

CHAPTER 69B-231
PENALTY GUIDELINES FOR INSURANCE REPRESENTATIVES

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69B-231.010 Purpose.

The purpose of this rule chapter is to implement the Department's duty under Sections 624.307(1) and 626.207(2), F.S., to enforce Sections 626.611, 626.621, 626.631, 626.641, 626.681 and 626.691, F.S., by establishing standards for penalties described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees specified in Rule 69B-231.020, F.A.C.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2) FS. History--New 7-13-93, Amended 9-23-02, Formerly 4-231.010, Amended 8-15-06.

69B-231.020 Scope.

(1) This rule chapter shall apply to all resident and nonresident insurance agents, customer representatives, adjusters and service representatives licensed under Chapter 626, F.S., who are subject to discipline under Sections 626.611 and 626.621, F.S.

(2) This rule chapter does not apply to insurance agencies, title insurance agencies, title insurance agents, insurance administrators, surplus lines agents, bail bond agents or managing general agents.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History--New 7-13-93, Amended 8-15-00, 9-23-02, Formerly 4-231.020, Amended 8-15-06.

69B-231.030 Definitions.

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

(1) "Administrative complaint" means a charging document filed by the Department against a licensee.

(2) "Administrative charges" means charges consisting of factual allegations with citations to violations of the Insurance Code, Department rules or orders grouped together in one or more counts.

(3) A "Count" is a single allegation or multiple allegations relating to a single transaction or occurrence which if true, would constitute a violation of one or more provisions of the Insurance Code.

(4) "Convicted" means adjudicated guilty by a court.

(5) "Crimes involving moral turpitude" means each felony crime identified in subsections 69B-211.042(23) and (24), F.A.C., and each felony crime not identified in subsections 69B-211.042(23) and (24), F.A.C., that is substantially similar to a crime identified in subsections 69B-211.042(23) and (24), F.A.C.

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

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

(8) "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.

(9) "Stated penalty" means the penalty set forth in Rules 69B-231.080 through 69B-231.150, F.A.C.

(10) “Total penalty” means the sum of the highest stated penalties for each count.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History–New 7-13-93, Amended 9-23-02, Formerly 4-231.030, Amended 8-15-06, 8-12-10.

69B-231.040 Calculating Penalty.

(1) Penalty Per Count.

(a) The Department is authorized to find that multiple grounds exist under Sections 626.611 and 626.621, F.S., for disciplinary action against the licensee based upon a single count in an administrative complaint based upon a single act of misconduct by a licensee. However, for the purpose of this rule chapter, only the violation specifying the highest stated penalty will be considered for that count. The highest stated penalty thus established for each count is referred to as the “penalty per count”.

(b) The requirement for a single highest stated penalty for each count in an administrative complaint shall be applicable regardless of the number or nature of the violations established in a single count of an administrative complaint.

(2) Total Penalty. Each penalty per count shall be added together and the sum shall be referred to as the “total penalty”.

(3) Final Penalty.

(a) The final penalty which will be imposed against a licensee under these rules shall be the total penalty, as adjusted to take into consideration any aggravating or mitigating factors;

(b) The Department may convert the total penalty to an administrative fine and probation if the licensee has not previously been subjected to an administrative penalty and the current action does not involve a violation of Section 626.611, F.S.;

(c) The Department will consider the factors set forth in rule subsection 69B-231.160(1), F.A.C., in determining whether to convert the total penalty to an administrative fine and probation.

(d) In the event that the final penalty would exceed a suspension of twenty-four (24) months, the final penalty shall be revocation.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.641, 626.681, 626.691 FS. History–New 7-13-93, Formerly 4-231.040, Amended 8-15-06.

69B-231.070 Prosecutorial Discretion.

(1) Letter of Guidance. Every violation of the Insurance Code, rule or order of the Department will not necessarily result in a disciplinary action against the licensee. The Department shall close all or part of an investigation by issuing a letter of guidance or caution to the licensee, if warranted upon the Department’s consideration of the factors set forth in rule subsection 69B-231.160(1), F.A.C.

(2) Stipulated Disposition. The provisions of this rule are not intended and shall not be construed to limit the ability of the Department to informally dispose of disciplinary actions by stipulation, agreed settlement or consent order whether or not the Department has initiated administrative charges.

(3) Cease and Desist Actions. This rule chapter shall not preclude the Department from initiating an administrative action against licensed or unlicensed individuals for the purpose of imposing cease and desist and penalty orders authorized by Section 626.9581, F.S.

(4) Collateral Actions. The provisions of this rule chapter are not intended and shall not be construed to limit the ability of the Department to pursue or recommend collateral, civil or criminal actions where appropriate.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691, 626.9521, 626.9561, 626.9571, 626.9581 FS. History–New 7-13-93, Formerly 4-231.070, Amended 8-15-06.

69B-231.080 Penalties for Violation of Section 626.611, F.S.

If it is found that the licensee has violated any of the following subsections of Section 626.611, F.S., for which compulsory suspension or revocation of license(s) and appointment(s) is required, the following stated penalty shall apply:

(1) Section 626.611(1), F.S. – revocation

(2) Section 626.611(2), F.S. –

(a) Suspension 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and Department licensing rules applicable to the application at the time the Department issued the license, and the

documentation in the applicant's file at the time the Department issued the license,

(b) Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and Department licensing rules applicable to the application at the time the Department issued the license.

- (3) Section 626.611(3), F.S. – revocation
- (4) Section 626.611(4), F.S. – suspension 6 months
- (5) Section 626.611(5), F.S. – suspension 9 months
- (6) Section 626.611(6), F.S. – suspension 9 months
- (7) Section 626.611(7), F.S. – suspension 6 months
- (8) Section 626.611(8), F.S. – suspension 6 months
- (9) Section 626.611(9), F.S. – suspension 12 months
- (10) Section 626.611(10), F.S. – suspension 12 months. This provision does not apply if the facts constitute a violation of Section 626.753, F.S.
- (11) Section 626.611(11), F.S. – suspension 6 months
- (12) Section 626.611(12), F.S. – suspension 3 months
- (13) Section 626.611(13), F.S. – suspension 6 months
- (14) Section 626.611(14), F.S. – see Rule 69B-231.150, F.A.C.
- (15) Section 626.611(15), F.S. – suspension 12 months
- (16) Section 626.611(16), F.S. – suspension 12 months
- (17) Section 626.611(17)(a), (c) or (d), F.S. – suspension 12 months
- (18) Section 626.611(17)(b), F.S. – revocation.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611 FS. History–New 7-13-93, Amended 9-23-02, Formerly 4-231.080, Amended 8-15-06, 8-12-10.

69B-231.090 Penalties for Violation of Section 626.621, F.S.

If it is found that the licensee has violated any of the following subsections of Section 626.621, F.S., for which suspension or revocation of license(s) and appointment(s) is discretionary, the following stated penalty shall apply:

- (1) Section 626.621(1), F.S. – revocation
- (2) Section 626.621(2), F.S. – suspension 3 months
- (3) Section 626.621(3), F.S. – suspension 3 months
- (4) Section 626.621(4), F.S. – suspension 9 months
- (5) Section 626.621(5), F.S. – suspension 6 months
- (6) Section 626.621(6), F.S. – see Rule 69B-231.100, F.A.C.
- (7) Section 626.621(7), F.S. – suspension 6 months
- (8) Section 626.621(8), F.S. – see Rule 69B-231.150, F.A.C.
- (9) Section 626.621(9), F.S. – suspension 3 months
- (10) Section 626.621(10), F.S. – suspension 6 months and re-exam
- (11) Section 626.621(11), F.S. – suspension 3 months
- (12) Section 626.621(12), F.S. – suspension 6 months.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.621 FS. History–New 7-13-93, Formerly 4-231.090, Amended 8-15-06.

69B-231.100 Penalties for Violation of Section 626.621(6), F.S.

If a licensee is found to have violated Section 626.621(6), F.S., by engaging in unfair methods of competition or in unfair or deceptive acts or practices as defined in any of the following paragraphs of Section 626.9541(1), F.S., the following stated penalty shall apply:

- (1) Section 626.9541(1)(a), F.S. – suspension 12 months
- (2) Section 626.9541(1)(b), F.S. – suspension 6 months
- (3) Section 626.9541(1)(c), F.S. – suspension 3 months
- (4) Section 626.9541(1)(d), F.S. – suspension 3 months

(5) Section 626.9541(1)(e), F.S. – suspension 6 months; except that the penalty for a violation of Section 626.9541(1)(e)1., F.S., shall be a suspension of 12 months.

- (6) Section 626.9541(1)(f), F.S. – suspension 3 months
- (7) Section 626.9541(1)(g), F.S. – suspension 6 months
- (8) Section 626.9541(1)(h), F.S. – suspension 6 months
- (9) Section 626.9541(1)(i), F.S. – suspension 6 months
- (10) Section 626.9541(1)(j), F.S. – suspension 3 months
- (11) Section 626.9541(1)(k), F.S. – suspension 9 months
- (12) Section 626.9541(1)(l), F.S. – suspension 12 months
- (13) Section 626.9541(1)(m), F.S. – suspension 3 months
- (14) Section 626.9541(1)(n), F.S. – suspension 6 months
- (15) Section 626.9541(1)(o), F.S. – suspension 6 months
- (16) Section 626.9541(1)(p), F.S. – suspension 3 months
- (17) Section 626.9541(1)(q), F.S. – suspension 3 months
- (18) Section 626.9541(1)(r), F.S. – suspension 3 months
- (19) Section 626.9541(1)(s), F.S. – suspension 3 months
- (20) Section 626.9541(1)(t), F.S. – suspension 3 months
- (21) Section 626.9541(1)(u), F.S. – suspension 9 months
- (22) Section 626.9541(1)(v), F.S. – suspension 3 months
- (23) Section 626.9541(1)(w), F.S. – suspension 6 months
- (24) Section 626.9541(1)(X), F.S. – suspension 6 months
- (25) Section 626.9541(1)(y), F.S. – suspension 6 months
- (26) Section 626.9541(1)(z), F.S. – suspension 6 months
- (27) Section 626.9541(1)(aa), F.S. – suspension 9 months
- (28) Section 626.9541(1)(bb), F.S. – suspension 3 months
- (29) Section 626.9541(1)(cc), F.S. – suspension 6 months
- (30) Section 626.9541(1)(ee), F.S. – suspension 12 months
- (31) Section 626.9541(1)(ff), F.S. – suspension 12 months.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.621, 626.9541(1) FS. History—New 7-13-93, Formerly 4-231.100, Amended 8-15-06, 8-12-10.

69B-231.110 Penalties for Violation of Other Specific Provisions of the Florida Insurance Code.

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

- (1) Section 624.318(2), F.S. – suspension 3 months
- (2) Section 626.112(2), F.S. – suspension 3 months
- (3) Section 626.342(1), F.S. – suspension 3 months
- (4) Section 626.441, F.S. – suspension 6 months
- (5) Section 626.536, F.S. – administrative fine of not less than \$500 for the first violation and suspension of 2 months for the second and subsequent violations.
- (6) Section 626.541, F.S. – not less than \$500 for the first violation and suspension of 2 months for the second and subsequent violations.
- (7) Section 626.551, F.S. – administrative fine of not more than \$250 for the first violation; administrative fine of not less than \$500 for the second violation; administrative fine of not less than \$500 and suspension for 2 months for the third and subsequent violations.
- (8) Section 626.561(1), F.S. – suspension 9 months
- (9) Section 626.561(2), F.S. – suspension 3 months
- (10) Section 626.572, F.S. – suspension 3 months
- (11) Section 626.591, F.S. – suspension 6 months

- (12) Section 626.593, F.S. – suspension 3 months
- (13) Section 626.601(2), F.S. – suspension 3 months
- (14) Section 626.631(1), F.S. – revocation
- (15) Section 626.641(4), F.S. – revocation
- (16) Section 626.7315, F.S. – suspension 3 months
- (17) Section 626.741(3), F.S. – suspension 3 months
- (18) Section 626.741(4), F.S. – suspension 6 months
- (19) Section 626.747, F.S. – suspension 3 months
- (20) Section 626.748, F.S. – suspension 2 months
- (21) Section 626.752, F.S. – suspension 3 months
- (22) Section 626.753, F.S. – revocation
- (23) Section 626.7845, F.S. – suspension 3 months
- (24) Section 626.792(3), F.S. – suspension 3 months
- (25) Section 626.792(6), F.S. – revocation
- (26) Section 626.793, F.S. – suspension 2 months
- (27) Section 626.794, F.S. – suspension 6 months
- (28) Section 626.798, F.S. – suspension 9 months
- (29) Section 626.8305, F.S. – suspension 3 months
- (30) Section 626.835(3), F.S. – suspension 3 months
- (31) Section 626.835(6), F.S. – revocation
- (32) Section 626.837, F.S. – suspension 6 months
- (33) Section 626.8373, F.S. – suspension 6 months
- (34) Section 626.838, F.S. – suspension 6 months
- (35) Section 626.901(1), F.S. – suspension 12 months
- (36) Section 626.901(2), F.S. – suspension 12 months
- (37) Section 627.4554, F.S. – suspension 12 months
- (38) Section 627.901, F.S. – suspension 3 months
- (39) Section 631.155, F.S. – revocation

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.681, 626.691, 631.155 FS. History– New 7-13-93, Formerly 4-231.110, Amended 8-15-06, 8-12-10.

69B-231.120 Penalties for Violation of Other Insurance Code Provisions.

If the licensee is found to have violated a provision of the Insurance Code, the stated penalty, unless otherwise prescribed in these rules or in the code provision violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History–New 7-13-93, Formerly 4-231.120, Amended 8-15-06.

69B-231.130 Penalties for Violation of Department Rules.

If the licensee is found to have violated a Department rule, the stated penalty, unless otherwise prescribed in these rules or in the specific rule violated, shall be a six (6) month suspension if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History–New 7-13-93, Formerly 4-231.130, Amended 8-15-06.

69B-231.140 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 if the violation was willful, or shall be a three (3) month suspension if the violation was nonwillful, unless the penalty is prescribed in the order itself;

except that if a licensee or an affiliated party transacts insurance in violation of an order of suspension, the penalty shall be revocation of license(s) and appointment(s) if the violation was willful, or shall be an additional suspension of three (3) months if the violation was nonwillful.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621 FS. History—New 7-13-93, Formerly 4-231.140, Amended 8-15-06.

69B-231.150 Criminal Proceedings.

(1) If a licensee is convicted by a court of a violation of the Insurance Code or a felony (regardless of whether or not such felony is related to an insurance license), the penalty shall be immediate revocation.

(2) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which is a crime involving moral turpitude and is a crime involving breach of trust or dishonesty, the penalty shall be revocation.

(3) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States of America or of any state thereof or under the law of any other country, which is a crime involving moral turpitude or is a crime involving breach of trust or dishonesty, the penalties are as follows:

(a) If the conduct directly relates to activities involving the business of insurance, the penalty shall be revocation.

(b) If the conduct indirectly relates to the business of insurance or involves dishonesty or breach of trust, such as theft of money or property, or mishandling or misappropriation of money, the penalty shall be a 12-month suspension.

(c) If the conduct is not related to the business of insurance and does not involve dishonesty or breach of trust, the penalty shall be a 6-month suspension.

(4) If a licensee is not convicted of, but has been found guilty of or has pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the laws of the United States of America or of any state thereof or under the law of any other country, which is not a crime involving moral turpitude and is not a crime involving breach of trust or dishonesty, the penalties are as follows:

(a) If the conduct directly relates to the business of insurance, the penalty shall be a 24-month suspension.

(b) If the conduct indirectly relates to the business of insurance such as theft of money or property, or mishandling or misappropriation of money, the penalty shall be a 12-month suspension.

(c) If the conduct is not related to the business of insurance, the penalty shall be a 3-month suspension.

Rulemaking Authority 624.308, 626.207(2) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.631, 626.631(1) FS. History—New 7-13-93, Amended 9-23-02, Formerly 4-231.150, Amended 8-15-06.

69B-231.160 Aggravating/Mitigating Factors.

The Department shall consider the following aggravating and mitigating factors and apply them to the total penalty in reaching the final penalty assessed against a licensee under this rule chapter. After consideration and application of these factors, the Department shall, if warranted by the Department's consideration of the factors, either decrease or increase the penalty to any penalty authorized by law.

(1) For penalties other than those assessed under Rule 69B-231.150, F.A.C.:

- (a) Willfulness of licensee's conduct;
- (b) Degree of actual injury to victim;
- (c) Degree of potential injury to victim;
- (d) Age or capacity of victim;
- (e) Restitution to victims;
- (f) Motivation of licensee;
- (g) Financial gain or loss to licensee;
- (h) Financial loss to victim;
- (i) Vicarious or personal responsibility;
- (j) Related criminal charge; disposition;

- (k) Existence of secondary violations in counts;
 - (l) Previous disciplinary orders or prior warning by the Department; and
 - (m) Violation of any part of Sections 626.9541, and 627.4554. F.S., in relation to the sale of a life insurance policy or annuity to a senior citizen; and
 - (n) Other relevant factors.
- (2) For penalties assessed under Rule 69B-231.150, F.A.C., for violations of Sections 626.611(14) and 626.621(8), F.S.:
- (a) Number of years that have passed since criminal proceeding;
 - (b) Age of licensee at time the crime was committed;
 - (c) Whether licensee served time in jail;
 - (d) Whether or not licensee violated criminal probation;
 - (e) Whether or not licensee is still on criminal probation;
 - (f) Whether or not licensee's actions or behavior resulted in substantial injury to victim;
 - (g) Whether or not restitution was, or is being timely paid;
 - (h) Whether or not licensee's civil rights have been restored; and
 - (i) Other relevant factors.

Rulemaking Authority 626.308, 626.207(2), 627.4554(9) FS. Law Implemented 624.307(1), 624.308, 626.207(2), 626.611, 626.621, 626.631, 626.681, 626.9541, 627.4554 FS. History—New 7-13-93, Formerly 4-231.160, Amended 8-15-06, 8-12-10.