

## Notice of Proposed Rule

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agent and Agency Services

RULE NO.: RULE TITLE:

69B-220.001: Licensure of Emergency Adjusters

PURPOSE AND EFFECT: The proposed rule incorporates an updated Emergency Adjuster License Initial and Extension Application for emergency adjuster licensure. The rulemaking also updates rule language and deletes obsolete language.

SUMMARY: The proposed rule updates provisions relating to initial licensure for emergency insurance adjusters and makes other necessary edits.

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: The Department's economic review for this rulemaking determined that the rule will not increase any fees, business costs, personnel costs, will not decrease profit opportunities, and will not require any specialized knowledge to comply. These changes will not increase any direct or indirect regulatory costs. Hence, the Department determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307, 624.501, 626.015, 626.112, 626.207, 626.611, 626.621, 626.681, 626.691, 626.855, 626.856, 626.8584, 626.859, 626.870, 626.8736, 626.874 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Matt Tamplin, Assistant Director, Division of Agent and Agency Services, Matt.Tamplin@myfloridacfo.com, (850)413-5496.

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-220.001 Licensure of Emergency Adjusters.

(1) Purpose. ~~This rule sets forth Department policy and procedure for licensure of emergency adjusters.~~

(2) Scope. ~~Each emergency is unique and the terms, conditions, and other provisions of emergency licensure for particular emergencies must often be tailored by emergency rule to the scope and nature of the particular emergency. This rule sets out what are essentially default licensure provisions which are effective for emergency adjuster licensure unless and to the extent the Department issues emergency rules modifying, supplementing, or replacing this rule. Where not expressly modified or replaced by emergency rule regarding a particular emergency, the provisions of this rule shall apply.~~

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

(a) No change.

(b) "Licensed adjuster" means those persons currently licensed in good standing by the Department as a company employee adjuster or independent adjuster, whether the licensure is permanent resident licensure, permanent nonresident licensure or emergency licensure pursuant to this rule, and whether limited licensure or all lines ~~unlimited~~ licensure. The term does not include persons licensed as public adjusters or public adjuster apprentices by the Department or persons licensed as any type of adjuster or public adjuster by states other than the State of Florida.

(c) No change.

(d) “Emergency adjuster” means a person who is not a licensed adjuster with the Department but who has been designated and certified to the Department by a Florida authorized insurer, eligible surplus lines insurer, or licensed independent adjusting firm resident adjuster, or a licensed general lines agent as qualified to adjust claims, losses, or damages under policies or contracts of insurance issued by such insurer in the event of a catastrophe or emergency.

(2) (4) General Provisions Applicable to All Emergency Adjusters.

(a) No change.

(b) Online applications for emergency adjuster licensure must be accompanied by a statement from a Florida authorized insurer, eligible surplus lines insurer, or licensed independent adjusting firm, or a licensed independent resident adjuster, or a licensed general lines agent certifying that the emergency adjuster applicant is qualified to act as an adjuster.

(3) (5) Procedures for Licensing and Appointment of Emergency Adjusters; Responsibilities of Florida Authorized Insurers, Eligible Surplus Lines Insurers, and Licensed Independent Adjusting Firms Appointing Entity.

(a) All Florida authorized insurers, eligible surplus lines licensed insurers, and licensed independent adjusting firms, independent adjusters, and general lines agents, must shall use the following procedures to utilize emergency adjusters. Florida authorized insurers, eligible surplus lines insurers, or licensed independent adjusting firms ~~The entities or persons listed in the preceding sentence~~ may utilize emergency adjusters, whether on their staff, engaged by them as independent contractors, or as employees of a contractor engaged by them, to immediately and without advance paperwork to this Department, engage and cause commencement of emergency catastrophe adjusting work for themselves, by any persons, whether on their staff, or hired by them, or engaged by them as independent contractors or as employees of a contractor engaged by them, although the person is not currently licensed as an adjuster in Florida, if the Florida authorized insurer, eligible surplus lines licensed insurer, or licensed independent adjusting firm, independent adjuster or general lines agent utilizing these persons as emergency or catastrophe adjusters determines that these persons are qualified to do such adjusting work and provides these persons with proof of authority to represent the insurer. Any person engaged as an emergency adjuster under this rule must These persons shall present the proof of authority and a photo ID upon demand by the insured, or the insured’s representative, law enforcement officer, or other government personnel engaged in emergency management for the condition giving rise to the emergency adjuster’s engagement. The Florida authorized insurer, eligible surplus lines insurer, or licensed independent adjusting firm ~~A person is not qualified to adjust claims for any entity or person who utilizes computer software program(s) in the adjusting process, unless the person has received training in and is capable of correctly utilizing the program(s). Within 7 calendar days after adjusting work has begun, the appropriate official must electronically complete and submit to the Department the Emergency Adjuster License Initial and Extension Application, Form DFS-H2-495, effective MM/YY Rev. 1/2010, which is hereby incorporated by reference, and is available at [https://www.flrules.org/gateway/reference.asp?NO=Ref-\\_\\_\\_\\_\\_](https://www.flrules.org/gateway/reference.asp?NO=Ref-_____). All applications shall be submitted via the Florida authorized insurer’s, eligible surplus lines insurer’s, or licensed independent adjusting firm’s Appointing Entity MyProfile account on through the Department’s website at <https://dice.fldfs.com/www.myfloridafo.com/Agents>. Applicable fees shall be submitted by electronic payment at the time of submission of an online application. Adjusting work shall not begin until an emergency adjuster license has been issued.~~

1. The Florida authorized insurer, eligible surplus lines insurer, or licensed insurance company, independent adjusting firm that, independent adjuster or general lines agent who submits the online application certifies that the emergency adjuster applicant is qualified, thereby appointing the emergency adjuster applicant to represent that Florida authorized insurer, eligible surplus lines insurer, or licensed company, independent adjusting firm, independent adjuster or general lines agent. The appointing person or entity is bound by the acts of the emergency adjuster applicant as in the case of any regular (non-temporary or non-catastrophic) adjuster licensed pursuant to Chapter 626, F.S., appointed by that Florida authorized insurer, eligible surplus lines insurer, or licensed company, independent adjusting firm, independent adjuster or general lines agent. This responsibility continues until the Florida authorized insurer, eligible surplus lines insurer, licensed independent adjusting firm, appointing entity, appointing person or emergency adjuster licensee notifies the Department through the online appointment system, or the emergency adjuster licensee notifies the Department through the online application process, that the appointing entity, ~~appointing person~~ or emergency adjuster licensee desires to terminate the appointment.

2. The Florida authorized insurer, eligible surplus lines insurer, or licensed insurance company, independent adjusting firm ~~that, independent adjuster or general lines agent~~ who certifies to the Department that the emergency adjuster applicant is qualified, is responsible for assuring, by due diligence inquiry, that the emergency adjuster applicant is in fact qualified to adjust claims, has received training ~~in and is capable of correctly utilizing any computer software program(s) utilized by the appointing entity or person~~ to adjust claims, and is of good and honest character.

3. If the emergency adjuster application is incomplete, the Department will notify the emergency adjuster applicant of his or her deficiencies through his or her individual online account. The emergency adjuster applicant will have six months from the date of the notification to respond.

a. If the applicant fails to respond within six (6) months, the emergency adjuster application will be closed.

b. If the emergency adjuster applicant reponds within six (6) months, and the Department determines the applicant is ineligible, the Department will issue a denial.

(b) There is an affirmative duty on the Florida authorized insurer, eligible surplus lines insurer, or licensed insurance company, independent adjusting firm ~~that, independent adjuster or general lines agent~~, who certifies to the Department that the emergency adjuster applicant is qualified, to provide continuing and significant supervision of the emergency adjuster applicant after licensure.

(c) Emergency adjuster licenses are valid for six (6) months ~~180 days~~ from the date of issuance of the emergency license, unless a shorter period of time is specified in the license as issued. Because emergency licensure is an extraordinary deviation from regular licensing procedures, it is Department policy to specify, as the duration of emergency licensure, the shortest possible time in each particular emergency.

~~(4) (6)~~ Procedures for Extension of an Emergency Adjuster License. The Department shall grant an extension of emergency adjuster licensure if it determines the emergency or catastrophe conditions set forth in subparagraph (4)(a)1. of this rule still exist. Each extension will last for a period of up to an additional six (6) months ~~180 days~~.

(a) To apply for an extension of licensure as an emergency adjuster, the entity requesting a license extension shall electronically complete and submit to the Department the Emergency Adjuster License Initial and Extension Application, Form DFS-H2-495 ~~DFS-H2-2022, Eff. 1/2010, which is hereby incorporated by reference~~. All applications for an extension shall be submitted through the Department's website at <https://dice.fldfs.com/www.myfloridacfo.com/Agents>. Applicable fees shall be submitted by electronic payment at the time of submission of an online application for the extension.

~~(b) Only the licensure type and class that the licensee holds at the time of application for extension shall be extended.~~

~~(c) "Temporary Licenses." The provisions of Section 626.872, F.S., regarding "Temporary Licenses" are not applicable to licensing persons temporarily for catastrophe or emergency situations.~~

(d) through (g) renumbered as (b) through (e) No change.

Rulemaking Authority 624.308(4) FS. Law Implemented 624.307(4), 624.501(42), 626.015, 626.112, 626.207, 626.611, 626.621, 626.681, 626.691, 626.855, 626.856, 626.8584, 626.859, 626.870, 626.8736, 626.874 FS.

History—New 2-25-93, Amended 8-18-94, 1-7-97, 10-20-97, 1-9-03, Formerly 4-220.001, Amended 9-3-06, 11-9-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Matt Tamplin, Assistant Director, Division of Agent and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jimmy Patronis, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 6, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 12, 2022