

40-247. Insurance agent or broker failing to pay premium to company; penalty. (a) An insurance agent or broker who acts in negotiating or renewing or continuing a contract of insurance including any type of annuity by an insurance company lawfully doing business in this state, and who receives any money or substitute for money as a premium for such a contract from the insured, whether such agent or broker shall be entitled to an interest in same or otherwise, shall be deemed to hold such premium in trust for the company making the contract. If such agent or broker fails to pay the same over to the company after written demand made upon such agent or broker, less such agent's or broker's commission and any deductions, to which by the written consent of the company such agent or broker may be entitled, such failure shall be prima facie evidence that such agent or broker has used or applied the premium for a purpose other than paying the same over to the company.

(b) (1) An agent or broker who violates the provisions of this section shall be guilty of a:

(A) Severity level 7, nonperson felony if the value of the insurance premium is \$25,000 or more;

(B) severity level 9, nonperson felony if the value of the insurance premium is at least \$1,000 but less than \$25,000; or

(C) class A nonperson misdemeanor if the value of the insurance premium is less than \$1,000.

(2) If the value of the insurance premium is less than \$1,000 and such agent or broker has, within five years immediately preceding commission of the crime, been convicted of violating this section two or more times shall be guilty of a severity level 9, nonperson felony.

History: L. 1927, ch. 231, 40-247; L. 1992, ch. 288, § 10; L. 1993, ch. 291, § 226; L. 1994, ch. 291, § 73; L. 2006, ch. 194, § 28; May 25.