

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF FINANCIAL SERVICES
Division of Agent and Agency Services

RULE: 69B-235.003 RULE TITLE: Sale of Certificates of Deposit

PURPOSE AND EFFECT: Section 624.308(1), F.S., authorizes the Department of Financial Services to adopt rules to implement law that confers duties upon the Department. The reason that necessitates the proposed action is that modification is to delete the illegal standard to determine the Department's duties related to refusal, suspension, or revocation of agent's license in conjunction with the sale of Certificates of Deposit if an agent has been a source of loss to the public, pursuant to Section 626.621(6), F.S. The words "detrimental to public interest" as used in section 626.621, F.S., were found to be unconstitutionally vague in Whitaker v. Department of Insurance and Treasurer, 680 So.2d 528 (Fla. 1st DCA 1996). The proposed amendments will update the rule to remove the illegal standard.

SUBJECT AREA TO BE ADDRESSED: Standards and requirements for the Department's refusal, suspension, or revocation of agent's license in conjunction with the sale of Certificates of Deposit.

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

LAW IMPLEMENTED: 517.12, 624.307(1), 626.611, 626.621, F.S.

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

DATE AND TIME: November 25, 2014 @ 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting Barry Lanier at (850)413-5601 or Barry.Lanier@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barry Lanier, Chief, Bureau of Investigations, Room 416, Larson Building, 200 E. Gaines Street, Tallahassee, FL 32399-0320 (850)413-5601 or Barry.Lanier@MyFloridaCFO.com.

A copy of the text of the proposed changes can be found on the Department's website at:

<http://www.myfloridacfo.com/Division/LegalServices/RuleWorkshopMeetings/default.asp> .

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Proposed Text:

69B-235.003 Sale of Certificates of Deposit.

(1) Activities of licensed general lines and life insurance agents authorized by Section 517.12(20), Florida Statutes, are considered activities under the agents' licenses for purposes of Sections 626.611 and 626.621, Florida Statutes.

(2) In determining whether an agent has been a source of injury or loss to the public ~~or detrimental to public interest~~ within the meaning of Section 626.621(6), Florida Statutes, the Department Office will consider the facts applicable to each transaction.

(a) Conduct determined by the Office of Financial Regulation to violate Sections 517.301 and 517.311, Florida Statutes, constitutes conduct that is a source of injury or loss to the public ~~or detrimental to public interest~~ within the meaning of Section 626.621(6), Florida Statutes.

(b) The Department Office will apply the standards established in Part IX of Chapter 626, Florida Statutes, against engaging in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of business under an agent's license, to agent transactions authorized under Section 517.12(20), Florida Statutes.

Rulemaking Specific Authority 624.308(1) FS. Law Implemented 517.12, 624.307(1), 626.611, 626.621 FS. History—New 1-16-03 Formerly 4-235.003, Amended.