

1 A bill to be entitled
2 An act relating to property insurance appraisal
3 umpires and property insurance appraisers; amending s.
4 20.165, F.S.; establishing specified programs within
5 the Division of Professions of the Department of
6 Business and Professional Regulation; creating part
7 XVII of chapter 468, F.S., relating to property
8 insurance appraisal umpires; creating the property
9 insurance appraisal umpire licensing program within
10 the department; providing legislative findings;
11 providing applicability; providing definitions;
12 authorizing the department to establish fees;
13 providing for the deposit of fees; providing licensing
14 application requirements; providing authority and
15 procedures regarding submission and processing of
16 fingerprints; providing examination requirements;
17 providing application requirements for licensure as a
18 property insurance appraisal umpire; providing
19 licensure renewal requirements; authorizing the
20 department to adopt rules; providing continuing
21 education requirements; providing requirements for the
22 inactivation of a license by a licensee; providing
23 requirements for renewing an inactive license;
24 establishing license reactivation fees; providing for
25 certification of partnerships and corporations
26 offering property insurance appraisal umpire services;

27 providing grounds for compulsory refusal, suspension,
28 or revocation of an umpire's license; providing
29 grounds for discretionary denial, suspension, or
30 revocation of an umpire's license; providing ethical
31 standards for property insurance appraisal umpires;
32 providing prohibitions and penalties; authorizing the
33 department to adopt rules; creating part XVIII of
34 chapter 468, F.S., relating to property insurance
35 appraisers; creating the property insurance appraiser
36 licensing program within the department; providing
37 legislative findings; providing applicability;
38 providing definitions; authorizing the department to
39 establish fees; limiting fee amounts; providing
40 licensing application requirements; providing
41 authority and procedures regarding submission and
42 processing of fingerprints; providing examination
43 requirements; providing application requirements for
44 licensure as a property insurance appraiser; providing
45 licensure renewal requirements; authorizing the
46 department to adopt rules; providing for the deposit
47 of fees; providing continuing education requirements;
48 providing requirements for the inactivation of a
49 license by a licensee; providing requirements for
50 renewing an inactive license; establishing license
51 reactivation fees; providing for certification of
52 partnerships and corporations offering property

53 insurance appraiser services; providing grounds for
54 compulsory refusal, suspension, or revocation of an
55 appraiser's license; providing grounds for
56 discretionary denial, suspension, or revocation of an
57 appraiser's license; providing ethical standards;
58 providing prohibitions and penalties; authorizing the
59 department to adopt rules; providing an appropriation
60 and authorizing positions; providing applicability;
61 providing an effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

65 Section 1. Paragraph (a) of subsection (4) of section
66 20.165, Florida Statutes, is amended to read:

67 20.165 Department of Business and Professional
68 Regulation.—There is created a Department of Business and
69 Professional Regulation.

70 (4) (a) The following boards and programs are established
71 within the Division of Professions:

72 1. Board of Architecture and Interior Design, created
73 under part I of chapter 481.

74 2. Florida Board of Auctioneers, created under part VI of
75 chapter 468.

76 3. Barbers' Board, created under chapter 476.

77 4. Florida Building Code Administrators and Inspectors
78 Board, created under part XII of chapter 468.

- 79 5. Construction Industry Licensing Board, created under
80 part I of chapter 489.
- 81 6. Board of Cosmetology, created under chapter 477.
- 82 7. Electrical Contractors' Licensing Board, created under
83 part II of chapter 489.
- 84 8. Board of Employee Leasing Companies, created under part
85 XI of chapter 468.
- 86 9. Board of Landscape Architecture, created under part II
87 of chapter 481.
- 88 10. Board of Pilot Commissioners, created under chapter
89 310.
- 90 11. Board of Professional Engineers, created under chapter
91 471.
- 92 12. Board of Professional Geologists, created under
93 chapter 492.
- 94 13. Board of Veterinary Medicine, created under chapter
95 474.
- 96 14. Home inspection services licensing program, created
97 under part XV of chapter 468.
- 98 15. Mold-related services licensing program, created under
99 part XVI of chapter 468.
- 100 16. Property insurance appraisal umpires licensing
101 program, created under part XVII of chapter 468.
- 102 17. Property insurance appraisers licensing program,
103 created under part XVIII of chapter 468.
- 104 Section 2. Part XVII of chapter 468, Florida Statutes,

105 consisting of sections 468.85 through 468.8521, is created to
 106 read:

107 PART XVII

108 PROPERTY INSURANCE APPRAISAL UMPIRES

109 468.85 Property insurance appraisal umpire licensing
 110 program; legislative purpose; scope of part.—

111 (1) The property insurance appraisal umpire licensing
 112 program is created within the Department of Business and
 113 Professional Regulation.

114 (2) The Legislature finds it necessary in the interest of
 115 the public safety and welfare to prevent damage to real and
 116 personal property, to avert economic injury to the residents of
 117 this state, and to regulate persons and companies that hold
 118 themselves out to the public as qualified to perform as property
 119 insurance appraisal umpires.

120 (3) This part applies to residential and commercial
 121 residential property insurance contracts and to the umpires and
 122 appraisers who participate in the appraisal process.

123 468.851 Definitions.—As used in this part, the term:

124 (1) "Appraisal" means the process of dispute resolution,
 125 as defined in the property insurance contract, for determining
 126 the amount of loss after coverage is established and the insurer
 127 and insured are unable to agree on the amount of the loss, or
 128 for determining the scope of repairs if the insurer has elected
 129 to repair the property and the insurer and insured are unable to
 130 agree on the scope of repairs.

131 (2) "Competent" means sufficiently qualified and capable
132 of performing an appraisal.

133 (3) "Department" means the Department of Business and
134 Professional Regulation.

135 (4) "Independent" means not subject to control,
136 restriction, modification, and limitation by the appointing
137 party. To be independent, an umpire must conduct his or her
138 investigation, evaluation, and estimation without instruction by
139 an appointing party and may not accept an appointment as an
140 umpire if the appointment is contingent upon the umpire
141 reporting a predetermined result, analysis, or opinion, or if
142 the fee to be paid for the services of the umpire is contingent
143 upon the opinion, conclusion, or valuation reached by the
144 umpire.

145 (5) "Property insurance appraisal umpire" or "umpire"
146 means a third party selected by the licensed appraisers for the
147 insurer and the insured to resolve issues that the licensed
148 appraisers are unable to reach an agreement during the course of
149 the appraisal process pursuant to a residential or commercial
150 property insurance contract that is required to provide for
151 resolution of a claim dispute by appraisal as defined in the
152 property insurance contract.

153 (6) "Property insurance appraiser" or "appraiser" means a
154 person who is licensed pursuant to part XVIII of chapter 468.

155 468.8511 Fees.—

156 (1) The department, by rule, may establish fees to be paid

157 for application, examination, reexamination, licensing and
158 renewal, inactive status application, reactivation of inactive
159 licenses, and application for providers of continuing education.
160 The department may also establish by rule a delinquency fee.
161 Fees shall be based on department estimates of the revenue
162 required to implement the provisions of this part. Fees shall be
163 remitted with the application, examination, reexamination,
164 licensing and renewal, inactive status application, and
165 reactivation of inactive licenses, and application for providers
166 of continuing education.

167 (2) The application fee shall not exceed \$200 and is
168 nonrefundable. The examination fee shall not exceed \$200 plus
169 the actual per applicant cost to the department to purchase the
170 examination, if the department chooses to purchase the
171 examination. The examination fee shall be in an amount that
172 covers the cost of obtaining and administering the examination
173 and shall be refunded if the applicant is found ineligible to
174 sit for the examination.

175 (3) The fee for an initial license shall not exceed \$250.

176 (4) The fee for a biennial license renewal shall not
177 exceed \$500.

178 (5) The fee for application for inactive status shall not
179 exceed \$125.

180 (6) The fee for reactivation of an inactive license shall
181 not exceed \$250.

182 (7) The fee for applications from providers of continuing

183 education may not exceed \$600.

184 (8) All fees shall be deposited into the Professional
185 Regulation Trust Fund of the Department of Business and
186 Professional Regulation.

187 468.85115 Application for license as a property insurance
188 appraisal umpire.-

189 (1) The department shall not issue a license as a property
190 insurance appraisal umpire to any person except upon application
191 previously filed with the department. Any such application shall
192 be made under oath or affirmation and signed by the applicant.

193 (2) In the application, the applicant shall set forth:

194 (a) His or her full name, age, social security number,
195 residence address, business address, mailing address, contact
196 telephone numbers, including a business telephone number, and e-
197 mail address.

198 (b) Whether he or she has been refused or has voluntarily
199 surrendered or has had suspended or revoked a professional
200 license by the supervising officials of any state.

201 (c) Proof that the applicant meets the requirements for
202 licensure as a property insurance appraisal umpire as set forth
203 in this part.

204 (d) The applicant's gender.

205 (e) The applicant's native language.

206 (f) The applicant's highest achieved level of education.

207 (g) All education requirements that the applicant has
208 completed to qualify as a property insurance appraisal umpire,

209 including the name of the course, the course provider, and the
 210 course completion dates.

211 (3) Each application shall be accompanied by payment of
 212 any applicable fee.

213 (4) An applicant must submit a full set of fingerprints to
 214 the department or to a vendor, entity, or agency authorized by
 215 s. 943.053(13). The department, vendor, entity, or agency must
 216 forward the fingerprints to the Department of Law Enforcement
 217 for state processing, and the Department of Law Enforcement
 218 shall forward the fingerprints to the Federal Bureau of
 219 Investigation for national processing. Fees for state and
 220 federal fingerprint processing shall be borne by the applicant.
 221 The state cost for fingerprint processing is that authorized in
 222 s. 943.053(3)(b) for records provided to persons or entities
 223 other than those specified as exceptions therein.

224 (5) The department shall develop and maintain as a public
 225 record a current list of licensed property insurance appraisal
 226 umpires.

227 468.8512 Examinations.-

228 (1) A person desiring to be licensed as a property
 229 insurance appraisal umpire must apply to the department after
 230 satisfying the examination requirements of this part. The
 231 following persons are exempt from the examination requirements
 232 of this part:

233 (a) Retired county, circuit, and appellate judges.

234 (b) Circuit court civil certified mediators approved by

235 the Supreme Court pursuant to the Florida Rules for Certified
236 and Court-Appointed Mediators.

237 (c) Mediators who are on the list of approved mediators
238 pursuant to rule 69J-166.031, Florida Administrative Code.

239 (2) An applicant may practice in this state as a property
240 insurance appraisal umpire if he or she passes the required
241 examination, is of good moral character, and meets one of the
242 following requirements:

243 (a) The applicant is currently licensed as an engineer
244 pursuant to chapter 471 or is a retired professional engineer as
245 defined in s. 471.005, and has taught or successfully completed
246 4 hours of coursework, approved by the department, specifically
247 related to construction, building codes, appraisal procedures,
248 appraisal preparation, and any other related material deemed
249 appropriate by the department.

250 (b) The applicant is currently or, within the 5 years
251 immediately preceding the date on which the application is filed
252 with the department, has been licensed as a general contractor,
253 building contractor, or residential contractor pursuant to part
254 I of chapter 489 and has taught or successfully completed 4
255 hours of coursework, approved by the department, specifically
256 related to construction, building codes, appraisal procedure,
257 appraisal preparation, and any other related material deemed
258 appropriate by the department.

259 (c) The applicant is currently or, within the 5 years
260 immediately preceding the date on which the application is filed

261 with the department, has been licensed or registered as an
262 architect to engage in the practice of architecture pursuant to
263 part I of chapter 481 and has taught or successfully completed 4
264 hours of coursework, approved by the department, specifically
265 related to construction, building codes, appraisal procedure,
266 appraisal preparation, and any other related material deemed
267 appropriate by the department.

268 (d) The applicant is currently or, within the 5 years
269 immediately preceding the date on which the application is filed
270 with the department, has been a licensed attorney in this state
271 and has taught or successfully completed 4 hours of coursework,
272 approved by the department, specifically related to
273 construction, building codes, appraisal procedure, appraisal
274 preparation, and any other related material deemed appropriate
275 by the department.

276 (e) The applicant is currently licensed as an adjuster
277 pursuant to part VI of chapter 626 whose license includes the
278 property and casualty class of insurance. The currently licensed
279 adjuster must be licensed for at least 5 years to qualify for a
280 property insurance appraisal umpire's license.

281 (3) The department shall review and approve courses of
282 study for the continuing education of property insurance
283 appraisal umpires.

284 (4) The department may not issue a license as a property
285 insurance appraisal umpire to any individual found by it to be
286 untrustworthy or incompetent or who:

287 (a) Has not filed an application with the department in
 288 accordance with s. 485.85115.

289 (b) Is not a natural person who is at least 18 years of
 290 age.

291 (c) Is not a United States citizen or legal alien who
 292 possesses work authorization from the United States Citizenship
 293 and Immigration Services.

294 (d) Has not completed the education, experience, or
 295 licensing requirements of this section.

296 (5) An incomplete application expires 6 months after the
 297 date it is received by the department.

298 (6) An applicant seeking to become licensed under this
 299 part may not be rejected solely by virtue of membership or lack
 300 of membership in any particular appraisal organization.

301 468.8513 Licensure.-

302 (1) Effective October 1, 2016, the department shall
 303 license any applicant who the department certifies is qualified
 304 to practice as a property insurance appraisal umpire.

305 (2) The department shall not issue a license by
 306 endorsement to any applicant for a property insurance appraisal
 307 umpire license who is under investigation in another state for
 308 any act that would constitute a violation of this part until
 309 such time that the investigation is complete and disciplinary
 310 proceedings have been terminated.

311 468.8514 Renewal of license.-

312 (1) The department shall renew a license upon receipt of

313 the renewal application and fee and upon certification by the
314 department that the licensee has satisfactorily completed the
315 continuing education requirements of s. 468.8515.

316 (2) The department shall adopt rules establishing a
317 procedure for the biennial renewal of licenses.

318 468.8515 Continuing education.—

319 (1) The department may not renew a license until the
320 licensee submits satisfactory proof to the department that,
321 during the 2 years before his or her application for renewal,
322 the licensee completed at least 25 hours of continuing education
323 in addition to 5 hours of ethics. Criteria and course content
324 shall be appraisal specific and approved by the department by
325 rule.

326 (2) The department may prescribe by rule additional
327 continuing professional education hours, not to exceed 25
328 percent of the total required hours, for failure to complete the
329 required hours by the end of the renewal period.

330 (3) Each umpire course provider, instructor, and classroom
331 course must be approved by and registered with the department
332 before prelicensure courses for property insurance appraisal
333 umpires may be offered. Each classroom course must include a
334 written examination at the conclusion of the course and must
335 cover all of the material contained in the course. A student may
336 not receive credit for the course unless the student achieves a
337 grade of at least 75 on the examination.

338 (4) The department shall adopt rules establishing

339 standards for the approval, registration, discipline, or removal
340 from registration of course providers, instructors, and courses.
341 The standards must be designed to ensure that instructors have
342 the knowledge, competence, and integrity to fulfill the
343 educational objectives of the prelicensure requirements of this
344 part.

345 (5) Approval to teach prescribed or approved appraisal
346 courses does not entitle the instructor to teach any courses
347 outside the scope of this part.

348 468.8516 Inactive license.-

349 (1) A licensee may request that his or her license be
350 placed on inactive status by filing an application with the
351 department.

352 (2) A license that has become inactive may be reactivated
353 upon application to the department. The department may prescribe
354 by rule continuing education requirements as a condition for
355 reactivation of an inactive license. The continuing education
356 requirements for reactivating a license may not exceed 14 hours
357 for each year the license was inactive.

358 (3) The department shall adopt rules relating to licenses
359 that have become inactive and for the renewal of inactive
360 licenses. The department shall prescribe by rule a fee not to
361 exceed \$250 for the reactivation of an inactive license and a
362 fee not to exceed \$250 for the renewal of an inactive license.

363 468.8517 Partnerships, corporations, and other business
364 entities.-The practice of or the offer to practice as a property

365 insurance appraisal umpire by licensees through a partnership,
366 corporation, or other business entity offering property
367 insurance appraisal umpire services to the public, or by a
368 partnership, corporation, or other business entities through
369 licensees under this part as agents, employees, officers, or
370 partners is permitted, subject to the provisions of this part.
371 This section does not allow a corporation or other business
372 entities to hold a license to practice property insurance
373 appraisal umpire services. A partnership, corporation, or other
374 business entity is not relieved of responsibility for the
375 conduct or acts of its agents, employees, or officers by reason
376 of its compliance with this section. An individual practicing as
377 a property insurance appraisal umpire is not relieved of
378 responsibility for professional services performed by reason of
379 his or her employment or relationship with a partnership,
380 corporation, or other business entity.

381 468.8518 Grounds for compulsory refusal, suspension, or
382 revocation of an umpire's license.-The department shall deny an
383 application for, suspend, revoke, or refuse to renew or continue
384 the license or appointment of any applicant, property insurance
385 appraisal umpire or licensee and shall suspend or revoke the
386 eligibility to hold a license or appointment of any such person
387 if it finds that any one or more of the following applicable
388 grounds exist:

389 (1) Lack of one or more of the qualifications for the
390 license as specified in this part.

391 (2) Material misstatement, misrepresentation, or fraud in
392 obtaining the license or in attempting to obtain the license or
393 appointment.

394 (3) Failure to pass to the satisfaction of the department
395 any examination required under this chapter.

396 (4) That the license or appointment was willfully used to
397 circumvent any of the requirements or prohibitions of this
398 chapter.

399 (5) Demonstrated a lack of fitness or trustworthiness to
400 engage as a property insurance appraisal umpire.

401 (6) Demonstrated a lack of reasonably adequate knowledge
402 and technical competence to engage in the transactions
403 authorized by the license.

404 (7) Fraudulent or dishonest practices in the conduct of
405 business under the license.

406 (8) Willful failure to comply with, or willful violation
407 of, any proper order or rule of the department or willful
408 violation of any provision of this part.

409 (9) Having been found guilty of or having pled guilty or
410 nolo contendere to a felony or a crime punishable by
411 imprisonment of 1 year or more under the law of the United
412 States or of any state thereof or under the law of any other
413 country which involves moral turpitude, without regard to
414 whether a judgment of conviction has been entered by the court
415 having jurisdiction of such cases.

416 (10) (a) Violated a duty imposed upon her or him by law or

417 by the terms of a contract, whether written, oral, expressed, or
418 implied, in an appraisal;

419 (b) Has aided, assisted, or conspired with any other
420 person engaged in any such misconduct and in furtherance
421 thereof; or

422 (c) Has formed an intent, design, or scheme to engage in
423 such misconduct and committed an overt act in furtherance of
424 such intent, design, or scheme.

425
426 It is immaterial to a finding that a licensee has committed a
427 violation of this subsection that the victim or intended victim
428 of the misconduct has sustained no damage or loss, that the
429 damage or loss has been settled and paid after the discovery of
430 misconduct, or that such victim or intended victim was a
431 customer or a person in a confidential relationship with the
432 licensee or was an identified member of the general public.

433 (11) (a) Had a registration, license, or certification as
434 an umpire revoked, suspended, or otherwise acted against;

435 (b) Has had his or her registration, license, or
436 certificate to practice or conduct any regulated profession,
437 business, or vocation revoked or suspended by this or any other
438 state, any nation, or any possession or district of the United
439 States; or

440 (c) Has had an application for such registration,
441 licensure, or certification to practice or conduct any regulated
442 profession, business, or vocation denied by this or any other

443 state, any nation, or any possession or district of the United
444 States.

445 (12) (a) Made or filed a report or record, written or oral,
446 which the licensee knows to be false;

447 (b) Has willfully failed to file a report or record
448 required by state or federal law;

449 (c) Has willfully impeded or obstructed such filing; or

450 (d) Has induced another person to impede or obstruct such
451 filing.

452 (13) Accepted an appointment as an umpire if the
453 appointment is contingent upon the umpire reporting a
454 predetermined result, analysis, or opinion, or if the fee to be
455 paid for the services of the umpire is contingent upon the
456 opinion, conclusion, or valuation reached by the umpire.

457 468.85185 Grounds for discretionary denial, suspension, or
458 revocation of an umpire's license.—The department may deny an
459 application for and suspend, revoke, or refuse to renew or
460 continue a license as a property insurance appraisal umpire if
461 the applicant or licensee has:

462 (1) Failed to timely communicate with the appraisers
463 without good cause.

464 (2) Failed or refused to exercise reasonable diligence in
465 submitting recommendations to the appraisers.

466 (3) Violated any ethical standard for property insurance
467 appraisal umpires set forth in s. 468.8519.

468 (4) Failed to inform the department in writing within 30

469 days after pleading guilty or nolo contendere to, or being
470 convicted or found guilty of, a felony.

471 (5) Failed to timely notify the department of any change
472 in business location, or has failed to fully disclose all
473 business locations from which he or she operates as a property
474 insurance appraisal umpire.

475 468.8519 Ethical standards for property insurance
476 appraisal umpires.—

477 (1) CONFIDENTIALITY.—An umpire shall maintain
478 confidentiality of all information revealed during an appraisal
479 except where disclosure is required by law.

480 (2) RECORDKEEPING.—An umpire shall maintain
481 confidentiality in the storage and disposal of records and may
482 not disclose any identifying information when materials are used
483 for research, training, or statistical compilations.

484 (3) FEES AND EXPENSES.—Fees charged for appraisal services
485 shall be reasonable and consistent with the nature of the case.
486 An umpire shall be guided by the following in determining fees:

487 (a) All charges for services as an umpire based on time
488 may not exceed actual time spent or allocated.

489 (b) Charges for costs shall be for those actually
490 incurred.

491 (c) An umpire may not charge, agree to, or accept as
492 compensation or reimbursement any payment, commission, or fee
493 that is based on a percentage basis, or that is contingent upon
494 arriving at a particular value or any future happening or

495 outcome of the assignment.

496 (4) MAINTENANCE OF RECORDS.—An umpire shall maintain
497 records necessary to support charges for services and expenses,
498 and upon request shall provide an accounting of all applicable
499 charges to the parties. An umpire licensed under this part shall
500 retain original or true copies of any contracts engaging the
501 umpire's services, appraisal reports, and supporting data
502 assembled and formulated by the umpire in preparing appraisal
503 reports for at least 5 years. The period for retaining the
504 records applicable to each engagement starts on the date of the
505 submission of the appraisal report to the client. The records
506 must be made available by the umpire for inspection and copying
507 by the department upon reasonable notice to the umpire. If an
508 appraisal has been the subject of, or has been admitted as
509 evidence in, a lawsuit, reports, and records, the appraisal must
510 be retained for at least 2 years after the date that the trial
511 ends.

512 (5) ADVERTISING.—An umpire may not engage in marketing
513 practices that contain false or misleading information. An
514 umpire shall ensure that any advertisements of the umpire's
515 qualifications, services to be rendered, or the appraisal
516 process are accurate and honest. An umpire may not make claims
517 of achieving specific outcomes or promises implying favoritism
518 for the purpose of obtaining business.

519 (6) INTEGRITY AND IMPARTIALITY.—An umpire may not engage
520 in any business, provide any service, or perform any act that

521 would compromise the umpire's integrity or impartiality.

522 (7) SKILL AND EXPERIENCE.—An umpire shall decline an
523 appointment or selection, withdraw, or request appropriate
524 assistance when the facts and circumstances of the appraisal are
525 beyond the umpire's skill or experience.

526 (8) GIFTS AND SOLICITATION.—An umpire may not give or
527 accept any gift, favor, loan, or other item of value in an
528 appraisal process except for the umpire's reasonable fee. During
529 the appraisal process, an umpire may not solicit or otherwise
530 attempt to procure future professional services.

531 468.8520 Prohibitions; penalties.—

532 (1) Effective October 1, 2016, a person may not:

533 (a) Act, or offer to act, as a property insurance
534 appraisal umpire unless the person is licensed pursuant to this
535 part.

536 (b) Use the name or title "property insurance appraisal
537 umpire" or "umpire" unless the person is licensed pursuant to
538 this part.

539 (2) A person who is found to be in violation of any
540 provision of this section commits a misdemeanor of the first
541 degree, punishable as provided in s. 775.082 or s. 775.083.

542 468.8521 Rulemaking authority.—The department may adopt
543 rules to administer this part, including rules:

544 (1) Establishing a process for determining compliance with
545 the prelicensure requirements.

546 (2) Prescribing necessary forms.

547 (3) Implementing specific rulemaking authority pursuant to
548 this section.

549 Section 3. Part XVIII of chapter 468, Florida Statutes,
550 consisting of sections 468.86 through 468.8621, is created to
551 read:

552 PART XVIII

553 PROPERTY INSURANCE APPRAISERS

554 468.86 Property insurance appraiser licensing program;
555 legislative purpose; scope of part.—

556 (1) The property insurance appraiser licensing program is
557 created within the Department of Business and Professional
558 Regulation.

559 (2) The Legislature finds it necessary and in the interest
560 of the public safety and welfare, to prevent damage to real and
561 personal property, to avert economic injury to the residents of
562 this state, and to regulate persons and companies that hold
563 themselves out to the public as qualified to perform as a
564 property insurance appraiser.

565 (3) This part applies to residential and commercial
566 residential property insurance contracts and to the umpires and
567 appraisers who participate in the appraisal process.

568 468.861 Definitions.—As used in this part, the term:

569 (1) "Appraisal" means the process of dispute resolution,
570 as defined in the property insurance contract, for determining
571 the amount of loss after coverage is established and the insurer
572 and insured are unable to agree on the amount of the loss, or

573 for determining the scope of repairs if the insurer has elected
574 to repair the property and the insurer and insured are unable to
575 agree on the scope of repairs.

576 (2) "Competent" means sufficiently qualified and capable
577 to performing an appraisal.

578 (3) "Department" means the Department of Business and
579 Professional Regulation.

580 (4) "Independent" means not subject to control,
581 restriction, modification, and limitation by the appointing
582 party. To be independent, a person may not accept an appointment
583 as an appraiser if the appointment is contingent upon the
584 appraiser reporting a predetermined result, analysis, or
585 opinion, or if the fee to be paid for the services of the
586 appraiser is contingent upon the opinion, conclusion, or
587 valuation reached by the appraiser.

588 (5) "Property insurance appraisal umpire" or "umpire"
589 means a person who is licensed pursuant to part XVII of chapter
590 468.

591 (6) "Property insurance appraiser" or "appraiser" means a
592 third party selected by an insurer or an insured to develop an
593 appraisal for purposes of the appraisal process under a
594 residential or commercial property insurance contract that
595 provides for resolution of a claim dispute by appraisal.

596 468.8611 Fees.—

597 (1) The department, by rule, may establish fees to be paid
598 for application, examination, reexamination, licensing and

599 renewal, inactive status application, reactivation of inactive
600 licenses, and application for providers of continuing education.
601 The department may also establish by rule a delinquency fee.
602 Fees shall be based on department estimates of the revenue
603 required to implement the provisions of this part. Fees shall be
604 remitted with the application, examination, reexamination,
605 licensing and renewal, inactive status application, and
606 reactivation of inactive licenses, and application for providers
607 of continuing education.

608 (2) The application fee shall not exceed \$200 and is
609 nonrefundable. The examination fee shall not exceed \$200 plus
610 the actual per applicant cost to the department to purchase the
611 examination, if the department chooses to purchase the
612 examination. The examination fee shall be in an amount that
613 covers the cost of obtaining and administering the examination
614 and shall be refunded if the applicant is found ineligible to
615 sit for the examination.

616 (3) The fee for an initial license shall not exceed \$250.

617 (4) The fee for a biennial license renewal shall not
618 exceed \$500.

619 (5) The fee for application for inactive status shall not
620 exceed \$125.

621 (6) The fee for reactivation of an inactive license shall
622 not exceed \$250.

623 (7) The fee for applications from providers of continuing
624 education may not exceed \$600.

625 (8) All fees shall be deposited into the Professional
626 Regulation Trust Fund of the Department of Business and
627 Professional Regulation.

628 468.86115 Application for license as a property insurance
629 appraiser.—

630 (1) The department shall not issue a license as a property
631 insurance appraiser to any person except upon application
632 previously filed with the department. Any such application shall
633 be made under oath or affirmation of and signed by the
634 applicant.

635 (2) In the application, the applicant shall set forth:

636 (a) His or her full name, age, social security number,
637 residence address, business address, mailing address, contact
638 telephone numbers, including a business telephone number, and e-
639 mail address.

640 (b) Whether he or she has been refused or has voluntarily
641 surrendered or has had suspended or revoked a professional
642 license by the supervising officials of any state.

643 (c) Proof that the applicant meets the requirements of
644 licensure as a property insurance appraiser as set forth in this
645 part.

646 (d) The applicant's gender.

647 (e) The applicant's native language.

648 (f) The applicant's highest achieved level of education.

649 (g) All education requirements that the applicant has
650 completed to qualify as a property insurance appraiser,

651 including the name of the course, the course provider, and the
652 course completion dates.

653 (3) Each application shall be accompanied by payment of
654 any applicable fee.

655 (4) An applicant must submit a full set of fingerprints to
656 the department or to a vendor, entity, or agency authorized by
657 s. 943.053(13). The department, vendor, entity, or agency must
658 forward the fingerprints to the Department of Law Enforcement
659 for state processing, and the Department of Law Enforcement
660 shall forward the fingerprints to the Federal Bureau of
661 Investigation for national processing. Fees for state and
662 federal fingerprint processing shall be borne by the applicant.
663 The state cost for fingerprint processing is that authorized in
664 s. 943.053(3)(b) for records provided to persons or entities
665 other than those specified as exceptions therein.

666 (5) The department shall develop and maintain as a public
667 record a current list of licensed property insurance appraisers.

668 468.8612 Examinations.-

669 (1) A person desiring to be licensed as a property
670 insurance appraiser must apply to the department after
671 satisfying the examination requirements of this part. The
672 following persons are exempt from the examination requirements
673 of this part:

674 (a) Retired county, circuit, and appellate judges.

675 (b) Circuit court civil certified mediators approved by
676 the Supreme Court pursuant to the Florida Rules for Certified

677 and Court-Appointed Mediators.

678 (c) Mediators who are on the list of approved mediators
679 pursuant to rule 69J-166.031, Florida Administrative Code.

680 (2) An applicant may practice in this state as a property
681 insurance appraiser if he or she passes the required
682 examination, is of good moral character, and meets one of the
683 following requirements:

684 (a) The applicant is currently licensed as an engineer
685 pursuant to chapter 471 or is a retired professional engineer as
686 defined in s. 471.005, and has taught or successfully completed
687 4 hours of coursework, approved by the department, specifically
688 related to construction, building codes, appraisal procedures,
689 appraisal preparation, and any other related material deemed
690 appropriate by the department.

691 (b) The applicant is currently or, within the 5 years
692 immediately preceding the date on which the application is filed
693 with the department, has been licensed as a general contractor,
694 building contractor, or residential contractor pursuant to part
695 I of chapter 489 and has taught or successfully completed 4
696 hours of coursework, approved by the department, specifically
697 related to construction, building codes, appraisal procedure,
698 appraisal preparation, and any other related material deemed
699 appropriate by the department.

700 (c) The applicant is currently or, within the 5 years
701 immediately preceding the date on which the application is filed
702 with the department, has been licensed or registered as an

703 architect to engage in the practice of architecture pursuant to
704 part I of chapter 481 and has taught or successfully completed 4
705 hours of coursework, approved by the department, specifically
706 related to construction, building codes, appraisal procedure,
707 appraisal preparation, and any other related material deemed
708 appropriate by the department.

709 (d) The applicant is currently or, within the 5 years
710 immediately preceding the date on which the application is filed
711 with the department, has been a licensed attorney in this state
712 and has taught or successfully completed 4 hours of coursework,
713 approved by the department, specifically related to
714 construction, building codes, appraisal procedure, appraisal
715 preparation, and any other related material deemed appropriate
716 by the department.

717 (e) The applicant is currently licensed as an adjuster
718 pursuant to part VI of chapter 626 whose license includes the
719 property and casualty class of insurance. The currently licensed
720 adjuster must be licensed for at least 3 years to qualify for a
721 property insurance appraiser's license.

722 (3) The department shall review and approve courses of
723 study for the continuing education of property insurance
724 appraisers.

725 (4) The department may not issue a license as a property
726 insurance appraiser to any individual found by it to be
727 untrustworthy or incompetent or who:

728 (a) Has not filed an application with the department in

729 accordance with s. 485.86115.

730 (b) Is not a natural person who is at least 18 years of
731 age.

732 (c) Is not a United States citizen or legal alien who
733 possesses work authorization from the United States Citizenship
734 and Immigration Services.

735 (d) Has not completed the education, experience, or
736 licensing requirements in this section.

737 (5) An incomplete application expires 6 months after the
738 date it is received by the department.

739 (6) An applicant seeking to become licensed under this
740 part may not be rejected solely by virtue of membership or lack
741 of membership in any particular appraisal organization.

742 468.8613 Licensure.—

743 (1) Effective October 1, 2016, the department shall
744 license any applicant who the department certifies is qualified
745 to practice as a property insurance appraiser.

746 (2) The department shall not issue a license by
747 endorsement to any applicant for a property insurance appraiser
748 license who is under investigation in another state for any act
749 that would constitute a violation of this part until such time
750 that the investigation is complete and disciplinary proceedings
751 have been terminated.

752 468.8614 Renewal of license.—

753 (1) The department shall renew a license upon receipt of
754 the renewal application and fee and upon certification by the

755 department that the licensee has satisfactorily completed the
756 continuing education requirements of s. 468.8615.

757 (2) The department shall adopt rules establishing a
758 procedure for the biennial renewal of licenses.

759 468.8615 Continuing education.—

760 (1) The department may not renew a license until the
761 licensee submits satisfactory proof to the department that,
762 during the 2 years before his or her application for renewal,
763 the licensee completed at least 25 hours of continuing education
764 in addition to 5 hours of ethics. Criteria and course content
765 shall be appraisal specific and approved by the department by
766 rule.

767 (2) The department may prescribe by rule additional
768 continuing professional education hours, not to exceed 25
769 percent of the total required hours, for failure to complete the
770 required hours for renewal by the end of the renewal period.

771 (3) Each appraiser course provider, instructor, and
772 classroom course must be approved by and registered with the
773 department before prelicensure courses for property insurance
774 appraisers may be offered. Each classroom course must include a
775 written examination at the conclusion of the course and must
776 cover all of the material contained in the course. A student may
777 not receive credit for the course unless the student achieves a
778 grade of at least 75 on the examination.

779 (4) The department shall adopt rules establishing
780 standards for the approval, registration, discipline, or removal

781 from registration of course providers, instructors, and courses.
782 The standards must be designed to ensure that instructors have
783 the knowledge, competence, and integrity to fulfill the
784 educational objectives of the prelicensure requirements of this
785 part.

786 (5) Approval to teach prescribed or approved appraisal
787 courses does not entitle the instructor to teach any courses
788 outside the scope of this part.

789 468.8616 Inactive license.-

790 (1) A licensee may request that his or her license be
791 placed on inactive status by filing an application with the
792 department.

793 (2) A license that has become inactive may be reactivated
794 upon application to the department. The department may prescribe
795 by rule continuing education requirements as a condition for
796 reactivation of an inactive license. The continuing education
797 requirements for reactivating a license may not exceed 14 hours
798 for each year the license was inactive.

799 (3) The department shall adopt rules relating to licenses
800 that have become inactive and for the renewal of inactive
801 licenses. The department shall prescribe by rule a fee not to
802 exceed \$250 for the reactivation of an inactive license and a
803 fee not to exceed \$250 for the renewal of an inactive license.

804 468.8617 Partnerships, corporations, and other business
805 entities.-The practice of or the offer to practice as a property
806 insurance appraiser by licensees through a partnership,

807 corporation, or other business entity offering property
808 insurance appraiser services to the public, or by a partnership,
809 corporation, or other business entity through licensees under
810 this part as agents, employees, officers, or partners is
811 permitted subject to the provisions of this part. This section
812 does not allow a corporation or other business entity to hold a
813 license to practice property insurance appraiser services. A
814 partnership, corporation, or other business entity is not
815 relieved of responsibility for the conduct or acts of its
816 agents, employees, or officers by reason of its compliance with
817 this section. An individual practicing as a property insurance
818 appraiser is not relieved of responsibility for professional
819 services performed by reason of his or her employment or
820 relationship with a partnership, corporation, or other business
821 entity.

822 468.8618 Grounds for compulsory refusal, suspension, or
823 revocation of an appraiser's license.—The department shall deny
824 an application for, suspend, revoke, or refuse to renew or
825 continue the license or appointment of any applicant, property
826 insurance appraiser or licensee and shall suspend or revoke the
827 eligibility to hold a license or appointment of any such person
828 if it finds that any one or more of the following applicable
829 grounds exist:

830 (1) Lack of one or more of the qualifications for the
831 license as specified in this part.

832 (2) Material misstatement, misrepresentation, or fraud in

833 obtaining the license or in attempting to obtain the license or
 834 appointment.

835 (3) Failure to pass to the satisfaction of the department
 836 any examination required under this act.

837 (4) That the license or appointment was willfully used to
 838 circumvent any of the requirements or prohibitions of this code.

839 (5) Demonstrated a lack of fitness or trustworthiness to
 840 engage as a property insurance appraiser.

841 (6) Demonstrated a lack of reasonably adequate knowledge
 842 and technical competence to engage in the transactions
 843 authorized by the license.

844 (7) Fraudulent or dishonest practices in the conduct of
 845 business under the license.

846 (8) Willful failure to comply with, or willful violation
 847 of, any proper order or rule of the department or willful
 848 violation of any provision of this part.

849 (9) Having been found guilty of or having pled guilty or
 850 nolo contendere to a felony or a crime punishable by
 851 imprisonment of 1 year or more under the law of the United
 852 States or of any state thereof or under the law of any other
 853 country which involves moral turpitude, without regard to
 854 whether a judgment of conviction has been entered by the court
 855 having jurisdiction of such cases.

856 (10) (a) Violated a duty imposed upon her or him by law or
 857 by the terms of a contract, whether written, oral, expressed, or
 858 implied, in an appraisal;

859 (b) Has aided, assisted, or conspired with any other
860 person engaged in any such misconduct and in furtherance
861 thereof; or

862 (c) Has formed an intent, design, or scheme to engage in
863 such misconduct and committed an overt act in furtherance of
864 such intent, design, or scheme.

865

866 It is immaterial to a finding that a licensee has committed a
867 violation of this subsection that the victim or intended victim
868 of the misconduct has sustained no damage or loss, that the
869 damage or loss has been settled and paid after the discovery of
870 misconduct, or that such victim or intended victim was a
871 customer or a person in a confidential relationship with the
872 licensee or was an identified member of the general public.

873 (11) (a) Had a registration, license, or certification as
874 an appraiser revoked, suspended, or otherwise acted against;

875 (b) Has had his or her registration, license, or
876 certificate to practice or conduct any regulated profession,
877 business, or vocation revoked or suspended by this or any other
878 state, any nation, or any possession or district of the United
879 States; or

880 (c) Has had an application for such registration,
881 licensure, or certification to practice or conduct any regulated
882 profession, business, or vocation denied by this or any other
883 state, any nation, or any possession or district of the United
884 States.

885 (12) (a) Made or filed a report or record, written or oral,
886 which the licensee knows to be false;

887 (b) Has willfully failed to file a report or record
888 required by state or federal law;

889 (c) Has willfully impeded or obstructed such filing; or

890 (d) Has induced another person to impede or obstruct such
891 filing.

892 (13) Accepted an appointment as an appraiser if the
893 appointment is contingent upon the appraiser reporting a
894 predetermined result, analysis, or opinion, or if the fee to be
895 paid for the services of the appraiser is contingent upon the
896 opinion, conclusion, or valuation reached by the appraiser.

897 468.86185 Grounds for discretionary denial, suspension, or
898 revocation of an appraiser's license.-The department may deny an
899 application for and suspend, revoke, or refuse to renew or
900 continue a license as a property insurance appraiser if the
901 applicant or licensee has:

902 (1) Failed to timely communicate with the opposing party's
903 appraiser without good cause.

904 (2) Failed or refused to exercise reasonable diligence in
905 submitting recommendations to the opposing party's appraiser.

906 (3) Violated any ethical standard for property insurance
907 appraisers set forth in s. 468.8619.

908 (4) Failed to inform the department in writing within 30
909 days after pleading guilty or nolo contendere to, or being
910 convicted or found guilty of, a felony.

911 (5) Failed to timely notify the department of any change
912 in business location, or has failed to fully disclose all
913 business locations from which he or she operates as a property
914 insurance appraiser.

915 468.8619 Ethical standards for property insurance
916 appraisers.-

917 (1) CONFIDENTIALITY.-An appraiser shall maintain
918 confidentiality of all information revealed during an appraisal
919 except to the party that hired the appraiser and except where
920 disclosure is required by law.

921 (2) RECORDKEEPING.-An appraiser shall maintain
922 confidentiality in the storage and disposal of records and may
923 not disclose any identifying information when materials are used
924 for research, training, or statistical compilations.

925 (3) FEES AND EXPENSES.-Fees charged for appraisal services
926 shall be reasonable and consistent with the nature of the case.
927 An appraiser shall be guided by the following in determining
928 fees:

929 (a) All charges for services as an appraiser based on time
930 may not exceed actual time spent or allocated.

931 (b) Charges for costs shall be for those actually
932 incurred.

933 (4) MAINTENANCE OF RECORDS.-An appraiser shall maintain
934 records necessary to support charges for services and expenses,
935 and upon request shall provide an accounting of all applicable
936 charges to the parties. An appraiser licensed under this part

937 shall retain for at least 5 years original or true copies of any
938 contracts engaging the appraiser's services, appraisal reports,
939 and supporting data assembled and formulated by the appraiser in
940 preparing appraisal reports. The period for retaining the
941 records applicable to each engagement starts on the date of the
942 submission of the appraisal report to the client. The records
943 must be made available by the appraiser for inspection and
944 copying by the department upon reasonable notice to the
945 appraiser. If an appraisal has been the subject of, or has been
946 admitted as evidence in, a lawsuit, reports, and records, the
947 appraisal must be retained for at least 2 years after the date
948 that the trial ends.

949 (5) ADVERTISING.—An appraiser may not engage in marketing
950 practices that contain false or misleading information. An
951 appraiser shall ensure that any advertisements of the
952 appraiser's qualifications, services to be rendered, or the
953 appraisal process are accurate and honest. An appraiser may not
954 make claims of achieving specific outcomes or promises implying
955 favoritism for the purpose of obtaining business.

956 (6) INTEGRITY.—An appraiser may not accept any engagement,
957 provide any service, or perform any act that would compromise
958 the appraiser's integrity.

959 (a) An appraiser may not accept an appointment unless he
960 or she can:

961 1. Serve independently from the party appointing him or
962 her;

963 2. Serve competently; and

964 3. Be available to promptly commence the appraisal, and
965 thereafter devote the time and attention to its completion in a
966 manner expected by all involved parties.

967 (b) An appraiser shall conduct the appraisal process in a
968 manner that advances the fair and efficient resolution of the
969 matters submitted for decision. A licensed appraiser shall make
970 all reasonable efforts to prevent delays in the appraisal
971 process, the harassment of parties or other participants, or
972 other abuse or disruption of the appraisal process.

973 (c) Once a licensed appraiser has accepted an appointment,
974 the appraiser may not withdraw or abandon the appointment unless
975 compelled to do so by unanticipated circumstances that would
976 render it impossible or impracticable to continue.

977 (d) The licensed appraiser shall, after careful
978 deliberation, decide all issues submitted for determination and
979 no other issues. A licensed appraiser shall decide all matters
980 justly, exercising independent judgment, and may not allow
981 outside pressure to affect the decision. An appraiser may not
982 delegate the duty to decide to any other person.

983 (7) SKILL AND EXPERIENCE.—An appraiser shall decline an
984 appointment or selection, withdraw, or request appropriate
985 assistance when the facts and circumstances of the appraisal are
986 beyond the appraiser's skill or experience.

987 (8) GIFTS AND SOLICITATION.—An appraiser may not give or
988 accept any gift, favor, loan, or other item of value in an

989 appraisal process except for the appraiser's reasonable fee.
 990 During the appraisal process, an appraiser may not solicit or
 991 otherwise attempt to procure future professional services.

992 (9) COMMUNICATIONS WITH PARTIES.—

993 (a) If an agreement of the parties establishes the manner
 994 or content of the communications between the appraisers, the
 995 parties and the umpire, the appraisers shall abide by such
 996 agreement. In the absence of agreement, an appraiser may not
 997 discuss a proceeding with any party or with the umpire in the
 998 absence of any other party, except in the following
 999 circumstances:

1000 1. If the appointment of the appraiser or umpire is being
 1001 considered, the prospective appraiser or umpire may ask about
 1002 the identities of the parties, counsel, and the general nature
 1003 of the case, and may respond to inquiries from a party, its
 1004 counsel or an umpire designed to determine his or her
 1005 suitability and availability for the appointment;

1006 2. To consult with the party who appointed the appraiser
 1007 concerning the selection of a neutral umpire;

1008 3. To make arrangements for any compensation to be paid by
 1009 the party who appointed the appraiser; or

1010 4. To make arrangements for obtaining materials and
 1011 inspection of the property with the party who appointed the
 1012 appraiser. Such communication is limited to scheduling and the
 1013 exchange of materials.

1014 (b) There may be no communications whereby a party

1015 dictates to an appraiser what the result of the proceedings must
 1016 be, what matters or elements may be included or considered by
 1017 the appraiser, or what actions the appraiser may take.

1018 468.8620 Prohibitions; penalties.—

1019 (1) Effective October 1, 2016, a person may not:

1020 (a) Act, or offer to act, as a property insurance
 1021 appraiser unless the person is licensed pursuant to this part.

1022 (b) Use the name or title "property insurance appraiser"
 1023 or "appraiser" unless the person is licensed pursuant to this
 1024 part.

1025 (2) A person who is found to be in violation of any
 1026 provision of this section commits a misdemeanor of the first
 1027 degree, punishable as provided in s. 775.082 or s. 775.083.

1028 468.8621 Rulemaking authority.—The department may adopt
 1029 rules to administer this part, including rules:

1030 (1) Establishing a process for determining compliance with
 1031 the prelicensure requirements.

1032 (2) Prescribing necessary forms.

1033 (3) Implementing specific rulemaking authority pursuant to
 1034 this section.

1035 Section 4. For the 2015-2016 fiscal year, the sums of
 1036 \$605,874 in recurring funds and \$59,053 in nonrecurring funds
 1037 from the Professional Regulation Trust Fund are appropriated to
 1038 the Department of Business and Professional Regulation, and four
 1039 full-time equivalent positions and associated salary rate of
 1040 212,315 are authorized, for the purpose of implementing this

CS/CS/CS/HB 491

2015

1041 | act.

1042 | Section 5. The licensure, prohibition, and disciplinary
1043 | provisions of this act do not apply until October 1, 2016.

1044 | Section 6. This act shall take effect July 1, 2015.