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FL ADC 69B-241.030, 040, 080, 090, 100, 110, 130, 140, 165, 170
Notices of Changes, Corrections and Withdrawals
December 22, 2011
Department of Financial Services

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 23, June 11, 2010 issue of the Florida Administrative Weekly.

FL ADC 69B-241.030

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FL ADC 69B-241.040

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FL ADC 69B-241.080

FL ADC 69B-241.080

FL ADC 69B-241.090

FL ADC 69B-241.090

FL ADC 69B-241.100

FL ADC 69B-241.100

FL ADC 69B-241.110

FL ADC 69B-241.110

FL ADC 69B-241.130

FL ADC 69B-241.130

FL ADC 69B-241.140

FL ADC 69B-241.140

FL ADC 69B-241.165

FL ADC 69B-241.165

FL ADC 69B-241.170

FL ADC 69B-241.170

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.: RULE TITLES: 69B-241.030 Definitions 69B-241.040 Calculating Penalty 69B-241.080 Penalties for Violation of Section 648.44, F.S. 69B-241.090 Penalties for Violation of Section 648.45, F.S. 69B-241.100 Penalties for Violation of Other Specific Provisions of the Insurance Code 69B-241.110 Penalties for Violation of Specific Provisions of Rule Chapter 69B-221, F.A.C. 69B-241.130 Penalties for Violation of Other Department Rules 69B-241.140 Penalties for Violation of Department Orders 69B-241.165 Imposition of Administrative Fine In Lieu of Suspension 69B-241.170 Field Office Settlement Stipulation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 23, June 11, 2010 issue of the Florida Administrative Weekly.

These changes are made in response to a proposed objection by the Joint Administrative Procedures Committee.

The language included under the Summary of Statement of Estimated Regulatory Costs is changed as follows: Summary of Estimated Regulatory Costs and Legislative Ratification: The Department has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of this rule. A SERC has not been prepared by the Department.

The Department has determined that the proposed rule is not expected to require legislative ratification based on the Statement of Estimated Regulatory Costs or if no SERC is required, the information expressly relied upon and described herein: The Department has determined the proposed rule chapter will not result in additional costs to small businesses because it simply quantifies and organizes the penalty structure as found under the existing statute and regulations.

69B-241.030 Definitions.

The following definitions shall apply for purposes of this rule chapter.

(1) through (3) No change.

(4) "Department" means the Florida Department of Financial Services.

(5) "Final penalty" means the penalty imposed on a licensee by the Department.

(6) "Penalty per count" means the penalty to be assessed for a single count and is equal to the highest stated penalty in the count for all proven violations.

(7) "Reasonable distance" means the sign must be easily read from the center of the public street or road in front of the agency's location.

(8) and (9) No change.

69B-241.040 Calculating Penalty.

(1) and (2) No change.

(3) Final Penalty.

(a) No change.

(b) The Department shall convert the total penalty to an administrative fine and probation if:

1. The licensee has not previously been subjected to an administrative penalty and the current action does not involve a violation of Sections 648.45 or 648.571, F.S.;

2. Any restitution due a consumer has been fully paid.

(c) No change.

(d) In the event that the final penalty would exceed a suspension of 2 years (24 months), the final penalty shall be revocation. This provision shall not apply to an immediate temporary suspension imposed pursuant to Section 648.45(1), F.S.

69B-241.080 Penalties for Violation of Section 648.44, F.S.

If it is found that the licensee has violated any of the following subsections of Section 648.44, F.S., the following stated penalty shall apply:

(1) through (27) No change.

(28) The period of suspension may not exceed 2 years (24 months) as required by 648.49(1), F.S.

(29) A person who has had his/her license suspended for 2 years (24 months) will need to re-apply for licensure as provided in Rule 69B-241.200, F.A.C.

69B-241.090 Penalties for Violation of Section 648.45, F.S.

If it is found that the licensee has violated any of the following subsections of Section 648.45, F.S., for which suspension or revocation of license(s) and appointment(s) is authorized, the following stated penalty shall apply:

(1) through (8) No change.

(9) Section 648.45(2)(h), F.S. Suspension for not less than 1 month for each count, plus full restitution for the first violation; suspension for not less than 12 months up to 24 months, plus full restitution for every violation subsequent to the first.

(10) Section 648.45(2)(i), F.S. Administrative fine equal to two times the amount paid or foregone for the first violation; suspension for not less than 6 months up to 12 months and an administrative fine equal to five times the amount paid or foregone, for every violation subsequent to the first.

(11) through (14) No change.

(15) Section 648.45(2)(n), F.S. An administrative fine equal to five times the dollar amount or value of the collateral as provided in Section 648.571(4), F.S., and a suspension for not less than 3 months for every violation.

(16) through (20) No change.

(21) Section 648.45(3)(d), F.S.

(a) Temporary suspension which shall continue until all money belonging to any insurer has been fully paid to the proper insurer; and

(b) No change.

(c) If the calculated penalty is greater than 2 years (24 months) the penalty shall be revocation.

(22) through (23) No change.

(24) The period of suspension may not exceed 2 years (24 months) as required by Section 648.49(1), F.S.

(25) A person who has had his/her license suspended for 2 years (24 months) will need to re-apply for licensure as provided in Rule 69B-241.200, F.A.C.

69B-241.100 Penalties for Violation of Other Specific Provisions of the Insurance Code.

If a licensee is found to have violated any of the following provisions of the Insurance Code, the following stated penalty shall apply:

(1) through (16) No change.

(17) Section 648.382(2)(b), F.S. Denial or suspension of appointment and an administrative fine shall be imposed in an amount equal to the total amount owed to the insurer. The administrative fine is in addition to the amount owed to the insurer that shall also be paid.

(18) No change.

(19) Section 648.382(5), F.S. Administrative fine of not less than \$250 and not more than \$500 for the first violation; an administrative fine of not less than \$500 for every violation subsequent to the first not to exceed the amount provided in Section 648.52 and/or 648.571, F.S.

(20) through (22) No change.

(23) Section 648.40(2), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(24) Section 648.41, F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(25) Section 648.421, F.S. Suspension for not more than 6 months for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(26) Section 648.43(2), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(27) Section 648.43(3), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 6 months for every violation subsequent to the first.

(28) Section 648.441(1), F.S. Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(29) Section 648.442(1), F.S. Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(30) Section 648.442(2), F.S. Suspension for not more than 3 months for the first violation; suspension for 12 months for every violation subsequent to the first.

(31) Section 648.442(3), F.S. Suspension for not less than 3 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(32) Section 648.442(4), F.S. Suspension for not less than 12 months up to 24 months; revocation for any subsequent violation.

(33) Section 648.442(5), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(34) Section 648.442(6), F.S. Suspension for not less than 3 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(35) Section 648.442(7), F.S. Suspension for not more than 12 months for the first violation; suspension for not less than 6 months up to 24 months for every violation subsequent to the first.

(36) Section 648.442(8), F.S. Suspension of all current appointments until the licensee is in compliance.

(37) Section 648.442(10), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(38) Section 648.4425(1), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(39) Section 648.4425(2), F.S. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(40) Section 648.50(3), F.S. Suspension for not more than 12 months.

(41) Section 648.55, F.S. Suspension of license of the primary bail bond agent of that agency until such time as all bail bond agents in the agency are in compliance.

(42) Section 648.571, F.S. Suspension for not less than 12 months up to 24 months for the first violation; revocation for any subsequent violation.

(43) If the calculated penalty for the sections of this rule is greater than 2 years (24 months) the penalty shall be revocation.

69B-241.110 Penalties for Violation of Specific Provisions of Rule Chapter 69B-221, F.A.C.

If the licensee is found to have willfully violated any of the following Department rules, the following stated penalties shall apply:

(1) through (3) No change.

(4) Paragraph 69B-221.051(4)(a), F.A.C. Suspension for not more than 6 months for the first violation; suspension for not less than 6 months up to 12 months for every violation subsequent to the first.

(5) Paragraph 69B-221.051(4)(b), F.A.C. Administrative fine of up to two times the amount of hours worked times the amount of minimum salary or wages as required by Florida minimum wage Act, pursuant to Section 448.110 F.S.

(6) Paragraph 69B-221.051(4)(c), F.A.C. Except for violations for which the penalty is stated in the Florida Statutes, the penalty shall be suspension for not more than 6 months and an administrative fine of \$500 per report.

(7) Subsection 69B-221.055(1), F.A.C. Administrative fine of \$1,000.

(8) Subsection 69B-221.055(2), F.A.C. Suspension for 6 months and an administrative fine of \$250 per file.

(9) Rule 69B-221.060, F.A.C. Suspension for not more than 6 months for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(10) Rule 69B-221.065, F.A.C. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(11) Rule 69B-221.085, F.A.C. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(12) Rule 69B-221.095, F.A.C. Suspension for 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(13) Rule 69B-221.100, F.A.C. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(14) Rule 69B-221.105, F.A.C. Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(15) Rule 69B-221.110, F.A.C. Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(16) Rule 69B-221.115, F.A.C. Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(17) Rule 69B-221.120, F.A.C. Suspension for not more than 6 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(18) Rule 69B-221.130, F.A.C. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(19) Rule 69B-221.135, F.A.C. Suspension for not more than 12 months for the first violation; suspension for not less than 12 months for every violation subsequent to the first.

(20) Rule 69B-221.140, F.A.C. Suspension for not more than 3 months for the first violation; suspension for not more than 12 months for every violation subsequent to the first.

(21) Rule 69B-221.145, F.A.C. Suspension for 3 months for the first violation; suspension for 24 months up to revocation for every violation subsequent to the first.

69B-241.130 Penalties for Violation of Other Department Rules.

If the licensee is found to have willfully violated a Department rule, the stated penalty shall be a six (6) month suspension, unless otherwise prescribed in these rules or in the specific rule violated.

69B-241.140 Penalties for Violation of Department Orders.

If a licensee is found to have violated a Department order, the stated penalty shall be a six (6) month suspension, unless the penalty is prescribed in the order violated itself.

69B-241.165 Imposition of Administrative Fine In Lieu of Suspension.

An administrative fine imposed pursuant to Section 648.52, F.S., shall be \$1,000 per month of suspension.

69B-241.170 Field Office Settlement Stipulation.

The Department shall offer a Field Office Settlement Stipulation ("FOSS") to any licensee as an opportunity to pay a fine for an alleged violation in lieu of the administrative hearing process. The FOSS shall only be offered to the respondent for committing certain non-criminal violations. The Department shall use form DFS-H1-2021 (Effective: 11/2011) titled "Field Office Settlement Stipulation Program (FOSS)", which is adopted and incorporated herein by reference, to outline such violations and their respective FOSS fine amount. The copy of this form is available on the Department's website at <http://www.MyFloridaCFO.com/agents/Licensure/Forms/index.htm>. The fines utilized on the FOSS shall be as follows:

(1) Advertising/Signage:

(a) Misleading and deceptive advertisement: \$500;

(b) Advertising under an unregistered trade name: \$500;

(c) Failure to include address of record filed with Department in advertising: \$500;

(d) Advertising/other/Failure to (specify allegation): \$500;

(e) Place of business not suitable as an agency: \$1,000;

(f) Signage not readable from reasonable distance: \$1,000;

(2) Business Engagement/Licensee:

(a) Place of business not open and accessible during business hours as defined by 69B-221.051(3), F.A.C.: \$1,000;

(b) Failure to designate primary bail bond agent for each bail bond agency location: \$1,000;

(c) Failure to submit Designation of Primary Bail Bond Agent form to the Department: \$1,000;

(d) Failure to notify the Department of any change to the bail bond agency name, ownership, primary bail bond agent, or other operator of the bail bond agency: \$1,000;

(e) Failure to appoint all bail bond agents with the same companies within the same bail bond agency: \$1,000;

(f) Failure to prominently display and post applicable service credit card charge: \$1,000;

(3) Record Keeping:

(a) Failure to maintain a register: \$500;

(b) Failure to produce a register: \$500;

(c) Failure to keep an individual file for each principal for whom bond is made: \$250;

(d) Failure to keep in an individual file all the documents of a principal as defined in rule: \$250;

(e) Failure to complete or correctly write original application form: \$250;

(f) Failure to properly execute power of attorney/bond power number: \$500;

(g) Failure to state terms and conditions of the contract for a bail bond: \$500;

(h) Failure to provide Information Notice (Department's contact address): \$500;

(i) Failure to use a pre-numbered premium receipt: \$1,000;

(j) Failure to include name and address of agency on premium receipt: \$1,000;

- (k) Failure to include name and address of surety company on premium receipt: \$1,000;**
- (l) Failure to use a pre-numbered collateral receipt: \$1,000;**
- (m) Failure to give to person giving collateral a pre-numbered collateral receipt: \$1,000;**
- (n) Failure to include name and address of agency on collateral receipt: \$1,000;**
- (o) Failure to include name and address of surety company on collateral receipt: \$1,000;**
- (p) Failure to attach the affidavit accepting collateral on the Department prescribed form to the bond within 30 days of the release of the defendant: \$500;**
- (q) Failure to respond to Department's request for information: \$1,000;**
- (r) Failure to indicate name and address of referring agent on transfer bond: \$500;**
- (s) Failure to complete statement of surrender: \$500;**
- (t) Failure to keep copies of bond forfeiture documents in individual files: \$250;**
- (u) Failure to file notice of change of bail bond agency name, business and/or personal addresses and phone numbers with the Department: \$1,000;**
- (4) Licensing/Appointments:**
 - (a) Failure to submit to Department temporary bail bond agent certified monthly employment reports: \$500;**
 - (b) Failure to file with the Department the temporary bail bond agent appointment: \$500;**
 - (c) Failure to notify Department about termination of appointment of temporary bail bond agent: \$1,000.**

The remainder of the rule reads as previously published.

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