

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;
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
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
 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
 106 | follows:

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

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

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

117 626.015 Definitions.--As used in this part:

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

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

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

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

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

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

135 626.022 Scope of part.--

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

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

146 (b) The applicability of this chapter as to fraternal
 147 benefit societies shall be as provided in chapter 632.

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

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

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

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

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

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169 appropriate appointing entity or person.

170 (b) Except as provided in subsection (6) or in applicable
171 department rules, and in addition to other conduct described in
172 this chapter with respect to particular types of agents, a
173 license as an insurance agent, service representative, customer
174 representative, or limited customer representative is required
175 in order to engage in the solicitation of insurance. For
176 purposes of this requirement, as applicable to any of the
177 license types described in this section, the solicitation of
178 insurance is the attempt to persuade any person to purchase an
179 insurance product by:

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

182 2. Distributing an invitation to contract to prospective
183 purchasers;

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

186 4. Completing orders or applications for insurance
187 products;

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

190 6. Offering or attempting to negotiate on behalf of
191 another person a viatical settlement contract as defined in s.
192 626.9911.

193

194 However, an employee leasing company licensed pursuant to
195 chapter 468 which is seeking to enter into a contract with an
196 employer that identifies products and services offered to

197 employees may deliver proposals for the purchase of employee
198 leasing services to prospective clients of the employee leasing
199 company setting forth the terms and conditions of doing
200 business; classify employees as permitted by s. 468.529; collect
201 information from prospective clients and other sources as
202 necessary to perform due diligence on the prospective client and
203 to prepare a proposal for services; provide and receive
204 enrollment forms, plans, and other documents; and discuss or
205 explain in general terms the conditions, limitations, options,
206 or exclusions of insurance benefit plans available to the client
207 or employees of the employee leasing company were the client to
208 contract with the employee leasing company. Any advertising
209 materials or other documents describing specific insurance
210 coverages must identify and be from a licensed insurer or its
211 licensed agent or a licensed and appointed agent employed by the
212 employee leasing company. The employee leasing company may not
213 advise or inform the prospective business client or individual
214 employees of specific coverage provisions, exclusions, or
215 limitations of particular plans. As to clients for which the
216 employee leasing company is providing services pursuant to s.
217 468.525(4), the employee leasing company may engage in
218 activities permitted by ss. 626.7315, 626.7845, and 626.8305,
219 subject to the restrictions specified in those sections. If a
220 prospective client requests more specific information concerning
221 the insurance provided by the employee leasing company, the
222 employee leasing company must refer the prospective business
223 client to the insurer or its licensed agent or to a licensed and
224 appointed agent employed by the employee leasing company.

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

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

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

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

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

248 (7)(a) Effective October 1, 2006, no individual, firm,
 249 partnership, corporation, association, or any other entity shall
 250 act in its own name or under a trade name, directly or
 251 indirectly, as an insurance agency, unless it complies with s.
 252 626.172 with respect to possessing an insurance agency license

253 for each place of business at which it engages in any activity
254 which may be performed only by a licensed insurance agent. Each
255 agency engaged in business in this state before January 1, 2003,
256 which is wholly owned by insurance agents currently licensed and
257 appointed under this chapter, each incorporated agency whose
258 voting shares are traded on a securities exchange, each agency
259 designated and subject to supervision and inspection as a branch
260 office under the rules of the National Association of Securities
261 Dealers, and each agency whose primary function is offering
262 insurance as a service or member benefit to members of a
263 nonprofit corporation may file an application for registration
264 in lieu of licensure in accordance with s. 626.172(3). Each
265 agency engaged in business before October 1, 2006, shall file an
266 application for licensure or registration on or before October
267 1, 2006.

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

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

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

281 person who manages or controls the agency, any person has:

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

287 2. Employed any individual in a managerial capacity or in
288 a capacity dealing with the public who is under an order of
289 revocation or suspension issued by the department. An insurance
290 agency may request, on forms prescribed by the department,
291 verification of any person's license status. If a request is
292 mailed within 5 working days after an employee is hired, and the
293 employee's license is currently suspended or revoked, the agency
294 shall not be required to obtain a license, if the unlicensed
295 person's employment is immediately terminated.

296 3. Operated the agency or permitted the agency to be
297 operated in violation of s. 626.747.

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

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

307 b. Misappropriated, converted, or unlawfully withheld
308 moneys belonging to insurers, insureds, beneficiaries, or others

- 309 and received in the conduct of business under the license.
- 310 c. Unlawfully rebated, attempted to unlawfully rebate, or
- 311 unlawfully divided or offered to divide commissions with
- 312 another.
- 313 d. Misrepresented any insurance policy or annuity
- 314 contract, or used deception with regard to any policy or
- 315 contract, done either in person or by any form of dissemination
- 316 of information 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.
- 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
- 325 s. 626.9541(1) (1).
- 326 i. In the conduct of business, engaged in unfair methods
- 327 of 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

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337 insurance who were not then licensed as required by this code.

338 5. Knowingly employed any person who within the preceding
339 3 years has had his or her relationship with an agency
340 terminated 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
347 insurance agent which is in any way dependent upon whether the
348 referral results in the purchase of an insurance product.

349 (9) Any person who knowingly transacts insurance or
350 otherwise engages in insurance activities in this state without
351 a 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.

359 Section 6. Part XII of chapter 626, Florida Statutes,
360 consisting of sections 626.9931, 626.9932, 626.9933, 626.9934,
361 626.9935, 626.9936, 626.9937, 626.9938, 626.9939, 626.9940,
362 626.9941, and 626.9942, is created to read:

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363 626.9931 Purpose.--The Legislature finds that it is in the
364 interest of the public welfare to regulate property insurance
365 appraisal umpires in this state.

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

371 626.9933 Definitions.--As used in this part, the term:

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

380 (2) "Property insurance appraisal umpire" and "umpire"
381 mean a competent, independent, and impartial third party
382 selected by the appraisers for the insurer and insured to
383 resolve issues for which the appraisers are unable to reach an
384 agreement in the course of the appraisal process pursuant to a
385 residential or commercial residential property insurance
386 contract that permits the resolution of a claim dispute by
387 appraisal.

388 (3) "Property insurance loss appraiser" and "appraiser"
389 mean a competent and independent third party selected by an
390 insurer or an insured to develop an appraisal for purposes of

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391 the appraisal process under a residential or commercial
392 residential property insurance contract that permits the
393 resolution of a claim dispute by appraisal.

394 626.9934 Appraisal umpire application; fingerprinting
395 required; umpire list.--

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

399 (2) At the time of application, the applicant must be
400 fingerprinted by a law enforcement agency or other entity
401 approved by the department and must pay the fingerprint
402 processing fee specified in s. 624.501. Fingerprints must be
403 processed in accordance with s. 624.34.

404 (3) The department shall develop and maintain as a public
405 record a current list of licensed property insurance appraisal
406 umpires.

407 626.9935 Rulemaking authority.--The department may adopt
408 rules to administer the requirements of this part pursuant to
409 ss. 120.536(1) and 120.54.

410 626.9936 Qualifications for licensure as a property
411 insurance appraisal umpire.--

412 (1) The department may not issue a license as a property
413 insurance appraisal umpire to any individual found by it to be
414 untrustworthy or incompetent, or who does not meet the following
415 qualifications:

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

418 (b) The applicant is a natural person who is at least 18

419 years of age;

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

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

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

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

430 626.9937 Requirements as to licensure, education,
 431 experience, or instruction for applicants seeking licensure as a
 432 property insurance appraisal umpire.--The department may not
 433 issue a license to an applicant for licensure as a property
 434 insurance appraisal umpire unless the applicant meets one of the
 435 following requirements:

436 (1) The applicant is currently licensed, registered,
 437 certified, or approved as an engineer as defined in s. 471.005,
 438 or as a retired professional engineer as defined in s. 471.005,
 439 and has taught or successfully completed 4 hours of classroom
 440 coursework, approved by the department, specifically related to
 441 construction, building codes, appraisal procedure, appraisal
 442 preparation, and any other related material deemed appropriate
 443 by the department.

444 (2) The applicant is currently or, within the 5 years
 445 immediately preceding the date on which the application is filed
 446 with the department, has been licensed, registered, certified,

447 or approved as a general contractor, building contractor, or
448 residential contractor as defined in s. 489.105, and has taught
449 or successfully completed 4 hours of classroom coursework,
450 approved by the department, specifically related to
451 construction, building codes, appraisal procedure, appraisal
452 preparation, and any other related material deemed appropriate
453 by the department.

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

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

472 (5) The applicant is currently or, within the 5 years
473 immediately preceding the date on which the application is filed
474 with the department, has been licensed as a certified public

475 accountant as defined in s. 473.302, and has taught or
 476 successfully completed 4 hours of classroom coursework, approved
 477 by the department, specifically related to construction,
 478 building codes, appraisal procedure, appraisal preparation, and
 479 any other related material deemed appropriate by the department.

480 (6) The applicant is currently or, within the 5 years
 481 immediately preceding the date on which the application is filed
 482 with the department, has been licensed as an attorney at law in
 483 this state and has taught or successfully completed 4 hours of
 484 classroom coursework, approved by the department, specifically
 485 related to construction, building codes, appraisal procedure,
 486 appraisal preparation, and any other related material deemed
 487 appropriate by the department.

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

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

497 (a) Has 1 year of proven experience as an employee of a
 498 general contractor, building contractor, or residential
 499 contractor;

500 (b) Has received a minimum of 8 semester hours or 12
 501 quarter hours of credit from an accredited college in the field
 502 of accounting, geology, engineering, architecture, or building

503 construction;

504 (c) Has taught or successfully completed 24 hours of
 505 classroom coursework, approved by the department, specifically
 506 related to construction, building codes, appraisal procedure,
 507 appraisal preparation, and any other related material deemed
 508 appropriate by the department; or

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

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

518 626.9938 Regulation of umpire course providers,
 519 instructors, and courses.--

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

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

531 The standards must be designed to ensure that instructors have
532 the knowledge, competence, and integrity to fulfill the
533 educational objectives of the prelicensure requirements of this
534 part.

535 (3) The department shall adopt rules to establish a
536 process for determining compliance with the prelicensure
537 requirements of this part. The department shall adopt rules
538 prescribing the forms necessary to administer the prelicensure
539 requirements of this part.

540 (4) Approval to teach prescribed or approved appraisal
541 courses does not entitle the instructor to teach any courses
542 outside the scope of this part.

543 626.9939 Grounds for compulsory refusal, suspension, or
544 revocation of an umpire's license.--In addition to the grounds
545 set forth in s. 626.611, the department shall deny an
546 application for, and suspend, revoke, or refuse to renew or
547 continue, a license as a property insurance appraisal umpire if
548 it finds that the licensee has:

549 (1) Violated a duty imposed upon him or her by law or by
550 the terms of a contract, whether written, oral, express, or
551 implied, in an appraisal; has aided, assisted, or conspired with
552 any other person engaged in any such misconduct and in
553 furtherance thereof; or has formed an intent, design, or scheme
554 to engage in such misconduct and committed an overt act in
555 furtherance of such intent, design, or scheme. It is immaterial
556 to a finding that a licensee has committed a violation of this
557 subsection that the victim or intended victim of the misconduct
558 has sustained no damage or loss, that the damage or loss has

559 been settled and paid after the discovery of misconduct, or that
560 such victim or intended victim was a customer or a person in a
561 confidential relation with the licensee or was an identified
562 member of the general public.

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

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

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

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

585 626.9940 Grounds for discretionary denial, suspension, or
586 revocation of a license as a property insurance appraisal

587 umpire.--In addition to the applicable grounds set forth in s.
 588 626.621, the department may deny an application for and suspend,
 589 revoke, or refuse to renew or continue a license as a property
 590 insurance appraisal umpire, if it finds that the umpire has:

591 (1) Failed to timely communicate with the appraisers
 592 without good cause.

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

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

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

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

604 626.9941 Ethical standards for property insurance
 605 appraisal umpires.--

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

611 (2) GIFTS AND SOLICITATION.--An umpire may not give or
 612 accept any gift, favor, loan, or other item of value in an
 613 appraisal process. During the appraisal process, an umpire may

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614 not solicit or otherwise attempt to procure future professional
615 services.

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

622 (4) BURDEN OF DISCLOSURE.--The burden of disclosure of any
623 potential conflict of interest rests on the umpire. Disclosure
624 must be made as soon as practical after the umpire becomes aware
625 of the interest or relationship giving rise to the potential
626 conflict of interest.

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

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

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

639 (8) FEES AND EXPENSES.--An umpire holds a position of
640 trust. Fees charged for appraisal services shall be reasonable

641 and consistent with the nature of the case. An umpire shall be
642 guided by the following general principles in determining fees:

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

645 (b) Charges for costs shall be for those actually
646 incurred; and

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

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

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

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

666 (12) SKILL AND EXPERIENCE.--An umpire shall decline an
667 appointment or selection, withdraw, or request appropriate
668 assistance when the facts and circumstances of the appraisal are

669 beyond the umpire's skill or experience.

670 626.9942 Retention of records.--An umpire licensed under
 671 this part shall retain for at least 5 years original or true
 672 copies of any contracts engaging the umpire's services,
 673 appraisal reports, and supporting data assembled and formulated
 674 by the umpire in preparing appraisal reports. The period for
 675 retaining the records applicable to each engagement of the
 676 services of the umpire starts on the date of the submission of
 677 the appraisal report to the client. These records must be made
 678 available by the umpire for inspection and copying by the
 679 department upon reasonable notice to the umpire. If an appraisal
 680 has been the subject of, or has been admitted as evidence in, a
 681 lawsuit, reports and records must be retained for at least 2
 682 years after the date on which the trial ends.

683 Section 7. Section 627.4141, Florida Statutes, is created
 684 to read:

685 627.4141 Residential or commercial property insurance loss
 686 appraisal.--If a residential or commercial residential property
 687 insurance contract provides that either party may submit a
 688 written demand to enter into the process of appraisal if the
 689 insured and the insurer fail to mutually agree as to the actual
 690 cash value, the amount of loss, or the cost of repair or
 691 replacement of property for which a claim has been filed, that
 692 process shall be governed by this section. The insurer may
 693 refuse to accept the demand only if the insured materially
 694 failed to comply with the post-loss obligations of the insured
 695 as set forth in the policy conditions.

696 (1) Each party shall select a competent and independent
 697 appraiser and notify the other party of the appraiser selected
 698 within 20 days after the date of the demand for appraisal. The
 699 appraisers shall select a competent, independent, and impartial
 700 umpire who is on the department's list of licensed property
 701 insurance appraisal umpires. If the appraisers are unable to
 702 agree on an umpire within 15 days, the insured or the insurer
 703 may file a petition with a county or circuit court in the
 704 jurisdiction in which the covered property is located to
 705 designate a licensed property insurance appraisal umpire for the
 706 appraisal.

707 (2) Appraisal proceedings are informal unless the insured
 708 and the insurer mutually agree otherwise. For purposes of this
 709 section, "informal" means that no formal discovery shall be
 710 conducted, including depositions, interrogatories, requests for
 711 admission, or other forms of formal civil discovery; no formal
 712 rules of evidence shall be applied; and no court reporter shall
 713 be used for the proceedings.

714 (3) Each appraiser shall appraise the loss and submit a
 715 written report to the other appraiser, separately stating the
 716 cost of the loss, the actual cash value, or the cost to repair
 717 or replace each item. The appraisers shall attempt to resolve
 718 any differences in their appraisals and reach a mutual agreement
 719 on all matters. If the appraisers are unable to agree, they
 720 shall submit the differences in their findings to the umpire.

721 (4) The umpire shall review any differences in appraisals
 722 submitted by the appraisers and determine the amount of the loss
 723 for each item submitted. Within 10 days after receipt of any

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724 differences in appraisals, the umpire shall submit the umpire's
725 conclusions in writing to each appraiser.

726 (5) If either appraiser agrees with the conclusions of the
727 umpire, an itemized written appraisal award signed by the umpire
728 and the appraiser shall be filed with the insurer and shall
729 determine the amount of the loss.

730 (6) The appraisal award is binding on the insurer and the
731 insured with regard to the amount of the loss. The insurer
732 retains the right to enforce policy terms, conditions, and
733 exclusions with regard to coverage issues.

734 (7) Each appraiser shall be paid by the party who selects
735 the appraiser and the expenses of the appraisal and fees of the
736 umpire shall be paid by the parties equally except, if the final
737 determination of the amount of the loss exceeds 50 percent of
738 the insurer's original appraisal, the insurer shall pay all of
739 the expenses, including any fees and expenses charged by the
740 insured's appraiser and all fees and expenses of the umpire.

741 (8) The provisions of the Florida Arbitration Code do not
742 apply to residential and commercial property insurance loss
743 appraisal proceedings.

744 (9) The appraisal process may not address issues involving
745 whether or not the loss or damage is covered under the terms of
746 the insurance contract. However, the appraisers and the umpire
747 may consider causation issues, when necessary, to determine the
748 amount of loss.

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