DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2010 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 61.

 INSURANCE CONTRACTS GENERALLY

**SECTION 38‑61‑10.** Contracts which are considered made in State.

All contracts of insurance on property, lives, or interests in this State are considered to be made in the State and all contracts of insurance the applications for which are taken within the State are considered to have been made within this State and are subject to the laws of this State.

**SECTION 38‑61‑20.** Approval of forms by director or designee; notification; withdrawal of approval; exemptions; optional accident or health riders.

(A) It is unlawful for an insurer doing business in this State to issue or sell in this State a policy, contract, or certificate until it has been filed with and approved by the director or his designee. The director or his designee may disapprove the form if it:

(1) does not meet the requirements of law;

(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or

(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading.

However, this subsection does not apply to surety contracts or fidelity bonds, except as required in Section 38‑15‑10, or to insurance contracts, riders, or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual risk or exempt commercial policies.

(B) Within thirty days after the filing of a form requiring approval, the director or his designee shall notify the organization filing the form of the approval or disapproval of the form, and the reason if the form is disapproved. The director or his designee, in his discretion, may extend for up to an additional sixty days the period within which he shall approve or disapprove the form. A form received, but neither approved nor disapproved by the director or his designee, is deemed approved at the expiration of the thirty days if the period is not extended, or at the expiration of the extended period, if any. An organization may not use a form deemed approved pursuant to the default provision of this section until the organization has filed with the director or his designee a written notice of its intent to use the form. The notice must be filed in the office of the director at least ten days before the organization uses the form.

(C) At any time after having given written approval, and after an opportunity for a hearing for which at least thirty days’ written notice has been given, the director or his designee may withdraw approval if he finds that the form:

(1) does not meet the requirements of law;

(2) contains provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory; or

(3) is solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading.

(D) The director or his designee may exempt from the requirements of subsection (A) as long as he considers proper any type of insurance policy, contract, or certificate to which in his opinion subsection (A) practically must not be applied, or the filing and approval of which, in his opinion, is not necessary for the protection of the public. However, each insurer at least annually shall list the types and form numbers of all policies it issues or sells in this State which the director or his designee has exempted from being filed and approved, and an officer of the insurer shall certify that all of these policies comply fully with the laws of this State. If a policy, contract, or certificate is certified to be in compliance with the laws of this State and the director or his designee finds it violates a law of this State, he may disqualify that insurer from certifying policies, contracts, or certificates allowed under this subsection.

(E) Nothing in this chapter precludes the issuance of a life insurance contract that includes an optional accident, health, or accident and health insurance rider. However, the optional accident, health, or accident and health insurance rider must be filed with and approved by the director or his designee pursuant to Section 38‑71‑310, 38‑71‑720, or 38‑71‑740, as appropriate, and comply with all applicable sections of Chapter 71 of this title and, in addition, in the case of long term care insurance, Chapter 72 of this title.

**SECTION 38‑61‑25.** Approval procedures to issue or sell exempt commercial policies.

It is unlawful for an insurer doing business in this State to issue or sell in this State any exempt commercial policy, contract, or certificate until it has been filed with and approved by the director or his designee. A filing that is filed with the department is deemed to have met the requirements of this chapter unless it: (1) does not meet the requirements of law, (2) contains any provisions which are unfair, deceptive, ambiguous, misleading, or unfairly discriminatory, or (3) is going to be solicited by means of advertising, communication, or dissemination of information which is deceptive or misleading. If a filing is not in compliance with this chapter, the director or his designee shall issue an order specifying in detail the provisions with which the insurer has not complied and stating the time within which the insurer has to comply with the order before the filing is no longer valid. An order issued by the director pursuant to this section must be on a prospective basis only and may not affect a contract issued or made before the effective date of the order. However, this section does not apply to surety contracts or fidelity bonds, except as required in Section 38‑15‑10, or to insurance contracts, riders, or endorsements prepared to meet special, unusual, peculiar, or extraordinary conditions applying to an individual risk.

**SECTION 38‑61‑30.** Promulgation of standards for readability of certain contracts and policies.

The department shall promulgate regulations which establish minimum standards for the readability of each homeowners, dwelling fire, automobile, accident and health, life, and all other forms of personal insurance, excluding commercial, fleet vehicle, and group insurance, which must be complied with by all insurers authorized to do business in this State. The standards shall include, but are not limited to, standards on an index of policy provisions, general organization of text, text readability, type size, type style, type spacing, and general appearance of the insurance contract.

**SECTION 38‑61‑40.** Compliance with standards for readability of certain contracts and policies; withdrawal of approval or certification on noncomplying documents.

All insurers licensed to transact insurance business in this State shall comply with the standards prescribed by regulation of the department. The director or his designee is empowered to withdraw approval or certification on all existing policies of commonly purchased insurance that do not comply with Section 38‑61‑30.

**SECTION 38‑61‑50.** Standards for readability of certain contracts and policies; advice of other agencies concerning standards.

The director or his designee shall consult with and call upon the expertise of other state agencies, as may be necessary, to determine the standards to be promulgated and, after promulgation, the effectiveness of these standards. This consultation shall include, but is not limited to, the State Department of Education or its successor entity.

**SECTION 38‑61‑60.** Advertising insurance policy in foreign language; effect on interpretation of policy provided in English.

(A) If an insurer advertises an insurance policy, or the availability of a foreign language informational sheet, or the availability of a translation of an insurance policy in a language other than English, the insurer only needs to provide an English written insurance policy, so long as the advertisement clearly states that the insurance policy is only available in English. Notwithstanding the use of a language other than English in an advertisement, if there is a dispute, the insurance policy is controlling and an advertisement for an insurance policy, informational sheet, or translation may not be construed to modify or change the insurance policy.

(B) Nothing in this section may be construed to require insurers to provide insurance related services, such as claim services, in a language other than English.