

DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF AGENT AND AGENCY SERVICES

NOTICE OF PROPOSED RULEMAKING

RULE NUMBER: RULE TITLE:

69B-241, F.A.C. Penalty Guidelines for Bail Bond Agents

PURPOSE AND EFFECT: The purpose of the proposed rule chapter is to establish clear standards for penalties imposed upon bail agents subject to the provisions of Chapter 648, F.S., and Rule Chapter 69B-221, F.A.C. The proposed rule also incorporates new form DFS-H1-2021, "Field Office Settlement Stipulation," that is to be used by the Department when offering licensees the opportunity to pay a fine for certain alleged non-criminal violations, in lieu of the administrative hearing process. The effect of the proposed rule chapter is to provide guidelines that provide a consistent approach for penalties imposed for violations of statute and rules.

SUMMARY: The proposed rule chapter implements the Department's rulemaking duties under ss. 624.307(1) and 648.26(1)(a), F.S., and enforces the related provisions under Chapter 648, F.S., "Bail Bond Agents," and all sections of Rule Chapter 69B-221, F.A.C., "Bail, Bonds and Bail Bond Agents." The proposed rule chapter further establishes standards for the enumerated penalties within and incorporates new form DFS-H1-2021, "Field Office Settlement Stipulation."

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. The Department determined that the proposed rule chapter will not have an impact on small business.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53, F.S.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

TIME AND DATE: Thursday, July 8, 2010 @ 10:00 AM

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ray Wenger, Financial Administrator, Bureau of Investigation, Division of Insurance Agent and Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0319, (850) 413-5660.

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 FULL TEXT OF THE PROPOSED RULE IS:

Rule Chapter 69B-241, F.A.C. PENALTY GUIDELINES FOR BAIL BOND AGENTS

69B-241.010 Purpose.

The purpose of this rule chapter is to implement the Department's duty under Sections 624.307(1) and 648.26(1)(a), F.S., to enforce Sections 648.27, 648.285, 648.29, 648.295, 648.30, 648.33, 648.34, 648.355, 648.36, 648.365, 648.382, 648.387, 648.388, 648.40, 648.41, 648.421, 648.43, 648.44, 648.441, 648.442, 648.4425, 648.45, 648.50, 648.55, and 648.571, F.S., and all sections of Rule Chapter 69B-221, F.A.C. by establishing standards for penalties described in those statutory and rule sections, and interpreting provisions in those sections as they relate to penalties imposed upon licensees specified in Rule 69B-241.020, F.A.C.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), FS. History—New.

69B-241.020 Scope.

(1) This rule chapter shall apply to all bail bond agents licensed under Chapter 648, F.S., who are subject to discipline under Section 648.45, F.S.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a) 648.45 FS. History–New.

69B-241.030 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 Florida Insurance Code, Department rules or orders grouped together in one or more counts.

(3) “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 Florida Insurance Code.

(4) “Crimes involving moral turpitude” means each felony crime identified in Rule 69B-241.035 et seq., F.A.C.

(5) “Department” means the Florida Department of Financial Services.

(6) “Final penalty” means the penalty imposed on a licensee by the Department.

(7) “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.

(8) “Stated penalty” means the penalty set forth in Rules 69B-241.080 through 69B-241.150, F.A.C.

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

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New.

69B-241.035 Crimes of moral turpitude.

(1) Classification of Felony Crimes.

(a) The Department makes a general classification of felony crimes into three classes: A, B, and C, as listed in subsections (2), (3) and (4) of this rule. The lists refer only to such crimes when they are felonies, since certain of the crimes could be misdemeanors in some jurisdictions and felonies in other jurisdictions.

(b) These classifications reflect the Department's evaluation of various crimes in terms of moral turpitude, and of the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by someone who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) The lists are not all-inclusive. Where a particular crime involved in an application is not listed in this rule, the Department has the authority to analogize the crime to the most similar crime that is listed. No inference is to be drawn from the absence of any crime from this list, to the effect that said crime is not grounds for adverse action under this rule.

(e) In evaluating law enforcement records, the Department shall use the highest classification into which the crime fits, where "A" is the highest classification.

(f) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(2) Class "A" Crimes include all those listed in this subsection, where such crimes are felonies, and all are of equal weight notwithstanding from which subparagraph they are drawn. The Department finds that each felony crime listed in this subsection is a crime of moral turpitude.

(a) Submitting false insurance claims or applications.

(b) Crimes relating to workers' compensation insurance.

(c) Theft or other dishonest dealings with premiums or claims money.

(d) Making false reports to insurance regulatory officials.

(e) Grand theft or embezzlement from an insurance company or agency.

(f) Armed Robbery (face-to-face theft by threat of force or force).

(g) Extortion.

(h) Bribery.

(i) Misuse of public office.

(j) Obstructing justice.

(k) Treason against the United States, or a state, district, or territory thereof.
(l) Abuse of elderly or disabled persons.
(m) Altering public documents.
(n) Forgery.
(o) Perjury.
(p) Racketeering.
(q) Witness tampering.
(r) Child abuse.
(s) Grand Theft.
(t) Larceny.
(u) Burglary.
(v) Breaking and entering.
(w) Fraud.
(x) Embezzlement.
(y) Tax evasion.
(z) Defrauding an innkeeper.
(aa) Passing worthless check(s) with intent to defraud.
(bb) Failure to pay tax.
(cc) Buying, receiving, concealing, or possessing stolen property.
(dd) Fraudulent obtaining of food stamps or other welfare fraud.
(ee) Shoplifting.
(ff) Adulteration or poisoning of drugs or food.
(gg) Illegal possession of a firearm.
(hh) Impersonating or attempting to impersonate a law enforcement officer.
(ii) Robbery.
(jj) Unlawful possession of a postal key.
(kk) Securities fraud.
(ll) Sale of unregistered securities.
(mm) Sale of securities by an unregistered dealer.
(nn) Postal fraud.
(oo) Obtaining controlled substance by fraud.
(pp) Not paying required tax as a transferee of a controlled substance.
(qq) Uttering a forged check.
(rr) Forgery of a deed.
(ss) Defrauding the government.
(tt) Criminal possession of a forged instrument.
(uu) Credit card fraud.
(vv) Conspiracy.
(ww) Carrying a concealed weapon/firearm without a license to do so.
(xx) Murder in all degrees.
(yy) Aggravated Assault (e.g., as with a deadly weapon).
(zz) Aggravated Battery (e.g., as with a deadly weapon).
(aaa) Rape.
(bbb) Sexually molesting any minor.
(ccc) Sexual battery.
(ddd) Arson.
(eee) Aircraft piracy/hijacking.
(fff) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.
(ggg) Deriving income from another person's prostitution activities.
(hhh) Running a gambling establishment.
(iii) Unlawful placing, throwing, or discharging a bomb.
(jjj) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.
(kkk) Kidnapping.
(lll) Incest.

(3) Class "B" Crimes include the following felony crimes:

- (a) Manslaughter.
 - (b) Simple Assault.
 - (c) Simple Battery.
 - (d) Gambling.
 - (e) Possession of burglary tools.
 - (f) Resisting arrest with violence.
 - (g) Damage to Property.
 - (h) Criminal mischief.
 - (i) Passing worthless check(s) without intent to defraud.
- (4) Class "C" Crimes include the following felony crimes:

- (a) Public drunkenness.
- (b) Driving under the influence.
- (c) Trespassing.
- (d) Resisting arrest without force.
- (e) Disorderly conduct.
- (f) Solicitation of prostitution.
- (g) Prostitution.
- (h) Obscenity.
- (i) Bigamy.
- (j) Sale of fireworks.
- (k) Criminal trespass.
- (l) Cruelty to animals.
- (m) Personal use of controlled substances (illegal drugs).
- (n) Possession of controlled substances (illegal drugs) for personal use.
- (o) Possession of drug paraphernalia for personal use.
- (p) Domestic disturbance not involving violence.
- (q) Violation of fish and game laws.
- (r) Illegal possession of weapon.
- (s) Fleeing arrest or fleeing a law enforcement officer.
- (t) Escape while in lawful custody.

69B-241.040 Calculating Penalty.

(1) Penalty Per Count.

(a) The Department is authorized to find that multiple grounds exist under Section 648.45, F.S., for disciplinary action against the licensee based upon a single count in an administrative complaint which is 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, as set forth in Rule 69B-241.160, F.A.C.

(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 648.45, F.S.:

(c) The Department will consider the factors set forth in rule subsection 69B-241.160(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. This provision shall not apply to an immediate temporary suspension imposed pursuant to Section 648.45(1), F.S.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

69B-241.070 Departmental Discretion.

(1) 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.

(2) 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.

(3) 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, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

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) Section 648.44(1)(a), F.S. – Suspension for 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(2) Section 648.44(1)(b), F.S. – 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.

(3) Section 648.44(1)(c), F.S. – Suspension for 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(4) Section 648.44(1)(d), F.S. – 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.

(5) Section 648.44(1)(e), F.S. – 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.

(6) Section 648.44(1)(f), F.S. – 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.

(7) Section 648.44(1)(g), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(8) Section 648.44(1)(h), F.S. – 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.

(9) Section 648.44(1)(i), F.S. – 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.

(10) Section 648.44(1)(j), F.S. – 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.

(11) Section 648.44(1)(k), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(12) Section 648.44(1)(l), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(13) Section 648.44(1)(m), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(14) Section 648.44(1)(n), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 3 months up to 12 months for every violation subsequent to the first.

(15) Section 648.44(1)(o), F.S. – 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.

(16) Section 648.44(1)(p), F.S. – 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.

(17) Section 648.44(2), F.S. – 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.

(18) Section 648.44(3), 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.

(19) Section 648.44(4), 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.

(20) Section 648.44(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.

(21) Section 648.44(6)(a), 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.

(22) Section 648.44(6)(b), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(23) Section 648.44(6)(c), 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.

(24) Section 648.44(6)(d), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(25) Section 648.44(6)(e), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(26) Section 648.44(7), F.S. – Suspension for not more than 3 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(27) Section 648.44(8)(a), F.S. – Revocation

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

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) Section 648.45(1), F.S. – Immediate temporary suspension of all licenses and appointments which shall continue if the licensee has been found guilty of, or has pleaded guilty or no contest to, the crime, whether or not a judgment or conviction has been entered, during a pending appeal.

(2) Section 648.45(2)(a), F.S. – Suspension until all qualifications have been met, or denial of application.

(3) Section 648.45(2)(b), F.S. –

(a) Suspension for 12 months if, had the license application or appointing form been accurate, the application or appointment would have been granted, based on the statutes and Department licensing rules applicable at the time the Department issued the license or appointment, and the documentation in the applicant’s or licensee’s file at the time the Department issued the license or appointment.

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

(4) Section 648.45(2)(c), F.S. – Denial of issuance of license.

(5) Section 648.45(2)(d), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(6) Section 648.45(2)(e), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(7) Section 648.45(2)(f), F.S. – Temporary suspension until licensee has successfully completed up to 14 hours of intermediate-level continuing education courses in bail bonds that have been approved by the department; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(8) Section 648.45(2)(g), F.S. – Suspension for not less than 1 month for each count for the first violation; suspension for not less than 12 months up to 24 months, for every violation subsequent to the first.

(9) Section 648.45(2)(h), F.S. – Suspension for not less than 1 month for each count, plus full restitution with interest payable that equals or exceeds the prime rate set by the Federal Reserve Bank for the first violation; suspension for not less than 12 months up to 24 months, plus full restitution with interest payable that equals or exceeds the prime rate set by the Federal Reserve Bank for every violation subsequent to the first.

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

(11) Section 648.45(2)(j), F.S. – Suspension for not less than 3 months for each rule, order or provision of the Florida Insurance Code violated for the first violation; suspension for not less than 12 months up to 24 months, for every violation subsequent to the first.

(12) Section 648.45(2)(k), F.S. – Revocation.

(13) Section 648.45(2)(l), F.S. – Suspension for not less than 3 months for the first violation; suspension for not less than 12 months up to 24 months every violation subsequent to the first.

(14) Section 648.45(2)(m), F.S. – Temporary suspension, which shall continue until all obligations have been performed for the first violation; temporary suspension, which shall continue until all obligations have been performed for every violation subsequent to the first.

(15) Section 648.45(2)(n), F.S. – Suspension for not less than 3 months up to 6 months, for the first violation; suspension for not less than 12 months up to 24 months and an administrative fine equal to five times the dollar amount or value of the collateral, for every violation subsequent to the first.

(16) Section 648.45(2)(o), F.S. – Suspension for not less than 3 months up to 6 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(17) Section 648.45(2)(p), F.S. – Revocation.

(18) Section 648.45(3)(a), F.S. –

(a) Suspension of license for not less than 6 months but not more than 12 months,

(b) Revocation of license and eligibility to hold a license if, had the license application or appointing form been accurate, the application or appointment would have been denied, based on the statutes and Department licensing rules applicable at the time the Department issued the license or appointment.

(19) Section 648.45(3)(b), F.S. – Denial of issuance of license and revocation of eligibility for licensure or appointment under Chapter 648, F.S.

(20) Section 648.45(3)(c), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(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 over to the proper insurer; and

(b) Consecutive to the above, suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(22) Section 648.45(3)(e), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(23) Section 648.45(3)(f), F.S. – Suspension for not less than 6 months up to 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

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) Section 648.27(8), F.S. – Suspension of the Managing General Agent’s license for not more than 3 months for the first violation; suspension for 6 months for every violation subsequent to the first.

(2) Section 648.285 (1), F.S. – Immediate final order of suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and the primary bail bond agent.

(3) Section 648.295(1), F.S. – 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.

(4) Section 648.295(2), F.S. – 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.

(5) Section 648.30(1), F.S. – 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.

(6) Section 648.30(2), F.S. – Suspension for not more than 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(7) Section 648.30(3), F.S. – Suspension of the temporary bail bond agent’s license for not less than 6 months up to revocation.

(8) Section 648.33(2), F.S. – 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.

(9) Section 648.34(2)(c), F.S. – 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.

(10) Section 648.355(1)(e), F.S. – Except for violations for which the penalty is stated in the statute, the penalty shall be 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.

(11) Section 648.355(7), F.S. – Suspension for not more than 12 months for the first violation; suspension for not less than 12 months up to 24 months for every violation subsequent to the first.

(12) Section 648.355(8)(a), F.S. – 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.

(13) Section 648.355(8)(b), F.S. – 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.

(14) Section 648.36, F.S. – 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) Section 648.365(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.

(16) Section 648.382(1), 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.

(17) Section 648.382(2)(b), F.S. – Denial or suspension of appointment and an administrative fine may be imposed in an amount up 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) Section 648.382(4), 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.

(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.

(20) Section 648.387(1), F.S. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(21) Section 648.387(4), F.S. – Suspension for not more than 6 months for the first violation; suspension for not more than 24 months for every violation subsequent to the first.

(22) Section 648.387(5), F.S. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(23) Section 648.388, F.S. – Suspension for not more than 6 months or until compliant for the first violation; suspension for not less than 6 months but not more than 12 months for every violation subsequent to the first.

(24) 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.

(25) 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.

(26) 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.

(27) 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.

(28) 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.

(29) 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.

(30) 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.

(31) 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.

(32) 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.

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

(34) 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.

(35) 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.

(36) 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.

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

(38) 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.

(39) 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.

(40) 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.

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

(42) 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.

(43) 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.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

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

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

(1) Section 69B-221.003, F.A.C. – Suspension for not more than 3 months or until compliant for the first violation; suspension for not less than 3 months but not more than 12 months for every violation subsequent to the first.

(2) Section 69B-221.051(1), F.A.C. – Suspension of all agency operations until the agency achieves compliance, which shall include suspension of licenses of all owners and operators.

(3) Section 69B-221.051(2), 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.

(4) Section 69B-221.051(3), F.A.C. – Administrative fine of not less than \$500 but not more than \$2,500 for the first violation; suspension for not more than 12 months and an administrative fine of not less than \$2,500 but not more than \$10,000 for the second violation and every violation subsequent to the first.

(5) Section 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.

(6) Section 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 law.

(7) Section 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 for the first violation; suspension for not more than 12 months and an administrative fine of \$1,000 per report for every violation subsequent to the first.

(8) Section 69B-221.055(1), F.A.C. – Administrative fine of not less than \$1,000 but not more than \$5,000 for the first violation; administrative fine of not less than \$5,000 but not more than \$10,000 for every violation subsequent to the first.

(9) Section 69B-221.055(2), F.A.C. – Suspension for not more than 6 months and an administrative fine of not more than \$250 per file for the first violation; suspension for not more than 12 months and an administrative fine of not less than \$250 but not more than \$1,000 per file for every violation subsequent to the first.

(10) Section 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.

(11) Section 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.

(12) Section 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.

(13) Section 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.

(14) Section 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.

(15) Section 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.

(16) Section 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.

(17) Section 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.

(18) Section 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.

(19) Section 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.

(20) Section 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.

(21) Section 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.

(22) Section 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.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

69B-241.120 Penalties for Violation of Other Insurance Code Provisions.

If the licensee is found to have violated a provision of the Florida 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, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New.

69B-241.130 Penalties for Violation of Other 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, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New.

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 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 bail bonds in violation of an order of suspension, the penalty shall be an additional suspension of twenty-four (24) months if the violation was willful, or shall be an additional suspension of six (6) months if the violation was nonwillful.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45 FS. History–New.

69B-241.150 Criminal Proceedings.

(1) If a licensee is convicted by a court of a violation of the Florida Insurance Code or a felony (regardless of whether or not such felony is related to a bail bond license), the penalty shall be 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 12 months 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 12 months 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 penalty shall be revocation.

(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 12 months 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 not a crime involving moral turpitude and is not a crime involving breach of trust or dishonesty, the penalty shall be revocation.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

69B-241.160 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-241.150, 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) Other relevant factors.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

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

In addition to any other administrative fine imposed, the Department, in its discretion, may convert the suspension imposed by the total penalty against the licensee under this rule chapter to an administrative fine pursuant to Rule 69B-241.040(3)(b-c), above, unless otherwise prohibited by statute. The aforementioned conversion shall be at a rate not less than \$1,000 per month of suspension.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History–New.

69B-241.170 Field Office Settlement Stipulation.

The Department, in its discretion, may 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 that pose no threat or harm to the public. The Department shall use form DFS-H1-2021 (Effective: _____) titled, “Field Office Settlement Stipulation,” which is adopted and incorporated herein by reference, to specify licensee violations and the amount of any respective fine. The fines utilized in the FOSS shall be as follows:

(1) Advertising/Signage:

- (a) Misleading and deceptive advertising in yellow page advertisement: \$500;
- (b) Failure to include name, address and phone number in yellow page advertising: \$500;
- (c) Failure to include address of record filed with Department in yellow page advertising: \$500;
- (d) Advertising/other/Failure to (specify allegation): \$500;
- (e) Building not suitably designated as an agency: \$2,000;
- (f) Signage not readable from reasonable distance: \$2,000;

(2) Business Engagement/Licensee:

- (a) Building not open and accessible during reasonable business hours: \$2,000;
- (b) Failure to designate primary bail bond agent for each bail bond agency location: \$2,000;
- (c) Failure to submit Designation of Primary Bail Bond Agent form to the Department: \$2,000;
- (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: \$2,000;
- (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 individual file for each principal for whom bond is made: \$250;

(d) Failure to keep in individual file all documents 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: \$2,000;

(j) Failure to include name and address of agency on premium receipt: \$2,000;

(k) Failure to include name and address of surety company on premium receipt: \$2,000;

(l) Failure to use a pre-numbered collateral receipt: \$2,000;

(m) Failure to give to person giving collateral a pre-numbered collateral receipt: \$2,000;

(n) Failure to include name and address of agency on collateral receipt: \$2,000;

(o) Failure to include name and address of surety company on collateral receipt: \$2,000;

(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: \$2,000;

(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: \$2,000;

(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.

Rulemaking Authority 624.308, 648.26(1)(a) FS. Law Implemented 624.307(1), 624.308, 648.26(1)(a), 648.45, 648.46, 648.49, 648.50, 648.52, 648.525, 648.53 FS. History—New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Wenger, Financial Administrator, Bureau of Investigation, Division of Insurance Agent and Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Alex Sink, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: 7-1-09

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: 7-17-09