

By Senator Fasano

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1 A bill to be entitled

2 An act relating to property insurance appraisal umpires;
3 amending s. 624.501, F.S.; providing filing fees regarding
4 the application for and issuance of a license, as well as
5 the biennial renewal or continuation thereof, by a
6 property insurance appraisal umpire; amending s. 626.015,
7 F.S.; defining the terms "property insurance loss
8 appraiser" and "property insurance appraisal umpire" for
9 purposes of the Licensing Procedures Law; amending s.
10 626.016, F.S.; providing that property insurance appraisal
11 umpires are subject to the powers of the Department of
12 Financial Services, the Financial Services Commission, and
13 the Office of Insurance Regulation; amending s. 626.022,
14 F.S.; expanding the scope of part I of ch. 626, F.S., to
15 include property insurance appraisal umpires; amending s.
16 626.112, F.S.; requiring that property insurance appraisal
17 umpires operating in this state be licensed by the
18 department; creating part XII of ch. 626, F.S.; creating
19 s. 626.9931, F.S.; providing a legislative finding and
20 purpose; creating s. 626.9932, F.S.; providing the scope
21 and parameters for application; creating s. 626.9933,
22 F.S.; providing definitions; creating s. 626.9934, F.S.;
23 providing procedures for the application for licensure as
24 a property insurance appraisal umpire; requiring that all
25 applicants be fingerprinted by a law enforcement agency or
26 other entity approved by the department at the time of
27 application; requiring the department to develop and
28 maintain an updated list of licensed umpires; creating s.
29 626.9935, F.S.; authorizing the department to adopt rules;

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30 creating s. 626.9936, F.S.; providing qualifications for
31 licensure as a property insurance appraisal umpire;
32 creating s. 626.9937, F.S.; providing requirements for
33 licensure as a property insurance appraisal umpire;
34 creating s. 626.9938, F.S.; providing for the regulation
35 of umpire course providers, instructors, and courses;
36 requiring the department to adopt rules establishing
37 standards for providers, instructors, and courses;
38 requiring the department to adopt rules establishing a
39 process for determining compliance with certain
40 prelicensure requirements and adopting forms to be used
41 for the administration of such requirements; creating s.
42 626.9939, F.S.; providing grounds for the compulsory
43 refusal, suspension, or revocation of an umpire's license;
44 creating s. 626.9940, F.S.; providing grounds for the
45 discretionary refusal, suspension, or revocation of an
46 umpire's license; creating s. 626.9941, F.S.; providing
47 ethical standards for property insurance loss appraisal
48 umpires; creating s. 626.9942, F.S.; requiring that a
49 licensed property insurance appraisal umpire retain
50 certain records for a specified period; requiring that
51 umpires make such records available for inspection and
52 copying by the department; requiring that appraisals that
53 are the subject of litigation or have been admitted as
54 evidence in a lawsuit be retained for a specified period;
55 creating s. 627.4141, F.S.; providing procedures that must
56 be followed if a residential or commercial property
57 insurance contract provides that either party may submit a
58 written demand to enter into the process of appraisal when

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59 | the insured and the insurer fail to mutually agree to the
60 | actual cash value, the amount of loss, or the cost of
61 | repair or replacement of property for which a claim has
62 | been filed; providing an exception upon which an insurer
63 | may refuse to accept such demand; authorizing each party
64 | to select a competent and independent appraiser and to
65 | notify the opposing party within a specified period;
66 | requiring the appraisers to select an umpire from the
67 | department's list of licensed umpires; authorizing either
68 | party to file a petition, in a county or circuit court in
69 | the jurisdiction in which the covered property is located,
70 | to designate an umpire if the appraisers cannot agree on
71 | the selection of an umpire; providing that appraisal
72 | proceedings are informal unless the insurer and the
73 | insured agree otherwise; defining and providing the scope
74 | of the term "informal" for purposes of appraisal
75 | proceedings; requiring each appraiser to submit a written
76 | report to the other appraisers; requiring that any
77 | differences in findings among the appraisers which cannot
78 | be resolved by the appraisers themselves be submitted to
79 | the umpire for review; requiring the umpire to submit his
80 | or her conclusions regarding any unresolved differences in
81 | the findings of the appraisers within a specified period;
82 | providing that if either appraiser agrees with the
83 | conclusions of the umpire, an itemized written appraisal
84 | award signed by the umpire and appraiser shall be filed
85 | with the insurer and shall determine the amount of the
86 | loss; providing that the appraisal award is binding upon
87 | the insurer and the insured; providing for compensation of

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88 the appraisers and the umpire; providing that the Florida
 89 Arbitration Code does not apply to residential or
 90 commercial property insurance loss appraisal proceedings;
 91 prohibiting the appraisal process from addressing issues
 92 involving coverage or lack thereof under an insurance
 93 contract; authorizing the umpire and appraisers to
 94 consider causation issues when necessary to determine the
 95 amount of loss; providing an effective date.

96

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

98

99 Section 1. Subsection (5) of section 624.501, Florida
 100 Statutes, is amended, and subsection (29) is added to that
 101 section, to read:

102 624.501 Filing, license, appointment, and miscellaneous
 103 fees.--The department, commission, or office, as appropriate,
 104 shall collect in advance, and persons so served shall pay to it
 105 in advance, fees, licenses, and miscellaneous charges as follows:

106 (5) All insurance representatives and property insurance
 107 appraisal umpires, application for license, each filing, filing
 108 fee....\$50.00

109 (29) All property insurance appraisal umpires, fees for
 110 issuance of original license and for biennial renewal or
 111 continuation thereof.....\$50.00

112 Section 2. Present subsections (16), (17), and (18) of
 113 section 626.015, Florida Statutes, are redesignated as
 114 subsections (18), (19), and (20), respectively, and new
 115 subsections (16) and (17) are added to that section, to read:

116 626.015 Definitions.--As used in this part:

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117 (16) "Property insurance loss appraiser" has the same
118 meaning as in s. 626.9933.

119 (17) "Property insurance appraisal umpire" has the same
120 meaning as in s. 626.9933.

121 Section 3. Subsection (1) of section 626.016, Florida
122 Statutes, is amended to read:

123 626.016 Powers and duties of department, commission, and
124 office.--

125 (1) The powers and duties of the Chief Financial Officer
126 and the department specified in this part apply only with respect
127 to insurance agents, insurance agencies, managing general agents,
128 insurance adjusters, reinsurance intermediaries, viatical
129 settlement brokers, customer representatives, service
130 representatives, and property insurance appraisal umpires
131 agencies.

132 Section 4. Subsection (1) of section 626.022, Florida
133 Statutes, is amended to read:

134 626.022 Scope of part.--

135 (1) This part applies as to insurance agents, service
136 representatives, adjusters, property insurance appraisal umpires,
137 and insurance agencies; as to any and all kinds of insurance; and
138 as to stock insurers, mutual insurers, reciprocal insurers, and
139 all other types of insurers, except that:

140 (a) It does not apply as to reinsurance, except that ss.
141 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.
142 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-
143 626.591, and ss. 626.601-626.711 shall apply as to reinsurance
144 intermediaries as defined in s. 626.7492.

145 (b) The applicability of this chapter as to fraternal

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146 benefit societies shall be as provided in chapter 632.

147 (c) It does not apply to a bail bond agent, as defined in
148 s. 648.25, except as provided in chapter 648 or chapter 903.

149 (d) This part does not apply to a certified public
150 accountant licensed under chapter 473 who is acting within the
151 scope of the practice of public accounting, as defined in s.
152 473.302, provided that the activities of the certified public
153 accountant are limited to advising a client of the necessity of
154 obtaining insurance, the amount of insurance needed, or the line
155 of coverage needed, and provided that the certified public
156 accountant does not directly or indirectly receive or share in
157 any commission or referral fee.

158 Section 5. Section 626.112, Florida Statutes, is amended to
159 read:

160 626.112 License and appointment required; agents, customer
161 representatives, adjusters, insurance agencies, service
162 representatives, managing general agents, and property insurance
163 appraisal umpires.--

164 (1)(a) No person may be, act as, or advertise or hold
165 himself or herself out to be an insurance agent, insurance
166 adjuster, or customer representative unless he or she is
167 currently licensed by the department and appointed by an
168 appropriate appointing entity or person.

169 (b) Except as provided in subsection (6) or in applicable
170 department rules, and in addition to other conduct described in
171 this chapter with respect to particular types of agents, a
172 license as an insurance agent, service representative, customer
173 representative, or limited customer representative is required in
174 order to engage in the solicitation of insurance. For purposes of

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175 | this requirement, as applicable to any of the license types
176 | described in this section, the solicitation of insurance is the
177 | attempt to persuade any person to purchase an insurance product
178 | by:

179 | 1. Describing the benefits or terms of insurance coverage,
180 | including premiums or rates of return;

181 | 2. Distributing an invitation to contract to prospective
182 | purchasers;

183 | 3. Making general or specific recommendations as to
184 | insurance products;

185 | 4. Completing orders or applications for insurance
186 | products;

187 | 5. Comparing insurance products, advising as to insurance
188 | matters, or interpreting policies or coverages; or

189 | 6. Offering or attempting to negotiate on behalf of another
190 | person a viatical settlement contract as defined in s. 626.9911.

191 |

192 | However, an employee leasing company licensed pursuant to chapter
193 | 468 which is seeking to enter into a contract with an employer
194 | that identifies products and services offered to employees may
195 | deliver proposals for the purchase of employee leasing services
196 | to prospective clients of the employee leasing company setting
197 | forth the terms and conditions of doing business; classify
198 | employees as permitted by s. 468.529; collect information from
199 | prospective clients and other sources as necessary to perform due
200 | diligence on the prospective client and to prepare a proposal for
201 | services; provide and receive enrollment forms, plans, and other
202 | documents; and discuss or explain in general terms the
203 | conditions, limitations, options, or exclusions of insurance

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204 benefit plans available to the client or employees of the
205 employee leasing company were the client to contract with the
206 employee leasing company. Any advertising materials or other
207 documents describing specific insurance coverages must identify
208 and be from a licensed insurer or its licensed agent or a
209 licensed and appointed agent employed by the employee leasing
210 company. The employee leasing company may not advise or inform
211 the prospective business client or individual employees of
212 specific coverage provisions, exclusions, or limitations of
213 particular plans. As to clients for which the employee leasing
214 company is providing services pursuant to s. 468.525(4), the
215 employee leasing company may engage in activities permitted by
216 ss. 626.7315, 626.7845, and 626.8305, subject to the restrictions
217 specified in those sections. If a prospective client requests
218 more specific information concerning the insurance provided by
219 the employee leasing company, the employee leasing company must
220 refer the prospective business client to the insurer or its
221 licensed agent or to a licensed and appointed agent employed by
222 the employee leasing company.

223 (2) No agent or customer representative shall solicit or
224 otherwise transact as agent or customer representative, or
225 represent or hold himself or herself out to be an agent or
226 customer representative as to, any kind or kinds of insurance as
227 to which he or she is not then licensed and appointed.

228 (3) No person shall act as an adjuster as to any class of
229 business for which he or she is not then licensed and appointed.

230 (4) No person shall be, act as, or represent or hold
231 himself or herself out to be a service representative unless he
232 or she then holds a currently effective service representative

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233 license and appointment. This subsection does not apply as to
234 similar representatives or employees of casualty insurers whose
235 duties are restricted to health insurance.

236 (5) No person shall be, act as, or represent or hold
237 himself or herself out to be a managing general agent unless he
238 or she then holds a currently effective managing general agent
239 license and appointment.

240 (6) An individual employed by a life or health insurer as
241 an officer or other salaried representative may solicit and
242 effect contracts of life insurance or annuities or of health
243 insurance, without being licensed as an agent, when and only when
244 he or she is accompanied by and solicits for and on the behalf of
245 a licensed and appointed agent.

246 (7) (a) Effective October 1, 2006, no individual, firm,
247 partnership, corporation, association, or any other entity shall
248 act in its own name or under a trade name, directly or
249 indirectly, as an insurance agency, unless it complies with s.
250 626.172 with respect to possessing an insurance agency license
251 for each place of business at which it engages in any activity
252 which may be performed only by a licensed insurance agent. Each
253 agency engaged in business in this state before January 1, 2003,
254 which is wholly owned by insurance agents currently licensed and
255 appointed under this chapter, each incorporated agency whose
256 voting shares are traded on a securities exchange, each agency
257 designated and subject to supervision and inspection as a branch
258 office under the rules of the National Association of Securities
259 Dealers, and each agency whose primary function is offering
260 insurance as a service or member benefit to members of a
261 nonprofit corporation may file an application for registration in

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262 lieu of licensure in accordance with s. 626.172(3). Each agency
263 engaged in business before October 1, 2006, shall file an
264 application for licensure or registration on or before October 1,
265 2006.

266 1. If an agency is required to be licensed but fails to
267 file an application for licensure in accordance with this
268 section, the department shall impose on the agency an
269 administrative penalty in an amount of up to \$10,000.

270 2. If an agency is eligible for registration but fails to
271 file an application for registration or an application for
272 licensure in accordance with this section, the department shall
273 impose on the agency an administrative penalty in an amount of up
274 to \$5,000.

275 (b) A registered insurance agency shall, as a condition
276 precedent to continuing business, obtain an insurance agency
277 license if the department finds that, with respect to any
278 majority owner, partner, manager, director, officer, or other
279 person who manages or controls the agency, any person has:

280 1. Been found guilty of, or has pleaded guilty or nolo
281 contendere to, a felony in this state or any other state relating
282 to the business of insurance or to an insurance agency, without
283 regard to whether a judgment of conviction has been entered by
284 the court having jurisdiction of the cases.

285 2. Employed any individual in a managerial capacity or in a
286 capacity dealing with the public who is under an order of
287 revocation or suspension issued by the department. An insurance
288 agency may request, on forms prescribed by the department,
289 verification of any person's license status. If a request is
290 mailed within 5 working days after an employee is hired, and the

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291 | employee's license is currently suspended or revoked, the agency
292 | shall not be required to obtain a license, if the unlicensed
293 | person's employment is immediately terminated.

294 | 3. Operated the agency or permitted the agency to be
295 | operated in violation of s. 626.747.

296 | 4. With such frequency as to have made the operation of the
297 | agency hazardous to the insurance-buying public or other persons:

298 | a. Solicited or handled controlled business. This
299 | subparagraph shall not prohibit the licensing of any lending or
300 | financing institution or creditor, with respect to insurance
301 | only, under credit life or disability insurance policies of
302 | borrowers from the institutions, which policies are subject to
303 | part IX of chapter 627.

304 | b. Misappropriated, converted, or unlawfully withheld
305 | moneys belonging to insurers, insureds, beneficiaries, or others
306 | and received in the conduct of business under the license.

307 | c. Unlawfully rebated, attempted to unlawfully rebate, or
308 | unlawfully divided or offered to divide commissions with another.

309 | d. Misrepresented any insurance policy or annuity contract,
310 | or used deception with regard to any policy or contract, done
311 | either in person or by any form of dissemination of information
312 | or advertising.

313 | e. Violated any provision of this code or any other law
314 | applicable to the business of insurance in the course of dealing
315 | under the license.

316 | f. Violated any lawful order or rule of the department.

317 | g. Failed or refused, upon demand, to pay over to any
318 | insurer he or she represents or has represented any money coming
319 | into his or her hands belonging to the insurer.

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320 h. Violated the provision against twisting as defined in s.
321 626.9541(1)(1).

322 i. In the conduct of business, engaged in unfair methods of
323 competition or in unfair or deceptive acts or practices, as
324 prohibited under part IX of this chapter.

325 j. Willfully overinsured any property insurance risk.

326 k. Engaged in fraudulent or dishonest practices in the
327 conduct of business arising out of activities related to
328 insurance or the insurance agency.

329 l. Demonstrated lack of fitness or trustworthiness to
330 engage in the business of insurance arising out of activities
331 related to insurance or the insurance agency.

332 m. Authorized or knowingly allowed individuals to transact
333 insurance who were not then licensed as required by this code.

334 5. Knowingly employed any person who within the preceding 3
335 years has had his or her relationship with an agency terminated
336 in accordance with paragraph (d).

337 6. Willfully circumvented the requirements or prohibitions
338 of this code.

339 (8) No insurance agent, insurance agency, or other person
340 licensed under the Insurance Code may pay any fee or other
341 consideration to an unlicensed person other than an insurance
342 agency for the referral of prospective purchasers to an insurance
343 agent which is in any way dependent upon whether the referral
344 results in the purchase of an insurance product.

345 (9) Any person who knowingly transacts insurance or
346 otherwise engages in insurance activities in this state without a
347 license in violation of this section commits a felony of the
348 third degree, punishable as provided in s. 775.082, s. 775.083,

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349 or s. 775.084.

350 (10) Effective July 1, 2009, a person may not act as,
351 represent himself or herself as, or hold himself or herself out
352 to be a property insurance appraisal umpire unless he or she
353 holds a current property insurance appraisal umpire license
354 issued by the department.

355 Section 6. Part XII of chapter 626, Florida Statutes,
356 consisting of sections 626.9931, 626.9932, 626.9933, 626.9934,
357 626.9935, 626.9936, 626.9937, 626.9938, 626.9939, 626.9940,
358 626.9941, and 626.9942, is created to read:

359 626.9931 Purpose.--The Legislature finds that it is in the
360 interest of the public welfare to regulate property insurance
361 appraisal umpires in this state.

362 626.9932 Scope of part.--The provisions of this part apply
363 to residential and commercial residential property insurance
364 contracts that contain an appraisal clause and to the umpires and
365 appraisers who participate in the appraisal process as a result
366 of an appraisal clause.

367 626.9933 Definitions.--As used in this part, the term:

368 (1) "Appraisal" means the process of estimating or
369 evaluating actual cash value, the amount of loss, or the cost of
370 repair or replacement of property for the purpose of quantifying
371 the monetary value of a property loss claim when an insurer and
372 an insured have failed to mutually agree on the value of the loss
373 pursuant to a residential or commercial residential property
374 insurance contract that permits the resolution of a claim dispute
375 by appraisal.

376 (2) "Property insurance appraisal umpire" and "umpire" mean
377 a competent, independent, and impartial third party selected by

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378 the appraisers for the insurer and insured to resolve issues for
379 which the appraisers are unable to reach an agreement in the
380 course of the appraisal process pursuant to a residential or
381 commercial residential property insurance contract that permits
382 the resolution of a claim dispute by appraisal.

383 (3) "Property insurance loss appraiser" and "appraiser"
384 mean a competent and independent third party selected by an
385 insurer or an insured to develop an appraisal for purposes of the
386 appraisal process under a residential or commercial residential
387 property insurance contract that permits the resolution of a
388 claim dispute by appraisal.

389 626.9934 Appraisal umpire application; fingerprinting
390 required; umpire list.--

391 (1) Application for a license under this part shall be made
392 as provided in s. 626.171 and related sections of this code.

393 (2) At the time of application, the applicant must be
394 fingerprinted by a law enforcement agency or other entity
395 approved by the department and must pay the fingerprint
396 processing fee specified in s. 624.501. Fingerprints must be
397 processed in accordance with s. 624.34.

398 (3) The department shall develop and maintain as a public
399 record a current list of licensed property insurance appraisal
400 umpires.

401 626.9935 Rulemaking authority.--The department may adopt
402 rules to administer the requirements of this part pursuant to ss.
403 120.536(1) and 120.54.

404 626.9936 Qualifications for licensure as a property
405 insurance appraisal umpire.--The department may not issue a
406 license as a property insurance appraisal umpire to any

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407 individual found by it to be untrustworthy or incompetent, or who
408 does not meet the following qualifications:

409 (a) The applicant has filed an application with the
410 department in accordance with s. 626.171;

411 (b) The applicant is a natural person who is at least 18
412 years of age;

413 (c) The applicant is a United States citizen or legal alien
414 who possesses work authorization from the United States Bureau of
415 Citizenship and Immigration Services; and

416 (d) The applicant has completed the education, experience,
417 or licensing requirements in s. 626.9937.

418 (2) An incomplete application expires 6 months after the
419 date on which it is received.

420 (3) An applicant seeking to become licensed under this part
421 may not be rejected solely by virtue of membership or lack of
422 membership in any particular appraisal organization.

423 626.9937 Requirements as to licensure, education,
424 experience, or instruction for applicants seeking licensure as a
425 property insurance appraisal umpire.--The department may not
426 issue a license to an applicant for licensure as a property
427 insurance appraisal umpire unless the applicant meets one of the
428 following requirements:

429 (1) The applicant is currently licensed, registered,
430 certified, or approved as an engineer as defined in s. 471.005,
431 or as a retired professional engineer as defined in s. 471.005,
432 and has taught or successfully completed 4 hours of classroom
433 coursework, approved by the department, specifically related to
434 construction, building codes, appraisal procedure, appraisal

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435 preparation, and any other related material deemed appropriate by
436 the department.

437 (2) The applicant is currently or, within the 5 years
438 immediately preceding the date on which the application is filed
439 with the department, has been licensed, registered, certified, or
440 approved as a general contractor, building contractor, or
441 residential contractor as defined in s. 489.105, and has taught
442 or successfully completed 4 hours of classroom coursework,
443 approved by the department, specifically related to construction,
444 building codes, appraisal procedure, appraisal preparation, and
445 any other related material deemed appropriate by the department.

446 (3) The applicant is currently or, within the 5 years
447 immediately preceding the date on which the application is filed
448 with the department, has been licensed or registered as an
449 architect to engage in the practice of architecture pursuant to
450 part I of chapter 481 and has taught or successfully completed 4
451 hours of classroom coursework, approved by the department,
452 specifically related to construction, building codes, appraisal
453 procedure, appraisal preparation, and any other related material
454 deemed appropriate by the department.

455 (4) The applicant is currently or, within the 5 years
456 immediately preceding the date on which the application is filed
457 with the department, has been a qualified geologist or
458 professional geologist as defined in s. 492.102 and has taught or
459 successfully completed 4 hours of classroom coursework, approved
460 by the department, specifically related to construction, building
461 codes, appraisal procedure, appraisal preparation, and any other
462 related material deemed appropriate by the department.

463 (5) The applicant is currently or, within the 5 years

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464 immediately preceding the date on which the application is filed
465 with the department, has been licensed as a certified public
466 accountant as defined in s. 473.302, and has taught or
467 successfully completed 4 hours of classroom coursework, approved
468 by the department, specifically related to construction, building
469 codes, appraisal procedure, appraisal preparation, and any other
470 related material deemed appropriate by the department.

471 (6) The applicant is currently or, within the 5 years
472 immediately preceding the date on which the application is filed
473 with the department, has been licensed as an attorney at law in
474 this state and has taught or successfully completed 4 hours of
475 classroom coursework, approved by the department, specifically
476 related to construction, building codes, appraisal procedure,
477 appraisal preparation, and any other related material deemed
478 appropriate by the department.

479 (7) The applicant has received a baccalaureate degree from
480 an accredited 4-year college in the field of engineering,
481 architecture, or building construction and has taught or
482 successfully completed 4 hours of classroom coursework, approved
483 by the department, specifically related to construction, building
484 codes, appraisal procedure, appraisal preparation, and any other
485 related material deemed appropriate by the department.

486 (8) The applicant is currently licensed as an all-lines or
487 property and casualty adjuster pursuant to part VI and:

488 (a) Has 1 year of proven experience as an employee of a
489 general contractor, building contractor, or residential
490 contractor;

491 (b) Has received a minimum of 8 semester hours or 12
492 quarter hours of credit from an accredited college in the field

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493 of accounting, geology, engineering, architecture, or building
494 construction;

495 (c) Has taught or successfully completed 24 hours of
496 classroom coursework, approved by the department, specifically
497 related to construction, building codes, appraisal procedure,
498 appraisal preparation, and any other related material deemed
499 appropriate by the department; or

500 (d) Has acted as an appraiser or umpire in a minimum of 20
501 appraisal proceedings under a property insurance contract within
502 the 4 years immediately preceding the date on which an insurer or
503 insured demands an appraisal.

504 (9) The applicant has successfully completed 40 hours of
505 classroom coursework, approved by the department, specifically
506 related to construction, building codes, appraisal procedure,
507 appraisal preparation, property insurance, and any other related
508 material deemed appropriate by the department.

509 626.9938 Regulation of umpire course providers, instructors
510 and courses.--

511 (1) Each umpire course provider, instructor, and classroom
512 course must be approved by and registered with the department
513 before prelicensure courses for property insurance appraisal
514 umpires may be offered. Each classroom course must include a
515 written examination at the conclusion of the course and must
516 cover all of the material contained in the course. A student may
517 not receive credit for the course unless the student achieves a
518 grade of not less than 75 on the examination.

519 (2) The department shall adopt rules establishing standards
520 for the approval, registration, discipline, or removal from
521 registration of course providers, instructors, and courses. The

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522 standards must be designed to ensure that instructors have the
523 knowledge, competence, and integrity to fulfill the educational
524 objectives of the prelicensure requirements of this part.

525 (3) The department shall adopt rules to establish a process
526 for determining compliance with the prelicensure requirements of
527 this part. The department shall adopt rules prescribing the forms
528 necessary to administer the prelicensure requirements of this
529 part.

530 (4) Approval to teach prescribed or approved appraisal
531 courses does not entitle the instructor to teach any courses
532 outside the scope of this part.

533 626.9939 Grounds for compulsory refusal, suspension, or
534 revocation of an umpire's license.--In addition to the grounds
535 set forth in s. 626.611, the department shall deny an application
536 for, and suspend, revoke, or refuse to renew or continue, a
537 license as a property insurance appraisal umpire if it finds that
538 the licensee has:

539 (1) Violated a duty imposed upon her or him by law or by
540 the terms of a contract, whether written, oral, express, or
541 implied, in an appraisal; has aided, assisted, or conspired with
542 any other person engaged in any such misconduct and in
543 furtherance thereof; or has formed an intent, design, or scheme
544 to engage in such misconduct and committed an overt act in
545 furtherance of such intent, design, or scheme. It is immaterial
546 to a finding that a licensee has committed a violation of this
547 subsection that the victim or intended victim of the misconduct
548 has sustained no damage or loss, that the damage or loss has been
549 settled and paid after the discovery of misconduct, or that such
550 victim or intended victim was a customer or a person in a

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551 confidential relation with the licensee or was an identified
552 member of the general public.

553 (2) Violated any provision of this part or any lawful order
554 or rule of the department.

555 (3) Had a registration, license, or certification as an
556 appraiser revoked, suspended, or otherwise acted against; has had
557 his or her registration, license, or certificate to practice or
558 conduct any regulated profession, business, or vocation revoked
559 or suspended by this or any other state, any nation, or any
560 possession or district of the United States; or has had an
561 application for such registration, licensure, or certification to
562 practice or conduct any regulated profession, business, or
563 vocation denied by this or any other state, any nation, or any
564 possession or district of the United States.

565 (4) Made or filed a report or record, either written or
566 oral, which the licensee knows to be false; has willfully failed
567 to file a report or record required by state or federal law; has
568 willfully impeded or obstructed such filing; or has induced
569 another person to impede or obstruct such filing.

570 (5) Accepted an appointment as an umpire if the appointment
571 itself is contingent upon the umpire reporting a predetermined
572 result, analysis, or opinion, or if the fee to be paid for the
573 services of the umpire is contingent upon the opinion,
574 conclusion, or valuation reached by the umpire.

575 626.9940 Grounds for discretionary denial, suspension, or
576 revocation of a license as a property insurance appraisal
577 umpire.--In addition to the applicable grounds set forth in s.
578 626.621, the department may deny an application for and suspend,

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579 revoke, or refuse to renew or continue a license as a property
580 insurance appraisal umpire, if it finds that the umpire has:

581 (1) Failed to timely communicate with the appraisers
582 without good cause.

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

585 (3) Violated any ethical standard for property insurance
586 appraisal umpires set forth in s. 626.9941.

587 (4) Failed to inform the department in writing within 30
588 days after pleading guilty or nolo contendere to, or being
589 convicted or found guilty of, any felony.

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

594 626.9941 Ethical standards for property insurance appraisal
595 umpires.--

596 (1) IMPARTIALITY.--An umpire shall be neutral and maintain
597 impartiality throughout the appraisal process. Impartiality means
598 freedom from favoritism or bias in word, action, or appearance.
599 An umpire shall withdraw from appraisal if the umpire is no
600 longer impartial.

601 (2) GIFTS AND SOLICITATION.--An umpire may not give or
602 accept any gift, favor, loan, or other item of value in an
603 appraisal process. During the appraisal process, an umpire may
604 not solicit or otherwise attempt to procure future professional
605 services.

606 (3) CONFLICTS OF INTEREST.--An umpire may not participate
607 in a matter that presents a clear or undisclosed conflict of

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608 interest. A conflict of interest arises when any relationship
609 between the umpire and the appraisal participants or the subject
610 matter of the dispute compromises, or appears to compromise, the
611 umpire's impartiality.

612 (4) BURDEN OF DISCLOSURE.--The burden of disclosure of any
613 potential conflict of interest rests on the umpire. Disclosure
614 must be made as soon as practical after the umpire becomes aware
615 of the interest or relationship giving rise to the potential
616 conflict of interest.

617 (5) EFFECT OF DISCLOSURE.--After appropriate disclosure,
618 the umpire may serve if all parties agree. However, if a conflict
619 of interest clearly impairs an umpire's impartiality, the umpire
620 shall withdraw regardless of the express agreement of the
621 parties.

622 (6) CONFIDENTIALITY.--An umpire shall maintain
623 confidentiality of all information revealed during an appraisal
624 except where disclosure is required by law.

625 (7) RECORDKEEPING.--An umpire shall maintain
626 confidentiality in the storage and disposal of records and may
627 not disclose any identifying information when materials are used
628 for research, training, or statistical compilations.

629 (8) FEES AND EXPENSES.--An umpire holds a position of
630 trust. Fees charged for appraisal services shall be reasonable
631 and consistent with the nature of the case. An umpire shall be
632 guided by the following general principles in determining fees:

633 (a) Any charges for services as an umpire based on time may
634 not exceed actual time spent or allocated;

635 (b) Charges for costs shall be for those actually incurred;
636 and

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637 (c) An umpire may not charge, agree to, or accept as
638 compensation or reimbursement any payment, commission, or fee
639 that is based on a percentage basis, or that is contingent upon
640 arriving at a particular value or any future happening or outcome
641 of the assignment.

642 (9) MAINTENANCE OF RECORDS.--An umpire shall maintain
643 records necessary to support charges for services and expenses
644 and upon request shall provide an accounting of all applicable
645 charges to the parties.

646 (10) ADVERTISING.--An umpire may not engage in marketing
647 practices that contain false or misleading information. An umpire
648 shall ensure that any advertisements of the umpire's
649 qualifications, services to be rendered, or the appraisal process
650 are accurate and honest. An umpire may not make claims of
651 achieving specific outcomes or promises implying favoritism for
652 the purpose of obtaining business.

653 (11) INTEGRITY AND IMPARTIALITY.--An umpire may not accept
654 any engagement, provide any service, or perform any act that
655 would compromise the umpire's integrity or impartiality.

656 (12) SKILL AND EXPERIENCE.--An umpire shall decline an
657 appointment or selection, withdraw, or request appropriate
658 assistance when the facts and circumstances of the appraisal are
659 beyond the umpire's skill or experience.

660 626.9942 Retention of records.--An umpire licensed under
661 this part shall retain for at least 5 years original or true
662 copies of any contracts engaging the umpire's services, appraisal
663 reports, and supporting data assembled and formulated by the
664 umpire in preparing appraisal reports. The period for retaining
665 the records applicable to each engagement of the services of the

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666 umpire starts on the date of the submission of the appraisal
667 report to the client. These records must be made available by the
668 umpire for inspection and copying by the department upon
669 reasonable notice to the umpire. If an appraisal has been the
670 subject of, or has been admitted as evidence in, a lawsuit,
671 reports and records must be retained for at least 2 years after
672 the date on which the trial ends.

673 Section 7. Section 627.4141, Florida Statutes, is created
674 to read:

675 627.4141 Residential or commercial property insurance loss
676 appraisal.--If a residential or commercial residential property
677 insurance contract provides that either party may submit a
678 written demand to enter into the process of appraisal if the
679 insured and the insurer fail to mutually agree as to the actual
680 cash value, the amount of loss, or the cost of repair or
681 replacement of property for which a claim has been filed, that
682 process shall be governed by this section. The insurer may refuse
683 to accept the demand only if the insured materially failed to
684 comply with the post-loss obligations of the insured as set forth
685 in the policy conditions.

686 (1) Each party shall select a competent and independent
687 appraiser and notify the other party of the appraiser selected
688 within 20 days after the date of the demand for appraisal. The
689 appraisers shall select a competent, independent, and impartial
690 umpire who is on the department's list of licensed property
691 insurance appraisal umpires. If the appraisers are unable to
692 agree on an umpire within 15 days, the insured or the insurer may
693 file a petition with a county or circuit court in the
694 jurisdiction in which the covered property is located to

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695 designate a licensed property insurance appraisal umpire for the
696 appraisal.

697 (2) Appraisal proceedings are informal unless the insured
698 and the insurer mutually agree otherwise. For purposes of this
699 section, "informal" means that no formal discovery shall be
700 conducted, including depositions, interrogatories, requests for
701 admission, or other forms of formal civil discovery; no formal
702 rules of evidence shall be applied; and no court reporter shall
703 be used for the proceedings.

704 (3) Each appraiser shall appraise the loss and submit a
705 written report to the other appraiser, separately stating the
706 cost of the loss, the actual cash value, or the cost to repair or
707 replace each item. The appraisers shall attempt to resolve any
708 differences in their appraisals and reach a mutual agreement on
709 all matters. If the appraisers are unable to agree, they shall
710 submit the differences in their findings to the umpire.

711 (4) The umpire shall review any differences in appraisals
712 submitted by the appraisers and determine the amount of the loss
713 for each item submitted. Within 10 days after receipt of any
714 differences in appraisals, the umpire shall submit the umpire's
715 conclusions in writing to each appraiser.

716 (5) If either appraiser agrees with the conclusions of the
717 umpire, an itemized written appraisal award signed by the umpire
718 and the appraiser shall be filed with the insurer and shall
719 determine the amount of the loss.

720 (6) The appraisal award is binding on the insurer and the
721 insured with regard to the amount of the loss. The insurer
722 retains the right to enforce policy terms, conditions, and
723 exclusions with regard to coverage issues.

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724 (7) Each appraiser shall be paid by the party who selects
725 the appraiser and the expenses of the appraisal and fees of the
726 umpire shall be paid by the parties equally except, if the final
727 determination of the amount of the loss exceeds 50 percent of the
728 insurer's original appraisal, the insurer shall pay all of the
729 expenses, including any fees and expenses charged by the
730 insured's appraiser and all fees and expenses of the umpire.

731 (8) The provisions of the Florida Arbitration Code do not
732 apply to residential and commercial property insurance loss
733 appraisal proceedings.

734 (9) The appraisal process may not address issues involving
735 whether or not the loss or damage is covered under the terms of
736 the insurance contract. However, the appraisers and the umpire
737 may consider causation issues, when necessary, to determine the
738 amount of loss.

739 Section 8. This act shall take effect July 1, 2008.