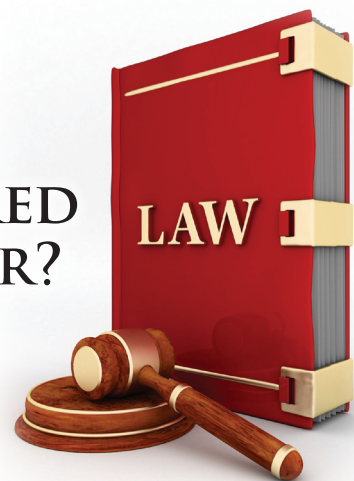


# WHEN IS A PRODUCER REQUIRED TO BE APPOINTED BY A CARRIER?



By Becky McCormick, CPCU, CIC, AAI, IIABSC Vice President

**T**his question of when a producer is required to have a carrier appointment keeps coming up, so we thought it was time to review with both members and our company partners the SC regulation regarding carrier appointments.

First, we need to determine when a producer license is required. SC insurance code Section 38-43-10 states that anyone who performs any of the following must have a producer license:

1. sells, solicits, or negotiates insurance on behalf of an insurer;
2. takes or transmits other than for himself an application for insurance or a policy of insurance to or from an insurer;
3. advertises or otherwise gives notice that he will receive or transmit insurance applications or policies;
4. receives or delivers a policy of insurance of an insurer;
5. receives, collects, or transmits any premium of insurance; or
6. performs any other act in the making of an insurance contract for or with an insurer, other than for himself; whether these acts are done by an employee of an insurer or at the instance or request of an insurer, must be an appointed producer of the insurer for which the act is done or the risk is taken unless provided otherwise in Section 38-43-20.

Most independent agencies seem to be clear on when a producer license is required. The recent problem, which has caught the attention of the SC Department of Insurance, is that some carriers are not properly appointing producers. SC insurance code Section 38-43-50 outlines who must be appointed by a carrier and states in part: *“An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.”*

What does this mean? **It means ANY agency staff performing the duties that require a producer license for a**

**particular carrier MUST be appointed with that carrier.** It does NOT mean that a carrier can appoint one or two people in an agency to “sign all the applications” and not appoint the other agency staff who are clearly performing the duties that require a license on behalf of a carrier. The latter is a clear violation of the insurance code and can result in fines of up to \$5,000 against the agency and the producer, possible suspension or revocation of the producer’s license, fines up to \$30,000 against the carrier and possible revocation of the carrier’s certificate of authority to operate in South Carolina.

Another situation that has come up is carriers that do not want to appoint producers until business has been submitted. Section 38-43-50 does allow a 15-day window to appoint a producer under these circumstances: *“To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director or his designee, a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted.”*

But keep in mind, the CSR or Account Manager who will be servicing the business and performing the functions that require a license will also need to be appointed with the carrier. **In other words, if a producer license is required to perform an activity and an agency staff member is performing these activities on behalf of a carrier, they MUST be appointed with the carrier.**

One final note on appointments: the appointment fee must be paid by the carrier. It is a violation of the insurance code to force a producer or the agency to pay the appointment fee.

IIABSC advises our members to discuss these issues with any represented carrier who may not understand the regulation so they can make the necessary appointments in your agency. **Don’t risk incurring heavy fines or worse yet, losing your producer license, by not having the proper appointments.** If any of our company partners have additional questions regarding the regulation on appointments, they should contact the SC Department of Insurance.