

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to property insurance appraisal
3 umpires and property insurance appraisers; amending s.
4 624.501, F.S.; providing license application,
5 issuance, biennial renewal, or continuation fees for
6 property insurance appraisal umpires and property
7 insurance appraisers; amending s. 626.015, F.S.;
8 defining the terms "property insurance loss appraiser"
9 and "property insurance appraisal umpire" for purposes
10 of the Licensing Procedures Law; amending s. 626.016,
11 F.S.; providing that property insurance appraisal
12 umpires and property insurance appraisers are subject
13 to the powers of the Department of Financial Services,
14 the Financial Services Commission, and the Office of
15 Insurance Regulation; amending s. 626.022, F.S.;
16 expanding the scope of part I of ch. 626, F.S., to
17 include property insurance appraisal umpires and
18 property insurance appraisers; deleting obsolete
19 provisions; amending s. 626.112, F.S.; requiring that
20 property insurance appraisal umpires and property
21 insurance appraisers operating in this state be
22 licensed by the department; creating part XII of ch.
23 626, F.S.; creating s. 626.9931, F.S.; providing
24 legislative findings and purpose; creating s.
25 626.9932, F.S.; providing the scope and parameters for
26 application; creating s. 626.9933, F.S.; providing
27 definitions; creating s. 626.9934, F.S.; providing
28 procedures for the application for licensure as a
29 property insurance appraisal umpire and as a property

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30 insurance appraiser; requiring that all applicants be
31 fingerprinted by a law enforcement agency or other
32 entity approved by the department at the time of
33 application; requiring the department to develop and
34 maintain an updated list of licensed umpires and
35 licensed property insurance appraisers; creating s.
36 626.9935, F.S.; authorizing the department to adopt
37 rules; creating s. 626.9936, F.S.; providing
38 qualifications for licensure as a property insurance
39 appraisal umpire and as a property insurance
40 appraiser; creating s. 626.9937, F.S.; providing
41 professional and educational requirements for
42 licensure as a property insurance appraisal umpire and
43 property insurance appraiser; creating s. 626.9938,
44 F.S.; providing for the regulation of umpire and
45 property insurance appraiser course providers,
46 instructors, and courses; requiring the department to
47 adopt rules establishing standards for providers,
48 instructors, and courses, and a process for
49 determining compliance with certain prelicensure
50 requirements; adopting forms to be used for the
51 administration of such requirements; creating s.
52 626.9939, F.S.; providing grounds for the compulsory
53 refusal, suspension, or revocation of an umpire's
54 license and a property insurance appraiser's license;
55 creating s. 626.9940, F.S.; providing grounds for the
56 discretionary refusal, suspension, or revocation of an
57 umpire's license and a property insurance appraiser's
58 license; creating s. 626.9941, F.S.; providing ethical

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59 standards for property insurance appraisal umpires;
60 creating s. 626.9942, F.S.; requiring that a licensed
61 property insurance appraisal umpire and property
62 insurance appraiser retain certain records for a
63 specified period; requiring that umpires and property
64 insurance appraisers make such records available for
65 inspection and copying by the department; requiring
66 that appraisals that are the subject of litigation or
67 have been admitted as evidence in a lawsuit be
68 retained for a specified period; creating s. 626.9943,
69 F.S.; providing ethical standards for licensed
70 property insurance appraisers; creating s. 627.4141,
71 F.S.; providing procedures that must be followed if a
72 residential or commercial property insurance contract
73 provides that either party may submit a written demand
74 to enter into the process of appraisal when the
75 insured and the insurer fail to mutually agree to the
76 actual cash value, the amount of loss, or the cost of
77 repair or replacement of property for which a claim
78 has been filed; providing an exception upon which an
79 insurer may refuse to accept such demand; authorizing
80 each party to select a competent licensed and
81 independent appraiser and to notify the opposing party
82 within a specified period; requiring the appraisers to
83 select a licensed umpire from the department's list of
84 licensed umpires; authorizing either party to file a
85 petition, in a county or circuit court in the
86 jurisdiction in which the covered property is located,
87 to designate a licensed umpire if the appraisers

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88 cannot agree on the selection of a licensed umpire;
89 providing that appraisal proceedings are informal
90 unless the insurer and the insured agree otherwise;
91 defining and providing the scope of the term
92 "informal" for purposes of appraisal proceedings;
93 requiring each licensed appraiser to submit a written
94 report to the other licensed appraisers; requiring
95 that any differences in findings among the licensed
96 appraisers which cannot be resolved by the licensed
97 appraisers themselves within a specified period be
98 submitted to the licensed umpire for review; requiring
99 the licensed umpire to submit his or her conclusions
100 regarding any unresolved differences in the findings
101 of the licensed appraisers within a specified period;
102 providing that if either licensed appraiser agrees
103 with the conclusions of the licensed umpire, an
104 itemized written appraisal award signed by the
105 licensed umpire and licensed appraiser shall be filed
106 with the insurer and shall determine the amount of the
107 loss; providing that the appraisal award is binding
108 upon the insurer and the insured; providing for
109 compensation of the licensed appraisers and the
110 licensed umpire; providing that the Florida
111 Arbitration Code does not apply to residential or
112 commercial property insurance loss appraisal
113 proceedings; providing that certain provisions of the
114 Florida Arbitration Code relating to procedural
115 matters do apply; prohibiting the appraisal process
116 from addressing issues involving coverage or lack

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117 thereof under an insurance contract; authorizing the
 118 licensed umpire and licensed appraisers to consider
 119 causation issues when necessary to determine the
 120 amount of loss; amending ss. 626.172, 626.7845,
 121 626.8305, and 626.8411, F.S.; conforming cross-
 122 references; providing an effective date.

123

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

125

126 Section 1. Subsection (5) of section 624.501, Florida
 127 Statutes, is amended, and subsection (29) is added to that
 128 section, to read:

129 624.501 Filing, license, appointment, and miscellaneous
 130 fees.—The department, commission, or office, as appropriate,
 131 shall collect in advance, and persons so served shall pay to it
 132 in advance, fees, licenses, and miscellaneous charges as
 133 follows:

134 (5) All insurance representatives, property insurance
 135 appraisal umpires, and property insurance appraisers application
 136 for license, application for reinstatement of suspended license,
 137 each filing, filing
 138 fee.....\$50.00

139 (29) Property insurance appraisal umpire and property
 140 insurance appraiser original appointment, biennial renewal, or
 141 continuation by the
 142 licensee.....\$50.00

143 Section 2. Present subsections (16), (17), and (18) of
 144 section 626.015, Florida Statutes, are renumbered as subsections
 145 (18), (19), and (20), respectively, and new subsections (16) and

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146 (17) are added to that section to read:

147 626.015 Definitions.—As used in this part:

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

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

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

154 626.016 Powers and duties of department, commission, and
155 office.—

156 (1) The powers and duties of the Chief Financial Officer
157 and the department specified in this part apply only with
158 respect to insurance agents, insurance agencies, managing
159 general agents, insurance adjusters, reinsurance intermediaries,
160 viatical settlement brokers, customer representatives, service
161 representatives, property insurance appraisers, and property
162 insurance appraisal umpires ~~agencies.~~

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

165 626.022 Scope of part.—

166 (1) This part applies ~~as~~ to insurance agents, service
167 representatives, adjusters, property insurance appraisal
168 umpires, property insurance appraisers, and insurance agencies;
169 ~~as~~ to any and all kinds of insurance; and ~~as~~ to stock insurers,
170 mutual insurers, reciprocal insurers, and all other types of
171 insurers, except that:

172 (a) It does not apply ~~as~~ to reinsurance, except that ss.
173 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.
174 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-

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175 626.591, and ss. 626.601-626.711 shall apply ~~as~~ to reinsurance
176 intermediaries as defined in s. 626.7492.

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

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

181 (d) It ~~This part~~ does not apply to a certified public
182 accountant licensed under chapter 473 who is acting within the
183 scope of the practice of public accounting, as defined in s.
184 473.302, if provided ~~that~~ the activities of the certified public
185 accountant are limited to advising a client of the necessity of
186 obtaining insurance, the amount of insurance needed, or the line
187 of coverage needed, and if provided ~~that~~ the certified public
188 accountant does not directly or indirectly receive or share in
189 any commission or referral fee.

190 Section 5. Section 626.112, Florida Statutes, is amended to
191 read:

192 626.112 License and appointment required; agents, customer
193 representatives, adjusters, insurance agencies, service
194 representatives, managing general agents, property insurance
195 appraisers, and property insurance appraisal umpires.-

196 (1) (a) No person may be, act as, or advertise or hold
197 himself or herself out to be an insurance agent, insurance
198 adjuster, property insurance appraiser, property insurance
199 appraisal umpire, or customer representative unless he or she is
200 currently licensed by the department and appointed by an
201 appropriate appointing entity or person.

202 (b) Except as provided in subsection (8) ~~(6)~~ or in
203 applicable department rules, and in addition to other conduct

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204 described in this chapter with respect to particular types of
205 agents, a license as an insurance agent, service representative,
206 customer representative, or limited customer representative is
207 required in order to engage in the solicitation of insurance.
208 For purposes of this requirement, as applicable to any of the
209 license types described in this section, the solicitation of
210 insurance is the attempt to persuade any person to purchase an
211 insurance product by:

- 212 1. Describing the benefits or terms of insurance coverage,
213 including premiums or rates of return;
- 214 2. Distributing an invitation to contract to prospective
215 purchasers;
- 216 3. Making general or specific recommendations as to
217 insurance products;
- 218 4. Completing orders or applications for insurance
219 products;
- 220 5. Comparing insurance products, advising as to insurance
221 matters, or interpreting policies or coverages; or
- 222 6. Offering or attempting to negotiate on behalf of another
223 person a viatical settlement contract as defined in s. 626.9911.
224

225 However, an employee leasing company licensed pursuant to
226 chapter 468 which is seeking to enter into a contract with an
227 employer that identifies products and services offered to
228 employees may deliver proposals for the purchase of employee
229 leasing services to prospective clients of the employee leasing
230 company setting forth the terms and conditions of doing
231 business; classify employees as permitted by s. 468.529; collect
232 information from prospective clients and other sources as

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233 necessary to perform due diligence on the prospective client and
234 to prepare a proposal for services; provide and receive
235 enrollment forms, plans, and other documents; and discuss or
236 explain in general terms the conditions, limitations, options,
237 or exclusions of insurance benefit plans available to the client
238 or employees of the employee leasing company were the client to
239 contract with the employee leasing company. Any advertising
240 materials or other documents describing specific insurance
241 coverages must identify and be from a licensed insurer or its
242 licensed agent or a licensed and appointed agent employed by the
243 employee leasing company. The employee leasing company may not
244 advise or inform the prospective business client or individual
245 employees of specific coverage provisions, exclusions, or
246 limitations of particular plans. As to clients for which the
247 employee leasing company is providing services pursuant to s.
248 468.525(4), the employee leasing company may engage in
249 activities permitted by ss. 626.7315, 626.7845, and 626.8305,
250 subject to the restrictions specified in those sections. If a
251 prospective client requests more specific information concerning
252 the insurance provided by the employee leasing company, the
253 employee leasing company must refer the prospective business
254 client to the insurer or its licensed agent or to a licensed and
255 appointed agent employed by the employee leasing company.

256 (2) No agent or customer representative shall solicit or
257 otherwise transact as agent or customer representative, or
258 represent or hold himself or herself out to be an agent or
259 customer representative as to, any kind or kinds of insurance
260 for as to which he or she is not ~~then~~ licensed and appointed.

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

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

263 (4) No property insurance appraiser shall act as an
264 adjuster as to any class of business for which he or she is not
265 licensed and appointed.

266 (5) No property insurance appraisal umpire shall act as an
267 adjuster as to any class of business for which he or she is not
268 licensed and appointed.

269 (6)~~(4)~~ No person shall be, act as, or represent or hold
270 himself or herself out to be a service representative unless he
271 or she ~~then~~ holds a currently effective service representative
272 license and appointment. This subsection does not apply ~~as~~ to
273 similar representatives or employees of casualty insurers whose
274 duties are restricted to health insurance.

275 (7)~~(5)~~ No person shall be, act as, or represent or hold
276 himself or herself out to be a managing general agent unless he
277 or she ~~then~~ holds a currently effective managing general agent
278 license and appointment.

279 (8)~~(6)~~ An individual employed by a life or health insurer
280 as an officer or other salaried representative may solicit and
281 effect contracts of life insurance or annuities or of health
282 insurance, without being licensed as an agent, ~~when and only if~~
283 ~~when~~ he or she is accompanied by and solicits for and on ~~the~~
284 behalf of a licensed and appointed agent.

285 (9)~~(7)~~(a) ~~Effective October 1, 2006,~~ No individual, firm,
286 partnership, corporation, association, or any other entity shall
287 act in its own name or under a trade name, directly or
288 indirectly, as an insurance agency, unless it complies with s.
289 626.172 with respect to possessing an insurance agency license
290 for each place of business at which it engages in any activity

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291 which may be performed only by a licensed insurance agent. Each
292 agency engaged in business in this state before January 1, 2003,
293 which is wholly owned by insurance agents currently licensed and
294 appointed under this chapter, each incorporated agency whose
295 voting shares are traded on a securities exchange, each agency
296 designated and subject to supervision and inspection as a branch
297 office under the rules of the National Association of Securities
298 Dealers, and each agency whose primary function is offering
299 insurance as a service or member benefit to members of a
300 nonprofit corporation may file an application for registration
301 in lieu of licensure in accordance with s. 626.172(3). ~~Each~~
302 ~~agency engaged in business before October 1, 2006, shall file an~~
303 ~~application for licensure or registration on or before October~~
304 ~~1, 2006.~~

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

309 2. If an agency is eligible for registration but fails to
310 file an application for registration or an application for
311 licensure in accordance with this section, the department shall
312 impose on the agency an administrative penalty in an amount of
313 up to \$5,000.

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

319 1. Been found guilty of, or has pleaded guilty or nolo

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320 contendere to, a felony in this state or any other state
321 relating to the business of insurance or to an insurance agency,
322 without regard to whether a judgment of conviction has been
323 entered by the court having jurisdiction of the cases.

324 2. Employed any individual in a managerial capacity or in a
325 capacity dealing with the public who is under an order of
326 revocation or suspension issued by the department. An insurance
327 agency may request, on forms prescribed by the department,
328 verification of any person's license status. If a request is
329 mailed within 5 working days after an employee is hired, and the
330 employee's license is currently suspended or revoked, the agency
331 shall not be required to obtain a license, if the unlicensed
332 person's employment is immediately terminated.

333 3. Operated the agency or permitted the agency to be
334 operated in violation of s. 626.747.

335 4. With such frequency as to have made the operation of the
336 agency hazardous to the insurance-buying public or other
337 persons:

338 a. Solicited or handled controlled business. This
339 subparagraph shall not prohibit the licensing of any lending or
340 financing institution or creditor, with respect to insurance
341 only, under credit life or disability insurance policies of
342 borrowers from the institutions, which policies are subject to
343 part IX of chapter 627.

344 b. Misappropriated, converted, or unlawfully withheld
345 moneys belonging to insurers, insureds, beneficiaries, or others
346 and received in the conduct of business under the license.

347 c. Unlawfully rebated, attempted to unlawfully rebate, or
348 unlawfully divided or offered to divide commissions with

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349 another.

350 d. Misrepresented any insurance policy or annuity contract,
351 or used deception with regard to any policy or contract, done
352 ~~either~~ in person or by any form of dissemination of information
353 or advertising.

354 e. Violated any provision of this code or any other law
355 applicable to the business of insurance in the course of dealing
356 under the license.

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

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

361 h. Violated the provision against twisting as defined in s.
362 626.9541(1)(1).

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

366 j. Willfully overinsured any property insurance risk.

367 k. Engaged in fraudulent or dishonest practices in the
368 conduct of business arising out of activities related to
369 insurance or the insurance agency.

370 l. Demonstrated lack of fitness or trustworthiness to
371 engage in the business of insurance arising out of activities
372 related to insurance or the insurance agency.

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

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

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378 6. Willfully circumvented the requirements or prohibitions
379 of this code.

380 (10)~~(8)~~ No insurance agent, insurance agency, or other
381 person licensed under the Insurance Code may pay any fee or
382 other consideration to an unlicensed person other than an
383 insurance agency for the referral of prospective purchasers to
384 an insurance agent which is in any way dependent upon whether
385 the referral results in the purchase of an insurance product.

386 (11)~~(9)~~ Any person who knowingly transacts insurance or
387 otherwise engages in insurance activities in this state without
388 a license in violation of this section commits a felony of the
389 third degree, punishable as provided in s. 775.082, s. 775.083,
390 or s. 775.084.

391 (12) Effective July 1, 2012, a person may not act as,
392 represent himself or herself as, or hold himself or herself out
393 to be a property insurance appraisal umpire unless he or she
394 holds a current property insurance appraisal umpire license
395 issued by the department.

396 Section 6. Part XII of chapter 626, Florida Statutes,
397 consisting of sections 626.9931, 626.9932, 626.9933, 626.9934,
398 626.9935, 626.9936, 626.9937, 626.9938, 626.9939, 626.9940,
399 626.9941, 626.9942, and 626.9943, is created to read:

400 626.9931 Purpose.—The Legislature finds that it is in the
401 interest of the public welfare to regulate property insurance
402 loss appraisers and property insurance appraisal umpires in this
403 state.

404 626.9932 Scope of part.—This part applies to residential
405 and commercial residential property insurance contracts that
406 contain an appraisal clause and to the umpires and appraisers

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407 who participate in the appraisal process as a result of an
408 appraisal clause.

409 626.9933 Definitions.—As used in this part, the term:

410 (1) "Appraisal" means the process of estimating or
411 evaluating actual cash value, the amount of loss, or the cost of
412 repair or replacement of property for the purpose of quantifying
413 the monetary value of a property loss claim when an insurer and
414 an insured have failed to mutually agree on the value of the
415 loss pursuant to a residential or commercial residential
416 property insurance contract that is required in the residential
417 or commercial residential property insurance contract for the
418 resolution of a claim dispute by appraisal.

419 (2) "Competent" means properly licensed, sufficiently
420 qualified and capable to perform an appraisal.

421 (3) "Independent" means not subject to control,
422 restriction, modification, and limitation by the appointing
423 party.

424 (4) "Property insurance appraisal umpire" or "umpire" means
425 a competent, independent, licensed, and impartial third party
426 selected by the licensed appraisers for the insurer and the
427 insured to resolve issues for which the licensed appraisers are
428 unable to reach an agreement in the course of the appraisal
429 process pursuant to a residential or commercial residential
430 property insurance contract that is required to provide for the
431 resolution of a claim dispute by appraisal.

432 (5) "Property insurance loss appraiser" or "appraiser" mean
433 a competent, licensed, and independent third party selected by
434 an insurer or an insured to develop an appraisal for purposes of
435 the appraisal process under a residential or commercial

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436 residential property insurance contract that is required to
437 provide for the resolution of a claim dispute by appraisal.

438 626.9934 Property insurance appraisal umpire and property
439 insurance appraiser applications; fingerprinting required;
440 umpire list.-

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

443 (2) At the time of application, the applicant must be
444 fingerprinted by a law enforcement agency or other entity
445 approved by the department and must pay the fingerprint
446 processing fee specified in s. 624.501. Fingerprints must be
447 processed in accordance with s. 624.34.

448 (3) The department shall develop and maintain as a public
449 record a current list of licensed property insurance appraisal
450 umpires and licensed property insurance appraisers.

451 626.9935 Rulemaking authority.-The department may adopt
452 rules to administer the requirements of this part.

453 626.9936 Qualifications for licensure as a property
454 insurance appraisal umpire or property insurance appraiser.-

455 (1) The department may not issue a license as a property
456 insurance appraisal umpire or a property insurance appraiser to
457 any individual found by it to be untrustworthy or incompetent,
458 or who has not met the following qualifications:

459 (a) The applicant has filed an application with the
460 department in accordance with s. 626.171.

461 (b) The applicant is a natural person who is at least 18
462 years of age.

463 (c) The applicant is a United States citizen or legal alien
464 who possesses work authorization from the United States Bureau

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465 of Citizenship and Immigration Services.

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

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

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

473 626.9937 Professional or educational requirements for
474 insurance appraisal umpires and property insurance appraisers
475 applicants.—The department may not issue a license to an
476 applicant for licensure as a property insurance appraisal umpire
477 or property insurance appraiser unless the applicant meets one
478 of the following requirements:

479 (1) The applicant is currently licensed, registered,
480 certified, or approved as an engineer as defined in s. 471.005,
481 or as a retired professional engineer as defined in s. 471.005
482 and has taught or successfully completed 4 hours of classroom
483 coursework, approved by the department, specifically related to
484 construction, building codes, appraisal procedure, appraisal
485 preparation, and any other related material deemed appropriate
486 by the department.

487 (2) The applicant is currently or, within the 5 years
488 immediately preceding the date on which the application is filed
489 with the department, has been licensed, registered, certified,
490 or approved as a general contractor, building contractor, or
491 residential contractor as defined in s. 489.105 and has taught
492 or successfully completed 4 hours of classroom coursework,
493 approved by the department, specifically related to

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494 construction, building codes, appraisal procedure, appraisal
495 preparation, and any other related material deemed appropriate
496 by the department.

497 (3) The applicant is currently or, within the 5 years
498 immediately preceding the date on which the application is filed
499 with the department, has been licensed or registered as an
500 architect to engage in the practice of architecture pursuant to
501 part I of chapter 481 and has taught or successfully completed 4
502 hours of classroom coursework, approved by the department,
503 specifically related to construction, building codes, appraisal
504 procedure, appraisal preparation, and any other related material
505 deemed appropriate by the department.

506 (4) The applicant is currently or, within the 5 years
507 immediately preceding the date on which the application is filed
508 with the department, has been a qualified geologist or
509 professional geologist as defined in s. 492.102 and has taught
510 or successfully completed 4 hours of classroom coursework,
511 approved by the department, specifically related to
512 construction, building codes, appraisal procedure, appraisal
513 preparation, and any other related material deemed appropriate
514 by the department.

515 (5) The applicant is currently or, within the 5 years
516 immediately preceding the date on which the application is filed
517 with the department, has been licensed as a certified public
518 accountant as defined in s. 473.302 and has taught or
519 successfully completed 4 hours of classroom coursework, approved
520 by the department, specifically related to construction,
521 building codes, appraisal procedure, appraisal preparation, and
522 any other related material deemed appropriate by the department.

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523 (6) The applicant is currently or, within the 5 years
524 immediately preceding the date on which the application is filed
525 with the department, has been licensed as an attorney at law in
526 this state and has taught or successfully completed 4 hours of
527 classroom coursework, approved by the department, specifically
528 related to construction, building codes, appraisal procedure,
529 appraisal preparation, and any other related material deemed
530 appropriate by the department.

531 (7) The applicant has received a baccalaureate degree from
532 an accredited 4-year college in the field of engineering,
533 architecture, or building construction and has taught or
534 successfully completed 4 hours of classroom coursework, approved
535 by the department, specifically related to construction,
536 building codes, appraisal procedure, appraisal preparation, and
537 any other related material deemed appropriate by the department.

538 (8) The applicant is a currently licensed adjuster whose
539 license covers all lines of insurance except the life and
540 annuities class. The adjuster's license must include the
541 property and casualty class of insurance. The currently licensed
542 adjuster must be licensed for at least 3 years to qualify for a
543 property insurance appraiser's license. The currently licensed
544 adjuster must be licensed for at least 5 years to qualify for a
545 property insurance appraisal umpire's license.

546 (a) Has 1 year of proven experience as an employee of a
547 general contractor, building contractor, or residential
548 contractor; or

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

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552 construction.

553 (9) The applicant has successfully completed 40 hours of
554 classroom coursework, approved by the department, specifically
555 related to construction, building codes, appraisal procedure,
556 appraisal preparation, property insurance, and any other related
557 material deemed appropriate by the department.

558 626.9938 Regulation of umpire and property appraiser course
559 providers, instructors, and courses.-

560 (1) Each umpire or property appraiser course provider,
561 instructor, and classroom course must be approved by and
562 registered with the department before prelicensure courses for
563 property insurance appraisal umpires or property insurance
564 appraisers may be offered. Each classroom course must include a
565 written examination at the conclusion of the course and must
566 cover all of the material contained in the course. A student may
567 not receive credit for the course unless the student achieves a
568 grade of at least 75 on the examination.

569 (2) The department shall adopt rules establishing:

570 (a) Standards for the approval, registration, discipline,
571 or removal from registration of course providers, instructors,
572 and courses. The standards must be designed to ensure that
573 instructors have the knowledge, competence, and integrity to
574 fulfill the educational objectives of the prelicensure
575 requirements of this part.

576 (b) A process for determining compliance with the
577 prelicensure requirements of this part. The department shall
578 adopt rules prescribing the forms necessary to administer the
579 prelicensure requirements of this part.

580 (3) Approval to teach prescribed or approved appraisal

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581 courses does not entitle the instructor to teach any courses
582 outside the scope of this part.

583 626.9939 Grounds for compulsory refusal, suspension, or
584 revocation of an umpire's or appraiser's license.—In addition to
585 the grounds set forth in s. 626.611, the department shall deny
586 an application for, and suspend, revoke, or refuse to renew or
587 continue, a license as a property insurance appraisal umpire or
588 property insurance appraiser if the applicant or licensee has:

589 (1) Violated a duty imposed upon her or him by law or by
590 the terms of a contract, whether written, oral, express, or
591 implied, in an appraisal; has aided, assisted, or conspired with
592 any other person engaged in any such misconduct and in
593 furtherance thereof; or has formed an intent, design, or scheme
594 to engage in such misconduct and committed an overt act in
595 furtherance of such intent, design, or scheme. It is immaterial
596 to a finding that a licensee has committed a violation of this
597 subsection that the victim or intended victim of the misconduct
598 has sustained no damage or loss, that the damage or loss has
599 been settled and paid after the discovery of misconduct, or that
600 such victim or intended victim was a customer or a person in a
601 confidential relation with the licensee or was an identified
602 member of the general public.

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

605 (3) Had a registration, license, or certification as an
606 appraiser revoked, suspended, or otherwise acted against; has
607 had his or her registration, license, or certificate to practice
608 or conduct any regulated profession, business, or vocation
609 revoked or suspended by this or any other state, any nation, or

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610 any possession or district of the United States; or has had an
611 application for such registration, licensure, or certification
612 to practice or conduct any regulated profession, business, or
613 vocation denied by this or any other state, any nation, or any
614 possession or district of the United States.

615 (4) Made or filed a report or record, written or oral,
616 which the licensee knows to be false; has willfully failed to
617 file a report or record required by state or federal law; has
618 willfully impeded or obstructed such filing; or has induced
619 another person to impede or obstruct such filing.

620 (5) Accepted an appointment as an umpire or appraiser if
621 the appointment is contingent upon the umpire or appraiser
622 reporting a predetermined result, analysis, or opinion, or if
623 the fee to be paid for the services of the umpire or appraiser
624 is contingent upon the opinion, conclusion, or valuation reached
625 by the umpire or appraiser.

626 626.9940 Grounds for discretionary denial, suspension, or
627 revocation of a license as a property insurance appraisal umpire
628 or property insurance appraiser.-

629 (1) In addition to the applicable grounds set forth in s.
630 626.621, the department may deny an application for and suspend,
631 revoke, or refuse to renew or continue a license as a property
632 insurance appraisal umpire if the applicant or licensee has:

633 (a) Failed to timely communicate with the appraisers
634 without good cause.

635 (b) Failed or refused to exercise reasonable diligence in
636 submitting recommendations to the appraisers.

637 (c) Violated any ethical standard for property insurance
638 appraisal umpires set forth in s. 626.9941.

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639 (d) Failed to inform the department in writing within 30
640 days after pleading guilty or nolo contendere to, or being
641 convicted or found guilty of, any felony.

642 (e) Failed to timely notify the department of any change in
643 business location, or has failed to fully disclose all business
644 locations from which he or she operates as a property insurance
645 appraisal umpire.

646 (2) In addition to the applicable grounds set forth in s.
647 626.621, the department may deny an application for and suspend,
648 revoke, or refuse to renew or continue a license as a property
649 insurance appraiser if the applicant or licensee has:

650 (a) Violated any ethical standard for property insurance
651 appraisal umpires set forth in s. 626.9942.

652 (b) Failed to inform the department in writing within 30
653 days after pleading guilty or nolo contendere to, or being
654 convicted or found guilty of, any felony.

655 (c) Failed to timely notify the department of any change in
656 business location, or has failed to fully disclose all business
657 locations from which he or she operates as a property insurance
658 appraisal umpire.

659 626.9941 Ethical standards for property insurance appraisal
660 umpires.-

661 (1) CONFIDENTIALITY.-An umpire shall maintain
662 confidentiality of all information revealed during an appraisal
663 except where disclosure is required by law.

664 (2) RECORDKEEPING.-An umpire shall maintain confidentiality
665 in the storage and disposal of records and may not disclose any
666 identifying information when materials are used for research,
667 training, or statistical compilations.

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668 (3) FEES AND EXPENSES.—An umpire holds a position of trust.
669 Fees charged for appraisal services shall be reasonable and
670 consistent with the nature of the case. An umpire shall be
671 guided by the following general principles in determining fees:

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

674 (b) Charges for costs shall be for those actually incurred;
675 and

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

681 (4) MAINTENANCE OF RECORDS.—An umpire shall maintain
682 records necessary to support charges for services and expenses,
683 and upon request shall provide an accounting of all applicable
684 charges to the parties.

685 (5) ADVERTISING.—An umpire may not engage in marketing
686 practices that contain false or misleading information. An
687 umpire shall ensure that any advertisements of the umpire's
688 qualifications, services to be rendered, or the appraisal
689 process are accurate and honest. An umpire may not make claims
690 of achieving specific outcomes or promises implying favoritism
691 for the purpose of obtaining business.

692 (6) INTEGRITY AND IMPARTIALITY.—An umpire may not accept
693 any engagement, provide any service, or perform any act that
694 would compromise the umpire's integrity or impartiality.

695 (7) SKILL AND EXPERIENCE.—An umpire shall decline an
696 appointment or selection, withdraw, or request appropriate

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697 assistance when the facts and circumstances of the appraisal are
698 beyond the umpire's skill or experience.

699 626.9942 Retention of records.—An umpire or appraiser
700 licensed under this part shall retain for at least 5 years
701 original or true copies of any contracts engaging the umpire's
702 services, appraisal reports, and supporting data assembled and
703 formulated by the umpire in preparing appraisal reports. The
704 period for retaining the records applicable to each engagement
705 starts on the date of the submission of the appraisal report to
706 the client. These records must be made available by the umpire
707 or appraiser for inspection and copying by the department upon
708 reasonable notice to the umpire. If an appraisal has been the
709 subject of, or has been admitted as evidence in, a lawsuit,
710 reports and records must be retained for at least 2 years after
711 the date the trial ends.

712 626.9943 Ethical standards for property insurance
713 appraisers.—

714 (1) INTEGRITY AND IMPARTIALITY.—

715 (a) A licensed appraiser may not accept an appointment
716 unless he or she can serve impartially; can serve independently
717 from the party appointing him or her; is competent to serve; and
718 is available to promptly commence the appraisal, and thereafter
719 devote the time and attention for its completion that the
720 parties are reasonably entitled to expect.

721 (b) A licensed appraiser shall conduct the appraisal
722 process in a manner that advances the fair and efficient
723 resolution of the matters submitted for decision. A licensed
724 appraiser shall make all reasonable efforts to prevent delays in
725 the appraisal process, the harassment of parties or other

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726 participants, or other abuse or disruption of the appraisal
727 process.

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

732 (d) The licensed appraiser shall, after careful
733 deliberation, decide all issues submitted for determination and
734 no other issues. A licensed appraiser shall decide all matters
735 justly, exercising independent judgment, and may not allow
736 outside pressure to affect the decision. An appraiser may not
737 delegate the duty to decide to any other person.

738 (2) COMMUNICATIONS WITH PARTIES.—

739 (a) If an agreement of the parties establishes the manner
740 or content of the communications between the appraisers and the
741 parties, the appraiser shall abide by such agreement. In the
742 absence of agreement, an appraiser may not discuss a proceeding
743 with any party in the absence of any other party, except in the
744 following circumstances:

745 1. If the appointment of the appraiser is being considered,
746 the prospective appraiser may ask about the identities of the
747 parties, counsel, and the general nature of the case, and may
748 respond to inquiries from a party or its counsel designed to
749 determine his or her suitability and availability for the
750 appointment;

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

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

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755 4. To make arrangements for obtaining materials and
756 inspection of the property with the party who appointed the
757 appraiser. Such communication is limited to scheduling and the
758 exchange of materials.

759 (b) There may be no communications whereby a party dictates
760 to an appraiser what the result of the proceedings must be, what
761 matters or elements may be included or considered by the
762 appraiser, or what actions the appraiser may take.

763 (3) GIFTS AND SOLICITATION.—An appraiser may not give or
764 accept any gift, favor, loan, or other item of value in an
765 appraisal process except for their reasonable fee. During the
766 appraisal process, an appraiser may not solicit or otherwise
767 attempt to procure future professional services.

768 (4) FEES and EXPENSES.—An appraiser holds a position of
769 trust. Fees charged for appraisal services shall be reasonable
770 and consistent with the nature of the case. An appraiser shall
771 be guided by the following general principles in determining
772 fees:

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

775 (b) Charges for costs shall be only for those costs
776 actually incurred.

777 (5) MAINTENANCE OF RECORDS.—An appraiser shall maintain
778 records to support charges for services, fees, and expenses, and
779 upon request shall provide an accounting of all applicable
780 charges to the parties.

781 (6) ADVERTISING.—An appraiser may not engage in marketing
782 practices that contain false or misleading information. An
783 appraiser shall ensure that any advertisements of the

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784 appraiser's qualifications, services to be rendered, or the
785 appraisal process are accurate and honest. An appraiser may not
786 make claims of achieving specific outcomes or promises implying
787 favoritism for the purpose of obtaining business.

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

792 Section 7. Section 627.4141, Florida Statutes, is created
793 to read:

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

809 (1) Each party shall select a competent, licensed, and
810 independent appraiser and notify the other party of the
811 appraiser selected within 20 days after the date of the demand
812 for an appraisal. The appraisers shall select a competent,

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813 independent, and impartial umpire who is on the department's
814 list of licensed property insurance appraisal umpires or who is
815 otherwise qualified and exempt from licensure as provided in s.
816 626.112(10). If the appraisers are unable to agree on an umpire
817 within 15 days, the insured or the insurer may file a petition
818 with a county or circuit court in the jurisdiction in which the
819 covered property is located to designate a licensed property
820 insurance appraisal umpire for the appraisal.

821 (2) Appraisal proceedings are informal unless the insured
822 and the insurer mutually agree otherwise. For purposes of this
823 section, "informal" means that no formal discovery shall be
824 conducted, including depositions, interrogatories, requests for
825 admission, or other forms of formal civil discovery; no formal
826 rules of evidence shall be applied; and no court reporter shall
827 be used for the proceedings. However, either appraiser may rely
828 on experts in reaching the value of loss.

829 (3) Within 60 days after being appointed, each appraiser
830 shall appraise the loss and submit a written report to the other
831 appraiser, separately stating the cost of the loss, the actual
832 cash value, or the cost to repair or replace each item. Within
833 30 days after submitting the reports, the appraisers shall
834 attempt to resolve any differences in the appraisals and reach a
835 mutual agreement on all matters. If the appraisers are unable to
836 agree, they shall, within 5 days, submit the differences in
837 their findings in writing to the umpire. However, the appraisers
838 have an additional 60 days after appointment to appraise the
839 loss and submit a written report if the loss is covered under a
840 commercial property insurance policy and the insured structure
841 is 10,000 square feet or more, or is covered under a commercial

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842 residential or residential insurance policy and the claim is
843 based on and made subsequent to a hurricane designated by the
844 National Hurricane Center or a declared emergency by the
845 Governor.

846 (4) The umpire shall review any differences in appraisals
847 submitted by the appraisers and determine the amount of the loss
848 for each item submitted. Within 10 days after receipt of any
849 differences in appraisals, the umpire shall submit the umpire's
850 conclusions in writing to each appraiser.

851 (5) If either appraiser agrees with the conclusions of the
852 umpire, an itemized written appraisal award signed by the umpire
853 and the appraiser shall be filed with the insurer and shall
854 determine the amount of the loss.

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

861 (7) Each appraiser shall be paid by the party who selects
862 the appraiser and the expenses of the appraisal and fees of the
863 umpire shall be paid by the parties equally, except that if the
864 final determination of the amount of the loss is 50 percent
865 greater than the insurer's preappraisal estimate of the loss
866 communicated to the insured in writing, the insurer shall pay
867 all the expenses, including any fees and expenses charged by the
868 insured's appraiser and all fees and expenses of the umpire.
869 This subsection does not affect an insured's claim for
870 attorney's fees under s. 627.428.

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871 (8) The provisions of the Florida Arbitration Code do not
872 apply to residential and commercial residential property
873 insurance loss appraisal proceedings. However, the provisions
874 regarding proceedings to compel and stay arbitration in s.
875 682.03; procedures for correcting, vacating, or modifying an
876 award in ss. 682.10, 682.13, and 682.14; procedures for entry of
877 judgment on the award in s. 682.15; and procedures regarding
878 confirmation of an award in s. 682.12 do apply.

879 (9) The appraisal process may not address issues involving
880 whether or not the loss or damage is covered under the terms of
881 the insurance contract. However, the appraisers and the umpire
882 may consider causation issues, if necessary, to determine the
883 amount of loss.

884 Section 8. Subsection (3) of section 626.172, Florida
885 Statutes, is amended to read:

886 626.172 Application for insurance agency license.—

887 (3) The department shall issue a registration as an
888 insurance agency to any agency that files a written application
889 with the department and qualifies for registration. The
890 application for registration shall require the agency to provide
891 the same information required for an agency licensed under
892 subsection (2), the agent identification number for each owner
893 who is a licensed agent, proof that the agency qualifies for
894 registration as provided in s. 626.112(9)~~(7)~~, and any other
895 additional information that the department determines is
896 necessary in order to demonstrate that the agency qualifies for
897 registration. The application must be signed by the owner or
898 owners of the agency. If the agency is incorporated, the
899 application must be signed by the president and the secretary of

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900 the corporation. An agent who owns the agency need not file
901 fingerprints with the department if the agent obtained a license
902 under this chapter and the license is currently valid.

903 (a) If an application for registration is denied, the
904 agency must file an application for licensure no later than 30
905 days after the date of the denial of registration.

906 (b) A registered insurance agency must file an application
907 for licensure no later than 30 days after the date that any
908 person who is not a licensed and appointed agent in this state
909 acquires any ownership interest in the agency. If an agency
910 fails to file an application for licensure in compliance with
911 this paragraph, the department shall impose an administrative
912 penalty in an amount of up to \$5,000 on the agency.

913 (c) Sections 626.6115 and 626.6215 do not apply to agencies
914 registered under this subsection.

915 Section 9. Subsection (2) of section 626.7845, Florida
916 Statutes, is amended to read:

917 626.7845 Prohibition against unlicensed transaction of life
918 insurance.—

919 (2) Except as provided in s. 626.112 (8) ~~(6)~~, with respect to
920 any line of authority specified in s. 626.015(10), no individual
921 shall, unless licensed as a life agent:

922 (a) Solicit insurance or annuities or procure applications;

923 (b) In this state, engage or hold himself or herself out as
924 engaging in the business of analyzing or abstracting insurance
925 policies or of counseling or advising or giving opinions to
926 persons relative to insurance or insurance contracts other than:

927 1. As a consulting actuary advising an insurer; or

928 2. As to the counseling and advising of labor unions,

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929 associations, trustees, employers, or other business entities,
930 the subsidiaries and affiliates of each, relative to their
931 interests and those of their members or employees under
932 insurance benefit plans; or

933 (c) In this state, from this state, or with a resident of
934 this state, offer or attempt to negotiate on behalf of another
935 person a viatical settlement contract as defined in s. 626.9911.

936 Section 10. Section 626.8305, Florida Statutes, is amended
937 to read:

938 626.8305 Prohibition against the unlicensed transaction of
939 health insurance.—Except as provided in s. 626.112(8)~~(6)~~, with
940 respect to any line of authority specified in s. 626.015(6), no
941 individual shall, unless licensed as a health agent:

942 (1) Solicit insurance or procure applications; or

943 (2) In this state, engage or hold himself or herself out as
944 engaging in the business of analyzing or abstracting insurance
945 policies or of counseling or advising or giving opinions to
946 persons relative to insurance contracts other than:

947 (a) As a consulting actuary advising insurers; or

948 (b) As to the counseling and advising of labor unions,
949 associations, trustees, employers, or other business entities,
950 the subsidiaries and affiliates of each, relative to their
951 interests and those of their members or employees under
952 insurance benefit plans.

953 Section 11. Paragraph (a) of subsection (2) of section
954 626.8411, Florida Statutes, is amended to read:

955 626.8411 Application of Florida Insurance Code provisions
956 to title insurance agents or agencies.—

957 (2) The following provisions of part I do not apply to

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958 title insurance agents or title insurance agencies:

959 (a) Section 626.112(9)~~(7)~~, relating to licensing of
960 insurance agencies.

961 Section 12. This act shall take effect July 1, 2011.