

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

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30 626.9935, F.S.; authorizing the department to adopt rules;
31 creating s. 626.9936, F.S.; providing qualifications for
32 licensure as a property insurance appraisal umpire;
33 creating s. 626.9937, F.S.; providing professional and
34 educational requirements for licensure as a property
35 insurance appraisal umpire; creating s. 626.9938, F.S.;
36 providing for the regulation of umpire course providers,
37 instructors, and courses; requiring the department to
38 adopt rules establishing standards for providers,
39 instructors, and courses, and a process for determining
40 compliance with certain prelicensure requirements and
41 adopting forms to be used for the administration of such
42 requirements; creating s. 626.9939, F.S.; providing
43 grounds for the compulsory refusal, suspension, or
44 revocation of an umpire's license; creating s. 626.9940,
45 F.S.; providing grounds for the discretionary refusal,
46 suspension, or revocation of an umpire's license; creating
47 s. 626.9941, F.S.; providing ethical standards for
48 property insurance loss appraisal umpires; creating s.
49 626.9942, F.S.; requiring that a licensed property
50 insurance appraisal umpire retain certain records for a
51 specified period; requiring that umpires make such records
52 available for inspection and copying by the department;
53 requiring that appraisals that are the subject of
54 litigation or have been admitted as evidence in a lawsuit
55 be retained for a specified period; creating s. 626.9943,
56 F.S.; providing ethical standards for property loss
57 insurance appraisers; creating s. 627.4141, F.S.;
58 providing procedures that must be followed if a

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

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88 shall be filed with the insurer and shall determine the
89 amount of the loss; providing that the appraisal award is
90 binding upon the insurer and the insured; providing for
91 compensation of the appraisers and the umpire; providing
92 that the Florida Arbitration Code does not apply to
93 residential or commercial property insurance loss
94 appraisal proceedings; providing that certain provisions
95 of the Florida Arbitration Code relating to procedural
96 matters do apply; prohibiting the appraisal process from
97 addressing issues involving coverage or lack thereof under
98 an insurance contract; authorizing the umpire and
99 appraisers to consider causation issues when necessary to
100 determine the amount of loss; providing an effective date.

101
102 Be It Enacted by the Legislature of the State of Florida:

103
104 Section 1. Subsection (5) of section 624.501, Florida
105 Statutes, is amended, and subsection (29) is added to that
106 section, to read:

107 624.501 Filing, license, appointment, and miscellaneous
108 fees.--The department, commission, or office, as appropriate,
109 shall collect in advance, and persons so served shall pay to it
110 in advance, fees, licenses, and miscellaneous charges as follows:

111 (5) All insurance representatives and property insurance
112 appraisal umpires, application for license, each filing, filing
113 fee....\$50.00

114 (29) Property appraisal umpire original appointment,
115 biennial renewal, or continuation by the licensee....\$50.00

116 Section 2. Present subsections (16), (17), and (18) of

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117 | section 626.015, Florida Statutes, are renumbered as subsections
118 | (18), (19), and (20), respectively, and new subsections (16) and
119 | (17) are added to that section, to read:

120 | 626.015 Definitions.--As used in this part:

121 | (16) "Property insurance loss appraiser" has the same
122 | meaning as in s. 626.9933.

123 | (17) "Property insurance appraisal umpire" has the same
124 | meaning as in s. 626.9933.

125 | Section 3. Subsection (1) of section 626.016, Florida
126 | Statutes, is amended to read:

127 | 626.016 Powers and duties of department, commission, and
128 | office.--

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

136 | Section 4. Subsection (1) of section 626.022, Florida
137 | Statutes, is amended to read:

138 | 626.022 Scope of part.--

139 | (1) This part applies ~~as~~ to insurance agents, service
140 | representatives, adjusters, property insurance appraisal umpires,
141 | and insurance agencies; ~~as~~ to any and all kinds of insurance; and
142 | ~~as~~ to stock insurers, mutual insurers, reciprocal insurers, and
143 | all other types of insurers, except that:

144 | (a) It does not apply ~~as~~ to reinsurance, except that ss.
145 | 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.

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146 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-
147 626.591, and ss. 626.601-626.711 shall apply ~~as~~ to reinsurance
148 intermediaries as defined in s. 626.7492.

149 (b) The applicability of this chapter ~~as~~ to fraternal
150 benefit societies shall be as provided in chapter 632.

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

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

162 Section 5. Section 626.112, Florida Statutes, is amended to
163 read:

164 626.112 License and appointment required; agents, customer
165 representatives, adjusters, insurance agencies, service
166 representatives, managing general agents, and property insurance
167 appraisal umpires.--

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

173 (b) Except as provided in subsection (6) or in applicable
174 department rules, and in addition to other conduct described in

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175 | this chapter with respect to particular types of agents, a
176 | license as an insurance agent, service representative, customer
177 | representative, or limited customer representative is required in
178 | order to engage in the solicitation of insurance. For purposes of
179 | this requirement, as applicable to any of the license types
180 | described in this section, the solicitation of insurance is the
181 | attempt to persuade any person to purchase an insurance product
182 | by:

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

185 | 2. Distributing an invitation to contract to prospective
186 | purchasers;

187 | 3. Making general or specific recommendations as to
188 | insurance products;

189 | 4. Completing orders or applications for insurance
190 | products;

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

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

195

196 | However, an employee leasing company licensed pursuant to chapter
197 | 468 which is seeking to enter into a contract with an employer
198 | that identifies products and services offered to employees may
199 | deliver proposals for the purchase of employee leasing services
200 | to prospective clients of the employee leasing company setting
201 | forth the terms and conditions of doing business; classify
202 | employees as permitted by s. 468.529; collect information from
203 | prospective clients and other sources as necessary to perform due

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

227 (2) No agent or customer representative shall solicit or
228 otherwise transact as agent or customer representative, or
229 represent or hold himself or herself out to be an agent or
230 customer representative as to, any kind or kinds of insurance for
231 ~~as to~~ which he or she is not ~~then~~ licensed and appointed.

232 (3) No person shall act as an adjuster as to any class of

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233 business for which he or she is not ~~then~~ licensed and appointed.

234 (4) No person shall be, act as, or represent or hold
235 himself or herself out to be a service representative unless he
236 or she ~~then~~ holds a currently effective service representative
237 license and appointment. This subsection does not apply ~~as~~ to
238 similar representatives or employees of casualty insurers whose
239 duties are restricted to health insurance.

240 (5) No person shall be, act as, or represent or hold
241 himself or herself out to be a managing general agent unless he
242 or she ~~then~~ holds a currently effective managing general agent
243 license and appointment.

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

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

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262 office under the rules of the National Association of Securities
263 Dealers, and each agency whose primary function is offering
264 insurance as a service or member benefit to members of a
265 nonprofit corporation may file an application for registration in
266 lieu of licensure in accordance with s. 626.172(3). ~~Each agency~~
267 ~~engaged in business before October 1, 2006, shall file an~~
268 ~~application for licensure or registration on or before October 1,~~
269 ~~2006.~~

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

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

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

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

289 2. Employed any individual in a managerial capacity or in a
290 capacity dealing with the public who is under an order of

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291 | revocation or suspension issued by the department. An insurance
292 | agency may request, on forms prescribed by the department,
293 | verification of any person's license status. If a request is
294 | mailed within 5 working days after an employee is hired, and the
295 | employee's license is currently suspended or revoked, the agency
296 | shall not be required to obtain a license, if the unlicensed
297 | person's employment is immediately terminated.

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

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

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

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

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

313 | d. Misrepresented any insurance policy or annuity contract,
314 | or used deception with regard to any policy or contract, done
315 | ~~either~~ in person or by any form of dissemination of information
316 | or advertising.

317 | e. Violated any provision of this code or any other law
318 | applicable to the business of insurance in the course of dealing
319 | under the license.

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320 f. Violated any lawful order or rule of the department.

321 g. Failed or refused, upon demand, to pay over to any
322 insurer he or she represents or has represented any money coming
323 into his or her hands belonging to the insurer.

324 h. Violated the provision against twisting as defined in s.
325 626.9541(1)(1).

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

329 j. Willfully overinsured any property insurance risk.

330 k. Engaged in fraudulent or dishonest practices in the
331 conduct of business arising out of activities related to
332 insurance or the insurance agency.

333 l. Demonstrated lack of fitness or trustworthiness to
334 engage in the business of insurance arising out of activities
335 related to insurance or the insurance agency.

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

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

341 6. Willfully circumvented the requirements or prohibitions
342 of this code.

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

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349 (9) Any person who knowingly transacts insurance or
350 otherwise engages in insurance activities in this state without a
351 license in violation of this section commits a felony of the
352 third degree, punishable as provided in s. 775.082, s. 775.083,
353 or s. 775.084.

354 (10) Effective July 1, 2009, a person may not act as,
355 represent himself or herself as, or hold himself or herself out
356 to be a property insurance appraisal umpire unless he or she
357 holds a current property insurance appraisal umpire license
358 issued by the department. However, retired judges and Circuit
359 Court Civil Certified Mediators who are approved by the Florida
360 Supreme Court pursuant to the Florida Rules of Certified and
361 Court Appointed Mediators or who are on the list of approved
362 mediators pursuant to rule 69B-166.031, Florida Administrative
363 Code, are exempt from the umpire licensing requirements of this
364 section.

365 Section 6. Part XII of chapter 626, Florida Statutes,
366 consisting of sections 626.9931, 626.9932, 626.9933, 626.9934,
367 626.9935, 626.9936, 626.9937, 626.9938, 626.9939, 626.9940,
368 626.9941, 626.9942, and 626.9943, is created to read:

369 626.9931 Purpose.--The Legislature finds that it is in the
370 interest of the public welfare to regulate property insurance
371 loss appraisers and property insurance appraisal umpires in this
372 state.

373 626.9932 Scope of part.--This part applies to residential
374 and commercial residential property insurance contracts that
375 contain an appraisal clause and to the umpires and appraisers who
376 participate in the appraisal process as a result of an appraisal
377 clause.

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378 626.9933 Definitions.--As used in this part, the term:

379 (1) "Appraisal" means the process of estimating or
380 evaluating actual cash value, the amount of loss, or the cost of
381 repair or replacement of property for the purpose of quantifying
382 the monetary value of a property loss claim when an insurer and
383 an insured have failed to mutually agree on the value of the loss
384 pursuant to a residential or commercial residential property
385 insurance contract that provides for the resolution of a claim
386 dispute by appraisal.

387 (2) "Competent" means properly or sufficiently qualified or
388 capable to perform an appraisal.

389 (3) "Independent" means not subject to control,
390 restriction, modification, or limitation by the appointing party.

391 (4) "Property insurance appraisal umpire" or "umpire" means
392 a competent, independent, and impartial third party selected by
393 the appraisers for the insurer and the insured to resolve issues
394 for which the appraisers are unable to reach an agreement in the
395 course of the appraisal process pursuant to a residential or
396 commercial residential property insurance contract that provides
397 for the resolution of a claim dispute by appraisal.

398 (5) "Property insurance loss appraiser" or "appraiser" mean
399 a competent and independent third party selected by an insurer or
400 an insured to develop an appraisal for purposes of the appraisal
401 process under a residential or commercial residential property
402 insurance contract that provides for the resolution of a claim
403 dispute by appraisal.

404 626.9934 Appraisal umpire application; fingerprinting
405 required; umpire list.--

406 (1) Application for a license under this part shall be made

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407 as provided in s. 626.171 and related sections of this code.

408 (2) At the time of application, the applicant must be
409 fingerprinted by a law enforcement agency or other entity
410 approved by the department and must pay the fingerprint
411 processing fee specified in s. 624.501. Fingerprints must be
412 processed in accordance with s. 624.34.

413 (3) The department shall develop and maintain as a public
414 record a current list of licensed property insurance appraisal
415 umpires.

416 626.9935 Rulemaking authority.--The department may adopt
417 rules to administer the requirements of this part pursuant to ss.
418 120.536(1) and 120.54.

419 626.9936 Qualifications for licensure as a property
420 insurance appraisal umpire.--

421 (1) The department may not issue a license as a property
422 insurance appraisal umpire to any individual found by it to be
423 untrustworthy or incompetent, or who has not met the following
424 qualifications:

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

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

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

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

434 (2) An incomplete application expires 6 months after the
435 date it is received.

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

439 626.9937 Professional or educational requirements for
440 insurance appraisal umpires applicants.--The department may not
441 issue a license to an applicant for licensure as a property
442 insurance appraisal umpire unless the applicant meets one of the
443 following requirements:

444 (1) The applicant is currently licensed, registered,
445 certified, or approved as an engineer as defined in s. 471.005,
446 or as a retired professional engineer as defined in s. 471.005
447 and has taught or successfully completed 4 hours of classroom
448 coursework, approved by the department, specifically related to
449 construction, building codes, appraisal procedure, appraisal
450 preparation, and any other related material deemed appropriate by
451 the department.

452 (2) The applicant is currently or, within the 5 years
453 immediately preceding the date on which the application is filed
454 with the department, has been licensed, registered, certified, or
455 approved as a general contractor, building contractor, or
456 residential contractor as defined in s. 489.105 and has taught or
457 successfully completed 4 hours of classroom coursework, approved
458 by the department, specifically related to construction, building
459 codes, appraisal procedure, appraisal preparation, and any other
460 related material deemed appropriate by the department.

461 (3) The applicant is currently or, within the 5 years
462 immediately preceding the date on which the application is filed
463 with the department, has been licensed or registered as an
464 architect to engage in the practice of architecture pursuant to

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465 part I of chapter 481 and has taught or successfully completed 4
466 hours of classroom coursework, approved by the department,
467 specifically related to construction, building codes, appraisal
468 procedure, appraisal preparation, and any other related material
469 deemed appropriate by the department.

470 (4) The applicant is currently or, within the 5 years
471 immediately preceding the date on which the application is filed
472 with the department, has been a qualified geologist or
473 professional geologist as defined in s. 492.102 and has taught or
474 successfully completed 4 hours of classroom coursework, approved
475 by the department, specifically related to construction, building
476 codes, appraisal procedure, appraisal preparation, and any other
477 related material deemed appropriate by the department.

478 (5) The applicant is currently or, within the 5 years
479 immediately preceding the date on which the application is filed
480 with the department, has been licensed as a certified public
481 accountant as defined in s. 473.302 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 (6) The applicant is currently or, within the 5 years
487 immediately preceding the date on which the application is filed
488 with the department, has been licensed as an attorney at law in
489 this state and has taught or successfully completed 4 hours of
490 classroom coursework, approved by the department, specifically
491 related to construction, building codes, appraisal procedure,
492 appraisal preparation, and any other related material deemed
493 appropriate by the department.

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494 (7) The applicant has received a baccalaureate degree from
495 an accredited 4-year college in the field of engineering,
496 architecture, or building construction and has taught or
497 successfully completed 4 hours of classroom coursework, approved
498 by the department, specifically related to construction, building
499 codes, appraisal procedure, appraisal preparation, and any other
500 related material deemed appropriate by the department.

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

503 (a) Has 1 year of proven experience as an employee of a
504 general contractor, building contractor, or residential
505 contractor;

506 (b) Has received a minimum of 8 semester hours or 12
507 quarter hours of credit from an accredited college in the field
508 of accounting, geology, engineering, architecture, or building
509 construction;

510 (c) Has taught or successfully completed 4 hours of
511 classroom coursework, approved by the department, specifically
512 related to construction, building codes, appraisal procedure,
513 appraisal preparation, and any other related material deemed
514 appropriate by the department; or

515 (d) Has acted as an appraiser or umpire in a minimum of 20
516 appraisal proceedings under a property insurance contract.

517 (9) The applicant has successfully completed 40 hours of
518 classroom coursework, approved by the department, specifically
519 related to construction, building codes, appraisal procedure,
520 appraisal preparation, property insurance, and any other related
521 material deemed appropriate by the department.

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522 626.9938 Regulation of umpire course providers,
523 instructors, and courses.--

524 (1) Each umpire course provider, instructor, and classroom
525 course must be approved by and registered with the department
526 before prelicensure courses for property insurance appraisal
527 umpires may be offered. Each classroom course must include a
528 written examination at the conclusion of the course and must
529 cover all of the material contained in the course. A student may
530 not receive credit for the course unless the student achieves a
531 grade of at least 75 on the examination.

532 (2) The department shall adopt rules establishing:

533 (a) Standards for the approval, registration, discipline,
534 or removal from registration of course providers, instructors,
535 and courses. The standards must be designed to ensure that
536 instructors have the knowledge, competence, and integrity to
537 fulfill the educational objectives of the prelicensure
538 requirements of this part.

539 (b) A process for determining compliance with the
540 prelicensure requirements of this part. The department shall
541 adopt rules prescribing the forms necessary to administer the
542 prelicensure requirements of this part.

543 (3) Approval to teach prescribed or approved appraisal
544 courses does not entitle the instructor to teach any courses
545 outside the scope of this part.

546 626.9939 Grounds for compulsory refusal, suspension, or
547 revocation of an umpire's license.--In addition to the grounds
548 set forth in s. 626.611, the department shall deny an application
549 for, and suspend, revoke, or refuse to renew or continue, a
550 license as a property insurance appraisal umpire if the applicant

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551 | or licensee has:

552 | (1) Violated a duty imposed upon her or him by law or by
553 | the terms of a contract, whether written, oral, express, or
554 | implied, in an appraisal; has aided, assisted, or conspired with
555 | any other person engaged in any such misconduct and in
556 | furtherance thereof; or has formed an intent, design, or scheme
557 | to engage in such misconduct and committed an overt act in
558 | furtherance of such intent, design, or scheme. It is immaterial
559 | to a finding that a licensee has committed a violation of this
560 | subsection that the victim or intended victim of the misconduct
561 | has sustained no damage or loss, that the damage or loss has been
562 | settled and paid after the discovery of misconduct, or that such
563 | victim or intended victim was a customer or a person in a
564 | confidential relation with the licensee or was an identified
565 | member of the general public.

566 | (2) Violated any provision of this part or any lawful order
567 | or rule of the department.

568 | (3) Had a registration, license, or certification as an
569 | appraiser revoked, suspended, or otherwise acted against; has had
570 | his or her registration, license, or certificate to practice or
571 | conduct any regulated profession, business, or vocation revoked
572 | or suspended by this or any other state, any nation, or any
573 | possession or district of the United States; or has had an
574 | application for such registration, licensure, or certification to
575 | practice or conduct any regulated profession, business, or
576 | vocation denied by this or any other state, any nation, or any
577 | possession or district of the United States.

578 | (4) Made or filed a report or record, written or oral,
579 | which the licensee knows to be false; has willfully failed to

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580 file a report or record required by state or federal law; has
581 willfully impeded or obstructed such filing; or has induced
582 another person to impede or obstruct such filing.

583 (5) Accepted an appointment as an umpire if the appointment
584 is contingent upon the umpire reporting a predetermined result,
585 analysis, or opinion, or if the fee to be paid for the services
586 of the umpire is contingent upon the opinion, conclusion, or
587 valuation reached by the umpire.

588 626.9940 Grounds for discretionary denial, suspension, or
589 revocation of a license as a property insurance appraisal
590 umpire.--In addition to the applicable grounds set forth in s.
591 626.621, the department may deny an application for and suspend,
592 revoke, or refuse to renew or continue a license as a property
593 insurance appraisal umpire if the applicant or licensee has:

594 (1) Failed to timely communicate with the appraisers
595 without good cause.

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

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

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

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

607 626.9941 Ethical standards for property insurance appraisal
608 umpires.--

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609 (1) IMPARTIALITY.--An umpire shall be neutral and maintain
610 impartiality throughout the appraisal process. Impartiality means
611 freedom from favoritism or bias in word, action, or appearance.
612 An umpire shall withdraw from appraisal if the umpire is no
613 longer impartial.

614 (2) GIFTS AND SOLICITATION.--An umpire may not give or
615 accept any gift, favor, loan, or other item of value in an
616 appraisal process. During the appraisal process, an umpire may
617 not solicit or otherwise attempt to procure future professional
618 services.

619 (3) CONFLICTS OF INTEREST.--An umpire may not participate
620 in a matter that presents a clear or undisclosed conflict of
621 interest. A conflict of interest arises when any relationship
622 between the umpire and the appraisal participants or the subject
623 matter of the dispute compromises, or appears to compromise, the
624 umpire's impartiality.

625 (4) BURDEN OF DISCLOSURE.--The burden of disclosing a
626 potential conflict of interest rests on the umpire. Disclosure
627 must be made as soon as practical after the umpire becomes aware
628 of the interest or relationship giving rise to the potential
629 conflict of interest.

630 (5) EFFECT OF DISCLOSURE.--After appropriate disclosure,
631 the umpire may serve if all parties agree. However, if a conflict
632 of interest clearly impairs an umpire's impartiality, the umpire
633 shall withdraw regardless of the express agreement of the
634 parties.

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

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

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

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

648 (b) Charges for costs shall be for those actually incurred;
649 and

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

655 (9) MAINTENANCE OF RECORDS.--An umpire shall maintain
656 records necessary to support charges for services and expenses,
657 and upon request shall provide an accounting of all applicable
658 charges to the parties.

659 (10) ADVERTISING.--An umpire may not engage in marketing
660 practices that contain false or misleading information. An umpire
661 shall ensure that any advertisements of the umpire's
662 qualifications, services to be rendered, or the appraisal process
663 are accurate and honest. An umpire may not make claims of
664 achieving specific outcomes or promises implying favoritism for
665 the purpose of obtaining business.

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

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

673 626.9942 Retention of records.--An umpire licensed under
674 this part shall retain for at least 5 years original or true
675 copies of any contracts engaging the umpire's services, appraisal
676 reports, and supporting data assembled and formulated by the
677 umpire in preparing appraisal reports. The period for retaining
678 the records applicable to each engagement starts on the date of
679 the submission of the appraisal report to the client. These
680 records must be made available by the umpire for inspection and
681 copying by the department upon reasonable notice to the umpire.
682 If an appraisal has been the subject of, or has been admitted as
683 evidence in, a lawsuit, reports and records must be retained for
684 at least 2 years after the date the trial ends.

685 626.9943 Ethical standards for property insurance loss
686 appraisers.--

687 (1) INTEGRITY AND IMPARTIALITY.--

688 (a) An appraiser may not accept an appointment unless he or
689 she can serve impartially; can serve independently from the party
690 appointing him or her; is competent to serve; and is available to
691 promptly commence the appraisal, and thereafter devote the time
692 and attention for its completion that the parties are reasonably
693 entitled to expect.

694 (b) An appraiser shall conduct the appraisal process in a

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695 manner that advances the fair and efficient resolution of the
696 matters submitted for decision. An appraiser shall make all
697 reasonable efforts to prevent delays in the appraisal process,
698 the harassment of parties or other participants, or other abuse
699 or disruption of the appraisal process.

700 (c) Once an appraiser has accepted an appointment, the
701 appraiser may not withdraw or abandon the appointment unless
702 compelled to do so by unanticipated circumstances that would
703 render it impossible or impracticable to continue.

704 (d) The appraiser shall, after careful deliberation, decide
705 all issues submitted for determination and no other issues. An
706 appraiser shall decide all matters justly, exercising independent
707 judgment, and may not allow outside pressure to affect the
708 decision. An appraiser may not delegate the duty to decide to any
709 other person.

710 (2) COMMUNICATIONS WITH PARTIES.--

711 (a) If an agreement of the parties establishes the manner
712 or content of the communications between the appraisers and the
713 parties, the appraiser shall abide by such agreement. In the
714 absence of agreement, an appraiser may not discuss a proceeding
715 with any party in the absence of any other party, except in the
716 following circumstances:

717 1. If the appointment of the appraiser is being considered,
718 the prospective appraiser may ask about the identities of the
719 parties, counsel, and the general nature of the case, and may
720 respond to inquiries from a party or its counsel designed to
721 determine his or her suitability and availability for the
722 appointment;

723 2. To consult with the party who appointed the appraiser

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724 concerning the selection of a neutral umpire;

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

727 4. To make arrangements for obtaining materials and
728 inspection of the property with the party who appointed the
729 appraiser. Such communication is limited to scheduling and the
730 exchange of materials.

731 (b) There may be no communications whereby a party dictates
732 to an appraiser what the result of the proceedings must be, what
733 matters or elements may be included or considered by the
734 appraiser, or what actions the appraiser may take.

735 (3) GIFTS AND SOLICITATION.--An appraiser may not give or
736 accept any gift, favor, loan, or other item of value in an
737 appraisal process. During the appraisal process, an appraiser may
738 not solicit or otherwise attempt to procure future professional
739 services.

740 (4) CONFLICTS OF INTEREST.--An appraiser may not
741 participate in a matter that presents a clear or undisclosed
742 conflict of interest. A conflict of interest arises when any
743 known existing or past financial, business, professional, or
744 personal relationship between the appraiser and the appraisal
745 participants or the subject matter of the dispute might
746 reasonably affect impartiality or lack of independence in the
747 eyes of any of the parties.

748 (5) BURDEN OF DISCLOSURE.--The burden of disclosing any
749 potential conflict of interest rests on the appraiser. Disclosure
750 must be made before accepting an appointment, or, if the conflict
751 of interest arises after accepting an appointment, disclosure
752 must be made as soon as practical after the appraiser becomes

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753 aware of the interest or relationship giving rise to the
754 potential conflict of interest.

755 (6) EFFECT OF DISCLOSURE.--After appropriate disclosure,
756 the appraiser may serve if all parties agree. However, if an
757 appraiser is requested to withdraw by all parties, he or she must
758 withdraw. If an appraiser is requested to withdraw due to
759 alleged partiality, the appraiser must withdraw. If the appraiser
760 refuses to withdraw, a party may challenge the appraiser's
761 partiality by filing a petition with a county or circuit court in
762 the jurisdiction in which the covered property is located.

763 (7) FEES and EXPENSES.--An appraiser holds a position of
764 trust. Fees charged for appraisal services shall be reasonable
765 and consistent with the nature of the case. An appraiser shall be
766 guided by the following general principles in determining fees:

767 (a) Any charges for services as an appraiser based on time
768 may not exceed the actual time spent or allocated; and

769 (b) Charges for costs shall be only for those costs
770 actually incurred.

771 (8) MAINTENANCE OF RECORDS.--An appraiser shall maintain
772 records to support charges for services, fees, and expenses, and
773 upon request shall provide an accounting of all applicable
774 charges to the parties.

775 (9) ADVERTISING.--An appraiser may not engage in marketing
776 practices that contain false or misleading information. An
777 appraiser shall ensure that any advertisements of the appraiser's
778 qualifications, services to be rendered, or the appraisal process
779 are accurate and honest. An appraiser may not make claims of
780 achieving specific outcomes or promises implying favoritism for
781 the purpose of obtaining business.

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782 (10) SKILL AND EXPERIENCE.--An appraiser shall decline an
783 appointment or selection, withdraw, or request appropriate
784 assistance when the facts and circumstances of the appraisal are
785 beyond the appraiser's skill or experience.

786 Section 7. Section 627.4141, Florida Statutes, is created
787 to read:

788 627.4141 Residential or commercial property insurance loss
789 appraisal.--If a residential or commercial residential property
790 insurance contract provides that either party may submit a
791 written demand to enter into the process of appraisal if the
792 insured and the insurer fail to mutually agree as to the actual
793 cash value, the amount of loss, or the cost of repair or
794 replacement of property for which a claim has been filed, that
795 process shall be governed by this section. The insurer may refuse
796 to accept the demand only if the insured materially fails to
797 comply with the proof-of-loss obligations of the insured as set
798 forth in the policy conditions. The insurer is deemed to have
799 waived its right to demand an appraisal if it fails to invoke an
800 appraisal within 30 days after the insured substantially complies
801 with the proof-of-loss obligation as set forth in the policy
802 conditions.

803 (1) Each party shall select a competent and independent
804 appraiser and notify the other party of the appraiser selected
805 within 20 days after the date of the demand for an appraisal. The
806 appraisers shall select a competent, independent, and impartial
807 umpire who is on the department's list of licensed property
808 insurance appraisal umpires or who is otherwise qualified and
809 exempt from licensure as provided in s. 626.112(10). If the
810 appraisers are unable to agree on an umpire within 15 days, the

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811 insured or the insurer may file a petition with a county or
812 circuit court in the jurisdiction in which the covered property
813 is located to designate a licensed property insurance appraisal
814 umpire for the appraisal.

815 (2) Appraisal proceedings are informal unless the insured
816 and the insurer mutually agree otherwise. For purposes of this
817 section, "informal" means that no formal discovery shall be
818 conducted, including depositions, interrogatories, requests for
819 admission, or other forms of formal civil discovery; no formal
820 rules of evidence shall be applied; and no court reporter shall
821 be used for the proceedings.

822 (3) Within 60 days after being appointed, each appraiser
823 shall appraise the loss and submit a written report to the other
824 appraiser, separately stating the cost of the loss, the actual
825 cash value, or the cost to repair or replace each item. Within 30
826 days after submitting the reports, the appraisers shall attempt
827 to resolve any differences in the appraisals and reach a mutual
828 agreement on all matters. If the appraisers are unable to agree,
829 they shall, within 5 days, submit the differences in their
830 findings in writing to the umpire. However, the appraisers have
831 an additional 60 days after appointment to appraise the loss and
832 submit a written report if the loss is covered under a commercial
833 property insurance policy and the insured structure is 10,000
834 square feet or more, or is covered under a commercial residential
835 or residential insurance policy and the claim is based on and
836 made subsequent to a hurricane designated by the National
837 Hurricane Center or a declared emergency by the Governor.

838 (4) The umpire shall review any differences in appraisals
839 submitted by the appraisers and determine the amount of the loss

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840 for each item submitted. Within 10 days after receipt of any
841 differences in appraisals, the umpire shall submit the umpire's
842 conclusions in writing to each appraiser.

843 (5) If either appraiser agrees with the conclusions of the
844 umpire, an itemized written appraisal award signed by the umpire
845 and the appraiser shall be filed with the insurer and shall
846 determine the amount of the loss.

847 (6) The appraisal award is binding on the insurer and the
848 insured with regard to the amount of the loss. If the insurance
849 policy so provides, the insurer may assert that there is no
850 coverage under the policy for the loss as a whole or that there
851 has been a violation of the policy conditions with respect to
852 fraud, lack of notice, or failure to cooperate.

853 (7) Each appraiser shall be paid by the party who selects
854 the appraiser and the expenses of the appraisal and fees of the
855 umpire shall be paid by the parties equally, except that if the
856 final determination of the amount of the loss is 50 percent
857 greater than the insurer's preappraisal estimate of the loss
858 communicated to the insured in writing, the insurer shall pay all
859 the expenses, including any fees and expenses charged by the
860 insured's appraiser and all fees and expenses of the umpire. This
861 subsection does not affect an insured's claim for attorney's fees
862 under s. 627.428.

863 (8) The provisions of the Florida Arbitration Code do not
864 apply to residential and commercial residential property
865 insurance loss appraisal proceedings. However, the provisions
866 regarding proceedings to compel and stay arbitration in s.
867 682.03; procedures for correcting, vacating, or modifying an
868 award in ss. 682.10, 682.13, and 682.14; procedures for entry of

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869 judgment on the award in s. 682.15; and procedures regarding
870 confirmation of an award in s. 682.12 do apply.

871 (9) The appraisal process may not address issues involving
872 whether or not the loss or damage is covered under the terms of
873 the insurance contract. However, the appraisers and the umpire
874 may consider causation issues, if necessary, to determine the
875 amount of loss.

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