

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Regulatory Affairs
 2 Committee

3 Representative Nelson offered the following:

4
 5 **Amendment (with title amendment)**

6 Between lines 147 and 148, insert:

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

9 624.34 Authority of Department of Law Enforcement to
 10 accept fingerprints of, and exchange criminal history records
 11 with respect to, certain persons.—

12 (2) The Department of Law Enforcement may accept
 13 fingerprints of individuals who apply for a license as an agent,
 14 customer representative, adjuster, service representative,
 15 navigator, or managing general agent or the fingerprints of the
 16 majority owner, sole proprietor, partners, officers, and
 17 directors of a corporation or other legal entity that applies
 18 for licensure with the department or office under ~~the provisions~~
 19 ~~of~~ the Florida Insurance Code.

20 Section 4. The Division of Law Revision and Information is

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21 directed to create part XII of chapter 626, Florida Statutes,
22 consisting of ss. 626.995-626.9958, Florida Statutes, and to
23 entitle that part "Navigators."

24 Section 5. Section 626.995, Florida Statutes, is created
25 to read:

26 626.995 Scope of part.-This part applies only to
27 navigators.

28 Section 6. Section 626.9951, Florida Statutes, is created
29 to read:

30 626.9951 Definitions.-As used in this part, the term:

31 (1) "Exchange" means an exchange established for this
32 state under PPACA.

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

37 (3) "Navigator" means an individual authorized by an
38 exchange to serve as a navigator, or who works on behalf of an
39 entity authorized by an exchange to serve as a navigator,
40 pursuant to 42 U.S.C. s. 18031(i)(1), who facilitates the
41 selection of a qualified health plan through the exchange and
42 performs any other duties specified under 42 U.S.C. s.
43 18031(i)(3).

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

45 Section 7. Section 626.9952, Florida Statutes, is created
46 to read:

47 626.9952 Registration required; purpose.-

48 (1) Beginning August 1, 2013, an individual may not act

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49 as, offer to act as, or advertise any service as a navigator
50 unless registered with the department under this part.

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

58 Section 8. Sections 626.9953, Florida Statutes, is created
59 to read:

60 626.9953 Qualifications for registration; application
61 required.-

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

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

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

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

72 (2) To be registered as a navigator, an applicant must
73 submit a sworn, signed, written application to the department on
74 a form prescribed by the department, meet the qualifications for
75 registration as a navigator, and make payment in advance of all
76 applicable fees. Individuals previously disqualified must apply

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77 for reinstatement using the same procedures required for initial
78 registration.

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

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

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

89 (c) His or her native language.

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

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

94 (f) Certification that the training required by the
95 federal government or the exchange has been successfully
96 completed.

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

101 (4) Each application must be accompanied by payment of a
102 nonrefundable \$50 application filing fee to be deposited in the
103 Insurance Regulatory Trust Fund.

104 (5) An applicant must submit a set of his or her

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

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

129 (7) Pursuant to the federal Personal Responsibility and
130 Work Opportunity Reconciliation Act of 1996, an applicant must
131 provide his or her social security number in accordance with
132 subsection (3) for the purpose of administering the Title IV-D

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133 program for child support enforcement.

134 Section 9. Section 626.9954, Florida Statutes, is created
135 to read:

136 626.9954 Disqualification from registration.—

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

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

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

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

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

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

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

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

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

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

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

178 Section 10. Sections 626.9955, Florida Statutes, is
179 created to read:

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

186 Section 11. Sections 626.9956, Florida Statutes, is
187 created to read:

188 626.9956 Notice of change of registrant information.—A

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189 navigator must notify the department, in writing, within 30 days
190 after a change of name, residence address, principal business
191 street address, mailing address, contact telephone number,
192 including a business telephone number, or e-mail address.
193 Failure to notify the department within the required time is
194 subject to a fine of up to \$250 for the first offense, and a
195 fine of at least \$500 or suspension or revocation for a
196 subsequent offense. The department may adopt rules to administer
197 and enforce this section.

198 Section 12. Sections 626.9957, Florida Statutes, is
199 created to read:

200 626.9957 Conduct prohibited; denial, revocation, or
201 suspension of registration.-

202 (1) As provided in s. 626.112, only a person licensed as
203 an insurance agent or customer representative may engage in the
204 solicitation of insurance. A person who engages in the
205 solicitation of insurance as described in s. 626.112(1) without
206 such license is subject to the penalties provided under s.
207 626.112(9).

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

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

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

214 (3) A navigator may not:

215 (a) Recommend the purchase, assist with enrollment, or
216 provide services related to health benefit plans or products not

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217 offered through the exchange other than providing information
218 about Medicaid and the Children's Health Insurance Program
219 (CHIP).

220 (b) Recommend or assist with the cancellation of insurance
221 coverage purchased outside the exchange; or

222 (c) Receive compensation or anything of value from an
223 insurer, health plan, business, or consumer in connection with
224 performing the activities of a navigator, other than from the
225 exchange or an entity or individual who has received a navigator
226 grant pursuant to 45 C.F.R. s. 155.210.

227 (4) The department may deny an application for
228 registration as a navigator or suspend or revoke the
229 registration of a navigator if it finds that any one or more of
230 the following grounds exist:

231 (a) Violation of this part or any applicable provision of
232 this chapter.

233 (b) Violation of department order or rule.

234 (c) Having been the subject of disciplinary or other
235 adverse action by the federal government or an exchange as a
236 result of a violation of any provision of PPACA.

237 (d) Lack one or more of the qualifications required under
238 this part.

239 (e) Material misstatement, misrepresentation, or fraud in
240 obtaining or attempting to obtain registration under this part.

241 (f) Any cause for which issuance of the registration could
242 have been refused if it had existed and been known to the
243 department.

244 (g) Having been found guilty or having pled guilty or nolo

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245 contendere to a felony or a crime punishable by imprisonment of
246 1 or more years under the law of the United States or any state
247 thereof or under the law of any country, without regard to
248 whether a judgment of conviction has been entered by the court
249 having jurisdiction of such cases.

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

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

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

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

271 (6) A person who acts as a navigator without being
272 registered under this part is subject to an administrative

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273 penalty of up to \$1,500.

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

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

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

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

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

291 (9) An order by the department suspending the registration
292 of a navigator must specify the period during which the
293 suspension is to be in effect, which may not exceed 2 years. The
294 registration shall remain suspended during the period specified,
295 subject to rescission or modification of the order by the
296 department, or modification or reversal by the court, before
297 expiration of the suspension period. A registration that has
298 been suspended may not be reinstated except upon the filing and
299 approval of an application for reinstatement; however, the
300 department may not approve an application for reinstatement if

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301 it finds that the circumstance or circumstances for which the
302 registration was suspended still exist or are likely to recur.
303 An application for reinstatement is also subject to
304 disqualification and waiting periods before approval on the same
305 grounds that apply to applications for registration under s.
306 626.9954.

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

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

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

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329 Section 13. Section 626.9958, Florida Statutes, is created
330 to read:

331 626.9958 Rulemaking.—The department may adopt rules to
332 administer this part.

333 Section 14. The sums of \$106,658 in recurring funds and
334 \$70,000 in nonrecurring funds from the Insurance Regulatory
335 Trust Fund and two full-time equivalent positions and associated
336 salary rate of 72,936 are appropriation to the Department of
337 Financial Services for the 2013-2014 fiscal year to implement
338 the provisions of this act related to the registration of
339 navigators.

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T I T L E A M E N D M E N T

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Remove line 19 and insert:

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F.S.; amending s. 624.34, F.S.; conforming provisions to changes
347 made by this act with respect to the registration of navigators
348 under the Florida Insurance Code; providing a directive to the
349 Division of Law Revision and Information; creating ss. 626.995,
350 F.S.; providing the scope of part XII, ch. 626, F.S.; creating
351 s. 626.9951, F.S.; providing definitions; creating s. 626.9952,
352 F.S.; requiring the registration of navigators with the
353 Department of Financial Services; providing the purpose for such
354 registration; creating s. 626.9953, F.S.; providing
355 qualifications for registration; providing for submission of a
356 written application; specifying fees; requiring an applicant to

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7155 (2013)

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357 submit fingerprints and pay a processing fee; creating s.
358 626.9954, F.S.; specifying criteria for disqualification from
359 registration; authorizing the department to adopt rules
360 establishing disqualifying time periods; creating s. 626.9955,
361 F.S.; requiring the department to have a publicly available list
362 of navigators and to report certain information to the exchange;
363 creating s. 626.9956, F.S.; requiring a navigator to notify the
364 department of a change of specified identifying information;
365 creating s. 626.9957, F.S.; prohibiting specified conduct;
366 providing grounds for denial, suspension, or revocation of
367 registration; providing for administrative fines and other
368 disciplinary actions; creating s. 626.9958, F.S.; authorizing
369 the department to adopt rules; providing an appropriation;
370 amending s. 627.402; defining the terms

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