license applicants must include instruction in property management principles and practices.

B. Providers must teach continuing education courses in subjects which increase the knowledge, skill and/or competence of real estate licensees with regard to the performance of their duties in a manner that best serves the public interest. Core courses are those which must include a minimum of four (4) classroom hours of instruction on current federal and state real estate law. Elective courses are those which are offered in general subjects prescribed by the Commission.

C. Learning objectives and detailed lesson plans reflecting the course content with time allotments must be furnished by the provider to the Commission at the time of application for approval, along with copies of all quizzes and examinations for Unit I, Unit II Modules A-E and Unit III B qualifying courses. In order to successfully complete each of the Unit I, Unit II Modules A-E or Unit III B course, students shall take and score a minimum of 70% on a proctored final examination administered in an educational facility by an approved real estate instructor, school administrator or qualified person. The Commission may, however, direct alterations in examination procedures, criteria for passing, and administration whenever deemed necessary.

D. Providers must identify the texts to be used in any approved course of instruction. The Commission may direct that the school withdraw texts and may require additional instructional materials.

E. For Unit I, Unit II or Unit III qualifying courses, providers must establish uniform testing and grading procedures for their quizzes and examinations and must use approved instructors for administering and monitoring all tests. No provider, instructor or any other individual may arbitrarily alter a student's grade or offer to students any re-examination of the same test previously administered. Retake examinations must contain at least eighty percent (80%) new exam items.

F. Courses must be at least two (2) hours in length, and providers must limit class meetings to a maximum of eight (8) hours in any given day. Students must be allowed one (1) ten-minute break each hour, and for classes that exceed four (4) hours, students must be allowed at least one (1) one-half hour break. No meals may be served during class. Providers must require strict attendance of all classroom hours required by law and must maintain records indicating number of student absences. No partial credit hours are permitted.

G. Providers may offer students failing to meet the minimum-hour requirement make-up sessions as follows:

- (1) a make-up session offered by the provider consisting of the content in the session or hours missed; or
- (2) a video tape of the class session missed viewed by the student and supervised by the instructor, but only if less than twenty percent (20%) of the total classroom hours are missed; or
- (3) attendance of the same class session offered by the provider at a future date.

H. Course providers must prepare and submit to the Commission, reports verifying completion of a course for each licensee who satisfactorily completes the course. Such reports shall be transmitted electronically. Providers must submit these reports to the Commission in a manner that will assure receipt by the Commission within fourteen (14) calendar days following the course. The verified Course Completion Report shall list: the course identification number assigned by the Commission; the provider's name; the instructor's name; title, location, and dates of course; full legal name, address, phone number, and license number of each student, along with the number of hours in attendance and final grade, if applicable. The Course Completion Report must be verified by an authorized official of the provider.

I. A Certificate of Completion prescribed by the Commission shall be awarded to each course graduate, signed and dated by an authorized official of the provider, and must contain the course identification number assigned by the Commission, the provider's name and address, course title, location, dates, and number of hours of the course: full legal name and license number, if applicable, of the student.

**HISTORY: Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.**

## **105-7. Enrollment Agreement, Policies, and Procedures.**

A. An enrollment agreement disclosing the obligations of both parties must be signed by the provider and student prior to the commencement of classes. A copy of the enrollment agreement containing all policies and procedures must be furnished to the student, and receipt must be acknowledged in writing at the time the agreement is executed.

B. When registering electronically, this requirement is met if the licensee affirmatively indicates that he/she has received, reviewed and agrees to the terms of the enrollment agreement. This should be accomplished before the licensee pays for the class.

C. The enrollment agreement must contain, at a minimum, the following:

- (1) name and address of the provider and student, along with student's name, address and real estate license number, if applicable; and
- (2) name of course; and
- (3) tuition and methods of payment, along with terms of any refund policy. If the provider has no policy for refunding fees, it must so state in writing; and
- (4) provider's policy for cancellation of scheduled courses; and

- (5) grade required for passing, methods for testing and final grade determination, if applicable; and
- (6) the total hours of attendance required; and
- (7) scheduled meeting time, dates, and location of course, if applicable; and
- (8) make-up policies for absences and for retaking a failed examination, if applicable; and
- (9) Admission policy.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

## **105–8. Other Operating Procedures.**

### **A. Teaching Methods.**

(1) Courses must be taught by Commission-approved instructors and must be presented in a physical classroom or approved virtual environment. Correspondence courses will not be approved. Nothing in this section shall prohibit the use of video equipment as a teaching supplement.

(2) Distance education courses must adhere to the Commission’s standards for distance education.

### **B. Facilities and Equipment.**

(1) All classroom facilities must meet the appropriate building, health, and fire codes, must be maintained in a safe and sanitary condition at all times, and are subject to inspection and approval by a representative of the Commission.

(2) Classrooms shall be of sufficient size to accommodate comfortably all students enrolled in a course, shall have adequate light, heat, cooling and ventilation, and shall be free of distractions which would disrupt class sessions.

(3) Classrooms shall contain audio-visual equipment and desks or worktables sufficient to accommodate all students enrolled in a course.

### **C. Advertising.**

(1) “Advertising” means any form of public notice, including but not limited to, publications, promotional items, and all other efforts which could normally be expected to be seen or heard by prospective students. Examples may include: emails, social media posts, catalogs, flyers, signs, mailing pieces, radio, television, audio-visual, newspaper, or any other form of public notice designed to aid in the provider’s recruiting and promotional activities. Advertising also includes oral communications.

(2) Each provider must maintain high standards in the conduct of its operations, solicitation of students, and in its advertising and promotional material. The use of any unfair or deceptive practice or the making or causing to be made of any false, misleading, or deceptive statement in any advertising or promotional material which has the tendency or capacity to mislead or deceive students, prospective students, or the public shall be cause for disciplinary action.

(3) No provider or instructor shall allow anyone to use the classroom to recruit new affiliates for any company, sell promotional materials, or solicit business during an instruction period. Providers and instructors must promptly report to the Commission any efforts in violation of this paragraph.

(4) The name of the provider and course approval number must be disclosed in every advertisement when using a specific course title in an advertisement.

(5) A provider may not advertise or imply that it is recommended or endorsed by the South Carolina Real Estate Commission.

(6) The provider must be able to substantiate from its own records any advertised statistics or claims. Passage rates of students taking examinations must not be used in any advertising unless total numbers of students and other pertinent information is disclosed. School reports of the South Carolina Real Estate Commission regarding passage rates for first-time examiners may not be referenced in advertising.

(7) A provider must not use abbreviations which could tend to mislead or confuse or otherwise create misunderstanding with students or the public.

(8) A provider must not falsely represent, either directly or by implication, that students successfully completing a course of instruction may transfer credit to an accredited institution of higher education or that a course has been approved by a particular industry; or represent that its successful completion will insure passage of the state licensing examinations or obtaining a real estate license.

D. Changes.

Proposed changes to course name, content, length, location and/or texts must be submitted to and approved by the Commission prior to implementation.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

## **105–9. Auditing and Record Keeping.**

A. Providers must keep copies of all enrollment agreements, advertising, rosters, and attendance records for a minimum of five (5) years and must be made available to a representative of the Commission upon request.

B. Providers must permit periodic inspections and auditing by a representative of the Commission for the purposes of evaluating facilities, course content, instructor performance, or any other relevant aspect of the administration and conduct of such course.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

## **105–10. Instructors.**

A. Approved qualifying courses must be taught by broker qualified, Commission-approved instructors. Instructors teaching courses which are part of a degree program offered by an accredited college or university and instructors teaching courses for a federal or state agency shall be deemed approved by the Commission.

B. Prior to teaching for any approved provider, applicants for instructor approval must submit an application form along with supporting documentation as proof of knowledge of the subject matter and the ability to teach effectively.

(1) As proof of knowledge of the subject matter to be taught, the instructor must provide documentation of:

- (a) an active real estate broker license; or
- (b) a college degree in an academic area directly related to the course or the specific subject matter to be taught; or
- (c) other past experience or education acceptable to the Commission in the subject area to be taught, and

(2) As proof of the ability to teach effectively, the instructor must provide documentation of:

- (a) a current teaching certificate issued by any state department of education (or an equivalent agency); or
- (b) a four-year undergraduate degree in education; or
- (c) previous adult-education experience in schools, seminars, or in an equivalent setting for three (3) years, within the past five (5) years; or
- (d) serving as a trainee or assistant instructor under the direct supervision of a Commission-approved instructor for at least sixty (60) hours; or
- (e) past experience and knowledge of South Carolina real estate law acceptable to the Commission in education.

(3) In addition, for continuing education courses, the Commission may require documentation of:

- (a) three (3) years of work experience, within the past five (5) years, directly related to the subject matter to be taught; or
- (b) three (3) years of experience within the past five (5) years teaching the subject matter to be taught.

C. Each instructor may be approved by the Commission to teach Unit I, Unit II, Unit III, Property Management, and/or other continuing education subjects.

D. An instructor may teach approved courses at locations throughout the state of South Carolina. The course provider must notify the Commission of course offerings in advance and record the instructor's name on the provider's completion report.

E. If the application is disapproved, the reason(s) for disapproval will be detailed and the instructor will be given thirty (30) days to cure any deficiencies found. If deficiencies are cured, the application will be approved.

F. Upon instructor approval, the Commission will issue its Certificate of Approval, to be renewed biennially in even-numbered years. Each instructor must make available, when requested, a copy of the Certificate of Approval issued by the Commission. If the Certificate of Approval is issued in an odd-numbered year, it shall be renewed the following year, and biennially thereafter.

G. Instructors must attend Instructor Development Workshops sponsored by the Commission biennially.

H. Instructors of approved continuing education courses are exempt from their biennial continuing education credit for time spent teaching approved courses.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

### **105–11. Renewals.**

All provider, course, and instructor approvals expire biennially on August 31 of even-numbered years. Renewal forms will be mailed to all approved providers and instructors, and completed forms must be received in the Commission's office not later than August 15 to insure renewal by August 31. A late fee will be charged for renewals received after August 31.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

### **105–12. Provider, Course, and Instructor Fees.**

The following fees shall be charged by and paid to the Commission:

A. for each course provider approval, a fee of two hundred dollars (\$200), and for each renewal thereof, a fee of one hundred dollars (\$100); and

B. for each course approval, a fee of one hundred dollars (\$100), and for each renewal thereof, a fee of fifty dollars (\$50); and

C. for each instructor approval, a fee of one hundred dollars (\$100), and for each renewal thereof, a fee of fifty dollars (\$50); and

D. for each late renewal (after August 31st) for provider, course, or instructor, a fee of fifty dollars (\$50). The education year is September 1st of even-numbered years through August 31st.

**HISTORY:** Added by State Register Volume 23, Issue No. 5, eff May 28, 1999. Amended by State Register Volume 36, Issue No. 6, eff June 22, 2012; State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.

### **105–13. Fees.**

The Commission may charge fees as shown in South Carolina Code of Regulations Chapter 10–37 and on the South Carolina Real Estate Commission website at <http://lr.sc.gov/POL/REC/>.

**HISTORY:** Added by State Register Volume 36, Issue No. 6, eff June 22, 2012. Amended by State Register Volume 39, Issue No. 6, Doc. No. 4517, eff June 26, 2015; State Register Volume 41, Issue No. 5, Doc. No. 4724, eff May 26, 2017.