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Document No. 5253

**DEPARTMENT OF LABOR, LICENSING AND REGULATION**

**SOUTH CAROLINA REAL ESTATE COMMISSION**

CHAPTER 105

Statutory Authority: 1976 Code Sections 40‑1‑50, 40‑1‑70, 40‑57‑60, 40‑57‑135, 40‑57‑320, 40‑57‑340, and 40‑57‑740

105‑6. Course Curriculum and Attendance.

105‑8. Other Operating Procedures.

105‑10. Instructors.

105‑11. Renewals.

105‑13. Fees.

**Synopsis:**

 The South Carolina Real Estate Commission proposes to amend various sections of Chapter 105, including but not limited to R.105‑6, R.105‑8, R.105‑10, R.105‑11, and R.105‑13. Additionally, the Commission intends to promulgate new regulations that provide more clarity regarding broker supervision and that provide re‑examination procedures for those applicants who do not pass the respective licensing exam.

 A Notice of Drafting was published in the *State Register* on February 24, 2023.

**Instructions:**

 Print the regulation as shown below. All other items remain unchanged.

**Text:**

105‑6. Course Curriculum, Approval, Attendance, and Verification.

 A. For pre‑licensing courses, providers must teach courses in separate and distinct units consisting of the minimum hours as specified in S.C. Code Sections 40‑57‑320(A)(1)(a), 40‑57‑320(A)(2)(a) and 40‑57‑510(C)(1)(a).

 (1) Pre‑licensing courses must provide students with information on licensing requirements, familiarization with the Commission’s statutes and regulations, and how to apply for licensure with the Commission.

 B. For continuing education, providers must teach 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.

 (1) Core courses are those which must include a minimum of four (4) classroom hours of instruction on current federal and state real estate law. In accordance with S.C. Code Section 40‑57‑340, all active salesperson, broker, and broker‑in‑charge licensees must complete a core course each renewal cycle unless they have been granted a full continuing education waiver by the Commission.

 (2) Elective courses are those which are offered in general subjects prescribed by the Commission including but not limited to topics outlined in S.C. Code Section 40‑57‑340(G) and (H).

 C. Application Requirements for Course Approval.

 (1) Providers must submit learning objectives and detailed lesson plans reflecting the course content with time allotments.

 (2) Providers must identify all texts being used. The Commission may direct the provider to withdraw texts and/or may require additional instructional materials.

 (3) Providers must identify a Commission‑approved instructor responsible for teaching the course in accordance with S.C. Code Section 40‑57‑740(H) and South Carolina Code of Regulations 105‑10.

 (4) Courses being offered via distance learning must include a copy of ARELLO or IDECC certification in accordance with S.C. Code Section 40‑57‑340(F).

 (5) For pre‑licensing courses:

 (a) A copy of all quizzes and examinations, including re‑examinations, must be submitted. The minimum passing score for a proctored final examination is 70%.

 (b) Examinations may only be administered and monitored by an approved real estate instructor, school administrator, or qualified person.

 (c) Providers must establish uniform testing and grading procedures for all quizzes and examinations.

 (d) No provider, instructor, or other individual may arbitrarily alter a student’s grade or offer students any re‑examination of the same test previously administered.

 (e) Re‑examinations must contain at least eighty (80%) percent new exam items. Copies of both the initial examination and the re‑examination must be submitted to the Commission.

 (f) After two failed attempts at passing the pre‑licensing course examination, a student must retake the pre‑licensing course in order to be eligible to sit for the pre‑licensing course examination again.

 (g) The Commission may direct alterations in examination procedures, criteria for passing, and administration whenever deemed necessary.

 (6) Failure to meet the above‑listed requirements may result in the Commission withdrawing course approval. Following corrections, providers may reapply for reinstatement of course approval from the Commission.

 D. Course Length and Attendance.

 (1) For pre‑licensing courses:

 (a) Courses must be at least two (2) hours in length and may not exceed eight (8) hours on any given day.

 (i) 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) half‑hour break. Time needed to complete administrative tasks must be conducted outside instructional time.

 (ii) No meals may be served during class.

 (b) Providers must require strict attendance and must maintain records indicating number of student absences. No partial credit hours are permitted.

 (c) Students failing to meet the minimum hour requirement may engage in make‑up sessions provided the following parameters are met:

 (i) a make‑up session offered by the provider consisting of the content in the session or hours missed; or

 (ii) a recording of the class session missed to be viewed by the student and supervised by the instructor only if the student missed less than twenty (20%) percent of the total course hours; or

 (iii) attendance of the same course session offered by the same provider at a future date.

 (2) For continuing education courses:

 (a) Elective courses must be at least one (1) hour in length. No partial credit hours are permitted and licensees must attend the full course to receive credit. For elective courses that are at least two (2) hours in length, students must be allowed one (1) ten‑minute break each hour. Time needed to complete administrative tasks must be conducted outside instructional time.

 (b) A core course must be four (4) hours in length. Licensees must be allowed one (1) ten‑minute break each hour with the remaining fifty (50) minutes being instructional time. Time needed to complete administrative tasks must be conducted outside instructional time.

 (c) The mandated broker‑in‑charge course must be four (4) continuous hours in length. Licensees may be allowed one (1) ten‑minute break each hour.

 E. Verification of Course Completion.

Providers must provide verification of course completion for each individual or licensee who competes a course.

 (1) For pre‑licensing courses, a certificate of completion, signed and dated by an authorized official of the provider, shall be awarded to each course graduate. The certificate must contain:

 (a) course identification number assigned by the Commission;

 (b) provider’s name and address;

 (c) course title, location, and dates;

 (d) number of hours of the course;

 (e) legal name of the student; and

 (f) license number of the student, if applicable.

 (2) For continuing education courses, verification of course completion shall be submitted to the electronic tracking system designated by the Department for compliance and monitoring. Reports must be submitted within fourteen (14) calendar days following course completion.

105‑8. Other Operating Procedures.

 A. Teaching Methods.

 (1) Pre‑licensing and continuing education courses may be conducted via in‑person or distance learning. Distance learning courses are those where the licensed instructor and student are physically apart and instruction takes place through interactive classrooms, audio and/or video conferencing, interactive computer modules, and other internet platforms.

 (a) In‑person and in‑person courses utilizing synchronous distance learning portions must be taught by instructors approved by the Commission and must be presented in a physical classroom or approved virtual environment. The distance learning portion of the course must adhere to the Commission’s standards for distance learning. Recorded videos used as teaching supplements are not considered distance learning and do not need to meet the distance learning standards.

 (b) Distance learning synchronous and asynchronous courses must be taught by instructors approved with the Commission and adhere to the Commission’s standards for distance learning. In accordance with S.C. Code Section 40‑57‑340(F), providers and courses must hold ARELLO or IDECC certification.

 (2) Course design must be competency‑based and not permit students to only passively observe instruction or read instructional material. Courses must incorporate active student participation through interaction with the instructor, other students, or computer programs at frequent intervals throughout the course.

 B. Facilities and Equipment.

 (1) All classroom facilities must meet the appropriate building, health, and fire codes, and must be maintained in a safe and sanitary condition at all times.

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

 (3) Distance learning courses must adhere to ARELLO or IDECC requirements.

 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. This includes, but is not limited to, 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) Advertising for courses must include the provider and course approval number.

 (3) Pursuant to S.C. Code Section 40‑57‑740(D), the Commission may take action against any provider or instructor who has violated the provisions of S.C. Code Section 40‑57‑5 et seq., S.C. Code Section 40‑1‑10 et seq., or regulations of the Commission. This includes but is not limited to a provider or instructor who:

 (a) uses any unfair or deceptive practice or makes or causes to be made 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;

 (b) advertises or implies that the course is recommended or endorsed by the Commission;

 (c) uses abbreviations which tend to mislead or confuse or otherwise create misunderstanding with students or the public;

 (d) references the Commission’s school report passage rates for first‑time examiners. Schools may report passage rates so long as the rates can be substantiated by data collected by the school itself and cannot be based upon the Commission’s school report data. Passage rates may only be used if the total number of students is disclosed;

 (e) is unable to substantiate from its records any advertised statistics or claims;

 (f) falsely represents, 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

 (g) represents that successful completion will ensure passage of the state licensing examinations or obtaining a real estate license.

 D. Recruitment and Solicitation.

 Individuals or companies are prohibited from utilizing course hours or materials to recruit new affiliates for any company, sell promotional materials, or solicit business. Licensees found in violation may be subject to disciplinary action by the Commission. Nothing in the section shall prohibit any individual, company, or brokerage firm from soliciting, marketing, or selling prior to an education course or after the course has been completed. The Commission may take disciplinary action against the licensed broker-in-charge or property manager-in-charge of the brokerage firm or property management office violating this regulation.

 E. Changes.

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

105‑10. Instructors.

 A. Approved qualifying courses must be taught by Commission‑approved instructors who are actively licensed as brokers by the Commission. 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) Real Estate Educator Association (REEA) Instructor certification or IDECC Certified Distance Education Instructor certification; or

 (c) a four‑year undergraduate degree, or higher, in education; or

 (d) previous adult‑education experience in schools, seminars, or in an equivalent setting for three (3) years, within the past five (5) years; or

 (e) serving as an assistant instructor under the direct supervision of a Commission‑approved instructor for at least sixty (60) hours. Of the sixty (60) hours, fifty‑five (55) hours must be documented instructing time; or

 (f) 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 teaching experience within the past five (5) years directly related to the subject matter to be taught.

 C. Each instructor may be approved by the Commission to teach pre‑licensing education courses, continuing education courses, or both.

 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 rectify the deficiencies identified and submit for re‑evaluation. If deficiencies are fully addressed, 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.

 Instructors of approved continuing education courses may credit time spent teaching approved courses towards the applicable continuing education requirements for maintaining licensure. This credit does not extend to the mandatory four‑hour core broker‑in‑charge course unless the licensee is the instructor of and teaches the four‑hour core broker‑in‑charge course.

105‑11. Renewals.

 All provider, course, and instructor approvals expire biennially on August 31 of even‑numbered years. If an approval has expired, the provider or instructor must reapply and meet all requirements in effect at the time of reapplication in order to receive approval for the expired provider, course, or instructor.

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.

**Fiscal Impact Statement:**

 There will be no cost incurred by the State or any of its political subdivisions for these regulations.

**Statement of Rationale:**

 The updated regulations will address issues including but not limited to instructor qualifications, instructor renewals, the implementation of a core commercial course in addition to a core residential course, and the removal of a reference to an outdated website. The updated regulations will also provide more clarity regarding broker supervision and re‑examination procedures for those applicants that do not pass the respective licensing exam.