

By the Committee on Governmental Oversight and Accountability;
and Senator Calatayud

585-02904-23

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1 A bill to be entitled
2 An act relating to employment of ex-offenders;
3 amending s. 112.011, F.S.; revising the criteria a
4 state agency must consider before denying a license,
5 permit, or certification to a person previously
6 convicted of a crime; requiring a state agency to
7 consider specified factors when determining if an ex-
8 offender applying for a license, permit, or
9 certification has not been rehabilitated; requiring a
10 state agency to use a specified process in its
11 decision to deny a license, permit, or certificate to
12 a person previously convicted of a crime; authorizing
13 certain persons to petition a state agency to
14 determine whether their criminal record disqualifies
15 them from obtaining a license, permit, or
16 certification; providing the requirements for the
17 petition; requiring the state agency to use a
18 specified procedure when reviewing the petition and
19 making a decision on such petition; providing that
20 such decision is binding on the state agency regarding
21 any subsequent license, permit, or certification
22 application received from that person; requiring the
23 agency to advise the person of any actions he or she
24 may take to remedy the disqualification; authorizing
25 the person to submit a revised petition under
26 specified circumstances; prohibiting a person from
27 submitting a new petition during a specified
28 timeframe; prohibiting a state agency from using
29 specified terminology in a decision related to the

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30 denial of a license, permit, or certification;
31 amending s. 112.0111, F.S.; revising legislative
32 intent; requiring specified agencies to submit an
33 annual report to the Governor and the Legislature;
34 requiring that such report be made available on the
35 agency's website; providing report requirements;
36 amending ss. 310.071, 455.213, 494.0011, 517.1611,
37 559.554, 626.207, 626.9954, and 648.34, F.S.;
38 conforming provisions to changes made by the act;
39 providing an effective date.
40

41 Be It Enacted by the Legislature of the State of Florida:
42

43 Section 1. Section 112.011, Florida Statutes, is amended to
44 read:

45 112.011 Disqualification from licensing, permitting, or
46 certification; and public employment based on criminal
47 conviction.—

48 (1) ~~(a)~~ Except as provided in s. 775.16, a person may not be
49 disqualified from employment by the state, any of its agencies
50 or political subdivisions, or any municipality solely because of
51 a prior conviction for a crime. However, a person may be denied
52 employment by the state, any of its agencies or political
53 subdivisions, or any municipality by reason of the prior
54 conviction for a crime if the crime was a felony or first-degree
55 misdemeanor and directly related to the position of employment
56 sought.

57 (2) (a) ~~(b)~~ Notwithstanding any other law ~~Except as provided~~
58 ~~in s. 775.16~~, a person may be denied a license, permit, or

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59 certification to pursue, practice, or engage in an occupation,
60 trade, vocation, profession, or business by reason of the prior
61 conviction for a crime only if all of the following apply:

62 1. The crime was:

63 a. A forcible felony as defined in s. 776.08;

64 b. A felony or first-degree misdemeanor for which the
65 person was not incarcerated, and he or she was convicted less
66 than 3 years before a state agency began considering his or her
67 application for the license, permit, or certification; or

68 c. A felony or first-degree misdemeanor for which the
69 person was incarcerated, and his or her incarceration ended less
70 than 3 years before a state agency began considering his or her
71 application for the license, permit, or certification.

72 2. The conviction directly and specifically relates to the
73 duties and responsibilities of the occupation, trade, vocation,
74 profession, or business for which the license, permit, or
75 certification is sought.

76 3. Granting the license, permit, or certification would
77 pose a direct and substantial risk to public safety because
78 there is clear and convincing evidence the person has not been
79 rehabilitated per the criteria in paragraph (c) to safely
80 perform the duties and responsibilities of ~~that is directly~~
81 ~~related to the standards determined by the regulatory authority~~
82 ~~to be necessary and reasonably related to the protection of the~~
83 ~~public health, safety, and welfare for the specific occupation,~~
84 trade, vocation, profession, or business for which the license,
85 permit, or certificate is sought.

86 (b)-(e) Notwithstanding any law to the contrary, a state
87 agency may not deny an application for a license, permit,

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88 certificate, or employment based solely on the applicant's lack
89 of civil rights. However, this paragraph does not apply to
90 applications for a license to carry a concealed weapon or
91 firearm under chapter 790.

92 (c) To determine if a person has not been rehabilitated as
93 required under paragraph (a), a state agency shall consider the
94 person's current circumstances and mitigating factors, including
95 all of the following:

96 1. The age of the person when he or she committed the
97 crime.

98 2. The amount of time elapsed since the person committed
99 the crime.

100 3. The circumstances surrounding and the nature of the
101 crime.

102 4. Whether the person completed his or her criminal
103 sentence and, if so, the amount of time since doing so.

104 5. Whether the person received a certificate of
105 rehabilitation or good conduct.

106 6. Whether the person completed or is an active participant
107 in a rehabilitative drug or alcohol program.

108 7. Any testimonials or recommendations, including progress
109 reports from the person's probation or parole officer.

110 8. Any education or training the person has received.

111 9. The person's employment history and employment
112 aspirations.

113 10. The person's family responsibilities.

114 11. Whether the occupation, trade, vocation, profession, or
115 business for which the person seeks employment requires him or
116 her to be bonded.

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117 12. Any other evidence of rehabilitation or information the
118 person submits to the state agency.

119 (d) A state agency may deny an application for a license,
120 permit, or certificate to pursue, practice, or engage in an
121 occupation, trade, vocation, profession, or business based on a
122 person's criminal record only if the state agency does all of
123 the following:

124 1. Notifies the person of its intention to deny the
125 application and informs the person that he or she may request an
126 informal meeting and attend such meeting in person or by means
127 of communications media technology as defined in s.
128 120.54(5)(b)2. The notice provided must be consistent with s.
129 120.60(3) and must inform the person of the reasons for denial
130 and that, at the informal meeting, he or she may provide a
131 rebuttal and additional evidence of circumstances or
132 rehabilitation, including any verbal or written support provided
133 by character witnesses in support of him or her. The state
134 agency must allow the person at least 30 calendar days to gather
135 and provide such additional evidence. The state agency may not
136 make an adverse inference if the person does not request or
137 attend an informal meeting or does not bring witnesses to such
138 meeting.

139 2. Provides written notification consistent with s.
140 120.60(3) of its final decision within 60 days after the
141 informal meeting or receipt of a completed application,
142 whichever is later. If the state agency denies or intends to
143 deny the application for a license, permit, or certificate, the
144 written notice must specify the clear and convincing evidence on
145 which the agency based its determination to deny the license,

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146 permit, or certification. The agency's decision shall be
147 administratively reviewable pursuant to ss. 120.569 and 120.57.
148 The agency's notice must indicate the procedure and time limits
149 that the applicant must follow in requesting an administrative
150 review of the decision and must provide the earliest date that
151 the applicant may submit another application for the license,
152 permit, or certification.

153 (e)1. Notwithstanding any law to the contrary, a person
154 with a criminal record may petition a state agency at any time,
155 including while in confinement, under supervision, or before
156 obtaining any required personal qualifications for a license,
157 permit, or certificate, for a decision as to whether the
158 person's criminal record would disqualify him or her from
159 obtaining the license, permit, or certification. The person must
160 include in the petition his or her criminal record or authorize
161 the state agency to obtain such criminal record. In reviewing
162 the petition, the state agency must determine if granting the
163 license, permit, or certification to such person would pose a
164 direct and substantial risk to public safety because there is
165 clear and convincing evidence that the person has not been
166 rehabilitated to safely perform the duties and responsibilities
167 of the specific occupation, trade, vocation, profession, or
168 business for which the license, permit, or certification is
169 sought. The state agency must follow the procedure in paragraph
170 (d) when reviewing and making its decision on the petition.

171 2. If a state agency determines under subparagraph 1. that
172 a person is not disqualified for a license, permit, or
173 certification, such decision is binding on the state agency in
174 any later ruling on the person's formal application unless the

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175 information contained in the petition is subsequently found to
176 be inaccurate or incomplete, or there is a material and adverse
177 change that directly relates to the person's criminal record.

178 3. If the state agency determines under subparagraph 1.
179 that a person is disqualified for a license, permit, or
180 certification, the agency must advise the person of any actions
181 he or she may take, if any, to remedy the disqualification. The
182 person may submit a revised petition reflecting completion of
183 the remedial actions before a deadline set by the agency in its
184 final decision on the petition.

185 4. A person may not submit a new petition to the state
186 agency until 1 year after a final decision on the initial
187 petition is rendered or the person obtains the required
188 qualifications for the license, permit, or certification,
189 whichever is earlier.

190 (f) Notwithstanding any law to the contrary, a state agency
191 may not use vague terms such as "good moral character," "moral
192 turpitude," or "character and fitness" in its decision to
193 disqualify a person from a license, permit, or certification
194 based on the person's criminal record.

195 (3) (a) ~~(2) (a)~~ This section does not apply to any law
196 enforcement or correctional agency.

197 (b) This section does not apply to the employment practices
198 of any fire department relating to the hiring of firefighters.

199 (c) This section does not apply to the employment practices
200 of any county or municipality relating to the hiring of
201 personnel for positions deemed to be critical to security or
202 public safety pursuant to ss. 125.5801 and 166.0442.

203 (4) ~~(3)~~ Any complaint concerning the violation of this

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204 section shall be adjudicated in accordance with the procedures
205 set forth in chapter 120 for administrative and judicial review.

206 Section 2. Section 112.0111, Florida Statutes, is amended
207 to read:

208 112.0111 Restrictions on the employment of ex-offenders;
209 legislative intent; state agency reporting requirements.—

210 (1) The Legislature declares that a goal of this state is
211 to ~~clearly identify the occupations from which ex-offenders are~~
212 ~~disqualified based on the nature of their offenses. The~~
213 ~~Legislature seeks to~~ make employment opportunities available to
214 ex-offenders in a manner that preserves and protects ~~serves to~~
215 ~~preserve and protect~~ the health, safety, and welfare of the
216 general public, yet encourages ex-offenders ~~them~~ to become
217 productive members of society. To this end, state agencies that
218 exercise regulatory authority are ~~in the best position to~~
219 ~~identify all restrictions on employment imposed by the agencies~~
220 ~~or by boards that regulate professions and occupations and are~~
221 obligated to protect the health, safety, and welfare of the
222 general public by ~~clearly setting forth those restrictions in~~
223 keeping with standards in state law and protections determined
224 by the agencies to be in the least restrictive manner.

225 (2) Annually, each state agency, ~~including, but not limited~~
226 ~~to, those state agencies~~ responsible for issuing licenses,
227 permits, or certifications to pursue, practice, or engage in an
228 occupation, trade, vocation, profession, or business must
229 ~~professional and occupational regulatory boards, shall ensure~~
230 ~~the appropriate restrictions necessary to protect the overall~~
231 ~~health, safety, and welfare of the general public are in place,~~
232 ~~and by December 31, 2011, and every 4 years thereafter, submit~~

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233 to the Governor, the President of the Senate, and the Speaker of
234 the House of Representatives and make publicly available on its
235 website a report that includes all of the following:

236 (a) The number of applicants with a criminal record who
237 applied for each license, permit, or certification in the prior
238 year, and of that number, the number of times the state agency
239 granted the application and the number of times it denied,
240 withheld, or refused to grant a license, permit, or
241 certification because of an applicant's criminal history. The
242 report must also specify the offense or offenses for which each
243 decision to deny, withhold, or refuse to grant the license,
244 permit, or certification was based ~~A list of all agency or board~~
245 ~~statutes or rules that disqualify from employment or licensure~~
246 ~~persons who have been convicted of a crime and have completed~~
247 ~~any incarceration and restitution to which they have been~~
248 ~~sentenced for such crime.~~

249 (b) The number of applicants with a criminal record for
250 each license, permit, or certificate who petitioned the state
251 agency under s. 112.011(2)(e) in the prior year and the number
252 of such applicants whose petitions were approved or denied. The
253 report must also specify the offense or offenses on which each
254 decision to approve or deny a petition was based ~~A determination~~
255 ~~of whether the disqualifying statutes or rules are readily~~
256 ~~available to prospective employers and licensees.~~

257 (c) Any other data the agency deems relevant in fulfilling
258 its purpose under subsection (1) ~~The identification and~~
259 ~~evaluation of alternatives to the disqualifying statutes or~~
260 ~~rules which protect the health, safety, and welfare of the~~
261 ~~general public without impeding the gainful employment of ex-~~

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262 offenders.

263 Section 3. Subsection (4) of section 310.071, Florida
264 Statutes, is amended to read:

265 310.071 Deputy pilot certification.—

266 (4) The board must follow the requirements in s. 112.011(2)
267 before ~~Notwithstanding s. 112.011 or any other provision of law~~
268 ~~relating to the restoration of civil rights,~~ an applicant may
269 ~~shall~~ be disqualified from applying for or ~~and shall be denied a~~
270 ~~deputy pilot certificate if the applicant, regardless of~~
271 ~~adjudication, has ever been found guilty of, or pled guilty or~~
272 ~~nolo contendere to, a charge which was:~~

273 (a) ~~A felony or first degree misdemeanor which directly~~
274 ~~related to the navigation or operation of a vessel; or~~

275 (b) ~~A felony involving the sale of or trafficking in, or~~
276 ~~conspiracy to sell or traffic in, a controlled substance as~~
277 ~~defined by chapter 893, or an offense under the laws of any~~
278 ~~state or country which, if committed in this state, would~~
279 ~~constitute the felony of selling or trafficking in, or~~
280 ~~conspiracy to sell or traffic in, such controlled substance.~~

281 Section 4. Subsections (3) and (11) of section 455.213,
282 Florida Statutes, are amended to read:

283 455.213 General licensing provisions.—

284 (3) (a) Notwithstanding any other law, the applicable board
285 shall use the process in s. 112.011(2) ~~this subsection~~ for
286 review of an applicant's criminal record to determine his or her
287 eligibility for licensure, a permit, or certification ~~as:~~

288 1. ~~A barber under chapter 476;~~

289 2. ~~A cosmetologist or cosmetology specialist under chapter~~
290 ~~477;~~

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291 ~~3. Any of the following construction professions under~~
292 ~~chapter 489:~~

293 ~~a. Air-conditioning contractor;~~

294 ~~b. Electrical contractor;~~

295 ~~c. Mechanical contractor;~~

296 ~~d. Plumbing contractor;~~

297 ~~e. Pollutant storage systems contractor;~~

298 ~~f. Roofing contractor;~~

299 ~~g. Sheet metal contractor;~~

300 ~~h. Solar contractor;~~

301 ~~i. Swimming pool and spa contractor;~~

302 ~~j. Underground utility and excavation contractor; or~~

303 ~~k. Other specialty contractors; or~~

304 ~~4. Any other profession for which the department issues a~~
305 ~~license, provided the profession is offered to inmates in any~~
306 ~~correctional institution or correctional facility as vocational~~
307 ~~training or through an industry certification program.~~

308 ~~(b)1. A conviction, or any other adjudication, for a crime~~
309 ~~more than 5 years before the date the application is received by~~
310 ~~the applicable board may not be grounds for denial of a license~~
311 ~~specified in paragraph (a). For purposes of this paragraph, the~~
312 ~~term "conviction" means a determination of guilt that is the~~
313 ~~result of a plea or trial, regardless of whether adjudication is~~
314 ~~withheld. This paragraph does not limit the applicable board~~
315 ~~from considering an applicant's criminal history that includes a~~
316 ~~crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but~~
317 ~~only if such criminal history has been found to relate to the~~
318 ~~practice of the applicable profession.~~

319 ~~2. The applicable board may consider the criminal history~~

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320 of an applicant for licensure under subparagraph (a)3. if such
321 criminal history has been found to relate to good moral
322 character.

323 ~~(e)1.~~ A person may apply for a license before his or her
324 lawful release from confinement or supervision. The department
325 may not charge an applicant an additional fee for being confined
326 or under supervision. The applicable board may not deny an
327 application for a license solely on the basis of the applicant's
328 current confinement or supervision.

329 2. After a license application is approved, the applicable
330 board may stay the issuance of a license until the applicant is
331 lawfully released from confinement or supervision and the
332 applicant notifies the applicable board of such release. The
333 applicable board must verify the applicant's release with the
334 Department of Corrections before it issues a license.

335 3. If an applicant is unable to appear in person due to his
336 or her confinement or supervision, the applicable board must
337 permit the applicant to appear by teleconference or video
338 conference, as appropriate, at any meeting of the applicable
339 board or other hearing by the agency concerning his or her
340 application.

341 4. If an applicant is confined or under supervision, the
342 Department of Corrections and the applicable board must ~~shall~~
343 cooperate and coordinate to facilitate the appearance of the
344 applicant at a board meeting or agency hearing in person, by
345 teleconference, or by video conference, as appropriate.

346 (c) ~~(d)~~ Each applicable board shall compile a list of crimes
347 that, if committed and regardless of adjudication, do not relate
348 to the practice of the profession or the ability to practice the

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349 profession and do not constitute grounds for denial of a
350 license. This list must be made available on the department's
351 website and updated annually. Beginning October 1, 2019, each
352 applicable board shall compile a list of crimes that although
353 reported by an applicant for licensure, were not used as a basis
354 for denial. The list must identify for each such license
355 application the crime reported and the date of conviction and
356 whether there was a finding of guilt, a plea, or an adjudication
357 entered or the date of sentencing.

358 (d)~~(e)~~ Each applicable board shall compile a list of crimes
359 that have been used as a basis for denial of a license in the
360 past 2 years and shall make the list available on the
361 department's website. Starting October 1, 2019, and updated
362 quarterly thereafter, the applicable board shall compile a list
363 indicating each crime used as a basis for denial. For each crime
364 listed, the applicable board shall ~~must~~ identify the date of
365 conviction, finding of guilt, plea, or adjudication entered, or
366 date of sentencing. Such denials must be made available to the
367 public upon request.

368 (11) For any profession requiring fingerprints as part of
369 the registration, certification, or licensure process or for any
370 profession requiring a criminal history record check ~~to~~
371 ~~determine good moral character~~, the fingerprints of the
372 applicant must accompany all applications for registration,
373 certification, or licensure. The fingerprints must ~~shall~~ be
374 forwarded to the Division of Criminal Justice Information
375 Systems within the Department of Law Enforcement for processing
376 to determine whether the applicant has a criminal history
377 record. The fingerprints must ~~shall~~ also be forwarded to the

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378 Federal Bureau of Investigation to determine whether the
379 applicant has a criminal history record. The information
380 obtained by the processing of the fingerprints by the Department
381 of Law Enforcement and the Federal Bureau of Investigation must
382 ~~shall~~ be sent to the department to determine whether the
383 applicant is statutorily qualified for registration,
384 certification, or licensure.

385 Section 5. Paragraph (c) of subsection (2) of section
386 494.0011, Florida Statutes, is amended to read:

387 494.0011 Powers and duties of the commission and office.—

388 (2) The commission may adopt rules to administer parts I,
389 II, and III of this chapter, including rules:

390 (c) Establishing time periods during which a loan
391 originator, mortgage broker, or mortgage lender license
392 applicant under part II or part III is barred from licensure due
393 to prior criminal convictions of, or guilty or nolo contendere
394 pleas by, any of the applicant's control persons, regardless of
395 adjudication. The requirements of s. 112.011(2) apply

396 ~~1. The rules must provide:~~

397 ~~a. Permanent bars for felonies involving fraud, dishonesty,~~
398 ~~breach of trust, or money laundering;~~

399 ~~b. A 15-year disqualifying period for felonies involving~~
400 ~~moral turpitude;~~

401 ~~e. A 7-year disqualifying period for all other felonies;~~
402 ~~and~~

403 ~~d. A 5-year disqualifying period for misdemeanors involving~~
404 ~~fraud, dishonesty, or any other act of moral turpitude.~~

405 ~~2. The rules may provide for an additional waiting period~~
406 ~~due to dates of imprisonment or community supervision, the~~

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407 ~~commitment of multiple crimes, and other factors reasonably~~
408 ~~related to the applicant's criminal history.~~

409 ~~3. The rules may provide for mitigating factors for crimes~~
410 ~~identified in sub-subparagraph 1.b. However, the mitigation may~~
411 ~~not result in a period of disqualification less than 7 years.~~
412 ~~The rule may not mitigate the disqualifying periods in sub-~~
413 ~~subparagraphs 1.a., 1.c., and 1.d.~~

414 ~~4. An applicant is not eligible for licensure until the~~
415 ~~expiration of the disqualifying period set by rule.~~

416 ~~5. Section 112.011 is not applicable to eligibility for~~
417 ~~licensure under this part.~~

418 Section 6. Subsection (2) of section 517.1611, Florida
419 Statutes, is amended to read:

420 517.1611 Guidelines.—

421 (2) The commission shall adopt by rule disqualifying
422 periods pursuant to which an applicant will be disqualified from
423 eligibility for registration based upon criminal convictions,
424 pleas of nolo contendere, or pleas of guilt, regardless of
425 whether adjudication was withheld, by the applicant; any
426 partner, member, officer, or director of the applicant or any
427 person having a similar status or performing similar functions;
428 or any person directly or indirectly controlling the applicant.
429 The requirements of s. 112.011(2) apply

430 ~~(a) The disqualifying periods shall be 15 years for a~~
431 ~~felony and 5 years for a misdemeanor.~~

432 ~~(b) The disqualifying periods shall be related to crimes~~
433 ~~involving registration as a dealer, investment adviser, issuer~~
434 ~~of securities, or associated person or the application for such~~
435 ~~registration or involving moral turpitude or fraudulent or~~

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436 ~~dishonest dealing.~~

437 ~~(c) The rules may also address mitigating factors, an~~
438 ~~additional waiting period based upon dates of imprisonment or~~
439 ~~community supervision, an additional waiting period based upon~~
440 ~~commitment of multiple crimes, and other factors reasonably~~
441 ~~related to the consideration of an applicant's criminal history.~~

442 ~~(d) An applicant is not eligible for registration until the~~
443 ~~expiration of the disqualifying period set by rule. Section~~
444 ~~112.011 does not apply to the registration provisions under this~~
445 ~~chapter. Nothing in this section changes or amends the grounds~~
446 ~~for denial under s. 517.161.~~

447 Section 7. Paragraph (b) of subsection (2) of section
448 559.554, Florida Statutes, is amended to read:

449 559.554 Powers and duties of the commission and office.—

450 (2) The commission may adopt rules to administer this part,
451 including rules:

452 (b) Establishing time periods during which a consumer
453 collection agency is barred from registration due to prior
454 criminal convictions of, or guilty or nolo contendere pleas by,
455 an applicant's control persons, regardless of adjudication. The
456 requirements of s. 112.011(2) apply

457 ~~1. The rules must provide:~~

458 ~~a. A 15-year disqualifying period for felonies involving~~
459 ~~fraud, dishonesty, breach of trust, money laundering, or other~~
460 ~~acts of moral turpitude.~~

461 ~~b. A 7-year disqualifying period for all other felonies.~~

462 ~~e. A 5-year disqualifying period for misdemeanors involving~~
463 ~~fraud, dishonesty, or other acts of moral turpitude.~~

464 ~~2. The rules must provide for an additional waiting period~~

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465 ~~due to dates of imprisonment or community supervision, the~~
466 ~~commitment of multiple crimes, and other factors reasonably~~
467 ~~related to the applicant's criminal history.~~

468 ~~3. The rules must provide for mitigating factors for crimes~~
469 ~~identified in sub-subparagraphs 1.a., 1.b., and 1.c.~~

470 ~~4. An applicant is not eligible for registration until~~
471 ~~expiration of the disqualifying period set by rule.~~

472 ~~5. Section 112.011 does not apply to eligibility for~~
473 ~~registration under this part.~~

474 Section 8. Subsection (9) of section 626.207, Florida
475 Statutes, is amended to read:

476 626.207 Disqualification of applicants and licensees;
477 penalties against licensees; rulemaking authority.—

478 (9) Section 112.011(2) applies ~~112.011 does not apply~~ to
479 any applicants for licensure under the Florida Insurance Code,
480 including, but not limited to, agents, agencies, adjusters,
481 adjusting firms, or customer representatives.

482 Section 9. Subsection (8) of section 626.9954, Florida
483 Statutes, is amended to read:

484 626.9954 Disqualification from registration.—

485 (8) Section 112.011(2) applies ~~112.011 does not apply~~ to an
486 applicant for registration as a navigator.

487 Section 10. Subsection (7) of section 648.34, Florida
488 Statutes, is amended to read:

489 648.34 Bail bond agents; qualifications.—

490 (7) Section 112.011(2) applies ~~The provisions of s. 112.011~~
491 ~~do not apply~~ to bail bond agents or to applicants for licensure
492 as bail bond agents.

493 Section 11. This act shall take effect July 1, 2023.