
QUICK NOTES™
SUPPLEMENTAL STUDY GUIDE

FLORIDA

**A REVIEW SUPPLEMENT FOR THE
FLORIDA AGENT'S
LIFE & HEALTH
STATE INSURANCE EXAM**

(January 2016 Edition)

What is Insurance Schools Quick Notes™ Supplemental Study Guide?

Insurance Schools Quick Notes™ Study Guide is a comprehensive study guide that follows the Pearson Vue state exam content outline and covers every topic listed on the Florida Agent's Life, Health and Annuity Exam.

This supplemental study guide is designed to be used as an adjunct learning tool along with our online practice exam simulator and is not a substitute for the required Florida prelicensing education course.

Insurance Schools Quick Notes™ Study Guide **does not meet** the Florida prelicensing education course requirement.

Excerpts of Florida laws and regulations cited in this study guide have been condensed to emphasize important, testable topics you will see on your state insurance exam.

This study guide should not be used as a substitute for competent legal advice.

Click here <http://www.insurance-schools.com/Category.aspx?CategoryID=457> to purchase the Florida Agent's Life & Health online practice exam simulator which contains nearly 3,000 questions including state specific insurance law questions for the state of Florida.

I. Florida Statutes, Rules and Regulations (24% of Exam)

A. Financial Services Regulation

1. **Chief Financial Officer** - The state Treasurer, who is an elected official and is a member of the Governor's cabinet, serves as the state Insurance Commissioner.
2. **Financial Services Commission** - Composed of the Governor, the Chief Financial Officer (State Treasurer), the Attorney General, and the Commissioner of Agriculture. This Commission in turn supervises the Office of Insurance Regulation and Office of Financial Regulation. (Sec. 20.121 F.S.)
 - a. **Office of Financial Regulation** - The Office of Financial Regulation (OFR) is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry. The OFR includes the Bureau of Financial Investigations.
 - b. **Office of Insurance Regulation** - The Office of Insurance Regulation (OIR) is responsible for all activities of the Financial Services Commission relating to the regulation of insurers and other risk-bearing entities. The head of the office is the Director or Commissioner of Insurance Regulation.

B. Department of Financial Services

I. **General Duties and Powers** - The Department of Financial Services, headed by the Chief Financial Officer and the Commissioner of the Office of Insurance Regulation, oversee the insurance industry in accordance with the provisions of the Insurance Code. They have broad administrative, quasi-legislative (rule-making) and quasi-judicial powers in order to carry out their responsibilities.

- **Agent and Adjuster Licensing** - The regulation of insurance agents and adjusters is directly administered by the Chief Financial Officer, as is insurance fraud and insurance consumer protection. In this state, a prospective agent must pass a producer licensing examination administered by the Department of Insurance.
- **Consumer Services and Insurance Fraud** - Directly administered by the Chief Financial Officer.
- **Receivership** - The Office of Financial Regulation, headed by the Director/Commissioner of Financial Regulation is empowered to conduct financial examinations and deal with any financial insolvency of insurance companies or any other financial institutions.
- **Unclaimed Property** - The Chief Financial Officer holds unclaimed property accounts mostly from dormant accounts in financial institutions, insurance and utility companies, securities and trust holdings.

- **Other Powers** - Conduct any investigation of insurance matters expressed in the insurance code, determine if a person has violated the insurance code, or obtain information to administer the code.

C. Office of Insurance Regulation

I. General Duties and Powers

- License insurance companies and agents;
- Establish the initial financial requirements for insurers;
- Police against unauthorized insurance activities;
- Regulate and approve policy forms, provisions and rates;
- Control unfair trade and advertising practices
- Supervise the methods of obtaining business;
- Monitor the financial condition of insurers; and
- Rehabilitate or liquid insolvent insurers if necessary.

The Office of Insurance Regulation has the authority to approve policy forms and rates. The filing of policy forms to be used in this state must be made at least 30 days in advance of any such use or delivery. At the expiration of the 30 days, the form filed will be deemed approved unless it has been affirmatively approved or disapproved by order of the Office. Rates must not be excessive, inadequate, or unfairly discriminatory.

2. Market Conduct Examinations - State statutes provide the Insurance Department with an absolute right to examine the affairs of every person involved in the business of insurance to determine if they are engaged in any unfair trade practices. The Office of Financial Regulation is charged with this responsibility.

3. Agency Actions - Florida law provides that each person operating an insurance agency having multiple locations, must designate a primary agent for each agency location, and file the names of those persons with the Department of Insurance. An agency location cannot conduct business unless primary agent is designated at all times. A primary agent is the licensed agent who is responsible for hiring and supervising individuals within that agency location.

4. Investigation - The Chief Financial Officer and the Office of Insurance Regulation has been granted the power, from the state legislature, to conduct any investigation of insurance matters to determine if a person has violated the insurance code.

D. Office of Financial Regulation

General Duties and Powers, Agency Actions, and Investigations - The office of Financial Regulation is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry. The head of the office is the Director or Commissioner of Financial Regulation. This office also include the Bureau of Financial Investigation that may investigate suspected wrong doing, both inside and outside the state of Florida, and may refer suspected violations of criminal law to state or federal law enforcement or prosecutorial agencies.

E. Definitions

1. **Insurance Contract** - Defined as a contract whereby, for a stipulated consideration (a premium), one party undertakes to compensate the other for loss on a specified subject by specified perils. The party agreeing to make the compensation is called the "insurer" and, the other party is called the "insured." The written contract is known as the insurance policy.
2. **Insurance Transaction** - Means the solicitation of, or the preliminary negotiations, effecting a contract of insurance, and transacting matters subsequent to effecting a contract of insurance and arising out of it.
3. **Insurer** - The party that provides insurance coverage, typically through a contract of insurance.
4. **Reinsurance** - Means the acceptance by one or more insurers called reinsurers, of a portion of the risk underwritten by another insurer who has contracted for the entire risk. Reinsurance has sometimes been referred to as insurance for an insurer, whose purpose is to spread a large risk among other insurers to retain the financial integrity of the insurer who has contracted the entire risk.
5. **Domestic Company** - An insurer within the state it is chartered and in which its home office is located.
6. **Foreign Company** - An U.S. insurer operating in a state in which it is not chartered and in which its home office is not located.
7. **Alien Company** - An insurer incorporated or organized under the laws of any foreign nation, province or territory. The domicile of the home office of an Alien insurer is generally located in another country from the U.S.
8. **Fraternal Insurers** (a.k.a. as "fraternal benefit insurers") - Are nonprofit benevolent organizations that provide insurance to its members. Some commonly known fraternal insurers are Knights of Columbus, Lutheran Brotherhood, Woodmen of the World and Modern Woodmen.
9. **Authorized and Unauthorized Companies/Admitted and Non-admitted** - An authorized insurer is an insurer that has met the legal and financial requirements to commence operations in a given state. An authorized insurer has been given a license by a given state called a **Certificate of Authority**, authorizing that insurer to begin its operations. An authorized insurer is also known as an **admitted insurer** upon its receipt of a Certificate of Authority. An **unauthorized or non-admitted insurer** is an insurance company that has **not been licensed** (given a Certificate of Authority) to commence its operations in a given state.
10. **Stock and Mutual Companies** - A **stock insurer** is an insurance company owned and controlled by a group of stockholders whose investment in the company provides the safety margin necessary in issuance of guaranteed, fixed premium, nonparticipating policies. In other words, a stock insurer is owned by stockholders through whom capital was raised through the sale of stock. The stockholders receive "stock dividends" from their investment, and not policy dividends from any insurance purchase they make from the stock company. A stock company is also referred to as a "non-par/non-participating in dividends" company. A **mutual insurer** is an insurer characterized by having no capital stock; it is owned by its policyholders and usually issues participating insurance (insurance that issues policy dividends

to its insureds.) Note: Any dividend, stock or policy dividend is paid from the insurer's divisible surplus.

11. **Risk Retention Group** - A mutual insurance company formed to insure people in the same business, occupation or profession, for example, pharmacists, dentists or engineers.
12. **Unlicensed Entities** - The public needs to be aware that unlicensed entities (non-admitted insurers), do not come under the jurisdiction of the Florida Office of Insurance Regulation with regard to financial soundness, examination and approval of coverage types, or its advertising through the mail.
13. **Certificate of Authority** - This is the license issued by the Department of Insurance to qualified insurers granting those insurers the right to transact insurance in the state. Insurers receiving a certificate of authority are referred to as "authorized insurers or admitted insurers."

F. Licensing

1. **Purpose** - An insurance license, issued by a state department of insurance to a qualified individual, demonstrates to the public that the holder of the license is qualified to transact insurance in that state for the period covered by that license. In Florida, that period is two years, followed by the license renewal.
2. **Types of Licenses** - A **life insurance agent license** covers all classes of life insurance except that of limited credit insurance. A **health insurance agent license** covers all classes of health insurance except that of limited travel insurance. An agent wishing to *transact mortgage guarantee insurance* must be licensed and appointed as a credit insurance agent.
 - a. **Agent** - Anyone not a duly licensed broker who solicits insurance or aids in placing risks, delivering policies, or collecting premiums on behalf of an insurance company.
 - b. **Adjuster** - A person who has met the qualifications to be granted an "adjusters license" to act in behalf of an insurance company, or an insured in the determination and settlement of claims.
 - c. **Agency** - Any business location at which a properly licensed individual, firm, partnership, corporation, association or other entity (other than an insurer or an adjuster) engages in any activity or employs individuals to engage in any activity that by law, may be performed only by a licensed insurance agent.

Agency Licensing - Licensure is required for agencies that were in business on or after January 1, 2003. Additionally, the cited statute provides that "no individual, firm, partnership, corporation, association or any other entity may act as an insurance agency, unless it complies with Florida Statutes with respect to possessing an insurance agency license for each place of business at which it engages in any activity which may be performed only by a licensed insurance agent." (626.112(7)(a))

Each agency must have a licensed and appointed agent in full-time charge of each location. An agency license must be renewed three years from the original date of issue. There is no application fee associated with the issuance or renewal of the agency license. (626.747 F.S.)

NOTE: If an agency qualifies for registration and fails to file an application, the Department may impose an administrative penalty on the agency in an amount of up to \$5,000.

Each of these entities is required to secure the proper license by meeting the criteria established by the Insurance Commissioner and the Department of Insurance for each license. Applicants for a life, health or life and health license requires 40 hours of pre-licensure education and the successful passage of the state licensure examination. Failure by an applicant for the either of the above mentioned licenses, an applicant must wait 30 days to reapply and sit for the required licensure examination. In the case of an insurance agency, Florida law requires that an "agent-in-charge" must be designated to the Insurance Department to be in full time charge of **each** licensed agency location.

3. **Appointments** - Refers to the authorization or certification of an agent to act for, or represent an insurance company.

4. **Agent Licensing Requirements**

- The applicant must have attained the age of 18,
- The applicant must be a U.S. citizen or legal alien possessing a work authorization document issued from the U.S. Bureau of Citizenship and Immigration Services, and be a legitimate U.S. resident,
- Complete an approved 40 hour pre-licensure course in the line of insurance for which the applicant seeks a license,
- Pass a written licensure examination. Once an applicant is licensed, he or she must be appointed by an insurer as it's agent to transact insurance. The license is valid for a 2 year period. Licensing examinations may not be taken by an applicant more than five times in a 12 month period.
- Submit a set of fingerprints with the appropriate fee. The fingerprints will be used in criminal records background check as part of the process of verifying the applicant's qualifications for licensing.
- The applicant must include his Social Security number on his application for licensure that will be used for the sole purpose of conducting child support enforcement. This process is part of the background check that is conducted on all licensure candidates prior to their being approved for licensure by the Insurance Department.

5. **Maintaining a License**

- a. **Continuing Education** must be completed by an agent every two years. The current requirement is **24 hours of approved continuing education** including five hours of law and ethics and 19 hours of elective approved continuing education courses.
- b. **Communicating with the Insurance Department** - Licensees are required to report any change in telephone numbers, home, business, mailing address including email address, to Department of Financial Services **within 30 days** of the change (626.551)
- c. **Record Keeping** - Each licensee must keep and make available to the Department books, accounts, and records as will enable the Department to determine whether such licensee is complying with the provisions of this code. Every licensee must preserve books, accounts, and records pertaining to a premium payment for **at least three years** after payment; provided, however, the preservation of records by computer or photographic

reproductions or records in photographic form constitutes compliance with this requirement.

d. **Criminal and Administrative Actions:**

- **Procedure for Refusal, Suspension, or Revocation of License** - If any licensee is convicted by a court for a violation of the insurance code or a felony, the licenses and appointments of such person will be immediately revoked by the Department. The licensee may subsequently request a hearing provided by state law, the Department will expedite any such requested hearing. The sole issue at such hearing will be whether the revocation should be rescinded because such person was not in fact convicted of a violation of this code or a felony.
- **Duration of Suspension or Revocation** - The Department will, in its order suspending a license, appointment, or in its order suspending the eligibility of a person to hold, or apply for such license or appointment, specify the period during which the suspension is to be in effect, but such period **may not exceed two years**.
- **Surrender of License** - Though issued to a licensee, all licenses issued are at all times the property of the State of Florida; and, upon notice of any suspension, revocation, refusal to renew, failure to renew, expiration, or other termination of the license, such license will no longer be in force and effect.
- **Administrative Fine In Lieu of or in Addition To Suspension, Revocation, or Refusal of License, Appointment, or Disapproval** - If the Department finds that one or more grounds exist for the suspension, revocation, or refusal to issue, renew, or continue any individual license or appointment, the Department may, in its discretion, in lieu of or in addition to such suspension or revocation, or in lieu of such refusal, or disapproval, and except on a second offense or when such suspension, revocation, or refusal is mandatory, impose upon the licensee or appointee an administrative penalty in an amount **up to \$500** or, if the Department has found willful misconduct or willful violation on the part of the licensee or appointee, **up to \$3,500**. The administrative penalty may, in the discretion of the Department, be augmented by an amount equal to any commissions received by or accruing to the credit of the licensee or appointee in connection with any transaction as to which the grounds for suspension, revocation, or refusal related. The Department may allow the licensee or appointee a reasonable period, **not to exceed 30 days**, within which to pay the amount of the penalty so imposed. If the licensee or appointee fails to pay the penalty in its entirety to the Department within the period so allowed, the license, appointments, approval, or status of that person will stand suspended or revoked or issuance, renewal, or continuation will be refused, as the case may be, upon expiration of such period.
- **Probation** - If the Department finds that one or more grounds exist for the suspension, revocation, or refusal to renew or continue any license or appointment issued under this part, the Department may, in its discretion, except when an administrative fine is not permissible under state law or when such suspension, revocation, or refusal is mandatory, in lieu of or in addition to such suspension or revocation, or in lieu of such refusal, or in

connection with any administrative monetary penalty, place the offending licensee or appointee on probation for a period, not to exceed two years, as specified by the Department in its order.

- **Restitution** - If any ground exists for the suspension, revocation, or refusal of a license or appointment, the Department may, in addition to any other penalty authorized under this chapter, order the licensee to pay restitution to any person who has been deprived of money by the licensee's misappropriation, conversion, or unlawful withholding of moneys belonging to insurers, insureds, beneficiaries, or others. In no instance will the amount of restitution required to be paid under this section exceed the amount of money misappropriated, converted, or unlawfully withheld.

e. Appointments

Appointment of Agent or Other Representative - Each appointing entity or person designated by the Department to administer the appointment process appointing an agent, adjuster, or managing general agent in this state must file the appointment with the Department and, at the same time, pay the applicable appointment fee and taxes. Each appointing entity must advise the Department in writing within 15 days after it or its general agent, officer, or other official becomes aware that an appointee has pleaded guilty or nolo contendere to or has been found guilty of a felony after being appointed.

Any law enforcement agency or state attorney's office that is aware that an agent, adjuster, or managing general agent has pleaded guilty or nolo contendere to or has been found guilty of a felony must notify the Department of such fact.

Upon the filing of an information or indictment against an agent, adjuster, service representative, customer representative, or managing general agent, the state attorney must immediately furnish the Department a certified copy of the information or indictment.

Each licensee must advise the Department in writing within 30 days after having been found guilty of or having pleaded guilty or nolo contendere to a felony or a crime punishable by imprisonment of one year or more under the laws of the United States, any state of the United States, or any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases.

A 60-day notice must be sent to the appointee in case of termination. If the appointment is terminated the Department must be advised. As soon as possible and at all events within 30 days after terminating the appointment of an appointee, other than as to an appointment terminated by the appointing entity's failure to continue or renew it, the appointing entity must file written notice thereof with the Department, together with a statement that it has given the appointee notice thereof.

G. Agent Responsibilities

I. Fiduciary Capacity

- a. **Definition** – Fiduciary is a person or institution which has responsibility for the money, property or financial affairs of another. A person or institution acting as a fiduciary is acting in a fiduciary capacity.
- b. **Premium Accountability** – All premiums, return premiums, or other funds belonging to insurers or others received by an agent, insurance agency, or adjuster in transactions under the license are trust funds received by the licensee in a fiduciary capacity. An agent or insurance agency must keep the funds belonging to each insurer for which an agent is not appointed, other than a surplus lines insurer, in a separate account so as to allow the Department to properly audit such funds. The licensee in the applicable regular course of business must account for and pay the same to the insurer, insured, or other person entitled thereto. The licensee must keep and make available to the Department books, accounts, and records as will enable the Department to determine whether such licensee is complying with the provisions of this code
- c. **Separate Account Requirements** – Separate bank accounts are required. The **commingling** of the insured's and insurer's monies **is prohibited**.

2. Commissions and Compensation/Charges for Extra Services - It is unlawful to knowingly collect as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the office, and as specified in the policy.

3. Reply to DFS and/or Office of Insurance Regulation - Response to Department Inquiry: Every insurer, upon receiving any written or oral inquiry from the Department concerning a claim, must, **within 21 calendar days** of receipt of this inquiry, furnish the Department with an appropriate response. The Department may require a written response as it deems necessary.

4. Ethics – This is the conduct of an insurance agent toward insureds and insurers. Agents must be properly trained and educated in the lines of insurance sold, act responsibly in the handling of funds, must not misrepresent the insurance contracts and must always serve the needs of the client.

H. Insurance Guaranty Fund/Associations

All states have established guaranty funds or guaranty associations to support insurers and to protect policyholders and beneficiaries if an insurer becomes insolvent. Should an insurer become insolvent and does not have the financial ability to pay its claims, the State Guaranty Association will step in and begin paying the unpaid claims to the policyholders and beneficiaries their respective claim amounts up to certain dollar limits. These guaranty associations or funds are funded by the admitted/authorized insurers through assessments made by the Departments of Insurance when an authorized insurer becomes insolvent.

Powers and Duties of the Association

- If an authorized insurer becomes an impaired insurer, the Association may, subject to the approval of the impaired insurer and the Department of Insurance;
- Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer; and
- Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate and assure payment of the contractual obligations of the impaired insurer, up to the liability assumed by the Association.

The Association's Liability - The Association's liability for the contractual obligations of the insolvent insurer will be as great as, but no greater than, the contractual obligations of the insurer in the absence of such insolvency, unless such obligations are reduced as permitted, but the aggregate liability of the Association will not exceed;

- \$100,000 in net cash surrender and net cash withdrawal values for life insurance,
- \$250,000 in net cash surrender and net cash surrender and net cash withdrawal values for deferred annuity contracts, or
- \$300,000 for all benefits including cash values, with respect to any on life.

In no event will the Association be liable for any penalties or interest.

The Association, when dealing only with life and health insurance policies may make substitute coverage on an individual or group basis available to each known insured, or owner if other than the insured, or to an individual who is insured under a group policy as of the date the association became obligated and who is not eligible for replacement group coverage. When providing the substitute coverage, the Association may offer either to reissue the terminated policy or to issue an alternative policy without requiring evidence of insurability or any waiting period or exclusion that would not have applied under the terminated policy.

Alternative or reissued policies must contain at least the minimum statutory provisions required under the code and provide benefits that are reasonable with respect to the premium charged. The Association will set the premium in accordance with a table of rates adopted by the association. The premium must reflect the amount of insurance to be provided and the age and class of risk of each insured, but may not reflect any changes in the health of the insured occurring since the original policy was last underwritten.

I. Marketing Practices

I. Unfair Methods of Competition

a. **Sliding** - Sliding is the act or practice of:

1. Representing to the applicant that a specific ancillary coverage or product is required by law in conjunction with the purchase of insurance when such coverage or product is not required;
2. Representing to the applicant that a specific ancillary coverage or product is included in the policy applied for without an additional charge when such charge is required; or

3. Charging an applicant for a specific ancillary coverage or product, in addition to the cost of the insurance coverage applied for, without the informed consent of the applicant.
- b. **Coercion** - A person may not enter into any agreement to commit any act of coercion, intimidation or boycott resulting in unreasonable restraint of, or monopoly in the business of insurance.
- c. **Misrepresentation** - No person may make, issue, circulate or cause to be made, issued or circulated, any estimate, circular, statement, sales presentation, omission or comparison which:
- Misrepresents the benefits, advantages, conditions or terms of any insurance policy.
 - Is misleading or is a misrepresentation as to the financial condition of any person.
 - Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.
- d. **Defamation** - Any false or malicious communication, written or oral, that injures another's reputation, fame or character. Individuals and companies both can be defamed. Unethical agents practice defamation by spreading rumors or falsehoods about the character of a competing agent or the financial condition of another insurance company. Both of these actions are considered illegal.
- e. **False Advertising** - No person may make, publish circulate or place before the public, or cause, directly or indirectly, to be made published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice circular, pamphlet, letter or poster or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business, which is untrue, deceptive or misleading.
- f. **Unfair Discrimination** - Neither agents or insurance companies are permitted to discriminate against perspective insureds. This means that a person cannot be given a different rate for coverage than a person in identical circumstances. They may not discriminate because of race, religion, kind of occupation, where they live or their financial status.
- g. **Other Unfair Practices** – This includes a variety of items among which is the fact that the agent is acting in a fiduciary capacity and is not permitted to co-mingle the insured's or insurer's funds with their own.