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## 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]

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