

DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF INSURANCE AGENT & AGENCY SERVICES

NOTICE OF PROPOSED RULE DEVELOPMENT

RULE NUMBER:

RULE TITLE:

69B-221.010, F.A.C.

Temporary Orders of Suspension of Bail Bond Agents

PURPOSE AND EFFECT: Section 648.45, Florida Statutes allows a bail bond agent under a temporary order of suspension to discharge liability on bonds effected before the order is issued.

The statute is not specific as to what activities a bail bond agent may perform under a suspended license.

The proposed rule identifies specific activities a bail bond agent whose license is suspended may perform with regard to discharging liability on previously effected bonds.

SUBJECT AREA TO BE ADDRESSED: Temporary orders of suspension of bail bond agents and the clarification of what activities are permitted to be performed by bail bond agents under a temporary order of suspension

RULEMAKING AUTHORITY: 624.307, 624.308, 648.26(1), F.S.

LAW IMPLEMENTED: 624.307(1), 648.285, 648.45(1), 648.49, 648.50, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: Tuesday, May 11, 2010 @ 9:30 AM

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:

Richard Brinkley, Government Analyst II, Bureau of Investigation, Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, FL 32399-0319; 850-413-5654.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69B-221.010, F.A.C. TEMPORARY ORDERS OF SUSPENSION OF BAIL BOND

AGENTS

(1) Since a Bail Bond Agent under a temporary order of suspension may discharge liability on a bond pursuant to Section 648.45, Florida Statutes, the following activities are allowed as discharging the liability on a bond pursuant to Section 648.45(1), Florida Statutes, but are allowed only with regards to bonds written and posted prior to the date of the order of suspension.

(a) Contacting defendants to remind them of court dates.

(b) Attending court proceedings at which a defendant is scheduled to appear.

(c) Contacting the Court or Clerk of Courts to verify the defendant's attendance required proceeding

(d) Contacting the Clerk of Courts to verify the status of a bail bond and/or the status of a defendant's case with the court.

(e) Returning collateral on bonds that the court has discharged

(f) Locating, apprehending, and/or surrendering to the custody of the jail, pursuant to all applicable laws, a defendant on a bail bond written by the suspended bail bond agent.

(g) Collecting premiums under a payment plan on a bail bond written and posted prior to the suspension.

(h) Possessing bail bond files to maintain current addresses, phone numbers, and other contact information for defendants.

(i) Converting collateral to cash to pay forfeiture on a bail bond.

(j) Undertaking legal action to vacate or set aside forfeitures on bail bonds.

(2) Activities considered to be acting as bail bond agent without a license due to the suspension, notwithstanding the provisions of Section 648.45(1), Florida Statutes, include the following:

(a) Performing any duty or activity listed in paragraph 1, above, on any bail bond not written by the suspended agent, or for any person not named as the principal or indemnitor on a bail bond written by the suspended agent.

(b) Writing any new bail bond business, or completing any forms required as part of the bail bond application process.

(c) Soliciting or facilitating any bail bond business.

(d) Negotiating or accepting the premium payment on any new bail bond.

(e) Posting a bail bond.

(f) Receiving any remuneration from a bail bond agent or agency for performing any clerical, secretarial, custodial, or other duties.

(g) Receiving any remuneration from a bail bond agent or agency relating to any bail bond not legally written by the suspended agent.

(h) Assisting in any manner in the apprehension of a defendant who failed to appear on a bail bond of another agent.

(i) Owning or having any ownership interest in or control over a bail bond agency.

(j) Supervising the activities of a temporary bail bond agent.

(k) Acting as the primary bail bond agent for a bail bond agency.

(l) Surrendering a defendant to the custody of the jail or the court for any bonds written after the date of suspension, or on any bail bond written by another licensee.

(3) A bail bond is posted when it is presented to the authority detaining the defendant and the defendant is released from custody on that bond. The bail bond agent that signed the bail bond on file with the jail is the bail bond agent that is liable on the bail bond. If the suspended bail bond agent did not sign the bail bond on file with the jail, then the agent is not allowed to discharge the liability on the bond during the pendency of the suspension.

(4) A suspended bail bond agent is required to maintain his or her continuing education credits in order for his or her license to be reinstated in the future. The agent is also required to forward the insurer's share of any premiums collected, along with any build-up fund deposits mandated by the agent's contract with the insurer.

(5) Nothing herein should be read to contradict or conflict with any statutory provision or rule otherwise regulating the bail bond business in Florida.

Rulemaking Authority 624.308, 648.26(1) FS. Law Implemented 624.307(1), 648.285,

648.45(1), 648.49, 648.50 FS. History—New.