

**SUBCHAPTER K. CONTINUING EDUCATION AND ADJUSTER
PRELICENSING EDUCATION PROGRAMS
28 TAC §§19.1011, 19.1020 and 19.1021**

1. INTRODUCTION. The Texas Department of Insurance proposes amending §19.1011 and adding new §19.1020 concerning continuing education credit for licensees who are members of state and national insurance associations, and adding new §19.1021 relating to national flood insurance education training. These amendments and new sections are necessary to implement Senate Bill (SB) 265 enacted by the 79th Legislature, Regular Session; to apply the SB 265 continuing education credits to life and health insurance counselors, insurance adjusters and public insurance adjusters; and to establish certified course requirements for flood insurance training under the federal Flood Insurance Reform Act of 2004.

Under SB 265, the Commissioner is authorized by rule to authorize the department to grant not more than four hours of continuing education credit to an agent who is an active member of a state or national insurance association. As required by SB 265, this proposal specifies acceptable state and national insurance associations, the number of hours of credit that agents who are members may obtain for certain activities, and the procedure for agent members to claim credit for completing these activities. This proposal also authorizes continuing education credit for holders of national designation certifications. Under this proposal the same continuing education credit is also authorized for life and health insurance counselors., insurance adjusters, and public insurance

adjusters pursuant to authority granted to the Commissioner in the applicable statutes related to continuing education for those license types.

This proposal also establishes the criteria for certified courses that providers may develop to comply with the minimum training and education requirements established by the Federal Emergency Management Agency (FEMA) to implement the Flood Insurance Reform Act of 2004 for insurance agents who sell Standard Flood Insurance Policies issued through the National Flood Insurance Program.

Proposed amendments to §19.1011 specify the information that a person is required to submit to claim credit for state or national insurance association continuing education hours and the procedure for claiming those continuing education credit hours. Proposed §19.1020 describes the associations that qualify as a state or national insurance associations for the purposes of continuing education credit under SB 265, the activities for which hours may be claimed, and the maximum number of hours that may be claimed. Proposed §19.1021 establishes the criteria for certified courses that providers may develop for persons who intend to write or insurance agents who currently write flood insurance to comply with FEMA's minimum training and education requirements implementing the Flood Insurance Reform Act of 2004.

2. FISCAL NOTE. Matt Ray, Deputy Commissioner, Licensing Division, has determined that for each year of the first five years the proposal will be in effect, there will be no fiscal impact to state and local governments as a result of the

enforcement or administration of the proposal. There will be no measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. Mr. Ray has determined that for each year of the first five years the proposal is in effect, the anticipated public benefits will be that the public is assured that agents and other licensees who are members of state and national insurance associations will obtain quality continuing education and that the department can specifically certify continuing education courses meeting federal requirements for persons writing flood insurance in Texas. The probable economic cost to persons required to comply with the proposed sections will result from the enactment of SB 265 and the federal Flood Insurance Reform Act of 2004 and not as a result of the adoption, enforcement, or administration of the proposed sections. As the proposed sections do not result in any economic cost, there is no difference in the cost of compliance between a large and small business as a result of the proposed sections. In addition, the proposed sections do not affect the cost of labor per hour; thus, there is no disproportionate economic impact on small or micro businesses. Even if the proposed sections did result in economic cost, it is neither legal nor feasible to waive the provisions of the proposed subchapter for small or micro businesses as continuing education requirements apply to individual licensees.

4. REQUEST FOR PUBLIC COMMENT. To be considered, written comments on the proposal must be submitted no later than 5:00 p.m. on December 12,

2005 to Gene C. Jarmon, General Counsel and Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P. O. Box 149104, Austin, Texas 78714-9104.

An additional copy of the comment must be simultaneously submitted to Matt Ray, Deputy Commissioner, Licensing Division, Mail Code 107-1A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The department will consider the adoption of the proposed amendments and new sections in a public hearing under Docket No.2628 scheduled for December 1, 2005 at 9:30 a.m. in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street in Austin, Texas.

5. STATUTORY AUTHORITY. The amendments and new sections are proposed under the Insurance Code Chapters 4001, 4004, 4052 and 4101. Section 4004.0535 authorizes the commissioner by rule to authorize the department to grant not more than four hours of continuing education credit to an agent who is an active member of a state or national insurance association, to adopt rules specifying the types of associations that constitute state or national insurance associations, the reasonable requirements for active participation in the association, and the manner of providing this information to the department. Section 4004.101 authorizes the commissioner to adopt rules establishing the criteria for continuing education courses for license holders. Section 4052.003 provides that, except as provided in Chapter 4052, Life and Health Insurance Counselors are licensed and regulated in the same manner as agents. Section 4101.059 authorizes the commissioner to certify a continuing education program

for insurance adjusters. Section 4102.109 authorizes the commissioner to prescribe continuing education course requirements for public insurance adjusters. Section 36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

6. CROSS REFERENCE TO STATUTE. The following sections are affected by this proposal:

<u>Rule</u>	<u>Statute</u>
§§19.1011 and 19.1020	Insurance Code §§4004.0535, 4004.101, 4052.003, 4101.059, and 4102.109
§19.1021	Insurance Code §4004.101, 4052.003, 4101.059, and 4102.109

7. TEXT.

§19.1011. Requirements for Successful Completion of Continuing Education Courses.

(a) - (e) (No change.)

(f) Notwithstanding subsections (a) - (e) of this section, licensees must claim continuing education under §19.1020 of this chapter (relating to State and National Association Credit) by sending to the department, or its designee, upon request, an affirmation acceptable to the department containing:

(1) the licensee's name, address, telephone number, and licensee's department license number;

(2) the name of the national designation or state or national insurance association providing educational materials or sponsoring educational presentations;

(3) the cumulative number of hours of credit claimed for reviewing the educational materials;

(4) the cumulative number of hours of credit claimed for attending the educational presentations;

(5) a statement that the licensee currently holds the national designation or is a member in good standing of the state or national insurance association; and

(6) A statement that the licensee completed at least the number of hours in these activities the licensee is claiming for continuing education credit.

(g) In addition to the affirmation provided under subsection (f) of this section, the department may request a licensee claiming hours under §19.1020 of this chapter to submit a sworn written affirmation to the department confirming under oath the information in subsection (f) of this section. Failure to submit a sworn affirmation will result in denial of the claimed hours and may result in disciplinary action under §19.1015 of this subchapter (relating to Failure to Comply) or the Insurance Code.

§19.1020. State and National Insurance Association Credit.

(a) For the purposes of this section the following definitions apply:

(1) Educational material--Printed or electronic materials with content intended to enhance the recipient's knowledge of insurance-related topics.

(2) Educational presentation--A live presentation allowing for questions or discussion given to a group of three or more licensees and that provides information intended to enhance the recipient's knowledge of insurance-related topics.

(3) State or national insurance association--A membership organization:

(A) organized as an association or corporation under state law;

(B) based on paid memberships renewable annually or biennially for an additional membership fee; and

(C) organized for the express purpose of promoting the interests of insurance licensees or a class of insurance licensees, including those classes based on license type or regional, gender, religious, or minority interests.

(b) Licensees who currently hold a national designation certification or are members in good standing of a state or national insurance association may receive up to four hours of self study continuing education credit per reporting period as follows:

(1) by accumulating up to two hours for reviewing educational materials provided by the national designation sponsor or state or national insurance association in which they hold a designation or are members; and

(2) by accumulating up to four hours for attending educational presentations sponsored by the national designation sponsor or state or national association in which they hold a designation or are members.

(c) A licensee may accumulate hours from different national designations or state or national insurance associations in which they hold a designation or membership to reach the four-hour limit, but regardless of the number of designations or association memberships or hours accumulated, the licensee may not claim more than four hours of credit under this section towards completing the licensee's continuing education requirement for any reporting period.

(d) Continuing education hours under this section shall apply only as self study credit and shall not count towards the licensee's ethics, classroom, or classroom equivalent continuing education requirements.

(e) A licensee claiming hours under this section may claim the actual time, up to an accumulated total of four hours, that the licensee needed to review the educational material or the duration of the educational presentation.

§19.1021. Flood Insurance Education Course.

(a) Pursuant to §207 of the Flood Insurance Reform Act of 2004, the Federal Emergency Management Agency on September 1, 2005 published

minimum training and education standards for persons that intend to write or currently write flood insurance (*Federal Register*, Vol. 70, No. 169, pp. 52117-52119). This section establishes these standards for a department-certified continuing education course.

(b) The course shall:

(1) be submitted for approval in compliance with §19.1007 of this subchapter (relating to Course Certification Submission Applications, Course Expirations, and Resubmissions);

(2) be at least three hours in length;

(3) and cover the topics listed in subsection (g) of this section.

(c) Providers may offer the course as a classroom, classroom equivalent, or self study course.

(d) The course may be taken after the department has issued a license or within 12 months preceding the license issue date.

(e) Licensees may count up to three hours towards completion of their initial continuing education requirement for successful completion of a certified flood insurance training course prior to issuance of their license. The licensee shall maintain proof of completion of the flood insurance training course prior to licensure for four years or through the second renewal of the license, whichever is longer. Upon request, the licensee shall provide the proof of course completion to the department or the department's designee.

(f) A provider-issued completion certificate in compliance with §19.1011(e) of this subchapter (relating to Requirements for Successful

Completion of Continuing Education Courses) shall demonstrate proof of successful course completion.

(g) Course topics for the basic flood insurance course outline shall include:

(1) Section I – Introduction:

(A) National Flood Insurance Program (NFIP) Background;

(B) Community Participation;

(C) Emergency Program Defined;

(D) Regular Program Defined;

(E) Community Rating System;

(F) Eligible/Ineligible Buildings;

(G) Coastal Barrier Resources System and Other Protected

Areas;

(H) Who Needs Flood Insurance?

(i) Mandatory Purchase of Flood Insurance in High

Flood Risk Zones; and

(ii) Recommended in Moderate and Low Flood Risk

Zones; and

(l) Why Flood Insurance is Better than Disaster Assistance.

(2) Section II – Flood Maps and Zone Determinations:

(A) Flood Hazard Boundary Map (FHBM);

(B) Flood Insurance Rate Map (FIRM):

(i) Pre-FIRM/Post-FIRM Defined; and

(ii) Special Flood Hazard Area Defined;

(C) Base Flood Elevation; and

(D) Zone Determination.

(3) Section III – Policies and Products Available:

(A) Dwelling Policy – Types of Buildings Covered;

(B) General Property Policy – Types of Buildings Covered;

(C) Residential Condominium Building Association (RCBAP)

Policy – Types of Buildings Covered;

(D) Preferred Risk Policy – Types of Buildings Covered;

(E) Definitions:

(i) Flood;

(ii) Basement/Enclosure; and

(iii) Elevated Buildings;

(F) Damages Not Covered:

(i) Single Peril Policy; and

(ii) Mudslides vs. Mudflow;

(G) Property Covered:

(i) Basements;

(ii) Appurtenant Structure;

(iii) Loss Avoidance Measures;

(iv) Debris Removal; and

(v) Improvements and Betterments;

(H) Property and Expenses Not Covered:

(i) Decks;

(ii) Finished Items in Basements;

(iii) Property in Enclosures; and

(iv) Additional Living Expenses;

(l) Increased Cost of Compliance Coverage.

(4) Section IV – General Rules:

(A) Statutory Coverage Limits;

(B) Deductibles:

(i) Standard Deductibles; and

(ii) Apply Separately for Building and Contents;

(C) Property Value Determination for Selecting Coverage

Amount;

(D) Loss Settlement:

(i) Actual Cash Value (ACV);

(ii) Replacement Cost Value (RCV); and

(iii) Co-insurance Penalty in RCBAP;

(E) Reduction and Reformation of Coverage;

(F) No Binders;

(G) One Building per Policy – No Blanket Coverage;

(H) Building and Contents Coverage Purchased Separately;

(I) Waiting Period/Effective Date of Policy;

(J) Policy Term; and

(K) Cancellations.

(5) Section V – Rating:

(A) Types of Buildings:

(i) Elevated Buildings; and

(ii) Buildings with Basements;

(B) When to Use an Elevation Certificate; and

(C) Grandfathering.

(6) Section VI – Claims Handling Process:

(A) Helping Your Client to File a Claim;

(B) Appeals Process; and

(C) Claims Handbook;

(7) Section VII – Requirements of the Flood Insurance Reform Act
of 2004:

(A) Point of Sale and Renewal Responsibilities:

(i) Notification of Coverages Being Purchased;

(ii) Policy Exclusions that Apply;

(iii) Explanation Regarding How Losses Will be

Adjusted (ACV vs. RCV);

(iv) Number and Dollar Amount of Claims for

Property; and

(v) Acknowledgement Forms.

(8) Section VIII – Agent Resources:

(A) Write Your Own Company;

(B) FEMA Websites:

(i) <http://www.fema.gov/nfip>;

(ii) <http://www.floodsmart.gov>; and

(iii) <http://training.nfipstat.com/>; and

(C) Flood Insurance Manual.

8. CERTIFICATION. This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

Issued at Austin, Texas, on _____, 2005.

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance