

DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF INSURANCE AGENT & AGENCY SERVICES

NOTICE OF PROPOSED RULEMAKING

RULE:

RULE TITLE:

69B-211.004, F.A.C.

Appointment Renewal Procedures

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to revise the existing rule to reflect certain provisions of the Florida Insurance Code that have been amended since the rule was last amended. The effect of the proposed rule amendment is to provide clear and concise information to appointing entities of the appointment renewal process and the fees for noncompliance with the law.

SUMMARY: The rule updates the statutory references in the definition section and revises the definitions of some of the terms. Further, the rule clarifies the renewal fees and filing deadlines for appointments as an agent, customer representative, adjuster, service representative, managing general agent, title insurance agent, sales representative, reinsurance intermediary, or bail bond agent. Lastly, the rule amends the Department's notification procedures to holders of the above-referenced appointees relative to the appointment renewal process.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rule clarifies the procedures for following the statutory provisions related to renewing appointments. As well, the monetary penalties assessed in this rule are provided by the statutory provisions and are not being created by this rule. Finally, other than the statutory penalties and costs described in the rule, the Division has determined that there are no regulatory costs that exceed the thresholds provided in Section 120.541, F.S.

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(1), 626.016, 626.381(9), F.S.

LAW IMPLEMENTED: 624.307(1), 624.308, 624.501, 626.015, 626.112, 626.371, 626.381, 626.7492(3), (8), (9), 626.8419(2), 648.279, 648.31, 648.382, 648.383, 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: Tuesday, June 5, 2012 @ 9:30 AM

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Matt Tamplin, Bureau Chief, Bureau of Licensing, Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0320, 850-413-5460 or Matt.Tamplin@myfloridacfo.com

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:

69B-211.004 Appointment Renewal Procedure.

(1) Purpose. The purpose of this rule is to establish procedures for persons seeking the biennial renewal of appointments to transact insurance pursuant to the Florida Insurance Code. Additionally, this rule sets forth the fees that will be assessed to individuals and entities ~~that~~^{which} file appointment renewals after the time frames specified by statute and this rule.

(2) Scope. This rule applies to all persons submitting a request for renewal of appointments as an agent, customer representative, ~~soleitor~~, adjuster, service representative, managing general agent, title insurance agent, sales representative, reinsurance intermediary, or bail bond agent~~bondsman, or runner~~, and shall govern the renewal of appointments pursuant to the authority set forth in Sections 626.371, 626.381, 626.532, 626.843, 626.7492 and

648.383, Florida Statutes.

(3) Definitions. For purposes of this rule, the following definitions shall apply.

(a) "Appointment" shall be as defined in Section ~~626.015~~~~626.104~~, Florida Statutes.

(b) "Continuation fee" is the fee an appointing entity is charged to renew each licensee's appointment after the expiration date of the appointment, but before the licensee's appointment is cancelled.

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

(d) "License" shall be as defined in Sections ~~626.015~~ and ~~648.279~~~~626.103~~, Florida Statutes.

(e) "License Issue Month" means, ~~in the case of persons other than natural persons,~~ the month in which the person or entity was first licensed by the Department. The license issue month is the month during which all appointments shall expire and be subject to renewal in accordance with the Florida Insurance Code and this rule.

(f) ~~"Reinstatement fee" is the fee an appointing entity is charged to reactivate each licensee's appointment after the expiration date of the appointment.~~

(~~f~~)(g) "Renewal" shall mean the continuation of an existing appointment for an additional period of time.

(~~g~~)(h) "Renewal notice" means an electronic paper notification sent generated by the Department ~~and mailed to the appointing entity for its use in notifying the Department of persons to be renewed or not renewed, or the transfer of renewal information by electronic means between the Department and the appointing entity.~~

(4) Term of appointments.

(a) In the case of natural persons, new appointments or appointments being ~~reinstated and~~ continued, which are effectuated in a licensee's birth month, shall expire 24 months later on the last day of the licensee's birth month and shall be subject to renewal at that time by the entity for which they are appointed pursuant to the filing deadlines prescribed in subsections (6) and (7), below, and every 24 months thereafter unless suspended, revoked, or otherwise terminated at an earlier date.

(b) In the case of entities other than natural persons, new appointments or appointments being ~~reinstated and~~ continued, which are effectuated in the same month a licensee was first licensed as an insurance representative, shall expire 24 months later on the last day of the licensee's license issue month and shall be subject to renewal at that time by the entity for which they are appointed pursuant to the filing deadlines prescribed in subsections (6) and (7), below, and every 24 months thereafter unless suspended, revoked, or otherwise terminated at an earlier date.

(c) Appointments effectuated during any month other than the licensee's birth month in the case of natural persons, or during the license issue month in the case of entities other than natural persons, shall be valid for not less than 24 months and no longer than 36 months, which are the minimum and maximum number of months necessary to convert the original issue month to the licensee's birth month or license issue month, whichever the case may be, and expiring the last day of the licensee's birth month or license issue month, whichever is applicable, and shall be subject to renewal at that time by the entity for which the licensee is appointed pursuant to the filing deadlines prescribed in subsections (6) and (7), below, and every 24 months thereafter unless suspended, revoked, or otherwise terminated at an earlier date.

(5) Renewal Fees.

(a) All appointment renewal fees and taxes as prescribed in Section 624.501, Florida Statutes, shall be submitted via the Department's online appointment system at <https://portal.fldfs.com/eappoint/> and paid by electronic payment with the renewal notice and received by the Department prior to any appointments being renewed. However, appointments for bail bond agents shall be submitted on a form prescribed by Rule 69B-221.155, F.A.C., and paid via a paper check. All checks shall be made payable to the "Florida Department of Financial Services."

(b) Failure by an appointing entity to submit and pay~~return~~ the renewal invoice with the required renewal fees by the prescribed renewal date deadlines set forth by statute and in this rule will require the payment of an additional \$20 delinquency fee~~\$5 reinstatement fee~~ and a \$5 continuation fee by the appointing entity for each person listed on the renewal notice. The appointing entity shall have 45 days from the last day of the renewal period to renew a licensee's appointment late and pursuant payment of the normal appointment fee, the delinquency fee and the continuation fee. Otherwise the licensee's appointment will be cancelled. ~~The postmark imprinted on the mailer used for delivery to the Department by the United States Postal Service, or, in the case of express mail services or couriers, the date the renewal notice is received by the entity making delivery to the Department, shall be used by the Department to determine if filing deadlines have been met.~~

(6) Filing dates.

(a) The Department shall send an electronic notification to the appointing entity to the email address on record with the Department at least 90 days prior to the expiration date of an appointment. Simultaneously, the renewal notice shall be sent to the appointing entity's account in the Department's online appointment system. Renewal

~~notices must be received by the 15th of the month immediately following the month in which an appointment will expire unless the renewal notice has been mailed pursuant to paragraph (6)(b), in such cases the renewal notice must be received no later than the 15th day of the month immediately following the month in which the appointment appears on a supplemental notice.~~

~~(b) The Department shall send an electronic notification to the appointing entity to the email address on record with the Department on the first day of the appointment renewal month letting the appointing entity know it can submit and pay the amount indicated on the renewal invoice. The appointing entity shall have from the first day of the renewal month to the last day of the renewal month to submit and pay for the renewal invoice without being assessed the delinquency fee and continuation fee. For example, on March 1, appointing entities may be notified they have until March 31 to submit and pay for renewal invoices without being assessed the delinquency fee and continuation fee. If an appointing entity appoints a licensee and is in compliance with the notification requirements as prescribed in Section 626.361, Florida Statutes, but the Department has not had sufficient time to input the appointment information into the automated appointment database, the appointee's name and other identifying information will be included on a supplemental renewal notice. For example, persons whose appointments to represent a particular entity, which are due to expire in the month of January, must be received by the Department no later than February 15.~~

~~(c) If an appointing entity fails to renew an appointment during the renewal month, the Department shall send an electronic notification to the appointing entity to the email address on record with the Department on the first day of the month following an appointment expiration date informing the appointing entity it has 45 days to renew the appointment. If a renewal invoice is paid during this 45-day period, the appointing entity shall pay, in addition to the normal appointment fee, a delinquency fee and a continuation fee per appointment. For example, on April 1, appointing entities who failed to submit and pay for their March renewal invoice shall be notified by the Department that they have 45 days to renew appointments with a March 31 expiration date by paying a delinquency fee and a continuation fee per appointment. If an appointing entity appoints a licensee and is in compliance with the notification requirements as prescribed in Section 626.361, Florida Statutes, but the Department has not had sufficient time to input the appointment information into the Department's computer system, the appointee's name and other identifying information will be included on a subsequent renewal invoice.~~

~~(d) If an appointing entity fails to renew an appointment during the renewal month or in the 45-day late renewal period immediately following the renewal month, the Department shall send an electronic notification to the appointing entity to the email address on record with the Department on the first day after the 45-day late renewal period informing the appointing entity that the appointment was not renewed and has been cancelled. The licensee whose appointment was cancelled shall also receive such electronic notification at the email address on record with the Department. If the appointing entity desires to re-appoint the licensee, the appointing entity must submit a new appointment via the Department's online appointment system. New appointments shall be dated effective when services are first provided by the appointee to the appointing entity or the first day after cancellation of a prior appointment if services have been continuously provided by the appointee. If the new appointment's requested effective date is more than 45 days earlier than the date it is submitted to the Department, the appointing entity will be assessed a \$250 original appointment delinquency fee per appointment. For example, on May 16, appointing entities who failed to submit and pay their March renewal invoice during the month of March or during the 45-day late renewal period ending May 15, shall be sent an electronic notification by the Department informing them they must submit new appointments if they desire to appoint their licensees whose appointments expired March 31.~~

~~(e) During the periods described in paragraphs (a), (b) and (c) above, an appointing entity may elect to not renew an appointment. During the same periods, in order to renew a licensee's appointment the licensee's email, home, business and mailing addresses must be valid in the Department's records. If the licensee is indicated on the renewal invoice as having invalid addresses on record with the Department, the licensee must update the invalid addresses in order for the appointing entity to renew the licensee's appointment.~~

~~(7) Notification procedures. The renewal notice sent to the appointing entity must be completed in its entirety. The certification shall be signed by the appropriate official for the appointing entity, and shall be returned, together with applicable fees, to the Department at its offices in Tallahassee. Failure to file the renewal notice by the prescribed filing deadline will require the payment of reinstatement and continuation fees as set out in subsection (5), above. If reinstatement and continuation fees are assessed, the Department will return the renewal invoice to the appointing entity to re-submitted to the Department with the required renewal fees, taxes, and reinstatement and continuation fees.~~

~~(8) Invoices Furnished. All invoices necessary to comply with renewal of appointments prescribed in this rule will be furnished to appointing entities by the Department.~~

~~(9) July 1, 1997, is the effective date for implementation of the conversion of appointment expiration dates as outlined in paragraphs (4)(a), (b) and (c) of this rule.~~

Rulemaking Specific Authority 624.308(1), 626.016, 626.381(9), FS. Law Implemented 624.307(1), 624.308, 624.501, 626.015, 626.103, 626.104, 626.112, 626.361, 626.371, 626.381, 626.532, 626.7492(3), (8), (9), 626.8419(2), 648.279, 648.31, 648.382, 648.383 FS. History—New 7-18-93, Amended 7-1-97, Formerly 4-211.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Matt Tamplin, Bureau Chief, Bureau of Licensing,
Division of Insurance Agent & Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:

Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 26, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 17, 2012