

Insurance

Publication of notice for revocation or suspension of license

38-5-120

A director or his designee has the right to terminate or suspend a business's insurance. Notice of the withdrawal or suspension of insurance must be published in a newspaper with general circulation in the State.

Section When	Notice	Where	Where
38-5-120	A notice of the withdrawal or suspension of a business's insurance	A newspaper with general circulation in the State	If one or more of the terms under section 38-5-120 exist

Exact wording:

“(A) The director or his designee shall revoke or suspend certificates of authority granted to an insurer and its officers and agents if he is of the opinion upon examination or other evidence that one or more of the following exist.....(see 38-5-120)

(B) Notice of revocation and suspension must be published in a newspaper of general circulation in this State. No new business may be done by the insurer or its agents in this State while the default or disability continues nor until its authority to transact business is restored by the director or his designee.”

Publication of false or misleading information; rebuttal statement

38-9-390

It is prohibited under this section to publish any statements misrepresenting insurers in terms of their Total Adjusted Capital and RBC levels as means of ranking. If for any reason this material is printed the insurer, with proof, has the right to publish a statement of falsity with the director's consent.

Section When	Notice	Where	Where
38-9-390	A statement stating that false or inappropriate statements have been made about an insurer's Total Adjusted Capital or RBC levels in terms of ranking	A newspaper in the State	If the material printed contains false information

Exact wording:

“(A) The comparison of an insurer's Total Adjusted Capital to any of its RBC Levels is a regulatory tool for corrective action. It is not intended as a means to rank insurers. Therefore, except as otherwise specifically required under the provisions of this article, the making, publishing, disseminating, circulating, or placing before the public, or, causing to be directly or indirectly made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion or representation with regard to the RBC Levels of any insurer or of any component derived in the calculations by any insurer or agent engaged in the business of insurance is considered misleading and is prohibited. (B) If any materially false or inappropriate comparison of an insurer's Total Adjusted Capital to its RBC Levels or any RBC Level is published in any written publication and the insurer is able to demonstrate with substantial proof the falsity or the inappropriateness of such statement to the director, then the insurer may publish an announcement approved by the director in that written publication solely to rebut the materially false or inappropriate statement.”

**Notice of a public hearing for a proposed reorganization (Domestic Mutual Insurers)
38-19-1140**

If the director of the Department of Insurance decides to review a plan for reorganization of a mutual insurer than a public hearing must be held. A notice of the public hearing needs to be published in a newspaper with general circulation. The hearing must be held no later than forty-five days from the completion of the filing.

Section	Notice	Where
38-19-1140	A notice of a public hearing to review reorganization of a mutual insurer	A newspaper with general circulation
		Before the public hearing that is to be held and no later than forty-five days after the completion of the filing

Exact wording:

“(A) The Director of the Department of Insurance shall review the plan of reorganization for the purpose of determining whether the plan meets the requirements of this article. The director may employ staff personnel and outside consultants. All reasonable costs related to the review, including those costs attributable to staff personnel, shall be paid by the insurer making the filing. During the process of review, the director may communicate with the mutual insurer and request such additional information from the mutual insurer as the director may consider necessary. (B) The director or his designee must conduct a public hearing regarding the proposed plan of reorganization no later than forty-five days from when the filing is deemed complete. Any interested person may appear and participate at the hearing. The director or his designee must provide notice of the public hearing by publication in a newspaper of general circulation.”

**Notice to creditors and others
38-27-410**

A director or his designee may petition the circuit courts for liquidation in terms of domestic insurers. If this occurs the liquidator (director, his successors or his designee) must publish a notice of liquidation. The notice shall be placed in a newspaper of general circulation where the insurer has its main business and anywhere else the liquidator sees fit.

Section When	Notice	Where	
38-27-410	A notice of liquidation in terms of domestic insurers	A newspaper of general circulation where the main place of the insurer's business is located and other areas the liquidator sees fit	As soon as possible

Exact wording:

“(a) Unless the court otherwise directs, the liquidator shall give or cause to be given notice of the liquidation order as soon as possible:

(1) By first class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business. (2) By first class mail to any guaranty association or foreign guaranty association which is or may become obligated as a result of the liquidation. (3) By first class mail to all insurance agents of the insurer. (4) By first class mail to all persons known or reasonably expected to have claims against the insurer, including all policyholders, at their last known addresses as indicated by the records of the insurer. (5) By publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in any other locations the liquidator considers appropriate. (b) Notice to potential claimants under subsection (a) requires claimants to file with the liquidator their claims together with proper proofs thereof under Section 38-27-550 by a date the liquidator specifies in the notice. The liquidator need not require persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. All claimants have a duty to keep the liquidator informed of any changes of address.”

Powers and duties of director

38-31-80

Once a decision has been made that there was failure on the part of the insurer, the director of The Department of Insurance or his designee can require the association to notify the insured or any parties involved to the rights they have. The notification needs to be done by mail to their last known address. If the address is not known than a notice published in a newspaper of general circulation is plausible.

Section When	Notice	Where	
38-31-80	A notification of rights to the insureds of the failed insurers and any interested parties	A newspaper of general circulation	Once determination of failure of the insureds has been made.

Exact wording:

“(B) The director or his designee may: (1) require that the association notify the insureds of the insolvent insurer and other interested parties of the determination of insolvency and of their rights under this chapter. The notification must be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation is sufficient”

Notice of a vacancy on an advisory committee (continuing insurance education)

38-43-106

An advisory committee member involved with continuing insurance education must hold a two year term and serve until the next candidate is appointed and qualified. If a vacancy occurs than it must be published in a newspaper of general and statewide circulation.

Section When	Notice	Where	Where
38-43-106	A notice of vacancy in an advisory committee for the purpose of continuing insurance education	A newspaper of general and statewide circulation	When a vacancy occurs in the advisory committee

Exact wording:

“(3) A vacancy on the advisory committee must be published in newspapers of general, statewide circulation. Each advisory committee member must be appointed for a term of two years and shall serve until his successor is appointed and qualified. A vacancy must be filled for the unexpired term only.”

Trade Practices

Use of state seal prohibited in advertising or promotion unless approved

38-57-45

The seal of South Carolina or anything acquired by the seal cannot be used for publication purposes by an insurance agency, insurer or health maintenance organization unless approved and endorsed by the State Budget and Control Board.

Section When	Notice	Where	Where
38-57-45	Non publication of the seal of South Carolina for use by insurance agencies, insurers or health maintenance organizations	A newspaper or any other publication	Never unless approved and endorsed by The State Budget and Control Board

Exact wording:

“(A) No insurance agency, insurer, or health maintenance organization may make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other solicitation material, an advertisement, representation, or statement with respect to the business of insurance which utilizes the Seal of South Carolina or any symbol which contains, includes, or is derivative of the Seal of South Carolina without the approval of the State Budget and Control Board. (B) An insurance agency, an insurer, or a health maintenance organization must include in a prominent manner in solicitation material it utilizes specifically directed at and distributed to state employees a statement that the insurance program or health maintenance program is not officially endorsed by the State unless the program officially has been endorsed by the Budget and Control Board.”

**False information or advertising is prohibited
38-57-50**

Publication of false information or advertisement in respect to insurance business is prohibited. This holds true to any person that is involved with the business of insurance as well.

Section When	Notice	Where	
38-57-50	Publication of untrue, deceptive or misleading information in respect to the insurance business or persons involved	A newspaper or any other form of publication	Never, prohibited

Exact wording:

“No person may make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station, television, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business which is untrue, deceptive, or misleading.”

Automobile Insurance

**Publication of vacancies in the governing board of facilities (repealed effective Jan. 1, 2010)
38-77-580**

A governing board of facility is made up of nineteen people to represent the insurance industry and its consumers. If a vacancy comes about on the board than a notice of the vacancy must be published in a newspaper of general and statewide circulation.

Section When	Notice	Where	
38-77-580	A notice of vacancy on the governing board of facilities representing the insurance agency	A newspaper with general and statewide circulation	If a vacancy comes open on the board

Exact wording:

“The operations and affairs of the facility are under the direction and control of a governing board of nineteen persons of whom four must be residents of South Carolina appointed by the Governor of South Carolina to represent consumers. The director shall appoint eight persons to represent the insurance industry. In making these appointments, the director may accept nominations for qualified individuals from the American Insurance Association, the National Association of Independent Insurers, The Alliance of American Insurers, and any other individual, group, or trade or professional association. However, of the eight persons appointed to represent the insurance industry, not less than five must be residents of South Carolina and those who are not residents of South Carolina must have job responsibilities that include the supervision over South Carolina operations; not less than two must be officers or employees of insurers licensed to transact automobile insurance in South Carolina and domiciled therein. The director shall appoint six persons to represent producers, all of whom must be residents of South Carolina. The state independent agents' association, the South Carolina Professional Auto Insurance Agents' Association, the state professional insurance agents' association, and any other individual, group, or insurance agent, trade, or professional association may nominate qualified candidates for appointment. Vacancies on the board must be published in newspapers of general, statewide circulation.”

Advisory board

38-91-130

An advisory board for the purpose of private passenger and commerce automobile insurance consists of eight representatives. If a vacancy comes about on the advisory board than a notice of vacancy must be published in a newspaper of general and statewide circulation.

Section When	Notice	Where	
38-91-130	A notice of vacancy on an advisory board representing private passenger and automobile insurance	A newspaper with general and statewide circulation	A vacancy in a advisory board opens up

Exact wording:

“(a) Within ninety days after the effective date of this section, the director or his designee shall call the first or organizational meeting of the association and seat an advisory board (hereinafter referred to as the board). The initial board shall consist of three individuals who are licensed agents or brokers and four consumer representatives to be appointed by the director or his designee, five association members, the Consumer Advocate or his designee, the director of Public Safety or his designee, and one member from the Department of Insurance. The representative from the Department of Insurance shall be a nonvoting board member. All board members, other than the director of the Department of Public Safety or his designee and the Consumer Advocate or his designee, must be appointed by the director or his designee. The American Insurance Association, the Alliance of American Insurers, and the National Association of Independent Insurers and any individual, group, or insurance agent trade or professional association may nominate qualified individuals for consideration. Vacancies on the board must be published in newspapers of general, statewide circulation.”

Medical Malpractice Insurance

Board of directors

38-79-260

The association for the purpose of medical malpractice insurance has a governing body of thirteen directors. If a vacancy comes about in governing body than a notice of the vacancy must be published in a newspaper with general and statewide circulation.

Section	Notice	Where	When
38-79-260	A notice of vacancy on a governing board representing medical malpractice insurance	A newspaper with general and statewide insurance	When a vacancy opens in the governing body

Exact wording:

“The association is governed by a board of thirteen directors, all of whom must be appointed by the Governor. The Governor shall appoint five health care providers after consultation with the South Carolina Medical Association, the South Carolina Dental Association, and the South Carolina Health Alliance; four insurance representatives after consultation with the insurance industry; one consumer representative who is unaffiliated with the insurance or health care industries or the medical or legal professions; and two licensed insurance agents or brokers. The professional associations listed and the insurance industry may nominate qualified individuals to the Governor for his consideration. The Governor may also receive nominations for appointments to the board from any other individual, group, or association. Notices of vacancies on the board must be published in newspapers of general statewide circulation. The director or his designee shall serve as an ex officio member of the board. The board shall develop a plan of operation which is subject to the approval of the director or his designee as provided in this article. The plan of operation shall provide for staggered terms of the members of the board. The approved plan of operation of the association may make provision for combining insurers under common ownership or management into groups for voting, assessment, and all other purposes and may provide that not more than one of the officers or employees of a group may serve as a director at any one time . The board shall elect a chairman and other necessary officers for two-year terms. No member of the board is eligible for reappointment for a period of four years following the completion of his term. A vacancy must be filled for the unexpired portion of the term only. The Governor may receive recommendations from any individual, group, or association for any vacancy on the board. The board must meet at the call of the chairman or a majority of the members of the board but in any event it must meet at least once a year.”