



310484

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2013	.	
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The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 144 - 305
and insert:

Section 3. Subsection (2) of section 624.34, Florida Statutes, is amended to read:

624.34 Authority of Department of Law Enforcement to accept fingerprints of, and exchange criminal history records with respect to, certain persons.—

(2) The Department of Law Enforcement may accept fingerprints of individuals who apply for a license as an agent, customer representative, adjuster, service representative,



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13 navigator, or managing general agent or the fingerprints of the
14 majority owner, sole proprietor, partners, officers, and
15 directors of a corporation or other legal entity that applies
16 for licensure with the department or office under ~~the provisions~~
17 ~~of~~ the Florida Insurance Code.

18 Section 4. The Division of Law Revision and Information is
19 directed to create part XII of chapter 626, Florida Statutes,
20 consisting of ss. 626.995-626.9958, Florida Statutes, and to
21 entitle that part "Navigators."

22 Section 5. Section 626.995, Florida Statutes, is created to
23 read:

24 626.995 Scope of part.-This part applies only to
25 navigators.

26 Section 6. Section 626.9951, Florida Statutes, is created
27 to read:

28 626.9951 Definitions.-As used in this part, the term:

29 (1) "Exchange" means an exchange established for this state
30 under PPACA.

31 (2) "Financial services business" means a financial
32 activity regulated by the Department of Financial Services, the
33 Office of Insurance Regulation, or the Office of Financial
34 Regulation.

35 (3) "Navigator" means an individual authorized by an
36 exchange to serve as a navigator, or who works on behalf of an
37 entity authorized by an exchange to serve as a navigator,
38 pursuant to 42 U.S.C. s. 18031(i) (1), who facilitates the
39 selection of a qualified health plan through the exchange and
40 performs any other duties specified under 42 U.S.C. s.
41 18031(i) (3).



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42 (4) "PPACA" has the same meaning as in s. 627.402.

43 Section 7. Section 626.9952, Florida Statutes, is created
44 to read:

45 626.9952 Registration required; purpose.-

46 (1) Beginning August 1, 2013, an individual may not act as,
47 offer to act as, or advertise any service as a navigator unless
48 registered with the department under this part.

49 (2) The purpose of registration is to identify qualified
50 individuals to assist the insurance-buying public in selecting a
51 qualified health plan through an exchange by providing fair,
52 accurate, and impartial information regarding qualified health
53 plans and the availability of premium tax credits and cost-
54 sharing reductions for such plans, and to protect the public
55 from unauthorized activities or conduct.

56 Section 8. Sections 626.9953, Florida Statutes, is created
57 to read:

58 626.9953 Qualifications for registration; application
59 required.-

60 (1) The department may not approve the registration of an
61 individual as a navigator who is found by the department to be
62 untrustworthy or incompetent, and who does not meet the
63 following requirements:

64 (a) Is a natural person at least 18 years of age;

65 (b) Is a United States citizen or legal alien who possesses
66 work authorization from the United States Bureau of Citizenship
67 and Immigration Services;

68 (c) Has successfully completed all training for a navigator
69 as required by the federal government or the exchange.

70 (2) To be registered as a navigator, an applicant must



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71 submit a sworn, signed, written application to the department on
72 a form prescribed by the department, meet the qualifications for
73 registration as a navigator, and make payment in advance of all
74 applicable fees. Individuals previously disqualified must apply
75 for reinstatement using the same procedures required for initial
76 registration.

77 (3) The applicant must set forth all of the following
78 information in the application:

79 (a) His or her full name, age, social security number,
80 residence address, business address, mailing address, contact
81 telephone numbers, including a business telephone number if
82 applicable, and e-mail address.

83 (b) Whether he or she has been refused a financial services
84 license or has voluntarily surrendered or has had his or her
85 financial services license suspended or revoked in this or any
86 other state.

87 (c) His or her native language.

88 (d) His or her highest level of education.

89 (e) A statement of acknowledgement of conduct that is
90 prohibited under this part and the penalties associated with
91 such conduct.

92 (f) Certification that the training required by the federal
93 government or the exchange has been successfully completed.

94 (g) Such additional information as the department may deem
95 proper to enable it to determine the character, experience,
96 ability, and other qualifications of the applicant to
97 participate as a registered navigator.

98 (4) Each application must be accompanied by payment of a
99 nonrefundable \$50 application filing fee to be deposited in the



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100 Insurance Regulatory Trust Fund.

101 (5) An applicant must submit a set of his or her
102 fingerprints to the department and pay the processing fee
103 established under s. 624.501(24). The department shall submit
104 the applicants' fingerprints to the Department of Law
105 Enforcement for processing state criminal history records checks
106 and local criminal records checks through local law enforcement
107 agencies and for forwarding to the Federal Bureau of
108 Investigation for national criminal history records checks. The
109 fingerprints shall be taken by a law enforcement agency, a
110 designated examination center, or another department-approved
111 entity. The department may not approve an application for
112 registration as a navigator if fingerprints have not been
113 submitted.

114 (6) In addition to information requested in the
115 application, the department may propound any reasonable
116 interrogatories to an applicant relating to the applicant's
117 qualifications, residence, prospective place of business, and
118 any other matters that, in the opinion of the department, are
119 deemed necessary or advisable for the protection of the public
120 and to ascertain the applicant's qualifications. In addition to
121 the submission of fingerprints for criminal background
122 screening, the department may make such further investigations
123 as it may deem advisable of the applicant's character,
124 experience, background, and fitness for registration as
125 specified under this part.

126 (7) Pursuant to the federal Personal Responsibility and
127 Work Opportunity Reconciliation Act of 1996, an applicant must
128 provide his or her social security number in accordance with



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129 subsection (3) for the purpose of administering the Title IV-D
130 program for child support enforcement.

131 Section 9. Section 626.9954, Florida Statutes, is created
132 to read:

133 626.9954 Disqualification from registration.-

134 (1) As used in this section, the terms "felony of the first
135 degree" and "capital felony" include all felonies so designated
136 by the laws of this state, as well as any felony so designated
137 in the jurisdiction in which the plea is entered or judgment is
138 rendered.

139 (2) An applicant who commits a felony of the first degree;
140 a capital felony; a felony involving money laundering, fraud, or
141 embezzlement; or a felony directly related to the financial
142 services business is permanently barred from applying for
143 registration under this part. This bar applies to convictions,
144 guilty pleas, or nolo contendere pleas, regardless of
145 adjudication, by an applicant.

146 (3) For all other crimes not described in subsection (2),
147 the department may adopt rules establishing the process and
148 application of disqualifying periods including:

149 (a) A 15-year disqualifying period for all felonies
150 involving moral turpitude which are not specifically included in
151 subsection (2).

152 (b) A 7-year disqualifying period for all felonies not
153 specifically included in subsection (2) or paragraph (a).

154 (c) A 7-year disqualifying period for all misdemeanors
155 directly related to the financial services business.

156 (4) The department may adopt rules providing additional
157 disqualifying periods due to the commitment of multiple crimes



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158 and other factors reasonably related to the applicant's criminal
159 history. The rules must provide for mitigating and aggravating
160 factors. However, mitigation may not result in a disqualifying
161 period of less than 7 years and may not mitigate the
162 disqualifying periods in paragraph (3) (b) or paragraph (3) (c).

163 (5) For purposes of this section, the disqualifying periods
164 begin upon the applicant's final release from supervision or
165 upon completion of the applicant's criminal sentence, including
166 the payment of fines, restitution, and court costs for the crime
167 for which the disqualifying period applies.

168 (6) After the disqualifying period has been met, the burden
169 is on the applicant to demonstrate to the satisfaction of the
170 department that he or she has been rehabilitated and does not
171 pose a risk to the insurance-buying public and is otherwise
172 qualified for registration.

173 (7) Section 112.011 does not apply to an applicant for
174 registration as a navigator.

175 Section 10. Sections 626.9955, Florida Statutes, is created
176 to read:

177 626.9955 Registered navigator list.—Upon approval of an
178 application for registration under this part, the department
179 shall add the name of the registrant to its publicly available
180 list of registered navigators in order for operators of an
181 exchange and other interested parties to validate a navigator's
182 registration.

183 Section 11. Sections 626.9956, Florida Statutes, is created
184 to read:

185 626.9956 Notice of change of registrant information.—A
186 navigator must notify the department, in writing, within 30 days



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187 after a change of name, residence address, principal business
188 street address, mailing address, contact telephone number,
189 including a business telephone number, or e-mail address.
190 Failure to notify the department within the required time is
191 subject to a fine of up to \$250 for the first offense, and a
192 fine of at least \$500 or suspension or revocation for a
193 subsequent offense. The department may adopt rules to administer
194 and enforce this section.

195 Section 12. Sections 626.9957, Florida Statutes, is created
196 to read:

197 626.9957 Conduct prohibited; denial, revocation, or
198 suspension of registration.-

199 (1) As provided in s. 626.112, only a person licensed as an
200 insurance agent or customer representative may engage in the
201 solicitation of insurance. A person who engages in the
202 solicitation of insurance as described in s. 626.112(1) without
203 such license is subject to the penalties provided under s.
204 626.112(9).

205 (2) Whether licensed by the department as an agent or
206 customer representative, a navigator may not perform any of the
207 following while acting as a navigator:

208 (a) Solicit, negotiate, or sell health insurance; or

209 (b) Recommend the purchase of a particular health plan or
210 represent one health plan as preferable over another.

211 (3) A navigator may not:

212 (a) Recommend the purchase, assist with enrollment, or
213 provide services related to health benefit plans or products not
214 offered through the exchange other than providing information
215 about Medicaid and the Children's Health Insurance Program



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216 (CHIP).
217 (b) Recommend or assist with the cancellation of insurance
218 coverage purchased outside the exchange; or
219 (c) Receive compensation or anything of value from an
220 insurer, health plan, business, or consumer in connection with
221 performing the activities of a navigator, other than from the
222 exchange or an entity or individual who has received a navigator
223 grant pursuant to 45 C.F.R. s. 155.210.
224 (4) The department may deny an application for registration
225 as a navigator or suspend or revoke the registration of a
226 navigator if it finds that any one or more of the following
227 grounds exist:
228 (a) Violation of this part or any applicable provision of
229 this chapter.
230 (b) Violation of department order or rule.
231 (c) Having been the subject of disciplinary or other
232 adverse action by the federal government or an exchange as a
233 result of a violation of any provision of PPACA.
234 (d) Lack one or more of the qualifications required under
235 this part.
236 (e) Material misstatement, misrepresentation, or fraud in
237 obtaining or attempting to obtain registration under this part.
238 (f) Any cause for which issuance of the registration could
239 have been refused if it had existed and been known to the
240 department.
241 (g) Having been found guilty or having pled guilty or nolo
242 contendere to a felony or a crime punishable by imprisonment of
243 1 or more years under the law of the United States or any state
244 thereof or under the law of any country, without regard to



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245 whether a judgment of conviction has been entered by the court
246 having jurisdiction of such cases.

247 (h) Failure to inform the department in writing within 30
248 days after pleading guilty or nolo contendere to, or being
249 convicted or found guilty of, any felony or crime punishable by
250 imprisonment of 1 or more years under the law of the United
251 States or of any state thereof, or under the law of any other
252 country without regard to whether a judgment of conviction has
253 been entered by the court having jurisdiction of the case.

254 (i) Violating or knowingly aiding, assisting, procuring,
255 advising, or abetting another in violating the insurance code or
256 any order or rule of the department, commission, or office.

257 (j) Failure to comply with any civil, criminal, or
258 administrative action taken by the child support enforcement
259 program under Title IV-D of the Social Security Act, 42 U.S.C.
260 ss. 651 et seq., to determine paternity or to establish, modify,
261 enforce, or collect support.

262 (5) If the department finds that one or more grounds exist
263 for the suspension or revocation of a navigator's registration,
264 the department may, in lieu of or in addition to suspension or
265 revocation, impose upon the registrant an administrative penalty
266 of up to \$500, or if the department finds willful misconduct or
267 a willful violation, an administrative penalty of up to \$3,500.

268 (6) A person who acts as a navigator without being
269 registered under this part is subject to an administrative
270 penalty of up to \$1,500.

271 (7) (a) Pursuant to s. 120.569, the department may issue a
272 cease and desist order or an immediate final order to cease and
273 desist to any person who violates this section.



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274 (b) A person who violates, or assists in the violation of,
275 an order of the department while such order is in effect, is, at
276 the discretion of the department, subject to:

277 1. A monetary penalty of up to \$50,000; or

278 2. Suspension or revocation of such person's registration.

279 (8) If a navigator registered under this part enters a plea
280 of guilty or nolo contendere, or is convicted by a court of a
281 violation of this code or a felony, the registration of such
282 individual shall be immediately revoked by the department. The
283 individual may subsequently request a hearing pursuant to ss.
284 120.569 and 120.57, which shall be expedited by the department.
285 The sole issue at the hearing shall be whether the revocation of
286 registration should be rescinded because such individual was not
287 in fact convicted of a violation of this code or a felony.

288 (9) An order by the department suspending the registration
289 of a navigator must specify the period during which the
290 suspension is to be in effect, which may not exceed 2 years. The
291 registration shall remain suspended during the period specified,
292 subject to rescission or modification of the order by the
293 department, or modification or reversal by the court, before
294 expiration of the suspension period. A registration that has
295 been suspended may not be reinstated except upon the filing and
296 approval of an application for reinstatement; however, the
297 department may not approve an application for reinstatement if
298 it finds that the circumstance or circumstances for which the
299 registration was suspended still exist or are likely to recur.
300 An application for reinstatement is also subject to
301 disqualification and waiting periods before approval on the same
302 grounds that apply to applications for registration under s.



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303 626.9954.

304 (10) An individual whose registration has been revoked may
305 not apply for registration as a navigator until 2 years after
306 the effective date of such revocation or, if judicial review of
307 such revocation is sought, within 2 years after the date of the
308 final court order or decree affirming the revocation.

309 (11) Revocation or suspension of the registration of a
310 navigator under this part shall be immediately reported by the
311 department to the operator of the exchange. An individual whose
312 registration has been revoked or suspended may not act as, offer
313 to act as, or advertise any service as a navigator until the
314 department reinstates such registration.

315 (12) The department may adopt rules establishing specific
316 penalties against registrants in accordance with this section.
317 The purpose of revocation or suspension is to provide a
318 sufficient penalty to deter behavior incompatible with the
319 public health, safety, and welfare. The imposition of a
320 revocation or the duration of a suspension shall be based on the
321 type of conduct and the likelihood that the propensity to commit
322 further illegal conduct has been overcome at the time of
323 eligibility for reinstatement. The length of suspension may be
324 adjusted based on aggravating or mitigating factors established
325 by rule and consistent with this purpose.

326 Section 13. Section 626.9958, Florida Statutes, is created
327 to read:

328 626.9958 Rulemaking.—The department may adopt rules to
329 administer this part.

330
331 ===== T I T L E A M E N D M E N T =====



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332 And the title is amended as follows:
333 Delete lines 18 - 30
334 and insert:
335 challenges under ch. 120, F.S.; amending s. 624.34,
336 F.S.; conforming provisions to changes made by this
337 act with respect to the registration of navigators
338 under the Florida Insurance Code; providing a
339 directive to the Division of Law Revision and
340 Information; creating ss. 626.995, F.S.; providing the
341 scope of part XII, ch. 626, F.S.; creating s.
342 626.9951, F.S.; providing definitions; creating s.
343 626.9952, F.S.; requiring the registration of
344 navigators with the Department of Financial Services;
345 providing the purpose for such registration; creating
346 s. 626.9953, F.S.; providing qualifications for
347 registration; providing for submission of a written
348 application; specifying fees; requiring an applicant
349 to submit fingerprints and pay a processing fee;
350 creating s. 626.9954, F.S.; specifying criteria for
351 disqualification from registration; authorizing the
352 department to adopt rules establishing disqualifying
353 time periods; creating s. 626.9955, F.S.; requiring
354 the department to have a publicly available list of
355 navigators and to report certain information to the
356 exchange; creating s. 626.9956, F.S.; requiring a
357 navigator to notify the department of a change of
358 specified identifying information; creating s.
359 626.9957, F.S.; prohibiting specified conduct;
360 providing grounds for denial, suspension, or



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361 revocation of registration; providing for
362 administrative fines and other disciplinary actions;
363 creating s. 626.9958, F.S.; authorizing the department
364 to adopt rules;