

CHAPTER 640
FINANCIAL RESPONSIBILITY
[Prior to 6/3/87, Transportation Department[820]—(07,C)Ch 14]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

761—640.1(321A) General provisions.

640.1(1) Definitions. The definitions contained in Iowa Code section 321A.1 are hereby adopted. In addition:

“*Department*” means the Iowa department of transportation.

“*Security*” means an amount of money sufficient in the determination of the department to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against the operator or owner. Security is subject to the limitations and requirements of Iowa Code sections 321A.5 and 321A.9.

640.1(2) Exceptions. Except for accident reporting requirements, this chapter of rules does not apply to the owners or operators of motor vehicles excepted by Iowa Code section 321A.33. To establish availability of an exception, the person required to show proof shall submit to the department a letter from the owner of the motor vehicle authorizing the person to use the motor vehicle.

640.1(3) Submissions and information. Except as otherwise provided in this chapter, required submissions shall be either mailed to the Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)239-1837. Information about the motor vehicle financial responsibility law in Iowa Code chapter 321A is available from these sources or by telephone at (515)244-8725.

This rule is intended to implement Iowa Code sections 17A.3, 321A.1 and 321A.33.

[ARC 4803C, IAB 12/4/19, effective 1/8/20; ARC 7008C, IAB 5/3/23, effective 6/7/23]

761—640.2(321A) Hearing and appeal process. A person who is aggrieved by an action of the department implementing Iowa Code sections 321A.4 to 321A.11 may contest the action in accordance with rule 761—615.38(17A,321). The administrative law judge in a contested case hearing may subpoena witnesses and conduct any investigation deemed necessary to:

640.2(1) Determine if the person is properly identified with the accident.

640.2(2) Determine if there is any reasonable possibility that judgment could be rendered against the person.

640.2(3) Determine if the person is entitled to any exceptions provided by law.

640.2(4) Determine if the security required following an accident is reasonable and make adjustments deemed necessary or proper.

This rule is intended to implement Iowa Code chapter 17A and section 321A.2.

761—640.3(321A) Accident reporting requirements. Accident reporting requirements are specified in Iowa Code section 321.266 and on Form 433002, “Iowa Accident Report Form,” which is available from law enforcement officers, driver’s license service centers, or from the motor vehicle division at the address in subrule 640.1(3).

This rule is intended to implement Iowa Code sections 321.266, 321.269 and 321A.4.

[ARC 4803C, IAB 12/4/19, effective 1/8/20; ARC 7008C, IAB 5/3/23, effective 6/7/23]

761—640.4(321A) Security required following accident. Following an accident, security is required pursuant to Iowa Code section 321A.5. For the purposes of determining the 60-day time frame under Iowa Code section 321A.5(1), a “report of a motor vehicle accident” includes a new or amended law enforcement officer accident report submitted to the department under Iowa Code section 321.266(3); a new or amended driver accident report, Form 433002, submitted to the department under Iowa Code section 321.266(2); any supplemental report submitted to the department under Iowa Code section 321.267; proof of transfer of ownership of a vehicle involved in the accident that occurred prior to the date of the accident; proof of identity of a driver incorrectly identified in an initial accident report; or proof of loss submitted by an insurance carrier authorized to transact insurance business in Iowa or its authorized

subrogation provider. Nothing in this rule shall be construed to extend the duration of a suspension issued under Iowa Code section 321A.5 beyond the period authorized in Iowa Code section 321A.7.

640.4(1) *Suspension.*

a. If the security requirements of Iowa Code section 321A.5 are not met, the department shall suspend all licenses of the driver and all registrations of the owner.

b. The suspension shall become effective 30 days after a suspension notice is served pursuant to rule 761—615.37(321). The notice shall inform the person of the amount of security required. The duration of the suspension is provided in Iowa Code section 321A.7. When the suspension ends, the department shall issue to the person a notice terminating the suspension.

640.4(2) Reserved.

640.4(3) *Security—amounts and type.*

a. The amount of security required of the uninsured driver and owner shall be determined from reports of the drivers involved in the accident, reports of investigating officers and from supplemental information obtained from persons involved in the accident concerning amounts of damage and injury sustained. Form 431074, “Insurance Request Letter,” may be mailed to parties to the accident for supplemental information. The security required shall not be increased after the suspension notice has been served, but may be reduced if evidence of exact costs is submitted to the department. The amount of security shall not exceed the minimum limits of liability for death or injury specified in Iowa Code chapter 321A.

b. The security shall be deposited with the department at the address in subrule 640.1(3). The department shall issue to the depositor a receipt when the security is received. Security shall be one of the following types:

(1) Cash.

(2) Cashier’s check, certified check, bank draft, or postal money order payable to: Treasurer, State of Iowa.

(3) Surety bond issued by a company authorized to transact insurance business in Iowa.

640.4(4) *Security disposition.*

a. Security is held by the state treasurer and can be released only for payment of a judgment or as otherwise provided in Iowa Code section 321A.10; or by a court, including by Form 431097, “Order for Release of Security”; or by Form 433010, “Assignment and Release.”

b. The security can be refunded at any time as follows:

(1) When compliance as provided in subrule 640.4(5) is presented to the motor vehicle division at the address in subrule 640.1(3); or

(2) When, after one year has elapsed from the date of the accident, Form 433007, “Affidavit for Reinstatement or Refund of Security,” is completed by the depositor, the form indicates that no action has been initiated or judgment rendered, and the form is submitted to the motor vehicle division. Upon receipt of the form, the motor vehicle division may confirm the facts contained therein with the district court of the county where the accident occurred or any other court of competent jurisdiction.

640.4(5) *Exceptions to requirement of security.* A person who meets the requirements under Iowa Code section 321A.6(1) or 321A.6(2) is exempt from security requirements. A person who qualifies for an exception under Iowa Code section 321A.6(3), 321A.6(4) or 321A.7(3) must submit proof to the department at the address in subrule 640.1(3) showing that the person qualifies for the applicable exception as follows:

a. *General release from liability.* To qualify for this exception, a person shall submit Form 431036, “General Release.” The signature of the party giving the release shall be notarized or witnessed by a disinterested person. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than the party sustaining damage or injury. If the party giving release is a minor, the release shall be signed by the parent or legal guardian of the minor. The department may accept an equivalent alternative form to prove a person’s general release from liability.

b. *Duly acknowledged written agreement release.* To qualify for this exception, a person shall submit Form 181301, “Agreement.” Complete information shall be provided on the form including the total amount of settlement agreed upon by the parties involved and a release of liability upon fulfillment of

payments. The signatures of all parties to the agreement shall be notarized. The release shall be accompanied by a power of attorney or subrogation authority if signed by a person other than a party sustaining damage or injury. If the party giving release is a minor, the release shall be signed by the parent or legal guardian of the minor. This documentation demonstrates compliance only for a party who has agreed to make payment and whose signature appears on the agreement release. The department may accept an equivalent alternative form to prove that a person has executed a duly acknowledged written agreement.

c. Court-certified confession of judgment. To qualify for this exception, a person shall submit a court-certified copy of a confession of judgment, which must include the total sum to be paid, the payment schedule agreed to by the parties, the signature of both parties, and proof of loss if the judgment is to be paid to a subrogation authority.

d. Accord and satisfaction. To qualify for this exception, a person shall submit documentation that one party to an accident or the party's insurance carrier has accepted liability for the accident and has compensated the other party to the accident for damages and injuries. This documentation does not demonstrate compliance for a third party.

e. Covenant not to sue. To qualify for this exception, a person shall submit documentation of a covenant not to sue that is given to a party to an accident as compliance by another party to the accident when a release would damage any claim against a third party.

f. Proof of no-fault or no reasonable possibility of judgment. To qualify for this exception, a person shall submit proof that the person is not at fault for the accident or that there is no reasonable possibility of judgment being rendered against a person in any of the following ways:

- (1) The investigating officer's report of the accident indicates the other driver caused the accident.
- (2) The other driver admits causing the accident.
- (3) Witness statements indicate the other driver caused the accident.
- (4) The other driver is convicted of a violation which caused the accident.

g. Adjudication of nonliability. To qualify for this exception, a person shall submit a certified copy of a final court judgment that is rendered in a civil damage action resulting from the accident and that relieves the person of any obligation to pay damages.

h. Bankruptcy. To qualify for this exception, a person shall submit a copy of the decree for bankruptcy showing that all possible claims against the person arising from the accident have been scheduled in the bankruptcy decree.

i. Owner exception under Iowa Code section 321A.6(3). To qualify for this exception, a vehicle owner shall submit documentation that the vehicle was being operated at the time of an accident without the owner's permission, express or implied. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

- (1) A police report indicating the vehicle was stolen.
- (2) Proof of the driver's conviction of operating the vehicle without the owner's consent at the time of the accident.
- (3) A sworn affidavit that the vehicle was being operated without permission at the time of the accident.
- (4) A witness affidavit that the driver had been denied use of the vehicle.

j. Owner exception for vehicle sale. To qualify for this exception, a vehicle owner shall submit documentation that the vehicle owner had sold the vehicle involved in the accident and the title had been reassigned to the new owner, but departmental records did not yet show that the title had been transferred when the accident occurred. This exception does not apply to a person who was driving the vehicle at the time of the accident. Acceptable documentation includes the following:

- (1) Form 431125, "Affidavit of Seller," completed by both the buyer and seller with signatures notarized or attested to by a member of the department, unless the seller certifies under penalty of perjury that the buyer's signature could not be obtained and provides evidence to the satisfaction of the department that supports this certification.

(2) A sworn affidavit by the seller and witnesses to the sale, if any, that the vehicle had been sold, including a description of the vehicle, the date of the sale, the monetary consideration, facts concerning the assignment of title and delivery of possession, and the names of witnesses to the sale, if any.

k. Owner exception for vehicle transfer. To qualify for this exception, a vehicle owner shall submit certified copies of any court order by which ownership of a vehicle was awarded to another party prior to the date of the accident. This exception does not apply to a person who was driving the vehicle at the time of the accident.

This rule is intended to implement Iowa Code sections 321A.4 to 321A.11 and 321A.31.

[ARC 4803C, IAB 12/4/19, effective 1/8/20; ARC 7008C, IAB 5/3/23, effective 6/7/23]

761—640.5(321A) Judgments. A suspension of license and registrations is required under Iowa Code section 321A.13 when the department receives from the clerk of court a certification of judgment which has remained unsatisfied for at least 60 days pursuant to Iowa Code section 321A.12. Form 431126, “Certification of Judgment,” may be used by the clerk of court to report a certified judgment to the department.

640.5(1) Suspension. The suspension becomes effective on the date the suspension notice is served pursuant to rule 761—615.37(321). The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until the judgment is satisfied and proof of financial responsibility is shown. The duration of the suspension is provided in Iowa Code section 321A.14. When the suspension ends, the department shall issue to the person a notice terminating the suspension.

640.5(2) Suspension—exceptions. A person who qualifies for an exception under Iowa Code section 321A.13, 321A.14 or 321A.16 must submit proof to the department at the address in subrule 640.1(3) that the person qualifies for the applicable exception in one of the following ways:

a. Creditor’s consent. To qualify for this exception, the judgment debtor must obtain written consent from the judgment creditor for issuance of the debtor’s license and registrations while paying the judgment. If this consent is withdrawn, a new suspension is required in accordance with subrule 640.5(1).

b. Satisfaction of judgment. To qualify for this exception, the judgment debtor must submit a certificate of satisfaction or receipt for payment of the judgment from the clerk of court.

c. Bankruptcy. To qualify for this exception, the judgment debtor must submit a copy of the decree for bankruptcy which includes the judgment debt.

d. Court order for installment payments. To qualify for this exception, the judgment debtor must submit a court order authorizing payment of the judgment in installments. A new suspension, as provided in subrule 640.5(1), is required when the department receives notice of a default in the payments. The default suspension shall continue until the judgment is satisfied or a new court order authorizing payment of the judgment in installments is received.

e. Insurance coverage exception. To qualify for this exception, the judgment debtor who held effective liability insurance coverage at the time of the accident from which the judgment was rendered shall submit a copy of the insurance policy and a letter from the insurance carrier confirming that the insurance carrier was authorized to issue liability insurance, that the insurance carrier did provide coverage for the debtor in amounts required by the financial responsibility law, and the reason why the insurance carrier has not paid such judgment.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29 and 321A.31.

[ARC 4803C, IAB 12/4/19, effective 1/8/20; ARC 7008C, IAB 5/3/23, effective 6/7/23]

761—640.6(321A) Proof of financial responsibility. Proof of financial responsibility is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. A person’s driver’s license or nonresident operating privilege shall remain suspended or revoked until the person has filed proof of financial responsibility with the department. In addition, a person’s motor vehicle registrations shall remain suspended until the person has filed with the department proof of financial responsibility for all motor vehicles registered to that person.

640.6(1) Duration of proof of financial responsibility. Proof of financial responsibility is required for two years starting on the effective date of the person’s last suspension or revocation that qualifies under Iowa Code section 321A.17. The requirement terminates if the person required to give proof dies or

becomes incapable of operating a motor vehicle, or surrenders the driver's license and the plates of all vehicles registered in the person's name to the department. Reinstatement of the person's driver's license or nonresident operating privilege and motor vehicle registrations within the two-year requirement is possible only if the person refiles such proof.

640.6(2) *Methods of giving proof of financial responsibility.*

a. Proof of financial responsibility may be shown by a liability insurance certificate pursuant to Iowa Code section 321A.19. Form SR-22, "AAMVA Uniform Financial Responsibility Form," is required as the form of the certificate except when proof of financial responsibility is submitted electronically in a format approved by the department. The form may describe an owner's or operator's policy and shall identify the policyholder by name, address, driver's license number and birth date. The effective date of the policy shall be the same as the effective date on the form. The vehicles covered shall be identified by year, make, model and vehicle identification number. The form shall be certified in accordance with the Iowa financial responsibility law by an insurance carrier authorized to transact insurance business in Iowa or by an insurance carrier authorized by power of attorney. The policy shall be canceled only as provided in Iowa Code section 321A.22. Certification of coverage for an owner's policy authorizes the policyholder to have registrations for the described vehicles. Certification of coverage for an operator's policy does not authorize registrations.

b. Proof of financial responsibility may be given for a person who is an operator in the employ of the owner of the motor vehicle, or who is a member of the immediate family or household of the owner pursuant to Iowa Code section 321A.26, if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. In addition to the requirements in paragraph 640.6(2) "a," the proof of financial responsibility shall identify both the policyholder and the person for whom proof of financial responsibility is given. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

c. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles, if the owner's insurance carrier certifies for the person required to show proof of financial responsibility. Form SR-23, "AAMVA Uniform Financial Responsibility Form," is required as the form of the certificate except when proof of financial responsibility is submitted electronically in a format approved by the department. The form shall identify the policyholder's name and address, policy number, policy dates and effective date. This certification does not authorize the person required to give proof of financial responsibility to register a motor vehicle.

d. Proof of financial responsibility may be given for a person who is an operator in the employ of an owner who has qualified as a self-insurer pursuant to Iowa Code section 321A.34. A certificate of self-insurance may be issued by the department to a person in whose name more than 25 vehicles are registered and who submits a financial statement which is found to be satisfactory to the department. Form SR-1, "Application for Self Insurance," shall be completed and submitted to the department with a list of all the owner's motor vehicles registered in Iowa identified by make, year, model and vehicle identification number. When the application is approved, the department shall issue Form SR-2, "Self Insurance Certificate." Failure to pay a judgment pursuant to Iowa Code section 321A.34 or failure to submit an annual financial statement shall be reasonable grounds for cancellation of the certificate.

640.6(3) *Proof of financial responsibility restriction.* When a person has filed satisfactory proof of financial responsibility in accordance with subrule 640.6(2), and the person applies for and is otherwise eligible for a driver's license, the department shall issue the driver's license with a restriction indicating that the person is subject to proof of financial responsibility requirements. The restriction code shall be the same as described in 761—subrule 605.8(1).

640.6(4) *Terminating the suspension upon filing of proof of financial responsibility.* When proof of financial responsibility is provided under subrule 640.6(2) and the person is otherwise eligible for licensing or registration, the department shall issue a notice terminating the suspension to the person whose privileges were suspended under Iowa Code section 321A.13, 321A.14, 321A.16 or 321A.17 or rule 761—640.5(321A) or 761—640.6(321A). To regain operating privileges, the person shall pass the required examinations and pay the required fees. The person's operating and registration privileges are restricted to the motor vehicles covered under the proof of financial responsibility filed by the applicant,

except that a person required to give proof of financial responsibility who holds proof of financial responsibility as an operator may operate a nonowned vehicle provided the owner of that vehicle has liability coverage required under Iowa Code chapter 321A.

640.6(5) *Cancellation of proof of financial responsibility.* An insurance carrier shall only cancel or terminate a certificate of insurance pursuant to Iowa Code section 321A.22. The cancellation shall be certified by an authorized insurance carrier representative on Form SR-26, "AAMVA Uniform Financial Responsibility Form," except when cancellation of proof of financial responsibility is submitted electronically in a format approved by the department. The cancellation of proof of financial responsibility shall identify the proof of financial responsibility certificate to be canceled by name and address of the person, social security number, birth date, driver's license number, number of the policy to be canceled and the effective date of cancellation.

640.6(6) *Suspension when proof of financial responsibility is canceled.*

a. When a person's proof of financial responsibility is canceled, the person shall immediately refile proof of financial responsibility or surrender the license and registrations to the department.

b. If the person fails to refile proof of financial responsibility, a suspension notice shall be served in accordance with rule 761—615.37(321). The effective date of the suspension shall be the date the notice is served. The notice shall inform the person that the privilege to operate and register motor vehicles in Iowa is suspended until proof of financial responsibility is refiled. When the person refiles proof of financial responsibility, the department shall issue to the person a notice terminating the suspension.

640.6(7) *Terminating the proof of financial responsibility requirement.* A notice terminating the requirement to maintain proof of financial responsibility shall be issued to a person who has satisfied proof of financial responsibility requirements pursuant to Iowa Code section 321A.29. The form shall notify the person that proof of financial responsibility is no longer required and that the person may operate and register motor vehicles without maintaining and filing with the department proof of financial responsibility. If the person's driver's license is still valid, the person may obtain a duplicate driver's license without the restriction under subrule 640.6(3). If the driver's license has expired or has not been reinstated and the person is otherwise eligible for licensing, the person shall pass the required examinations and pay the required fees.

640.6(8) *Electronic submission of proof of financial responsibility and cancellation of proof of financial responsibility.* Prior to July 1, 2021, an insurance carrier authorized to transact business in the state of Iowa may electronically submit proof of financial responsibility and cancellation of proof of financial responsibility in a format approved by the department. An insurance carrier that submits proof of financial responsibility or cancellation of proof of financial responsibility under this rule shall implement electronic submission of such proof no later than July 1, 2021. As of July 1, 2021, no paper submissions of such proof shall be accepted by the department from the insurance carrier, and all submissions of proof of financial responsibility and cancellation of proof of financial responsibility shall be submitted electronically in a format approved by the department.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29, 321A.31 and 321A.34.

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761—640.7(321A) Transfer of suspended registration. A person whose motor vehicle registration privileges have been suspended may make a bona fide sale pursuant to Iowa Code sections 321.493 and 321A.30. The department shall release the suspended registration to permit the registration of the motor vehicle by the purchaser when presented with either the seller's sworn statement on Form 411107, "Notice of Sale of Vehicle and Delivery of Title," or confirmation from the county treasurer that the sale has been made and release of the registration is necessary to complete the transfer of title.

This rule is intended to implement Iowa Code sections 321.493 and 321A.30.

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