

DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF AGENT & AGENCY SERVICES  
RULE#:

69B-211.041, F.A.C.  
69B-211.042, F.A.C.

RULE TITLE:

Definitions.  
Effect of Law Enforcement Records on Applications for Licensure.

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Volume 38, No. 19, May 11, 2012, of the *Florida Administrative Weekly*. The changes to Rule 69B-211.041, F.A.C., are being made based on the record of the public hearing. The changes to Rule 69B-211.042, F.A.C., are being made in response to comments from the Joint Administrative Procedures Committee

**69B-211.041 Definitions.**

For purposes of this rule part, the following definitions shall apply:

(1) and (2) No Change.

(3)(5) "Felony" means and includes any crime of any type, ~~whether or not related to insurance~~, which crime is designated as a "felony" by statute in the jurisdiction state of prosecution, or designated as a "felony" in the charges, or which crime is punishable under the law of the prosecuting jurisdiction by imprisonment of more than one year regardless of how classified in the charges or statutes. If a crime is a felony in the jurisdiction state of prosecution, it shall be treated as a felony under this rule ~~part~~ notwithstanding that the same activity is not a felony in Florida. If a crime is considered a misdemeanor in the jurisdiction of prosecution, it shall be treated as a misdemeanor under this rule notwithstanding that the same activity is a felony in Florida. The term "felony" includes felonies of all degrees.

(4)(7) No Change.

(5)(8) "Misdemeanor" means and includes any crime of any type, ~~whether or not related to insurance~~, which ~~crime~~ is designated as a "misdemeanor" by statute in the jurisdiction state of prosecution, or is so designated in the charges, or is punishable under the law of the prosecuting jurisdiction by imprisonment of one year or less. The term includes misdemeanors of all degrees.

(6)(9) No Change.

**69B-211.042 Effect of Law Enforcement Records on Applications for Licensure.**

(1) No Change.

(2)(4) Effect of Failure to Fully Disclose Law Enforcement Record Truthfully Answer on Application Questions Regarding Applicant's Law Enforcement Record.

(a) No Change.

(b)1. If an applicant fails to ~~fully and properly~~ accurately and truthfully answer ~~disclose~~ Department questions about the applicant's the existence of Law Enforcement Records, as required by the application, the application shall will be denied and a disqualifying period of one year shall waiting period will be imposed before the applicant may reapply for or be granted any license. As an alternative to a one-year disqualifying period, the applicant may elect to pay an administrative penalty of \$1500. This includes answering any application question about the existence of Law Enforcement Records in the negative when an affirmative answer was appropriate. This one-year disqualifying period shall begin the later of: (1) the date of the initial application or (2) the end of any disqualifying period based on the criminal history of the applicant. The Mitigating Factors in Section 7, below, shall not be used to reduce the amount of the disqualifying period for failure to disclose.

2. No Change.

(3)(5) Classification of and Treatment of Certain Felony and Misdemeanor Crimes.

(a) and (b) No Change.

(c) For the purposes of this rule, the seven year disqualifying period in Section 626.207(4)(b), F.S. applies to all felony cases involving the passing or uttering of a worthless bank check, or obtaining property in return for a worthless bank check or any other check-related felony where the check or property involved is worth \$500 or less.

(12)(18) Effect of Varying Terminology.

(a) For purposes of this rule, if the jurisdiction in which the applicant was prosecuted does not define or categorize felony crimes as they are defined or categorized in Florida as capital, first degree, second degree, or third degree felonies, the Department shall analogize the crime to the most similar crime under Florida laws by using the elements of that crime as defined in the statute of the jurisdiction in which the applicant was prosecuted and matching those elements to the most similar Florida Statute.

~~(b)(a)~~ No Change.

~~(c)(b)~~ When necessary. ~~In all other instances~~ the Department will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

~~(13)(19)~~ through ~~(15)(24)~~ No Change.

The remainder of the rule reads as previously published.