

Session Ends as Hurricane Season Approaches

Dear friends,

The 2013 Legislative Session focused on many issues that impact what we do here at the Department of Financial Services. As bills are signed into law, please know that we will continue to keep you informed especially on the issues that affect our licensee community. Be sure to check out the [In The Know](#) section where we highlight some of the passed legislation.

Next month marks the beginning of the 2013 Atlantic Hurricane Season. As Floridians, we know all too well the impact a storm can have on our homes or businesses, both structurally and financially. The importance of preparing for hurricanes cannot be stressed enough. Take the necessary steps to help you and your customers protect their families, homes and businesses. My Division of Consumer Services' website, www.MyFloridaCFO.com/Division/Consumers, offers videos, brochures, resources and tips, along with a disaster preparedness section that includes a home inventory checklist that can assist you and your customers.

Your feedback plays an integral role in how we continue to provide you with better service. I hope you will take a moment to [give us your feedback and suggestions](#). Thank you for all you do.



Jeff Atwater
Chief Financial Officer
State of Florida



PROTECT YOUR HOMEBASE
Insure • Secure • Recover
Chief Financial Officer Jeff Atwater

A disaster can strike your business or your home anytime.
Take action and learn ways on how to prepare.
[Read more >>](#)

News You Can Use

- Updating you on what's going on

CFO Jeff Atwater Announces Arrest of Three North Florida Roofers for Unlicensed Insurance Activity

Florida Chief Financial Officer Jeff Atwater announced the arrests of Derek Shawn Kellog, 31, Crawfordville; Corey Jermaine Brownlee, 30, Jacksonville; and Sean McCaslin, 49, Tallahassee; employees of Roofmasters, Inc., for acting as unlicensed public adjusters while soliciting homeowners for roof repairs in the Tallahassee area.

[Click here to read the press release >>](#)

CFO Announces Arrest of Escambia County Insurance Agent in Life Insurance Scam

Florida CFO Jeff Atwater announced the arrest of insurance agent Randall Petersen, 47, of Cantonment, on several felony charges including insurance fraud, grand theft and criminal use of personal identification. Investigators contend that Petersen created a fictitious employment company to lure individuals into applying for fraudulent life insurance policies earning him more than \$330,000 in bonuses and commissions.

[Click here to read the press release >>](#)

Notice of Development of Rulemaking - Temporary Permit to Operate a Bail Bond Agency

The Florida Department of Financial Services, Division of Agent & Agency Services, has filed Notice of Rule Development for Rule 69B-221.155, Florida Administrative Code, relating to temporary permits to operate a bail bond agency upon the death or mental incapacitation of the owner. The notice was filed with the Florida Department of State and officially published in the Florida Administrative Register on May 6, 2013.

Section 648.285(2), F.S., provides that if the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary

permit to manage the affairs of the bail bond agency. The application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the Department on forms prescribed and furnished by it.

[Click here for the full text of the notice >>](#)

Notice of Development of Rulemaking - Sample Power of Attorney

The Florida Department of Financial Services, Division of Agent & Agency Services, has filed a Notice of Rule Development for Rule 69B-221.075, Florida Administrative Code, relating to the information a sample power of attorney must contain in order to be approved by the Department. The notice was filed with the Florida Department of State and officially published in the Florida Administrative Register on May 6, 2013.

Section 648.43, F.S., requires every insurer engaged in the writing of bail bonds through bail bond agents in the State of Florida to submit and have approved by the Department a sample power of attorney, which will be the only form of power of attorney the insurer will issue to bail bond agents in this State. The proposed rule sets forth the information a sample power of attorney must contain in order to be approved by the Department. The proposed amendment will allow insurance companies to continue using their existing forms as long as the items required for approval are included on the form.

[Click here for the full text of the notice >>](#)

Operation S.A.F.E. with Be Scam Smart Workshops

In honor of Older Americans Month in May, Florida Chief Financial Officer Jeff Atwater launched [Operation S.A.F.E.](#), a new initiative to "Stop Adult Financial Exploitation" and turn the tables on fraud artists who target Florida's 4.4 million seniors. As a trusted advisor to your senior clients, you have an opportunity to help in this fight.

CFO Atwater is seeking to combat statistics that estimate at least one in five seniors has been a victim of financial fraud with a series of free workshops for seniors, their families and caregivers designed to teach them how to spot a scam, how scams work, and steps they can take to protect themselves.

"Our seniors contribute greatly to Florida's economy and as a result many have built a nest egg that makes them targets for fraud," said CFO Atwater. "It is my mission to ensure that they can better enjoy their retirement knowing they are armed with information to safeguard their finances."

The workshops, titled Be Scam Smart, are part of CFO Atwater's [On Guard for Seniors](#) initiative that he launched last year to educate seniors on specific financial products such as annuities, identity theft, reverse mortgages and long-term care insurance. [Operation S.A.F.E.](#) focuses on frauds and scams, such as fake lotteries and repair scams, and how these scams work on the psyche to convince us to take a chance on something we know or should know is too good to be true.

Initial workshops were held this month in Cape Coral, Venice, Delray Beach, Clearwater, the Villages and Miami with other locations to be scheduled throughout the year.

The [Operation S.A.F.E.](#) workshops are provided by the Department of Financial Services, which CFO Atwater oversees, and are presented by representatives from the Department's Division of Consumer Services, Division of Agent and Agency Services, and Division of Insurance Fraud, in partnership with local organizations.

"Be Scam Smart" workshops are presented by investigators and fraud detectives from the Department of Financial Services who fight fraud every day in the Department. The Division of Consumer Services offers education and a Consumer Helpline that last year answered more than 325,000 calls and recovered \$22.6 million for Florida consumers. More than 70 percent of the Division of Agent and Agency Services' recoveries last year were on behalf of seniors, and the Division of Insurance Fraud is a statewide sworn law enforcement agency that is a national leader in fraud arrests.

To learn more about Operation S.A.F.E. or register for a workshop, visit www.MyFloridaCFO.com/SAFE.

[Click to read more recent news >>](#)

Make Sure You Don't Miss Important Information From Us

Add our domain **MyFloridaCFO.com** to your email software's Trusted or Safe Senders List to ensure you are able to receive all notifications from us. Licensees who have a valid email address on file with the Department, as required by law, receive important email notifications when something that affects their application, license, continuing education, or appointment(s) occurs. Additionally, we will keep you informed with warnings regarding new schemes and scams being marketed to licensees. You can update your contact information through your [MyProfile](#) account. We want to keep you informed in a timely manner of pertinent information. You are still required to abide by the Florida Insurance Code regardless of whether you read the information we provide or attempt to provide.

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In The Know

- Keeping you informed is what it's all about

2013 Legislative Session Roundup

The information below is only summarized portions of some bills passed during this year's legislative session that affect our licensee population. It is not intended to be a guide or interpretation of law. Please review the [Florida Senate's website](#) or the [House of Representative's website](#) for the full language of the laws that were passed.

CS/SB 1770 - Property Insurance

The bill makes the following changes to the Florida Hurricane Catastrophe Fund, Citizens Property Insurance Corporation, and Public Adjusters:

Florida Hurricane Catastrophe Fund (CAT Fund)

- Renames the "Florida Hurricane Catastrophe Fund Finance Corporation" to the "State Board of Administration Finance Corporation."
- Extends the CAT Fund assessment exemption for medical malpractice until May 31, 2016.
- Repeals outdated language for the \$10M additional coverage for specified insurers and the Temporary Emergency Options for Additional Coverage.
- Requires the CAT Fund to submit to the Legislature and Financial Services Commission an annual Probable Maximum Loss (PML) report for the upcoming storm season.

Citizens Property Insurance Corporation (Citizens)

- Exempts Citizens from "exchange of business" requirements to facilitate the operations of the clearinghouse.
- Adds a professional structural engineer to the Florida Commission on Hurricane Loss Projection Methodology.
- Reduces the maximum Citizens' policy limit from \$2 million to \$1 million and further reduces this amount by \$100,000 a year for 3 years to \$700,000. Allows for an exemption in certain counties in which the Office of Insurance Regulation (OIR) determines they do not have a reasonable degree of competition.
- Prohibits Citizens from covering structures commencing construction after July 1, 2014,

seaward of the coastal construction control line.

- Allows the Governor of Florida to appoint a consumer representative to the Citizens Board of Governors in addition to the current two appointments.
- Clarifies a private company's offer within 15 percent of Citizens' rate for a new policy and no greater than the current rate for a renewal makes the policy ineligible for coverage with Citizens.
- Requires that Citizens disclose potential surcharge and assessment liabilities with each renewal notice.
- Allows insurers who take policies out of Citizens to use Citizens' policy forms for 3 years without approval from the OIR to use the forms.
- Establishes an office of Inspector General at Citizens to be appointed by the Financial Services Commission.
- Requires Citizens to prepare an annual report on Citizens' loss ratio for non-catastrophic losses on a statewide and county basis.
- Subjects Citizens to the purchasing of commodities restrictions under s. 287.057, F.S.
- Establishes the Citizens clearinghouse by January 1, 2014.
- Requires the establishment of a process to divert commercial residential policies.
- Requires that companies participating in the clearinghouse must either appoint the agent of record or offer a limited servicing agreement.
- Requires that agents participating in the clearinghouse are to be paid Citizens commission or the company's standard commission, whichever is greater.
- Clarifies that the 45-day notice of nonrenewal applies to policies submitted to the clearinghouse.
- Provides that independent and captive agents are granted and must maintain ownership of records including policies placed in Citizens.
- Allows captive companies to approve their agents limiting servicing agreements with each participating company.
- Requires Citizens to submit to the Legislature and Financial Services Commission an annual PML report for the upcoming storm season.

Public Adjusters

- Prohibits a public adjuster from receiving compensation from any source over the statutory fee cap. Applies disciplinary provisions in current law to public adjusters who violate the statutory fee caps through any maneuver, shift, or device.
- Repeals the current provision that for any claim filed with Citizens, a public adjuster cannot charge more than 10 percent of the difference between Citizens' initial offer and the amount actually paid. Claims filed with Citizens no longer contain any unique fee limitations for public adjusters.
- Requires a public adjuster to meet or communicate with the insurer to try to settle. Prohibits a public adjuster from acquiring any interest in salvaged property, without the written consent of the policyholder.

These provisions **take effect July 1, 2013**, except as otherwise provided in this act.

[Click here for the full text of the bill as enrolled >>](#)

CS/SB 1842 - Health Insurance

The bill makes changes to the Florida Insurance Code related to the requirements of the federal Patient Protection and Affordable Care Act (PPACA) that apply to health insurers and health insurance policies. PPACA preempts any state law that prevents the application of a provision of the PPACA. Each state may enforce the requirements of the PPACA, but if the U.S. Department of Health and Human Services (HHS) determines that a state has failed to substantially enforce any provisions, HHS must enforce those provisions.

The bill makes the following changes to the Florida Insurance Code:

- Provides that a provision of the Florida Insurance Code (Code) or rule adopted pursuant to the Code applies unless such provision or rule prevents the application of a provision of PPACA. This is substantially the same preemption provision that is included in PPACA.
- Authorizes the Office of Insurance Regulation (OIR) to assist HHS in enforcing the provisions of the PPACA by reviewing policy forms and performing market conduct examinations or investigations for compliance with PPACA. OIR must first notify the insurer of any noncompliance and then notify HHS if the insurer does not take corrective action.
- Authorizes the Division of Consumer Services within the Department of Financial Services (DFS) to respond to complaints by consumers relating to requirements of PPACA, by performing its current statutory responsibilities to prepare and disseminate information to consumers as it deems appropriate, provide direct assistance and advocacy to consumers, and require insurers to respond, in writing, to a complaint, and further authorizes the division to report apparent or potential violations to OIR and to HHS.
- Temporarily suspends, for 2014 and 2015, the requirement that health insurers and HMOs (insurers) obtain approval from OIR for nongrandfathered health plans which, generally, are plans under which an individual was insured on March 23, 2010, and for which rates must be filed with HHS. Insurers will still be required to file rates and rate changes for such plans with OIR prior to use, but such rates may be used without OIR approval. For this 2-year period, the rates for nongrandfathered plans would be exempt from all rating requirements. These rating law changes are repealed on March 1, 2015. Under PPACA, insurers must file rate changes with HHS for nongrandfathered health plans, subject to review and determination of whether the rate increase is unreasonable. Grandfathered health plans are not subject to PPACA rate filing requirements and remain subject to the current Florida law requirements for filing rates for approval with OIR.
- Requires insurers to provide a notice to individual and small group policyholders of nongrandfathered health plans that describes or illustrates the estimated impact of PPACA on monthly premiums. This notice is required one time, when the policy is issued or renewed on or after January 1, 2014. The notice must be in a format established by rule by the Financial Services Commission. The OIR and DFS must develop a summary of the estimated impact of PPACA on monthly premiums as contained in the notices, which must be available on their respective websites by October 1, 2013.
- Requires individuals acting as a "navigator" under PPACA to be registered with DFS, beginning August 1, 2013. Under PPACA, beginning on October 1, 2013, individuals and small businesses will be able to purchase private health insurance through Affordable Insurance Exchanges (Exchanges). Exchanges must certify qualified health plans (QHPs) offered by

insurers through the Exchange. PPACA directs Exchanges to award grants to "navigators" that will facilitate enrollment in QHPs and exercise certain other duties.

- To be registered as a navigator under the bill, an individual must certify completion of federally-required training, submit fingerprints for a criminal background check, and pay a \$50 application fee (currently, there is a \$50.30 fingerprint processing fee for agents, so the total cost for a navigator would be \$100.30). Certain crimes would either permanently bar an individual from registration or disqualify an applicant for specified periods. A navigator will be prohibited from:
 - Soliciting, negotiating, or selling health insurance;
 - Recommending the purchase of a particular health plan or represent that one health plan is preferable over any other;
 - Recommending or assisting with the cancellation of insurance coverage purchased outside the Exchange;
 - Receiving compensation or anything of value from an insurer, health plan, business, or consumer in connection with performing activities as a navigator, other than from the Exchange or an entity or individual who has received a navigator grant under the PPACA.
- Specifies grounds for suspension or revocation of registration and authorizes DFS to impose an administrative fine in lieu of, or in addition to suspension or revocation. Any person who acts as a navigator without registration is subject to an administrative penalty not to exceed \$1,500.
- Makes the following changes that allow or require insurers to take certain actions that would preserve the status of grandfathered health plans which, in general, are plans under which an individual was insured on March 23, 2010, and which are exempt from many of the requirements of PPACA:
 - If a policy form covers both grandfathered health plans and nongrandfathered health plans, the bill allows an insurer to non-renew coverage only for all of the nongrandfathered health plans, subject to certain conditions.
 - Requires that the claims experience for grandfathered health plans be separated from nongrandfathered health plans for rating purposes, as also required by PPACA.
 - Allows an insurer to discontinue a policy form that does not comply with PPACA without being subject to the current prohibition on selling a new, similar policy form after a policy form is discontinued.
- Provides two different definitions of "small employer" - one for grandfathered health plans, which is the current law definition, and one for nongrandfathered health plans, which is the same as the federal definition used for PPACA (but capped at 50 employees, as allowed by PPACA). For nongrandfathered health plans, any state law that applies to small group coverage will apply to coverage for a small employer as defined under PPACA and will no longer apply to an employer who is not a small employer under the federal definition.
- Requires the dissolution of the Florida Comprehensive Health Association (FCHA), which is the state's high risk pool for persons unable to obtain health insurance, by September 1, 2015. Coverage for current FCHA policyholders will be terminated by June 30, 2014. The FCHA is required to assist each policyholder in obtaining health insurance coverage, which is available to all persons on a guaranteed-issue basis under PPACA beginning October 1, 2013, with coverage beginning January 1, 2014.
- Specifies that health insurers and HMOs may nonrenew individual conversion policies if the

- individual is eligible for other similar coverage (which is available under PPACA).
- Repeals the statute that establishes the Florida Health Insurance Plan, which has never been implemented.

If approved by the Governor, these provisions **take effect upon becoming law**.

[Click here for the full text of the bill as enrolled >>](#)

CS/CS/SB 166 - Annuities

The bill substantially revises Florida consumer protection laws relating to sales of annuities by incorporating the 2010 National Association of Insurance Commissioners (NAIC) model regulation on annuity protections. The bill expands the scope of the consumer protection laws to generally include all consumers purchasing annuities. Current law only applies the protections to consumers aged 65 and older. The bill also retains current law limiting the surrender charges and deferred sales charges that may be imposed upon senior consumers.

The following are primary consumer protections contained in the bill:

Suitability of Annuities - The bill requires an insurer or insurance agent recommending the purchase or exchange of an annuity that results in an insurance transaction to have reasonable grounds for believing the recommendation is suitable for the consumer, based on the consumer's suitability information. The bill imposes additional duties on insurers and insurance agents when a transaction involves the exchange or replacement of an annuity.

Documentation of Sales Transaction - The bill requires agents and agent representatives to record recommendations made to a consumer.

Prohibitions on Agents - The bill prohibits agents from dissuading or attempting to dissuade a consumer from truthfully responding to the insurer's request for suitability information, filing a complaint, or cooperating with the investigation of a complaint.

Unconditional Refund Period - The bill expands to 21 from 14 days the unconditional refund period for all purchasers of fixed and variable annuities.

Limit on Surrender Charges - The bill retains the prohibition against surrender charges or deferred sales charges in annuity contracts issued to a senior consumer exceeding 10 percent of the amount withdrawn. The charge must be reduced so that no surrender or deferred sales charge exists after the end of the 10th policy year or 10 years after the premium is paid, whichever is later.

Penalties - Authorizes the imposition of corrective action, appropriate penalties, and sanctions on insurers, agents, managing general agencies, or insurance agencies that violate the requirements of s. 627.4554, F.S. An insurance agent must pay restitution to a consumer whose money they misappropriate, convert, or unlawfully withhold.

If approved by the Governor, these provisions **take effect October 1, 2013**.

[Click here for the full text of the bill as enrolled >>](#)

CS/HB 157 - Delivery of Insurance Policies

The bill allows an insurer to use electronic transmission as an acceptable means to meet statutory requirements for delivery of an insurance policy. Under current law, an insurer must mail or deliver a policy to the insured within 60 days after the insurance takes effect. The bill further specifies electronic transmission of an insurance policy related to commercial risks constitutes delivery of the policy to the policyholder unless the policyholder notifies the insurance company in writing or in an electronic format that they do not agree to have their policy delivered by electronic transmission. If a policy covering commercial risks is transmitted to the policyholder electronically, the transmission is required to include notice to the policyholder indicating the policyholder has a right to receive the policy by mail instead of electronic transmission. In addition, a paper copy of the policy must be provided to policyholders upon request.

If approved by the Governor, these provisions **take effect July 1, 2013**.

[Click here for the full text of the bill as enrolled >>](#)

CS/HB 223 - Insurance

The bill allows property and casualty insurance policies and endorsements that do not contain personally identifiable information may be posted on the insurer's Internet website. If the insurer elects to post insurance policies and endorsements on its Internet website the insurer must:

- Make each policy and endorsement easily accessible on the insurer's Internet website for as long as the policy and endorsement remain in force.
- Archive all of its expired policies and endorsements on its Internet website and make any expired policy and endorsement available upon an insured's request for at least five years after expiration of the policy and endorsement.
- Post each policy and endorsement in a manner that enables the insured to print and save the policy and endorsement using a program or application that is widely available on the Internet without charge.
- Notify the insured, in the manner the insurer customarily uses to communicate with the insured, that the insured has the right to request and obtain without charge a paper or electronic copy of the insured's policy and endorsements.
- Clearly identify the exact policy form and endorsement form purchased by the insured on each declarations page issued to the insured.

If approved by the Governor, these provisions **take effect July 1, 2013**.

[Click here for the full text of the bill as enrolled >>](#)

Education Central

- Things to know about your continuing education

Are You Compliant with Your CE or Not?

If you have ever felt confused about what it means to be continuing education (CE) compliant, you are not alone. That's why we're continuously finding and implementing ways to help you with this. To be CE compliant requires more than just taking CE courses. Below are a few often overlooked criteria to remaining CE compliant.

- CE requirements change. You should regularly review your CE status through your [MyProfile](#) account. Your total hours have specific allocation requirements that must be met. Be sure to take all the right categories of CE courses.
- Check for late hours. Hours taken after your due will still post on your compliance evaluation screen (however it will show it as late). Though your hours requirement may have been met, you're still delinquent for being late in completing your CE hours. You will then have the option of paying a \$250 fine, in addition to completing your required hours within a specified time, to keep from losing your appointments.
- Check past evaluation periods. Always check previous compliance periods to date to make sure that you are not delinquent for a prior period. Be sure to click on **VIEW ENFORCEMENT NOTICE** just below the **Not Compliant** text to check for any outstanding fines.
- Check your transcript. The **same course** cannot be taken with the **same provider** within a three-year period and receive credit. This will be noted on your transcript that it is a duplicate course. You will need to take a different course to meet your CE requirement.

We wish you success as you continue to complete your hours to remain knowledgeable in an ever-changing insurance market. And remember, your CE compliance date is your **DUE** date, not your **DO** date.

How to Search for Approved CE Courses

Looking for continuing education (CE) courses to be sure you get all your hours completed? Our online course search can easily help you by listing those courses approved by the Department.

1. Go to our website at www.MyFloridaCFO.com/Division/Agents.
2. Click on **MyProfile** on the left panel and log in to your account.
3. Once in your MyProfile inbox, click on **Locate** at the top left. Then click on **Future Course Offerings**.
4. Select the **Course Authority** for the type of license held or course you need to take.
5. You can also make other choices, like **Study Method** and **Location**, to narrow your search results.

6. If you click on **Perform an Advanced Search**, you will have additional options to narrow your search results, such as **Course Date** and **Course Level**.

Because many factors may affect your continuing education requirement (e.g. licenses held, number of years licensed, etc.), we encourage you to periodically check your [MyProfile](#) account to determine your individual continuing education compliance requirements and status. You will also be able to find more approved CE courses after logging in to your [MyProfile](#) account versus the public search option, which limits the results to the first 100 course offerings.

5-Hour Update Course Requirement

Any licensee except for a title agent with a compliance cycle ending October 31, 2014 or later should be advised that they will be required to complete the mandatory 5-hour course requirement. The 5-hour course requirement was created with an amendment to section 626.2815, F.S., effective October 1, 2014.

Each licensee must complete a 5-hour course specific to their license type. When two or more licenses are held, the licensee must complete a 5-hour course specific to at least one license type held. Below you will find a list of available course authorities for the 5-hour course and how the requirement corresponds to each license type.

#	5-hour Course Authority	Corresponding License Type
5-215	Life, Health and Annuity 5-hour course	Life including variable annuity and health, or life and health agents. (e.g. 2-15 or 2-18)
5-214	Life and Annuity 5-hour course	Life and/or annuity agents. (e.g. 2-14 or 2-16)
5-240	Health 5-hour course	Health agents (e.g. 2-40)
5-220	General Lines 5-hour course	General lines or personal lines agents, customer representatives, or limited customer representatives, and industrial fire and burglary agents. (e.g. 2-20, 20-44, 4-40, 4-42, 2-33)
5-620	Adjuster 5-hour course	Adjusters, except public adjusters. (e.g. 6-20)
5-320	Public Adjuster 5-hour course	Public adjusters. (e.g. 3-20)

5-237	Bail Bond 5-hour course	Bail bond agents (e.g. 2-34)
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The 5-hour courses are currently not being offered; however, the Department projects the availability of the 5-hour courses beginning around summer 2014.

Applicable compliance cycles are not yet reflecting the 5-hour course requirement. Licensees should make note that once the system has been updated all applicable compliance cycles will be updated to reflect the legal requirement.

Nonresident agents are not required to complete Florida's CE requirement if they complete their home state's CE requirement. Nonresident adjusters are not required to complete Florida's CE requirement if they complete the adjuster's CE requirement of a reciprocal state in which they are licensed as an adjuster. However, nonresident title insurance agents must complete Florida's CE requirement to be compliant in Florida.

For questions pertaining to CE requirements, please email Education@MyFloridaCFO.com.

Subject Matter Experts Needed

Have you ever heard someone comment about the questions on the State of Florida license exams? Ever wondered who comes up with them?

Every year the Department and our state exam vendor conduct a thorough review of every question on each of our license examinations. These questions are reviewed to make sure that they are accurate, test entry level knowledge, and are clear in how they read.

Along with having members from the Department and our exam vendor, we rely on the perspective from Florida licensed agents and adjusters. These licensees serve as subject matter experts who attend online and in-person meetings to review examination questions.

The payoff includes participating in the process that qualifies future licensed insurance agents and adjusters as well as additional hours credited to your transcript to help meet your continuing education requirement.*

If you would like more information on participating as a subject matter expert in our annual exam review workshop this summer, which will be held in downtown Orlando July 15-19, 2013, please send an email to Education@MyFloridaCFO.com and include in the subject line: Question about Exam Review Workshop. Participants are encouraged to attend the virtual sessions in June as well.

We hope to see you in Orlando this summer!

*Some expenses are reimbursable.

Compliance Corner

We continue to see a pattern of noncompliance in the areas noted below. This section has been created to assist you in keeping your insurance business in compliance. The items are intended as reminders only and are not necessarily the exact text of the [Florida Statutes](#) or [Florida Administrative Code](#). The legal cites have been provided for your further reference.

Reporting and Accounting for Funds

All premiums, return premiums, or other funds belonging to insurers or others received by an agent, insurance agency, customer representative, or adjuster in transactions under the license are trust funds received by the licensee in a fiduciary capacity. An agent or insurance agency shall keep the funds belonging to the insurers for which an agent is not appointed, other than a surplus lines insurer, in ***one separate fiduciary account*** so as to allow the Department or Office to properly audit such funds.

Every licensee shall preserve books, accounts, and records pertaining to a premium payment for at least 3 years after payment; provided, however, the preservation of records by electronic complies with this requirement. All other records shall be maintained in accordance with s. [626.748](#). The 3-year requirement shall not apply to insurance binders when no policy is ultimately issued and no premium is collected.

Any agent, insurance agency, customer representative, or adjuster who, not being lawfully entitled thereto, either temporarily or permanently diverts or misappropriates such funds or any portion thereof or deprives the other person of a benefit therefrom commits a criminal offense and may additionally be subject to administrative action.

[See [626.561](#) and [648.295](#), Florida Statutes]

Unearned Commission, Premium Liability Due the Receiver

Premiums and unearned commissions that have been collected on behalf of an insurer by an agent or agency constitute an asset of an insurer. When an insurance company is placed into receivership by the courts, the agent or agency has a duty to account to the receiver and to pay over amounts as may be due. The duty to account to the receiver shall encompass all persons or entities involved in the handling and transmittal of premium funds. An accounting shall be provided to the receiver within 20 days after receipt of a written demand for an accounting. If there is a dispute regarding the accounting, the court shall hear and decide the matter upon petition of the receiver. Compliance with this and payment of sums determined to be owed by the court within 30 days of judgment, or within other payment terms approved by the court constitutes requirements for continued licensure of a person holding a license under the Florida Insurance Code. Failure to comply shall be sufficient grounds for license revocation.

[See [631.155](#), Florida Statutes]

Bail Bond Agents: Solicitation at Jails, Prisons, Etc.

A bail bond agent may not directly or indirectly solicit for business at the jail, prison or any place where prisoners are confined. The Florida Statutes' definition of soliciting at the jail includes, but is not limited to:

- Distributing business cards or flyers
- Print advertisements
- Any written information directed to the prisoners or inmates
- Any oral communication directed to the prisoners or inmates

The only permissible advertising at the jail is the listing in the telephone book, and the posting of the agent or agency's name, address and phone number on the approved list of bail bond agents created by the jail.

This statute prohibits a bail bond agent or bail bond agency from placing an advertisement in a magazine that is distributed primarily to inmates or prisoners of a jail. Bail bond agents found to be in violation of this statute may be subject to a license suspension for three (3) months for the first offense and a license suspension of 12 to 24 months for the second and subsequent offenses.

[See [648.44\(1\)\(d\)](#), Florida Statutes]

Case Notes

The following are instances in which licensees or other persons violated the Florida Insurance Code and the administrative action the Department has taken against them. Note: All administrative investigations are subject to referral to the [Division of Insurance Fraud](#) for criminal investigation.

Case: An investigation of a general lines and health agent revealed that he was pocketing premiums of his customers. Several customers had paid premiums to cover their homes either for a flood insurance policy or a homeowner's insurance policy. However, when they received cancellation letters in the mail, they realized that their payments were misappropriated. An employee of the insurance agency noticed the discrepancies in the escrow accounts and alerted the company officials. A review of his business accounts found that he deposited the checks but then drafted counter checks and withdrew the money for personal use.

Disposition: The agent pled no contest to scheme to defraud, a felony, and was adjudicated guilty. The agent was sentenced to 60 months probation. In addition, he was ordered to repay \$15,563.00 in restitution. As a result of the felony conviction his insurance license was immediately revoked by the Department and he is permanently barred from applying for licensure in the future.

Case: An investigation of a customer representative revealed that she assumed the identity of someone she knew and managed to steal more than \$2,000. She made unauthorized transactions using the victim's credit cards and even went as far to order checks from the victim's checking account in her name and the victim's even though she was never listed on the victim's account. She was then able to write five checks by forging the victim's signature to be able to obtain cash and pay her own rent.

Disposition: The customer representative pled guilty to organized fraud, a felony. She was sentenced to 90 days in jail and three years probation and ordered to pay restitution to the victim and \$2,081 in court fees and costs. As a result of the guilty plea to a felony her insurance license was immediately revoked by the Department and she is permanently barred from applying for licensure in the future.



Case: An investigation of an agent approved as a School Official and Instructor for licensing and continuing education courses alleged he unlawfully disseminated copyrighted study aids to his students.

Disposition: License surrendered for one year. Authorization as a School Official and Instructor suspended for 90 days. Fined \$5,000. Restitution of \$2,160 to the owner of the copyrighted materials and \$300 to the Department.

Case: An investigation of a licensed insurance agency and its unlicensed owner alleged that they permitted unlicensed individuals to transact insurance, impermissibly used an insurance agent's license and impermissibly signed an insurance agent's signature by submitting applications and other insurance related documents to insurance companies under the name of an agent no longer employed with the agency, and failed to notify the Department of a change in the agent in charge for the agency. The unlicensed owner had also applied for licensure as an agent, which was initially denied for transacting insurance without a license.

Disposition: The unlicensed owner was banned for three years from applying for licensure as an agent. He was required to sell the agency within six months from the date of the action, at which point the agency license was surrendered and is not eligible for licensure again for three years.

Case: An investigation of a public adjuster alleged that she entered into an agreement to settle a claim on behalf of the insured with the insurance company. This agreement did not contain statutorily required statements. She then submitted a letter to an insurance company requesting re-opening of a claim on behalf of the consumer while she did not have an active appointment. She also failed to update her business address with the Department.

Disposition: License suspended for one year and fined \$250.

Case: An investigation of a title agency alleged that an officer of the agency made a material misstatement on its application for licensure by failing to divulge a pending civil case filed against three of the partners of the agency by a title insurance company.

Disposition: Fined \$2,500 and placed on probation for one year.

Case: An investigation of a bail bond agent alleged that he executed bail bonds in Florida after judgments were entered and remained unpaid for thirty-five (35) days.

Disposition: Fined \$1,500 after all judgements were satisfied.

Case: An investigation of a life and health agent alleged that he sold consumers health insurance plans from unauthorized insurers AIM and CEO. When the consumers had medical claims they were informed there was no coverage and the consumers suffered significant financial harm.

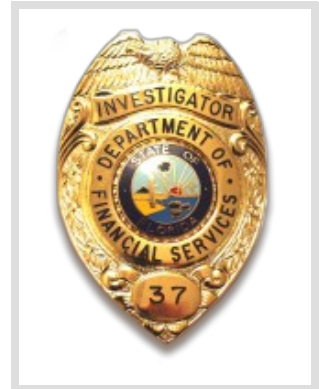
Disposition: Fined \$1,000 and investigative costs of \$1,000. He was also ordered to disgorge all commissions received from any and all of the contract plans or policies he sold and must satisfy all unpaid claims or losses for all persons entitled to coverage for the policies he sold.

Enforcement Actions

- April 2013

Some of the following disciplinary actions were resolved through a settlement process resulting in an order for discipline. Notification of disciplinary actions is in the public interest. While every effort is made to provide correct information, our readers are cautioned to check with the Department before making a decision based upon this listing. This listing does not reflect pending appeals or requests for hearings.

Warning: No part of this listing may be used by a licensee to gain an unfair competitive advantage over any person named herein. Any licensee who does so is in violation of Section 626.9541(1)(c), Florida Statutes.



IMPORTANT NOTE: Copies of enforcement action documents can be located by searching the [Division of Legal Services' database](#). After clicking the **Locate** link below and the database opens, click on **Final Orders** on the left, followed by **Dept of Financial Services**, then **Agents and Agencies**, then **Final Orders 2013**. You will then be able to locate the document by the first letter of the individual's last name or business name. For further information, you may make a public records request via [email](#) or contact the [Public Records Unit](#).

LAST/BUSINESS NAME	FIRST NAME	LICENSE#	LICENSE TYPE	DISPOSITION	FINE	RESTITUTION	CITY, STATE	DOCUMENT
A & D Insurance		R027110	Agency Registration	License Surrendered			Hialeah, FL	Locate
ASAP Processing Services Inc		P088771	Title Agency	License Suspended 3 Months			East Syracuse, NY	Locate
Baranowski	Paul	P040637	Public Adjuster	License Suspended 3 Months			Fort Lauderdale, FL	Locate
Berghorn	Jeffrey	A020019	All-Lines Adjuster	License Revoked			Bradenton, FL	Locate
Boyd	Janee	P060036	Public Adjuster	License Suspended 3 Months			Hollywood, FL	Locate
Browning	Scott	A033107	Life, Variable Annuity, Health	Permanently Barred			Naples, FL	Locate
CARE Title, Inc.		E071588	Title Agency	Probation, Cease & Desist and Fined	\$7,500		Trinity, FL	Locate

Colina	Ann	A272700	General Lines	License Suspended 1 Year, Restitution		\$7,173.59	Hialeah, FL	Locate
Davis III	Grover	A062690	Life, Variable Annuity, Health, General Lines	License Suspended 18 Months			Holly Hill, FL	Locate
De La Fe	Ernesto	E154099	Public Adjuster	Probation, Cease & Desist and Fined	\$1,500		Hialeah, FL	Locate
De Varona	Jacqueline	P006580	Public Adjuster	License Suspended 3 Months			Miami, FL	Locate
Difrancesco	Maria	E108599	Public Adjuster	License Suspended 3 Months			Chandler, AZ	Locate
Dunn	Daniel	D067944	Life, Variable Annuity, Health	Probation and Fined	\$4,500	\$17,935.48	Naples, FL	Locate
Dyer	Sarah	P032813	Life, Variable Annuity, Health	License Suspended 1 Year			Lake Success, NY	Locate
Farrar	Jennifer	E036445	Title Agent	Probation and Fined	\$3,000		New Port Richey, FL	Locate
Feder	William	P156101	Public Adjuster	License Suspended 3 Months			East Sandwich, MA	Locate
Fernandez	Graciela	A082862	General Lines	Probation and Fined	\$3,500		Miami, FL	Locate
Gonzalez	Giorgio	P209316	Public Adjuster	License Suspended 3 Months			Miami, FL	Locate
Hightower, III	Joseph	A118865	Bail Bond	License Revoked			Gainesville, FL	Locate
Jacir	Marcelo	E147524	Life, Variable Annuity, Health	License Revoked			Aventura, FL	Locate
Johnson	Jami	A132601	Life, Variable Annuity, Health, General Lines	License Revoked			Bartow, FL	Locate
Keith Watson Title Services, Inc.		E014204	Title Agency	Fined	\$1,000		Jacksonville Beach, FL	Locate
Kruse	Paul	A146425	Life, Variable Annuity, Health	License Revoked			Jacksonville, FL	Locate
Llama Insurance		L011586	Insurance Agency	Probation and Fined	\$8,000		Miami, FL	Locate

Mayer	Stephen	A169169	Life, Variable Annuity, Health, General Lines	Probation, Cease & Desist and Fined	\$1,500		Pensacola, FL	Locate
Mesa	Dellany	P007184	General Lines	Fined	\$3,000		Hialeah, FL	Locate
Palm Title Corporation		D059856	Title Agency	Fined	\$1,250		Miami, FL	Locate
Parker	Jeffrey	P020665	Life, Variable Annuity, Health, Customer Representative	License Suspended 1 Year			Sarasota, FL	Locate
Performance Title LLC		P045604	Title Agency	Fined	\$500		Baton Rouge, LA	Locate
Plasencia	Ana	P164660	Public Adjuster	License Suspended 3 Months			Miami, FL	Locate
Ponce Inlet Title, Inc.		D064403	Title Agency	Fined	\$1,000		Port Orange, FL	Locate
Preferred Choice Title, Inc.		P041842	Title Agency	Fined	\$500		Cutler Bay, FL	Locate
Premock	Sean	D028600	Life, Variable Annuity, Health	License Revoked			Fort Lauderdale, FL	Locate
RBHN Agency, Inc.		L070822	Insurance Agency	Probation and Fined	\$3,000		Fort Pierce, FL	Locate
Ruz	Amada	A229067	General Lines	License Revoked			Hialeah, FL	Locate
Schnepp	Robert	E117895	Life, Variable Annuity, Health	License Revoked			Fort Myers, FL	Locate
Silverstein	Harvey	A308303	Life, Health	License Revoked			Fort Lauderdale, FL	Locate
Small	Yvonne	P118941	Public Adjuster	License Suspended 3 Months			Maitland, FL	Locate
Sobel	Ryan	P241186	Life, Variable Annuity, Health	Fined	\$750		Denver, CO	Locate
Sori	Luis	P027051	Public Adjuster	License Suspended 3 Months			Coral Gables, FL	Locate
Sound Settlement Services LLC		W095659	Title Agency	Fined	\$500		Westbury, NY	Locate
Taylor	Anthony	P113181	Public Adjuster	License Suspended 3 Months			Coral Gables, FL	Locate

The Great Empire Title LLC		W028872	Title Agency	Fined	\$500		Miami, FL	Locate
Thornley	Johnna	P125297	Personal Lines	License Suspended 3 Months			Canyon, TX	Locate
Title Affiliates USA Inc		E063294	Title Agency	Fined	\$1,000		Miami Lakes, FL	Locate
Title House Partners LLC		P075063	Title Agency	Probation and Fined	\$5,000		Orlando, FL	Locate
Titlequest Services LLC		W037512	Title Agency	License Suspended 3 Months			Hudson, OH	Locate
Tropics Title Services Inc		E182516	Title Agency	Fined	\$1,000		Miami, FL	Locate
United Title Affiliates Inc		P145590	Title Agency	Fined	\$500		Apollo Beach, FL	Locate
University Title Services LLC		P129178	Title Agency	Fined	\$500		Lakewood Ranch, FL	Locate
Williams	Rochelle	A069537	Life, Variable Annuity, Health, General Lines	License Suspended 3 Months			North Port, FL	Locate
Wilson	Aaron	W033197	Public Adjuster	License Suspended 3 Months			Sherman, TX	Locate
Wright-Smith	Evelyn	E178824	Bail Bond	License Suspended 3 Months			Jacksonville, FL	Locate
Zenith Title Company		W045953	Title Agency	Fined	\$500		Boynton Beach, FL	Locate



Contact Us

- We're always here for you

Bureau of Licensing

AgentLicensing@MyFloridaCFO.com - For general inquiries about licensing.

Education@MyFloridaCFO.com - For education-related questions (prelicensing, continuing education, providers, etc.)

[MyProfile](#) - Check your up-to-the-minute application status, education information, and more.

Licensees are reminded to update any change in their name, addresses (including email) or phone numbers by logging in to their [MyProfile](#) account. If you also have an agency license, don't forget to log in to your agency's MyProfile account and update it as well.

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