

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Articles offered the following:

2

3 **Amendment (with title amendment)**

4 Between lines 255 and 256, insert:

5 Section 7. Section 626.9965, Florida Statutes, is created  
6 to read:

7 626.9965 Qualification for license as a property insurance  
8 appraisal umpire.-

9 (1) The department shall issue a license as an umpire to a  
10 person who meets the requirements of subsection (2) and is one  
11 of the following:

12 (a) A retired county, circuit, or appellate judge.

13 (b) Licensed as an engineer pursuant to chapter 471 or is  
14 a retired professional engineer as defined in s. 471.005.

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

15 (c) Licensed as a general contractor, building contractor,  
16 or residential contractor pursuant to part I of chapter 489.

17 (d) Licensed or registered as an architect to engage in  
18 the practice of architecture pursuant to part I of chapter 481.

19 (e) A member of The Florida Bar.

20 (f) Licensed as an adjuster pursuant to part VI of chapter  
21 626, which license includes the property and casualty lines of  
22 insurance. An adjuster must have been licensed for at least 5  
23 years as an adjuster before he or she may be licensed as an  
24 umpire.

25 (2) An applicant may be licensed to practice in this state  
26 as an umpire if the applicant:

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

28 (b) Is a United States citizen or legal alien who  
29 possesses work authorization from the United States Bureau of  
30 Citizenship and Immigration;

31 (c) Is of good moral character;

32 (d) Has paid the applicable fees specified in s. 624.501;  
33 and

34 (e) Has, before the date of the application for licensure,  
35 satisfactorily completed education courses approved by the  
36 department covering:

37 1. At least 19 hours of insurance claims estimating; and

38 2. At least 5 hours of insurance law, ethics for insurance  
39 professionals, disciplinary trends, and case studies.

40

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

41 A retired county, circuit, or appellate judge who is a member in  
42 good standing of The Florida Bar is exempt from the continuing  
43 education requirements of s. 626.2815 and the education courses  
44 required by this subsection.

45 (3) The department may not reject an application solely  
46 because the applicant is or is not a member of a given appraisal  
47 organization.

48 Section 8. Section 626.9966, Florida Statutes, is created  
49 to read:

50 626.9966 Grounds for refusal, suspension, or revocation of  
51 an umpire license or appointment.—The department may deny an  
52 application for license or appointment under this part; suspend,  
53 revoke, or refuse to renew or continue a license or appointment  
54 of an umpire; or suspend or revoke eligibility for licensure or  
55 appointment as an umpire if the department finds that one or  
56 more of the following applicable grounds exist:

57 (1) Violating a duty imposed upon him or her by law or by  
58 the terms of the umpire agreement; aiding, assisting, or  
59 conspiring with any other person engaged in any such misconduct  
60 and in furtherance thereof; or forming the intent, design, or  
61 scheme to engage in such misconduct and committing an overt act  
62 in furtherance of such intent, design, or scheme. An umpire  
63 commits a violation of this part regardless of whether the  
64 victim or intended victim of the misconduct has sustained any  
65 damage or loss; the damage or loss has been settled and paid  
66 after the discovery of misconduct; or the victim or intended

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

67 victim is an insurer or customer or a person in a confidential  
68 relationship with the umpire or is an identified member of the  
69 general public.

70 (2) Having a registration, license, or certification to  
71 practice or conduct any regulated profession, business, or  
72 vocation revoked, suspended, or encumbered; or having an  
73 application for such registration, licensure, or certification  
74 to practice or conduct any regulated profession, business, or  
75 vocation denied, by this or any other state, any nation, or any  
76 possession or district of the United States.

77 (3) Making or filing a report or record, written or oral,  
78 which the umpire knows to be false; willfully failing to file a  
79 report or record required by state or federal law; willfully  
80 impeding or obstructing such filing; or inducing another person  
81 to impede or obstruct such filing.

82 (4) Agreeing to serve as an umpire if service is  
83 contingent upon the umpire reporting a predetermined amount,  
84 analysis, or opinion.

85 (5) Agreeing to serve as an umpire, if the fee to be paid  
86 for his or her services is contingent upon the opinion,  
87 conclusion, or valuation he or she reaches.

88 (6) Failure of an umpire, without good cause, to  
89 communicate within 10 business days after a request for  
90 communication from an appraiser.

91 (7) Violation of any ethical standard for umpires  
92 specified in s. 626.9967.

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

93 Section 9. Section 626.9967, Florida Statutes, is created  
94 to read:

95 626.9967 Ethical standards for property insurance  
96 appraisal umpires.-

97 (1) FEES AND EXPENSES.-

98 (a) The fees charged by an umpire must be reasonable and  
99 consistent with the nature of the case.

100 (b) In determining fees, an umpire:

101 1. Must charge on an hourly basis and may bill only for  
102 actual time spent on or allocated for the appraisal.

103 2. May not charge, agree to, or accept as compensation or  
104 reimbursement any payment, commission, or fee that is based on a  
105 percentage of the value of the claim or that is contingent upon  
106 a specified outcome.

107 3. May charge for costs actually incurred, and no other  
108 costs. An umpire may not charge for the cost of an expert unless  
109 the umpire has disclosed the amount of the expert's fee to the  
110 appraiser for the insurer and the appraiser for the insured  
111 before incurring the cost for the expert's services.

112 4. May not charge a fee of more than \$500 if the amount  
113 reported by the appraiser for the insurer or by the appraiser  
114 for the insured does not exceed \$2,500.

115 (c) An appraiser may assign the duty of paying the  
116 umpire's fee to, and the umpire is entitled to receive payment  
117 directly from, the insurer and the insured only if the insurer

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

118 and the insured acknowledge and accept that duty and agree in  
119 writing to be responsible for payment.

120 (2) MAINTENANCE OF RECORDS.—An umpire shall maintain  
121 records necessary to support charges for services and expenses,  
122 and, upon request, shall provide an accounting of all applicable  
123 charges to the insurer and insured. An umpire shall retain  
124 original or true copies of any contracts engaging his or her  
125 services, appraisal reports, and supporting data assembled and  
126 formulated by the umpire in preparing appraisal reports for at  
127 least 5 years. The umpire shall make the records available to  
128 the department for inspection and copying within 7 business days  
129 after a request. If an appraisal has been the subject of, or has  
130 been admitted as evidence in, a lawsuit, reports and records  
131 related to the appraisal must be retained for at least 2 years  
132 after the date that the trial ends.

133 (3) ADVERTISING.—An umpire may not engage in marketing  
134 practices that contain false or misleading information. An  
135 umpire shall ensure that any advertisement of his or her  
136 qualifications, services to be rendered, or the appraisal  
137 process are accurate and honest. An umpire may not make claims  
138 of achieving specific outcomes or promises implying favoritism  
139 for the purpose of obtaining business.

140 (4) INTEGRITY AND IMPARTIALITY.—

141 (a)1. An umpire may not accept an appraisal unless he or  
142 she can serve competently, promptly commence the appraisal and,

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

143 thereafter, devote the time and attention to its completion in  
144 the manner expected by all persons involved in the appraisal.

145 2. An umpire shall conduct the appraisal process in a  
146 manner that advances the fair and efficient resolution of issues  
147 that arise.

148 3. An umpire shall deliberate and decide all issues within  
149 the scope of the appraisal, but may not render a decision on any  
150 other issues. An umpire shall decide all matters justly,  
151 exercising independent judgment. An umpire may not delegate his  
152 or her duties to any other person. An umpire who considers the  
153 opinion of an expert does not violate this paragraph.

154 (b) An umpire may not engage in any business, provide any  
155 service, or perform any act that would compromise his or her  
156 integrity or impartiality.

157 (5) SKILL AND EXPERIENCE.—An umpire shall decline or  
158 withdraw from an appraisal or request appropriate assistance  
159 when the facts and circumstances of the appraisal prove to be  
160 beyond his or her skill or experience.

161 (6) GIFTS AND SOLICITATION.—An umpire or any individual or  
162 entity acting on behalf of an umpire may not solicit, accept,  
163 give, or offer to give, directly or indirectly, any gift, favor,  
164 loan, or other item of value in excess of \$25 to any individual  
165 who participates in the appraisal, for the purpose of  
166 solicitation or otherwise attempting to procure future work from  
167 any person who participates in the appraisal, or as an  
168 inducement to entering into an appraisal with an umpire. This

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

169 subsection does not prevent an umpire from accepting other  
170 appraisals where the appraisers agree upon the umpire or the  
171 court appoints the umpire.

172 (7) EX PARTE COMMUNICATION.—In any property insurance  
173 appraisal, ex parte communication between an umpire and an  
174 appraiser is prohibited. However, an appraiser may communicate  
175 with another appraiser if an umpire is not present or does not  
176 receive the ex parte communication.

177 Section 10. Section 626.9968, Florida Statutes, is created  
178 to read:

179 626.9968 Conflicts of interest.—An insurer or a  
180 policyholder may challenge an umpire's impartiality and  
181 disqualify the proposed umpire only if:

182 (1) A familial relationship within the third degree exists  
183 between the umpire and a party or a representative of a party;

184 (2) The umpire has previously represented a party in a  
185 professional capacity in the same claim or matter involving the  
186 same property;

187 (3) The umpire has represented another person in a  
188 professional capacity in the same or a substantially related  
189 matter that includes the claim, the same property or an adjacent  
190 property, and the other person's interests are materially  
191 adverse to the interests of a party;

192 (4) The umpire has worked as an employer or employee of a  
193 party within the preceding 5 years; or

194 (5) The umpire has violated s. 626.9966.

273837

Approved For Filing: 3/7/2016 7:45:33 AM



Amendment No.

195 Section 11. Section 627.70151, Florida Statutes, is  
196 repealed.

197 Section 12. For the 2016-2017 fiscal year, the sums of  
198 \$24,000 in recurring funds from the Insurance Regulatory Trust  
199 Fund and \$73,107 in recurring funds and \$39,230 in nonrecurring  
200 funds from the Administrative Trust Fund are appropriated to the  
201 Department of Financial Services, and one full-time equivalent  
202 position with associated salary rate of 47,291 is authorized,  
203 for the purpose of implementing sections 626.9965, 626.9966,  
204 626.9967, and 626.9968, Florida Statutes, as created by this  
205 act.

206 Section 13. Sections 626.9965, 626.9966, 626.9967,  
207 626.9968, Florida Statutes, as created by this act, and the  
208 repeal of section 627.70151, Florida Statutes, apply to all  
209 appraisals requested on or after October 1, 2016.

210

211 -----

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

213 Remove line 23 and insert:

214 amendments to s. 624.502, F.S.; creating s. 626.9965,  
215 F.S.; providing for licensure by the department of a  
216 property insurance appraisal umpire; providing  
217 qualifications for such license; creating s. 626.9966,  
218 F.S.; authorizing the department to refuse, suspend,  
219 or revoke an umpire's license under certain  
220 circumstances; creating s. 626.9967, F.S.; providing

273837

Approved For Filing: 3/7/2016 7:45:33 AM

Amendment No.

221 ethical standards for property insurance appraisal  
222 umpires; creating s. 626.9968, F.S.; providing for  
223 disqualification of an umpire under certain  
224 circumstances; repealing s. 627.70151, F.S., relating  
225 to appraisal conflicts of interest; providing an  
226 appropriation and authorizing positions for specific  
227 sections; providing applicability; amendment ss.  
228 16.59,

273837

Approved For Filing: 3/7/2016 7:45:33 AM