

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF FINANCIAL SERVICES
Division of Insurance Agents and Agency Services

RULE NO.: RULE TITLE:

69B-231.090 Penalties for Violation of Section 626.621, F.S.

PURPOSE AND EFFECT: Section 626.207(8), F.S., requires the Department to adopt rules establishing specific penalties against licensees for violations of Section 626.621 F.S. The proposed rule sets forth the penalties for violations of subsections 626.621(13) and (14), F.S.

SUBJECT AREA TO BE ADDRESSED: Penalties for violations of Subsections 626.621(13) and (14), F.S.

RULEMAKING AUTHORITY: 624.308, 626.207(8) FS

LAW IMPLEMENTED: 624.307(1), 624.308, 626.207, 626.621 FS

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: August 22, 2013 @ 9:30 A.M.

PLACE: Room 116, 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 at (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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Ray Wenger, 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 text of the proposed rule is also available on the Department's website @ <http://www.MyFloridaCFO.com/LegalServices/ruleHearing/>

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

69B-231.090 Penalties for Violation of Section 626.621, F.S.

If it is found that the licensee has violated any of the following subsections of Section 626.621, F.S., for which suspension or revocation of license(s) and appointment(s) is discretionary, the following stated penalty shall apply:

(1) through (12) – No change.

(13) Section 626.621(13), F.S. –

(a) The identical penalty or if not available, a substantially similar penalty, when possible, to the highest penalty imposed by or through a court of competent jurisdiction, administrative law proceeding, state agency, federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association.

1. A revocation, removal, lifetime prohibition, lifetime bar and lifetime ban, or their equivalent, and any suspension with a duration of greater than 24 months, shall result in revocation; and

2. A suspension with a duration of less than 24 months, shall result in a suspension of equal length.

(b) When substantially similar penalties are not possible, the following penalties shall apply:

1. Penalties applicable to fines or restitution:

a. A fine or restitution in the amount of \$25,000 or less, aggregate amount if applicable, shall result in a 3 month suspension;

b. A fine or restitution in the amount of \$25,001 to \$50,000, aggregate amount if applicable, shall result in a 6 month suspension;

c. A fine or restitution in the amount of \$50,001 to \$100,000, aggregate amount if applicable, shall result in a 12 month suspension;

d. A fine or restitution in the amount of \$100,001 to \$250,000, aggregate amount if applicable, shall result in a 24 month suspension; and

e. A fine or restitution in the amount greater than \$250,000, aggregate amount if applicable, shall result in revocation.

2. Penalties applicable to cease and desist orders:

a. A 6 month suspension if the order is unrelated to the business of insurance and does not contain allegations or findings related to misappropriation, conversion or unlawful withholding of money, the sale of an annuity, the sale of an unregistered security, fraud, dishonesty, untrustworthiness, or breach of a fiduciary duty;

b. A 9 month suspension if the order is related to the business of insurance and does not contain allegations or findings related to misappropriation, conversion or unlawful withholding of money, the sale of an annuity, the sale of an unregistered security, fraud, dishonesty, untrustworthiness, or breach of a fiduciary duty;

c. A 12 month suspension if the order contains allegations or findings related to the sale of an annuity or the sale of an unregistered security, but does not contain allegations or findings related to misappropriation, conversion or unlawful withholding of money, fraud, dishonesty, untrustworthiness, or breach of a fiduciary duty;

d. A 24 month suspension if the order contains allegations or findings related to the sale of an annuity or the sale of an unregistered security and allegations or findings related to untrustworthiness or breach of a fiduciary duty, but does not contain allegations or findings related to misappropriation, conversion or unlawful withholding of money, or fraud or dishonesty; and

e. Revocation if the order contains allegations or findings related to misappropriation, conversion or unlawful withholding of money, fraud, or dishonesty.

3. Penalties applicable to censures, probations, license denials, licensing restrictions, and similar situations:

a. A 3 month suspension if the matter is unrelated to the business of insurance; and

b. A 6 month suspension if the matter is related to the business of insurance.

4. Penalties applicable to other situations:

a. A 3 month suspension if the matter is unrelated to the business of insurance; and

b. A 9 month suspension if the matter is related to the business of insurance.

(14) Section 626.621(14), F.S. – 6 months suspension.

Rulemaking Authority 624.308, 626.207(~~82~~) FS. Law Implemented 624.307(1), 624.308, 626.207(~~2~~), 626.621 FS. History—New 7-13-93, Formerly 4-231.090, Amended 8-15-06, _____.