

DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF INSURANCE AGENT & AGENCY SERVICES

NOTICE OF PROPOSED RULE DEVELOPMENT

RULE CHAPTER:	RULE CHAPTER TITLE:
69B-211	Insurance Representatives
RULE:	RULE TITLE:
69B-211.001	Purpose
69B-211.002	General Procedures
69B-211.0025	Additional Rule Specific to Navigators
69B-211.010	Purpose (Repealed)
69B-211.0035	Licensure Application Procedure
69B-211.042	Effect of Law Enforcement Records on Applications for Licensure
69B-211.040	Purpose and Scope

PURPOSE AND EFFECT: The proposed rule amendment provides a procedure to register navigators pursuant to section 626.9953, Florida Statutes. “Navigator” is a new category of insurance professional created to assist health insurance consumers to find insurance coverage through insurance exchanges created to fulfill mandates imposed by the Patient Protection and Affordable Care Act.

SUBJECT AREA TO BE ADDRESSED: Licensure of navigators.

RULEMAKING AUTHORITY: 624.308, 626.161, 626.171, 626.172, 626.207, 626.9958, F.S.

LAW IMPLEMENTED: 112.011, 120.60, 624.307(1), 624.321, 624.501, 626, 626.161, 626.171, 626.172, 626.201, 626.207, 626.211, 626.271, 626.291, 626.301, 626.541, 626.592, 626.601, 626.611, 626.611(7), (14), 626.621, 626.621(8), 626.631, 626.641, 626.681, 626.691, 626.752, 626.793, 626.837, 626.8417, 626.995(3), 626.9953(3)(g), 626.9954, 626.9957(3)(e), 627, 632, 634, 637, 639, 641 (Part II), 642, 648, F.S.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

DATE AND TIME: Wednesday, January 22, 2014 @ 10:00 AM

PLACE: Room 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Matt Tamplin, Bureau Chief, Bureau of Licensing,

Division of Insurance Agent & Agency Services, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-0320, 850-413-5460 or Matt.Tamplin@myfloridacfo.com

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69B-211.001 Purpose.

The purpose of this part is to establish procedures and adopt forms for ~~agent and agency~~ licensing under the provisions of the Florida Insurance Code. Subsection 120.52(10), F.S. defines the word license to include registration or similar form of authorization required by law.

Rulemaking Specific Authority 624.308, ~~626.9958~~ FS. Law Implemented 624.307(1), 626, 627, 632, 634, 637, 639, 641 (Part II), 642, 648 FS. History—New 6-4-92, Formerly 4-211.001, Amended.

69B-211.002 General Procedures.

(1) No Change.

(2)(a) An applicant for a license for which an examination is required shall complete all sections of Form DFS-H2-498, “Insurance License Application/Examination Required,” rev. 10-97, and shall submit the application with the required fees to the Department.

~~(b) All applicants shall comply with Part II of this rule chapter regarding the photo identification license.~~

~~(b)(e)~~ All entities appointing insurance representatives shall comply with Part III of this rule chapter regarding the character and credit report.

~~(c)(d)~~ Applicants for particular licenses requiring an examination shall comply with the requirements in subsections (3) through (5), below.

(3) through (5) No Change.

(6) An applicant for registration as a navigator pursuant to section 626.9953, F.S. shall complete and submit Form DFS-H2-2126 (Eff. 10/2013).

~~(7)(36)~~(a) All forms required by subsections (3) through (6), above, are hereby adopted and incorporated by reference.

(b) through (d) No Change.

Rulemaking Specific Authority 624.308, 626.161, 626.171, 626.172, 626.9958 FS. Law Implemented 624.307(1)8, 624.321, 624.501, 626.171, 626.172, 626.201, 626.211, 626.271, 626.541, 626.592, 626.611, 626.621, 626.752, 626.793, 626.837, 626.8417, 626.9953 FS. History–New 6-4-92, Amended 5-17-94, 6-7-99, Formerly 4-211.002, Amended 2-20-07, _____.

69B-211.0025 Additional Rule Specific to Navigators

(1) An individual who is an in-person assister falls within the definition of the term “navigator” set forth in subsection 626.9951(3), F.S. if the individual performs any of the duties identified in that definition, even if the in-person assister is not designated as a “navigator” under federal law.

(2) As additional information required pursuant to paragraph 626.9953(3)(g), F.S., the navigator applicant must provide a copy of an official certificate from the U.S. Department of Health and Human Services, (HHS) demonstrating certification as a marketplace navigator or in-person assister. This is in addition to the requirement in paragraph 626.9953(3)(c), F.S. that the applicant has successfully completed all training for a navigator as required by the federal government or the exchange.

Rulemaking Authority 626.9958 FS. Law Implemented 626.995(3), 626.9953(3)(g)FS. History–New _____.

69B-211.0035 Licensure Application Procedure.

(1) Purpose and Scope. This rule implements ~~sections~~Sections 120.60, 626.171, 626.201, ~~and~~ 626.211, and 626.9953, Florida Statutes, by providing notice of the Department’s procedure for processing applications of persons who apply for licensure to the Bureau of Agent & Agency Licensing under Chapters 626, 632, 634, 635, 637, 642, 648, Florida Statutes.

(2) Definitions. For purposes of this rule ~~chapter~~, the following definitions shall apply.

(a) through (d) No Change.

(e) “License” shall have the meaning set forth in subsection 120.52(10), Florida Statutes which includes registrations.

(f) “Licensing” shall have the meaning set forth in subsection 120.52(11), Florida Statutes.

(g)(e) “Receipt,” means that a document has been received by the Department at its offices in Tallahassee and has been date stamped by Department personnel.

(3) through (10) No Change.

Rulemaking Specific Authority 624.308, ~~626.9958~~ FS. Law Implemented 120.60, 624.307(1), 626.171, 626.201, 626.211, ~~626.9953~~ FS. History—New 7-18-93, Amended 6-28-94, Formerly 4-211.003, Amended _____.

69B-211.010 Purpose.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.301 FS. History—New 6-4-92, Formerly 4-211.010, Repealed _____.

69B-211.040 Purpose and Scope.

(1) The purpose of this rule part is to implement the Department’s duty under ~~subsection~~Section 624.307(1), Florida Statutes, to enforce ~~sections~~Sections 626.207, 626.611(7) and (14), ~~and~~ 626.621(8), and 626.9953 Florida Statutes, by establishing standards for granting licensure applications described in those statutory sections, and interpreting provisions in those sections as they relate to penalties imposed upon applicants specified in subsection (2) below.

(2) This rule part applies to applications for licensure as an agent, adjuster, sales representative, navigator or other licensure under the Florida Insurance Code. This rule part does not apply to the licensure of bail bondsmen, or limited surety agents under Chapter 648, Florida Statutes.

Rulemaking Specific Authority 624.308, ~~626.9958~~ FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7), (14), 626.621(8), 626.631, 626.641, 626.681, 626.691, ~~626.9953~~ FS. History—New 10-17-02, Formerly 4-211.040, Amended _____.

69B-211.042 Effect of Law Enforcement Records on Applications for Licensure.

(1) Law Enforcement Records and Required Documentation. The Department uses Law Enforcement Records to determine whether an applicant is subject to the permanent bar or disqualifying periods set forth in ~~sections~~Section 626.207, or 626.9954, F.S., or otherwise qualifies for licensure under the Florida Insurance Code, including determining whether an applicant is fit and trustworthy pursuant to ~~subsection~~Section 626.611(7), or has the requisite character pursuant to paragraph 626.9953(3)(g), F.S.

(a) through (e) No Change.

(2) Effect of Failure to Truthfully Answer Application Questions Regarding Applicant’s Law Enforcement Record.

(a) The existence of an applicant’s Law Enforcement Record is considered a material element of the application and the application process and the failure to accurately and truthfully answer application questions or Department

requests regarding the Law Enforcement Record is considered a material misrepresentation or material misstatement under subsection~~Section~~ 626.611(2), or paragraph 626.9957(3)(e) F.S.,

(b)1. No Change.

2. If the Department discovers that an applicant failed to accurately and truthfully answer any question relating to Law Enforcement Records after a license has been granted, the Department shall suspend or revoke each license currently held by the licensee pursuant to sections~~Section~~ 626.611 and 626.9953, F.S.

(3) Classification of and Treatment of Certain Felony and Misdemeanor Crimes.

(a) Application for licensure shall not be denied or subjected to a disqualifying period based solely on the fact that an applicant was found guilty of, or pled guilty or nolo contendere to, a misdemeanor, unless the misdemeanor is directly related to the financial services business as defined in subsection~~Section~~ 626.207(1), F.S., which shall also apply to the same term as used in subsection 626.9954(3)(c), F.S.

(b) A crime is directly related to the financial services business as defined in subsection~~Section~~ 626.207(1), F.S., if a financial services business, a financial services business relationship, a financial services business resource, or a transaction relating to or involving a financial services business, was used in the furtherance of the crime.

(c) For the purposes of this rule, the seven year disqualifying period in paragraphs~~Section~~ 626.207(4)(b), and 626.9954(3)(b), F.S. apply~~applies~~ to all felony cases involving the passing or uttering of a worthless bank check, or obtaining property in return for a worthless bank check or any other check-related felony where the check or property involved is worth \$500 or less.

(4) Applicants With Multiple Crimes.

(a) Where an applicant has more than one crime subject to a disqualifying period, an additional disqualifying period for each of those additional crimes shall be added to the disqualifying period. For each additional crime that is subject to a disqualifying period the Department shall add:

1. Five years to the disqualifying period for each additional felony involving moral turpitude but not subject to the permanent bar in subsection~~Section~~ 626.207(3), or 626.9954(2), F.S.;

2. Two years to the disqualifying period for each additional felony not involving moral turpitude and not subject to the permanent bar in subsection~~Section~~ 626.207(3), or 626.9954(2), F.S.; and

3. No Change.

(b) The additional disqualifying period shall be added to the disqualifying period for the most serious crime, and

the combined total disqualifying period will then run from the date of the applicant's final release from supervision for the most recent crime that would be subject to a disqualifying period under ~~subsection~~Section 626.207(4), or 626.9954(3), F.S.

(c) No Change.

(5) Mitigating Factors.

(a) If applicable, the Mitigating Factors listed below may be used to shorten the total disqualifying period only when the fifteen year disqualifying period established in ~~paragraph~~Section 626.207(4)(a), F.S. is applicable. Where more than one mitigating factor is present the applicant is entitled to add all applicable years of mitigation together and deduct that number from the total disqualifying period only when the fifteen year disqualifying period is applicable; however, the fifteen year disqualifying period may not be reduced to less than seven years. Mitigating Factors cannot be used to reduce the seven year disqualifying periods established by ~~paragraphs~~Section 626.207(4)(b) or (c), or 626.9954(3)(b) and (c), F.S. Mitigating Factors may not be used to reduce the amount of the disqualifying period for failure to answer questions accurately and truthfully established in subparagraph (2)(b)1.

The following Mitigating Factors may apply:

1. through 8. No Change.

(b) No Change.

(6) through (10) No Change.

(11) Disclosure and Effect of a Pardon.

(a) through (c) No Change.

(d) If a pardoned crime falls within either of the two exceptions contained in sub-subparagraphs (11)(c)1. or 2. above, the Department may apply the disqualifying periods set out in Section 626.207, and subsection 626.9954(3), F.S.

(e) No Change.

(12) and (13) No Change.

(14) Effect of Disqualifying Periods. The disqualifying periods applied pursuant to section 626.207 and subsection 626.9954(3), F.S. or established in this rule do not give an applicant a right to a license after any set period of time. After the disqualifying period, an applicant may re-apply for a license and the law in effect at the time will apply to that application.

(15) Foreign Law Enforcement Records. In the event that a law enforcement record includes convictions, charges, or arrests outside the United States, the Department shall consider the following factors to reduce, eliminate, or apply a disqualifying period or to determine if the permanent bar under ~~subsections~~Section 626.207(3), and 626.9954 (2), F.S., is applicable:

(a) and (b) No Change.

Rulemaking Authority 624.308, 626.207, ~~626.9958~~ FS. Law Implemented 112.011, 624.307(1), 626.161, 626.171, 626.201, 626.207, 626.211, 626.291, 626.601, 626.611(7), (14), 626.621(8), 626.631, 626.641, 626.9954, 626.9957(3)(e), FS. History—New 10-17-02, Formerly 4-211.042, Amended 7-21-04, 8-27-12, _____.