S T A T E O F N E W Y O R K

8948

I N A S S E M B L Y

March 4, 2014

Introduced by M. of A. CROUCH -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to criminal background checks for navigators

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 2138 of the insurance law, as added by section 37-b of part D of chapter 56 of the laws of 2013, is amended to read as follows:

S 2138. Health benefit exchange navigators. (A) A person who has received a grant from and has been certified by the health benefit exchange established pursuant to section 1311 of the affordable care act, 42 U.S.C. S 18031, to act as a navigator, including any person employed by a certified navigator, shall not receive, collect or hold any funds that would constitute fiduciary funds within the meaning of section two thousand one hundred twenty of this article.

(B) (1) NO PERSON SHALL SERVE AS A NAVIGATOR OR BE EMPLOYED BY A CERTIFIED NAVIGATOR UNLESS HE OR SHE HAS:

(A) COMPLETED AN APPLICATION (TO BE DEVELOPED BY THE SUPERINTENDENT) THAT IS SUBSTANTIALLY SIMILAR IN CONTENT TO THE APPLICATION FOR A LICENSE AS AN INSURANCE AGENT WITH RESPECT TO THE LINES OF AUTHORITY FOR ACCIDENT AND HEALTH INSURANCE;

(B) SUBMITTED THE APPLICATION TO THE DEPARTMENT WITH THE APPROPRIATE PROCESSING FEE; AND

(C) BEEN FOUND BY THE DEPARTMENT TO BE OF SUFFICIENT GOOD CHARACTER TO SERVE AS A NAVIGATOR OR THE EMPLOYEE OF A NAVIGATOR.

(2) FOR THE PURPOSES OF THIS SUBSECTION, "SUFFICIENT GOOD CHARACTER" SHALL MEAN THAT NOTHING IN THE APPLICANT'S BACKGROUND WOULD PRECLUDE THEM FROM LICENSURE AS AN INSURANCE AGENT WITH RESPECT TO THE LINES OF AUTHORITY FOR ACCIDENT AND HEALTH INSURANCE.

(3) THE SUPERINTENDENT SHALL DETERMINE THE AMOUNT OF THE PROCESSING FEE ESTABLISHED IN THIS SUBSECTION, WHICH SHALL NOT EXCEED THE PROCESSING FEE FOR A LICENSE ISSUED UNDER SUBSECTION (A) OF SECTION TWO THOUSAND ONE HUNDRED THREE OF THIS ARTICLE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 2. Paragraph 11 of subsection (a) of section 2101 of the insurance law, as added by section 34 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(11) any person who has received a grant from and has been certified by the health benefit exchange established pursuant to section 1311 of the affordable care act, 42 U.S.C. S 18031, to act as a navigator, as such term is used in 42 U.S.C. S 18031(i), provided that the person: (A) has completed the training required by the health benefit exchange AND MET THE REQUIREMENTS ESTABLISHED BY SUBSECTION (B) OF SECTION TWO THOUSAND ONE HUNDRED THIRTY-EIGHT OF THIS ARTICLE; (B) does not sell insurance; (C) does not engage in any activity with respect to insurance not expressly permitted under 42 U.S.C. S 18031(i)(3) and regulations thereunder; and (D) does not receive any compensation for acting as a navigator directly or indirectly from an insured, insurance producer, or an insurer.

S 3. Paragraph 10 of subsection (c) of section 2101 of the insurance law, as added by section 35 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(10) any person who has received a grant from and has been certified by the health benefit exchange established pursuant to section 1311 of the affordable care act, 42 U.S.C. S 18031, to act as a navigator, as such term is used in 42 U.S.C. S 18031(i), including any person employed by a certified navigator, provided that the person: (A) has completed the training required by the health benefit exchange AND MET THE REQUIREMENTS ESTABLISHED BY SUBSECTION (B) OF SECTION TWO THOUSAND ONE HUNDRED THIRTY-EIGHT OF THIS ARTICLE; (B) does not sell insurance; (C) does not engage in any activity with respect to insurance not expressly permitted under 42 U.S.C. S 18031(i)(3) and regulations thereunder; and (D) does not receive any compensation for acting as a navigator directly or indirectly from an insured, insurance producer, or an insurer.

S 4. Paragraph 12 of subsection (k) of section 2101 of the insurance law, as added by section 36 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(12) any person who has received a grant from and has been certified by the health benefit exchange established pursuant to section 1311 of the affordable care act, 42 U.S.C. S 18031 to act as a navigator, as such term is used in 42 U.S.C. S 18031(i), including any person employed by a certified navigator, provided that the person: (A) has completed the training required by the health benefit exchange AND MET THE REQUIREMENTS ESTABLISHED BY SUBSECTION (B) OF SECTION TWO THOUSAND ONE HUNDRED THIRTY-EIGHT OF THIS ARTICLE; (B) does not sell insurance; (C) does not engage in any activity with respect to insurance not expressly permitted under 42 U.S.C. S 18031 (i) (3) and regulations thereunder; and (D) does not receive any compensation for acting as a navigator directly or indirectly from an insured, insurance producer, or an insurer.

S 5. Paragraph 5 of subsection (b) of section 2102 of the insurance law, as added by section 37 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(5) Paragraphs one and three of this subsection shall not apply to any person who has received a grant from and has been certified by the health benefit exchange established pursuant to section 1311 of the Affordable Care Act, 42 U.S.C. S 18031 (i), including persons employed by certified navigators; provided that the person: (A) has completed the training required by the health benefit exchange AND MET THE REQUIREMENTS ESTABLISHED BY SUBSECTION (B) OF SECTION TWO THOUSAND ONE HUNDRED

THIRTY-EIGHT OF THIS ARTICLE; (B) does not sell insurance; (C) does not engage in any activity with respect to insurance not expressly permitted under 42 U.S.C. S 18031 (i) (3) and regulations thereunder; and (D) does not receive any compensation for acting as a navigator directly or indirectly from an insured, insurance producer, or an insurer.

S 6. This act shall take effect immediately; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such effective date.