

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

761—640.1(321A) General provisions.

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

- a. “Department” means the Iowa department of transportation.
- b. Reserved.

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. All required submissions shall be either mailed to the Office of Driver Services, Iowa Department of Transportation, P.O. Box 9235, Des Moines, Iowa 50306-9235; delivered in person to 6310 SE Convenience Blvd., Ankeny, Iowa; or sent by facsimile to (515)237-3071. Information about the financial responsibility law is available from these sources or by telephone at (800)532-1121.

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

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 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 examination stations, or from the office of driver services at the address in subrule 640.1(3).

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

761—640.4(321A) Security required following accident. Following an accident, security is required pursuant to Iowa Code section 321A.5.

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 a suspension termination notice to the person.

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 431020 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 office of driver services at the address in subrule 640.1(3). The department shall issue to the depositor a receipt when the security is received. The depositor shall surrender the receipt when a refund is requested. 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 "Order for Release of Security," Form 431097, or by "Assignment and Release," Form 433010.

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

- (1) When compliance as provided in 640.4(5) is presented to the office of driver services; or
- (2) When Form 433007, "District Court Affidavit," is completed by the clerk of the district court of the county where the accident occurred, the form indicates that no action has been initiated or judgment rendered, and the form is submitted to the office of driver services.

640.4(5) *Exceptions to requirement of security.* Compliance can be shown as follows: general releases, agreement releases, confession of judgment, accord and satisfaction, covenant not to sue, no-fault or no reasonable possibility of judgment, adjudication nonliability, and bankruptcy.

a. General release. Form 431036, "General Release," may be obtained from the office of driver services at the address in subrule 640.1(3). 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.

b. Agreement release. Form 181301, "Agreement Release," may be obtained from the office of driver services at the address in subrule 640.1(3). 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. Compliance shall be credited only to a party who has agreed to make payment and whose signature appears on the agreement release.

c. Confession of judgment. A court certified copy of a confession of judgment including the payment schedule agreed to by the parties is acceptable compliance. No specific form is provided by the office of driver services.

d. Accord and satisfaction. Accord and satisfaction may be shown by 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 serve as compliance for a third party.

e. Covenant not to sue. A covenant not to sue can be 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. No-fault or no reasonable possibility of judgment. Security cannot be required of a person if there is no reasonable possibility that judgment could be rendered against such person. Freedom from fault or immunity from judgment is acceptable compliance when presented in the following manner:

- (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. Adjudication of nonliability may be shown by a certified copy of a final court judgment that is rendered in a civil damage action resulting from the accident and that relieves the uninsured of any obligation to pay damages.

h. Bankruptcy. Security is not required of a person when all possible claims against the person arising from the accident have been scheduled in the bankruptcy petition. To establish this exception, the person shall submit a copy of the petition for bankruptcy to the office of driver services at the address in subrule 640.1(3).

640.4(6) Owner exceptions—requirements.

a. An owner can be excepted from the security requirements if the vehicle was being used at the time of an accident without the owner's consent. The owner may qualify for this exception if the police report indicates the vehicle was stolen, or if the driver was convicted of operating without the owner's consent. In the absence of such police report or conviction, the owner may furnish a sworn affidavit that the vehicle was operated without permission or the owner may furnish affidavits of witnesses that the driver had been denied use of the vehicle.

b. A person may be exempted from the security requirements applicable to an owner if the motor vehicle had been sold but the title had not been transferred when the accident occurred.

(1) The person who sold the motor vehicle may qualify for this exemption by submitting to the department an "Affidavit of Buyer-Seller," Form 431125. This form must be completed by both the buyer and seller with signatures notarized or attested to by an officer of the department.

(2) A sworn affidavit by the seller and witnesses to the sale that the vehicle had been sold may be furnished in lieu of Form 431125. The affidavit must include 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.

c. Ownership transferred by operation of law can be shown by furnishing certified copies of any court order by which ownership of a vehicle was awarded to another party.

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

761—640.5(321A) Judgments. A suspension of license and registrations is required when the department receives a certified copy of a judgment which has remained unsatisfied for at least 60 days.

640.5(1) Suspension. The suspension becomes effective on the date Form 431010, a suspension notice, is served pursuant to 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 Form 431009, a suspension termination notice.

640.5(2) Suspension—exceptions.

a. Creditor's consent. The judgment debtor may request consent from the judgment creditor for issuance of the debtor's license and registrations while paying the judgment. If the creditor consents in writing and the debtor provides proof of financial responsibility, the suspension shall be terminated. If this consent is withdrawn, a new suspension is required in accordance with subrule 640.5(1).

b. Satisfaction of judgment. The judgment suspension will be terminated when the debtor obtains from the clerk of court a certificate of satisfaction or receipt for payment of the judgment and presents the certificate or receipt to the department and files proof of financial responsibility.

c. Bankruptcy. If the debtor submits to the department a copy of the petition for bankruptcy which includes the judgment debt, the department shall terminate the suspension.

d. Court order for installment payments. If the debtor submits to the department a court order authorizing payment of the judgment in installments and files proof of financial responsibility, the department shall terminate the suspension. 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 continues until the judgment is satisfied.

e. Insurance coverage exception. The debtor can be relieved of the suspension if there was liability insurance coverage in effect at the time of the accident from which the judgment was rendered. The

requirements are the same as provided in Iowa Code section 321A.13. The department will accept a letter from the insurance carrier confirming that they were authorized to issue liability insurance and that they did provide coverage for the debtor in amounts required by the financial responsibility law.

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

761—640.6(321A) Proof of financial responsibility for the future. Proof of financial responsibility for the future is required pursuant to Iowa Code sections 321A.13, 321A.14, 321A.16 and 321A.17. Unless the person has filed proof of financial responsibility for all motor vehicles registered to that person, the department shall also suspend the person's motor vehicle registrations.

640.6(1) Duration of proof. Proof of financial responsibility is required for two years starting on the effective date of the person's last suspension or revocation. The requirement terminates if the person required to give proof dies or becomes incapable of operating a motor vehicle, or surrenders license and plates to the department. Reinstatement within the two-year requirement is possible only if the person refiles such proof.

640.6(2) Methods of giving proof.

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. The form may describe an owner's or operator's policy and shall identify the policyholder by name, address, driver 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 a company 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.

(1) In lieu of Form SR-22, the department shall accept a copy of the form if the copy is no larger than 8½ by 11 inches and is generated by a process that produces an unaltered image or reproduction, except for size and color, of Form SR-22.

(2) In lieu of Form SR-22, the department shall accept an electronic record if the format of the record is approved by the department.

b. Proof 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 company certifies Form SR-22 for the person required to show proof. The requirements are given in paragraph 640.6(2) "a" except that the form shall identify both the policyholder and the person for whom proof is given. This certification does not authorize the person required to give proof to register a motor vehicle.

c. Proof may be given for a person who is an operator in the employ of an owner of a fleet of motor vehicles on Form SR-23, "AAMVA Uniform Financial Responsibility Form." 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 to register a motor vehicle.

d. Proof 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) Rescinded, effective 1/26/83.

640.6(4) *Terminating the suspension upon filing of proof.* When future proof of financial responsibility is shown and the person is otherwise eligible for licensing, the department shall issue Form 431009, a suspension termination notice, to the person whose privileges were suspended under Iowa Code sections 321A.13, 321A.14, 321A.16 or 321A.17 or rules 640.5(321A) and 640.6(321A). To regain operating privileges, the person shall appear before an Iowa driver license examiner, 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.

640.6(5) *Cancellation of future proof.* 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 company representative on Form SR-26, "AAMVA Uniform Financial Responsibility." The Form SR-26 shall identify the SR-22 or SR-23 certificate to be canceled by name and address of the person, social security number, birth date, driver license number, number of the policy to be canceled and the effective date of cancellation.

640.6(6) *Suspension when future proof is canceled.*

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

b. If the person fails to refile, Form 431010, a suspension notice, shall be served in accordance with 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 future proof is refiled. When the person refiles future proof, the department shall issue to the person Form 431009, a suspension termination notice.

640.6(7) *Terminating the two-year proof requirement.* Form 431009, a suspension termination notice, shall be issued to a person who has completed future proof requirements. The form shall notify the person that proof is no longer required and that the person may operate and register motor vehicles without the proof restrictions. If the person's license is still valid, the person shall appear before an Iowa driver license examiner to obtain a duplicate license without the proof restrictions. If the 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. The suspension termination notice may also be presented to the county treasurer to obtain a new registration.

This rule is intended to implement Iowa Code sections 321A.12 to 321A.29, 321A.31 and 321A.34. [ARC 7902B, IAB 7/1/09, effective 8/5/09]

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 433015, "Affidavit of Bona Fide Sale," 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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