

NOTICE OF PROPOSED RULE

DEPARTMENT OF FINANCIAL SERVICES
Division of Insurance Agents and Agency Services

RULE NO.:	RULE TITLE:
69B-213.010	Purpose and Scope
69B-213.020	Definitions
69B-213.040	Who May Appoint a Customer Representative
69B-213.050	Limits on Lines and Products the Customer Representative May Handle
69B-213.060	Appointment of Customer Representative and Designation of Supervising Agent
69B-213.070	Termination of Appointment or Supervision
69B-213.080	Duties of Appointing Agent
69B-213.090	Duties of Appointing Agency

PURPOSE AND EFFECT: The proposed amendments will update the rules in Chapter 69B-213, F.A.C., to conform with current statutory provisions in the Florida Insurance Code.

SUMMARY: Rule 69B-213.020, F.A.C., is amended to include definitions for the terms "customer representative" and "limited customer representative." Rule 69B-213.040, F.A.C., is amended to delete references to repealed statutory provisions. Rule 69B-213.060, F.A.C., is amended to require the agency to appoint the customer representative through the Department's online appointment process. This new requirement will allow the public to verify that a customer representative is properly licensed and appointed by contacting the Department or visiting the Department's website. Rule 69B-213.070, F.A.C., is amended to provide that the termination of a customer representative appointment may be done electronically or by a written notice to the Department and to require that the notice be maintained in the agency's records. Rules 69B-213.080 and 69B-213.090, F.A.C., are amended to correct citations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST AND LEGISLATIVE RATIFICATION: The agency has determined that this rule 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 upon the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The economic analysis conducted by the Department showed that: (1) no requirement for a SERC was triggered under Section 120.541(1), F.S., and (2) based on the Department's past experience with rules of this nature, the adverse impact or regulatory cost, if any, will not exceed any of the criteria set forth in Section 120.541(2), 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, 626.7353(3) FS

LAW IMPLEMENTED: 624.307(1), 626.015, 626.112, 626.161, 626.172, 626.451, 626.471, 626.561(2), 626.592, 626.734, 626.7351, 626.7352, 626.7353, 626.7354, 626.747, 626.748 FS

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

DATE AND TIME: May 14, 2012 @ 10:00 A.M.

PLACE: Room 142, Larson Building, 200 E. Gaines Street, Tallahassee, FL

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 Ray Wenger @ (850) 413-5605 or Ray.Wenger@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: Ray Wenger, Financial Administrator, Bureau of Investigations, Division of Insurance Agents and Agency Services, 200 E. Gaines Street, Tallahassee, FL 32399-0320 (850) 413-5605 or Ray.Wenger@MyFloridaCFO.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-213.010 Purpose and Scope.

(1) through (3) No change.

~~(4) Nothing in this rule chapter shall prevent or relieve any licensed insurance agent from their obligations under Sections 626.735 and 626.747, Florida Statutes, or any other provision of the Florida Insurance Code, or rules or orders of the Department.~~

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.010, Amended _____.

69B-213.020 Definitions.

For purposes of this rule chapter the following definitions shall apply.

~~(1) "Designated supervising agent" refers only to the agent designated by the agency to supervise the customer representative which the agency has appointed.~~

(1) "Customer Representative" means an individual appointed by a general lines agent or general lines agency to assist that agent or agency in transacting the

business of insurance from the office of that agent or agency. Holders of a customer representative license may transact insurance on any property and casualty product, as well as health insurance if their supervising agent is appointed for health insurance.

(2) "Limited Customer Representative" means an individual appointed by a general lines agent or agency to assist in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency. A limited customer representative is subject to the Florida Insurance Code in the same manner as a customer representative, unless otherwise specified.

(3) ~~(2)~~ "Supervise" or "supervision" means to have charge and direction of, to direct course and to oversee details, to regulate with authority, to manage, to have or to exercise the charge and oversight of, to oversee with power of direction, to take care of with authority; and includes the duty to review and correct errors of persons over whom supervision is to be exercised.

(4) ~~(3)~~ "Supervising agent" includes: ~~both~~

(a) the appointing agent in instances where a customer representative is appointed by an agent, ~~or and~~

(b) an agent designated by an agency to supervise a customer representative in instances where an agency appoints a customer representative.

(5) "Designated supervising agent" means a general lines agent designated by an agency to supervise the customer representative or customer representatives the agency has appointed.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.015, 626.072,~~ 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.020, Amended _____.

69B-213.040 Who May Appoint a Customer Representative.

(1) A customer representative may be appointed only by one of the following:

(a) A person holding a Florida resident general lines agent license, that is, an agent holding a type and class of licensure referred to as a 2-20;

(b) A general lines insurance agency; ~~or~~

~~(c) A surplus lines agent, if the surplus lines agent obtained surplus lines licensure based upon licensure as a general lines 2-20 agent. If the surplus lines agent obtained such licensure upon grounds of being a managing general agent, that surplus lines agent may not appoint a customer representative.~~

(2) The phrase "general lines insurance agency" is interpreted by the Department as any location where an agent is engaged in the business of general lines insurance and it includes ~~to include~~ only agencies licensed or registered as required by Section 626.112(7)(a), F.S., where the "primary agent" (pursuant to Section 626.592, Florida Statutes) where the "supervising agent" holds a Florida resident 2-20 general lines agent license. An "agency" is defined, as set forth in Section 626.592(3), Florida Statutes, as "any location where an agent is engaged in the business of insurance."

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072, 626.112, 626.172,~~ 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.040, Amended _____.

69B-213.050 Limits on Lines and Products the Customer Representative May

Handle.

(1) No change.

~~(2) Where the customer representative's supervising agent is a surplus lines agent as set forth in paragraph 69B-213.040(1)(c), F.A.C., the customer representative may perform customer representative duties regarding any property, casualty, health, or surety coverages (but not life coverages or annuities) which the supervising agent could place with a surplus lines carrier.~~

~~(2) (3)~~ A customer representative license does not grant the customer representative any authority to transact life insurance or annuities. A customer representative may only handle duties relating to life insurance and annuities if such duties may be performed by unlicensed persons, as provided in Rule Chapter 69B-222, F.A.C., and the Florida Insurance Code, or if the customer representative also holds a life agent license and appointment. This applies even though the supervising agent holds a life agent license in addition to a general lines license. Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.072, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.050 , Amended _____.

69B-213.060 Appointment of Customer Representative and Designation of Supervising Agent.

(1) through (2) No change.

(3) No appointment of a customer representative is effective until a properly executed electronic appointment form, accompanied by payment of the appointment fee, is actually received by the Department.

~~(4) Customer Representatives are appointed using Form DFS-H2-501, as adopted in Rule Chapter 69B-211, F.A.C., which may be obtained from the Department's Bureau of Agent & Agency Licensing.~~

~~(4) (5)~~ A designated supervising agent is designated by completing Form DFS-H2-1124, "Designation of Supervising Agent Form," rev. 10/02 8/93, which is hereby ~~adopted and~~ incorporated by reference, and is obtainable from the Bureau of Agent & Agency Licensing at <http://MyFloridaCFO.com/Agents/Licensure/Forms/index.htm>.

~~(a) If appointment is by an agency, the agent in charge primary agent, as specified in Section 626.747 626.592, Florida Statutes, shall ensure completion of Form DFS-H2-1124. Form DFS-H2-1124 shall be mailed to the Department at: Florida Department of Financial Services, Bureau of Licensing, 200 East Gaines Street, Tallahassee, FL 32399-0319, or faxed to (850) 413-3291 maintained in the appointing agent or agency's records, and must be produced upon Department request.~~

~~(b) The designated supervising agent must always be a licensed and appointed general lines 2-20 agent. The designated supervising agent must also be located at the same physical location as the customer representative.~~

~~(5) (6)~~ A customer representative's designated supervising agent need not be the agency's named agent in charge "primary agent" under Section 626.747 626.592, Florida Statutes.

Rulemaking Specific Authority 624.308, 626.7353(3) FS. Law Implemented 624.307(1), 626.161, 626.072, 626.7351, 626.7352, 626.7353, 626.7354, 626.747 FS. History—New 12-19-93, Formerly 4-213.060, Amended _____.

69B-213.070 Termination of Appointment or Supervision.

(1) through (3) No change.

(4) Method for Notifying Department of Termination of Customer Representative Appointment.

(a) Oral notice of appointment termination is never effective and shall not be accepted by the Department. The termination of appointments of customer representatives by agents and agencies shall be executed electronically by use of either Form DFS-H2-39, as adopted in Rule Chapter 69B-211, F.A.C., which may be obtained from the Bureau of Agent & Agency Licensing, or by a written notice directed to the Department's Bureau of Agent & Agency Licensing. Regardless of which method is used, a copy of the termination document shall be supplied to the customer representative at the same time it is supplied to the Department.

(b) When an appointment is terminated by the customer representative, the customer representative must provide written notice to the Department. ~~The~~ the notice shall:

1. Be signed and dated by the supervising agent, ~~by the appointing agent~~ where the appointment was by an agent, ~~or by the customer representative primary agent of the agency where the appointment was by an agency;~~

2. State the effective date of termination of appointment;

3. Give the full name, address, ~~and~~ phone number, and license or registration identification number of the appointing agent or agency;

~~4. State the appointing agent's license identification number; as to agency appointments, and the agency federal employer identification number;~~

~~4.~~ ~~5.~~ Contain a statement to the clear effect that as of the effective date of the notice that the appointment of the customer representative identified is terminated;

~~5.~~ ~~6.~~ State the full name, license identification number of the customer representative.

~~6.~~ ~~7.~~ State the reason for the termination of appointment.

~~7.~~ ~~8.~~ Be sent to the Department of Financial Services, Bureau of Agent & Agency Licensing, 200 East Gaines St., Tallahassee, FL 32399-~~0319~~ ~~0300~~.

(5) Procedure for Termination of Status as Designated Supervising Agent.

(a) The status of an agent as designated supervising agent for a customer representative may be terminated either by use of Form DFS-H2-39, obtainable from the Bureau of Agent & Agency Licensing, or by written notice, at least one of which shall be available for Department inspection at all times in the agent or agency records. The supervisory status shall be terminated by either the supervising agent or the agency, and may be unilateral. If the status is terminated by the supervising agent, the supervising agent shall supply the agency with a copy of the filing; and if filed by the agency, the agency shall supply a copy to the agent. Regardless of which method is used or who files, the party filing same shall supply a copy of the termination notice to the customer representative.

(b) When the supervising status is terminated by written notice rather than Form DFS-H2 ~~DF~~-39, the notice must comply with the following:

1. If filed by the designated supervising agent, the notice shall be signed and dated by the designated supervising agent; if filed by the agency, it shall be signed and dated by the agency's primary agent.

2. The notice shall state the effective date of termination of supervision;

3. The notice shall give the full name, address, and phone number of the agency;

4. The notice shall identify and state the full name of the designated supervising agent being relieved of that status, and shall supply his or her license identification number.

5. The notice shall contain a statement, to the clear effect that as of the effective date of the notice that [agent's name] is no longer the designated supervising agent for the customer representative identified in the notice.

6. The notice shall identify and state the full name, and license identification number of the customer representative.

7. The notice shall be maintained in the appointing agent or agency's records and must be produced upon Department request.

(6) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072,~~ 626.112, ~~626.161,~~ 626.471, 626.561(2), 626.7351, 626.7352, 626.7353, 626.7354, 626.748 FS. History—New 12-19-93, Formerly 4-213.070, Amended

69B-213.080 Duties of Appointing Agent.

An agent who appoints a customer representative incurs the following obligations, in addition to those otherwise set out in this rule chapter:

(1) In instances where the appointing agent and designated supervising agent are the same person, the appointing agent must supervise the customer representative as described in subsection 69B-213.020(3) ~~(2)~~, F.A.C. The supervisory role may not be delegated to anyone unless delegation is to a licensed and appointed agent who has been designated as the supervising agent pursuant to subsection 69B-213.060(4) ~~(5)~~, F.A.C. Supervisory duties, unless delegated to a designated supervising agent, remain with the appointing agent even when the customer representative is performing customer representative services for other agents or staff within the agency.

(2) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), ~~626.072,~~ 626.734, 626.7351, 626.7352, 626.7353, 626.7354 FS. History—New 12-19-93, Formerly 4-213.080, Amended

69B-213.090 Duties of Appointing Agency.

(1) through (3) No change.

(4) The appointing agency shall immediately specify in agency records any change in the identity of the agent actually performing customer representative supervisory duties regarding any customer representative appointed by an agency. The appointing agency may change the designated supervising agent at any time provided notice of such is maintained in the agency's records. The appointing agency must designate a new designated supervising agent whenever the prior designated supervising agent ceases in fact to properly perform the supervisory duties; or the appointing agency shall terminate the appointment.

(a) A new designated supervising agent is established by using the provisions set forth in subsection 69B-213.060(4) ~~(5)~~, F.A.C.

(b) Whenever the designated supervising agent of record is no longer in fact

supervising the customer representative, that agency shall immediately require the customer representative to cease performing all customer representative duties, until a new designated supervising agent is properly designated. The appointing agent continues to be accountable and liable for the acts of that customer representative during such period until a new designated supervising agent is established.

(5) It is the responsibility of the ~~primary~~ agent in charge for the agency to see that the agency complies with all requirements imposed upon the agency by this rule chapter.

(6) No change.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.161, 626.451, 626.471, ~~626.072, 626.592,~~ 626.7351, 626.7352, 626.7353, 626.7354, 626.747 FS. History–New 12-19-93, Formerly 4-213.090, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ray Wenger, Financial Administrator, Division of Insurance Agents and Agency 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: March 28, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 27, 2012