**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4195**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. McCoy

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Introduced in the House on May 22, 2013

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Promotion of Ethical Standards and Professional Integrity in Property and Casualty Insurance Sales Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/22/2013 House Introduced and read first time ([House Journal‑page 11](file:///h:\HJ%20Archive\2013\05-22-13.docx))

5/22/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 11](file:///h:\HJ%20Archive\2013\05-22-13.docx))

**VERSIONS OF THIS BILL**

[5/22/2013](file:///p:\pprever\2013-14\4195_20130522.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “PROMOTION OF ETHICAL STANDARDS AND PROFESSIONAL INTEGRITY IN PROPERTY AND CASUALTY INSURANCE SALES ACT” BY ADDING ARTICLE 9 TO CHAPTER 13, TITLE 38 SO AS TO PROVIDE THE PURPOSE OF THE ACT, TO PROVIDE NECESSARY DEFINITIONS, TO CREATE THE PROPERTY AND CASUALTY INSURANCE LICENSEE EXECUTIVE COMMITTEE, TO REQUIRE THE COMMITTEE TO ESTABLISH A CODE OF ETHICS FOR PROPERTY AND CASUALTY INSURANCE SALES AND TO INVESTIGATE VIOLATIONS OF THE CODE AND OTHER RELATED VIOLATIONS, TO PROVIDE FOR THE COMPOSITION, TERMS, AND COMPENSATION OF THE COMMITTEE, AND TO PROVIDE POWERS AND DUTIES OF THE COMMITTEE; AND TO AMEND SECTION 38‑13‑70, RELATING TO INVESTIGATIONS BY THE DIRECTOR OF THE DEPARTMENT OF INSURANCE OF ALLEGED VIOLATIONS OF TITLE 38, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and must be cited as the “Promotion of Ethical Standards and Professional Integrity in Property and Casualty Insurance Sales Act”.

SECTION 2. Chapter 13, Title 38 of the 1976 Code is amended by adding:

“Article 9

Promotion of Ethical Standards and Professional Integrity in Property and Casualty Insurance Sales Act

Section 38‑13‑910. The purpose of this chapter is to promote ethical conduct, promote integrity, and reduce fraud in the property and casualty insurance industry in this State by providing for the:

(1) establishment of a code of ethics for agencies, brokers, and producers licensed by the Department of Insurance to sell property insurance, casualty insurance, or both; and

(2) investigation of violations of this code or of other violations of this title by an agency, broker, or producer licensed by the department to sell property insurance, casualty insurance, or both in this State, and to provide for the adjudication of these investigations.

Section 38‑13‑920. For the purposes of this article:

(1) ‘Code of Ethics’ or ‘Code’ means the code of ethics adopted by the executive committee in this article;

(2) ‘Department’ means the Department of Insurance;

(3) ‘Director’ means the Commissioner of the Department of Insurance;

(4) ‘Executive Committee’ or ‘Committee’ means the Property and Casualty Insurance Licensee Executive Committee established pursuant to this article; and

(5) ‘Licensee’ means an agency, broker, or producer licensed under the provisions of this title to sell property insurance, casualty insurance, or both.

Section 38‑13‑930. (A) There is created the Property and Casualty Insurance Licensee Executive Committee to establish a code of ethics for agencies, brokers, and producers licensed by the department to sell property insurance, casualty insurance, or both, and to enforce compliance with this code and provisions of this title applicable uniquely to these licensees by investigating and adjudicating alleged violations.

(B)(1) The committee is composed of five members, appointed as follows:

(a) one member appointed by the Attorney General;

(b) one member appointed by the Chief of SLED; and

(c) three members appointed by the Director of the Department of Insurance.

(2) Two of the members appointed by the Director of the Department of Insurance must represent the private sector of the insurance industry in this State, with one member appointed on the recommendation of the Independent Insurance Agents and Brokers of South Carolina, or its successor, and one member appointed on the recommendation of the South Carolina News Service, or its successor.

(C) Members serve four‑year terms and until their successors are appointed and qualified. A vacancy must be filled in the manner of the original appointment.

(D) Within thirty days of the appointment and qualification of all members, the committee shall meet at the Department of Insurance to elect a chairman and officers, establish rules and procedures, and other matters as it considers appropriate.

(E) Members of the committee must be compensated for their services at the usual rate for mileage, subsistence, and per diem as provided by law for members of state boards, committees, and commissions and must be reimbursed for actual and necessary expenses incurred in connection with and as a result of their work as members of the committee.

Section 38‑13‑940. Within sixty days after the initial meeting required in Section 38‑13‑930(D), the committee shall adopt a code of standards for professional conduct by a agency, broker, and producer of property insurance, casualty insurance, or both. The committee must provide a written copy of this code of ethics to all licensees within thirty days of its adoption.

Section 38‑13‑950. The committee shall:

(1) develop guidelines for enforcing violations of the code of ethics, the sale of property or casualty insurance without a license, or other provisions of this title applicable to a licensee;

(2) serve as the investigatory body of a violation alleged under item (1), but may appoint investigators as necessary to assist;

(3) serve as the adjudicatory body of an alleged violation of this chapter or any other provision of this title applicable to a licensee, notwithstanding another provisions of this title; and

(4) make every reasonable effort to promote the highest standards of ethical conduct in the property insurance business and casualty insurance business.

Section 38‑13‑960. (A) The committee may dismiss an investigation by majority vote and without a hearing, but may not otherwise render a final decision on an investigation without a hearing on the merits. This hearing must be conducted within six months after the initiation of the investigation.

(B) Three members of the committee constitute a quorum, and a quorum is required to hear a matter before the committee and render a decision.

(C) The committee may by majority vote summon and compel the attendance of witnesses to testify in relation to any matter under its investigation. The director or his designee has the power of a circuit judge to punish for contempt any witness failing to answer any summons or failing or refusing to testify when required. The director or any assistants or agents appointed to conduct examinations also may administer oaths and affirmations to persons appearing as witnesses before them, and false testimony in any matter or proceeding is considered perjury and must be punished in accordance with the laws of this State.

(D) The committee must reach a decision on the merits of an investigation and issue a final order within thirty days after the hearing required in subsection (A). A final order of the committee is not effective unless made in writing and signed by each member of the board who attended the hearing and participated in the rendering of the decision.

(E) Any order or decision made, issued, or executed by the committee is subject to judicial review in accordance with the appellate procedures of the South Carolina Administrative Law Court, as provided by law. An appeal from an order or decision pursuant to this section must be heard in the Administrative Law Court as provided by law.

Section 38‑13‑970. A person summoned by the committee to testify as a witness must be paid for his actual mileage at the same rate as provided by law for state departments or divisions, with these costs paid by the licensee. The court shall order repayment of this expense to the licensee by the department if the final outcome of the matter, whether at committee level or on appeal, is in favor of the licensee.”

SECTION 3. Section 38‑13‑70 of the 1976 Code is amended to read:

“Section 38‑13‑70. (A) Upon his own motion or upon written complaint filed by a citizen of this State that an insurer has violated this title, the director or his designee shall investigate the matter and, if necessary, examine under oath the president and other officers or agents of the insurer and all books, records, and papers of the insurer. If the director or his designee finds upon substantial evidence that a complaint against an insurer is justified, the insurer, in addition to the penalties imposed for violation of this title, is liable for the expenses of the investigation, and the director or his designee shall promptly present the insurer with a statement of the expenses. If the insurer refuses or neglects to pay, the director or his designee is authorized to revoke its license and to bring civil action for the collection of the expenses.

(B) The provisions of this section do not apply to the investigation of a complaint of a violation concerning the sale of property insurance or casualty insurance, which fall exclusively under the auspices of Article 9, Chapter 13, Title 38.”

SECTION 4. This act takes effect upon approval by the Governor.

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