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

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29 | fingerprinted by a law enforcement agency or other entity
30 | approved by the department at the time of application;
31 | requiring the department to develop and maintain an
32 | updated list of licensed umpires and licensed property
33 | insurance appraisers; creating s. 626.9935, F.S.;
34 | authorizing the department to adopt rules; creating s.
35 | 626.9936, F.S.; providing qualifications for licensure as
36 | a property insurance appraisal umpire and as a property
37 | insurance appraiser; creating s. 626.9937, F.S.; providing
38 | professional and educational requirements for licensure as
39 | a property insurance appraisal umpire and property
40 | insurance appraiser; creating s. 626.9938, F.S.; providing
41 | for the regulation of umpire and property insurance
42 | appraiser course providers, instructors, and courses;
43 | requiring the department to adopt rules establishing
44 | standards for providers, instructors, and courses, and a
45 | process for determining compliance with certain
46 | prelicensure requirements; adopting forms to be used for
47 | the administration of such requirements; creating s.
48 | 626.9939, F.S.; providing grounds for the compulsory
49 | refusal, suspension, or revocation of an umpire's license
50 | and a property insurance appraiser's license; creating s.
51 | 626.9940, F.S.; providing grounds for the discretionary
52 | refusal, suspension, or revocation of an umpire's license
53 | and a property insurance appraiser's license; creating s.
54 | 626.9941, F.S.; providing ethical standards for property
55 | insurance appraisal umpires; creating s. 626.9942, F.S.;
56 | requiring that a licensed property insurance appraisal

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57 | umpire and property insurance appraiser retain certain
58 | records for a specified period; requiring that umpires and
59 | property insurance appraisers make such records available
60 | for inspection and copying by the department; requiring
61 | that appraisals that are the subject of litigation or have
62 | been admitted as evidence in a lawsuit be retained for a
63 | specified period; creating s. 626.9943, F.S.; providing
64 | ethical standards for licensed property insurance
65 | appraisers; creating s. 627.4141, F.S.; providing
66 | procedures that must be followed if a residential or
67 | commercial property insurance contract provides that
68 | either party may submit a written demand to enter into the
69 | process of appraisal when the insured and the insurer fail
70 | to mutually agree to the actual cash value, the amount of
71 | loss, or the cost of repair or replacement of property for
72 | which a claim has been filed; providing an exception upon
73 | which an insurer may refuse to accept such demand;
74 | authorizing each party to select a competent licensed and
75 | independent appraiser and to notify the opposing party
76 | within a specified period; requiring the appraisers to
77 | select a licensed umpire from the department's list of
78 | licensed umpires; authorizing either party to file a
79 | petition, in a county or circuit court in the jurisdiction
80 | in which the covered property is located, to designate a
81 | licensed umpire if the appraisers cannot agree on the
82 | selection of a licensed umpire; providing that appraisal
83 | proceedings are informal unless the insurer and the
84 | insured agree otherwise; defining and providing the scope

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85 of the term "informal" for purposes of appraisal
86 proceedings; requiring each licensed appraiser to submit a
87 written report to the other licensed appraisers; requiring
88 that any differences in findings among the licensed
89 appraisers which cannot be resolved by the licensed
90 appraisers themselves within a specified period be
91 submitted to the licensed umpire for review; requiring the
92 licensed umpire to submit his or her conclusions regarding
93 any unresolved differences in the findings of the
94 licensed appraisers within a specified period; providing
95 that if either licensed appraiser agrees with the
96 conclusions of the licensed umpire, an itemized written
97 appraisal award signed by the licensed umpire and licensed
98 appraiser shall be filed with the insurer and shall
99 determine the amount of the loss; providing that the
100 appraisal award is binding upon the insurer and the
101 insured; providing for compensation of the licensed
102 appraisers and the licensed umpire; providing that the
103 Florida Arbitration Code does not apply to residential or
104 commercial property insurance loss appraisal proceedings;
105 providing that certain provisions of the Florida
106 Arbitration Code relating to procedural matters do apply;
107 prohibiting the appraisal process from addressing issues
108 involving coverage or lack thereof under an insurance
109 contract; authorizing the licensed umpire and licensed
110 appraisers to consider causation issues when necessary to
111 determine the amount of loss; amending ss. 626.172,

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112 626.7845, 626.8305, and 626.8411, F.S.; conforming cross-
113 references; providing an effective date.
114

115 Be It Enacted by the Legislature of the State of Florida:
116

117 Section 1. Subsection (5) of section 624.501, Florida
118 Statutes, is amended, and subsection (29) is added to that
119 section, to read:

120 624.501 Filing, license, appointment, and miscellaneous
121 fees.—The department, commission, or office, as appropriate,
122 shall collect in advance, and persons so served shall pay to it
123 in advance, fees, licenses, and miscellaneous charges as
124 follows:

125 (5) All insurance representatives, property insurance
126 appraisal umpires, and property insurance appraisers application
127 for license, application for reinstatement of suspended license,
128 each filing, filing
129 fee.....\$50.00

130 (29) Property insurance appraisal umpire and property
131 insurance appraiser original appointment, biennial renewal, or
132 continuation by the
133 licensee.....\$50.00

134 Section 2. Present subsections (16), (17), and (18) of
135 section 626.015, Florida Statutes, are renumbered as subsections
136 (18), (19), and (20), respectively, and new subsections (16) and
137 (17) are added to that section to read:

138 626.015 Definitions.—As used in this part:

139 (16) "Property insurance loss appraiser" has the same

140 meaning as in s. 626.9933.

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

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

145 626.016 Powers and duties of department, commission, and
 146 office.—

147 (1) The powers and duties of the Chief Financial Officer
 148 and the department specified in this part apply only with
 149 respect to insurance agents, insurance agencies, managing
 150 general agents, insurance adjusters, reinsurance intermediaries,
 151 viatical settlement brokers, customer representatives, service
 152 representatives, property insurance appraisers, and property
 153 insurance appraisal umpires agencies.

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

156 626.022 Scope of part.—

157 (1) This part applies ~~as~~ to insurance agents, service
 158 representatives, adjusters, property insurance appraisal
 159 umpires, property insurance appraisers, and insurance agencies;
 160 ~~as~~ to any and all kinds of insurance; and ~~as~~ to stock insurers,
 161 mutual insurers, reciprocal insurers, and all other types of
 162 insurers, except that:

163 (a) It does not apply ~~as~~ to reinsurance, except that ss.
 164 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.
 165 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-
 166 626.591, and ss. 626.601-626.711 shall apply ~~as~~ to reinsurance
 167 intermediaries as defined in s. 626.7492.

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

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

172 (d) It ~~This part~~ does not apply to a certified public
 173 accountant licensed under chapter 473 who is acting within the
 174 scope of the practice of public accounting, as defined in s.
 175 473.302, if provided that the activities of the certified public
 176 accountant are limited to advising a client of the necessity of
 177 obtaining insurance, the amount of insurance needed, or the line
 178 of coverage needed, and if provided that the certified public
 179 accountant does not directly or indirectly receive or share in
 180 any commission or referral fee.

181 Section 5. Section 626.112, Florida Statutes, is amended
 182 to read:

183 626.112 License and appointment required; agents, customer
 184 representatives, adjusters, insurance agencies, service
 185 representatives, managing general agents, property insurance
 186 appraisers, and property insurance appraisal umpires.-

187 (1) (a) No person may be, act as, or advertise or hold
 188 himself or herself out to be an insurance agent, insurance
 189 adjuster, property insurance appraiser, property insurance
 190 appraisal umpire, or customer representative unless he or she is
 191 currently licensed by the department and appointed by an
 192 appropriate appointing entity or person.

193 (b) Except as provided in subsection (8) ~~(6)~~ or in
 194 applicable department rules, and in addition to other conduct
 195 described in this chapter with respect to particular types of

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196 agents, a license as an insurance agent, service representative,
197 customer representative, or limited customer representative is
198 required in order to engage in the solicitation of insurance.
199 For purposes of this requirement, as applicable to any of the
200 license types described in this section, the solicitation of
201 insurance is the attempt to persuade any person to purchase an
202 insurance product by:

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

205 2. Distributing an invitation to contract to prospective
206 purchasers;

207 3. Making general or specific recommendations as to
208 insurance products;

209 4. Completing orders or applications for insurance
210 products;

211 5. Comparing insurance products, advising as to insurance
212 matters, or interpreting policies or coverages; or

213 6. Offering or attempting to negotiate on behalf of
214 another person a viatical settlement contract as defined in s.
215 626.9911.

216
217 However, an employee leasing company licensed pursuant to
218 chapter 468 which is seeking to enter into a contract with an
219 employer that identifies products and services offered to
220 employees may deliver proposals for the purchase of employee
221 leasing services to prospective clients of the employee leasing
222 company setting forth the terms and conditions of doing
223 business; classify employees as permitted by s. 468.529; collect

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

248 (2) No agent or customer representative shall solicit or
249 otherwise transact as agent or customer representative, or
250 represent or hold himself or herself out to be an agent or
251 customer representative as to, any kind or kinds of insurance

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252 for ~~as to~~ which he or she is not ~~then~~ licensed and appointed.

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

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

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

261 (6)~~(4)~~ No person shall be, act as, or represent or hold
262 himself or herself out to be a service representative unless he
263 or she ~~then~~ holds a currently effective service representative
264 license and appointment. This subsection does not apply ~~as~~ to
265 similar representatives or employees of casualty insurers whose
266 duties are restricted to health insurance.

267 (7)~~(5)~~ No person shall be, act as, or represent or hold
268 himself or herself out to be a managing general agent unless he
269 or she ~~then~~ holds a currently effective managing general agent
270 license and appointment.

271 (8)~~(6)~~ An individual employed by a life or health insurer
272 as an officer or other salaried representative may solicit and
273 effect contracts of life insurance or annuities or of health
274 insurance, without being licensed as an agent, ~~when and only if~~ if
275 ~~when~~ he or she is accompanied by and solicits for and on ~~the~~
276 behalf of a licensed and appointed agent.

277 (9)~~(7)~~ (a) ~~Effective October 1, 2006,~~ No individual, firm,
278 partnership, corporation, association, or any other entity shall
279 act in its own name or under a trade name, directly or

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280 indirectly, as an insurance agency, unless it complies with s.
281 626.172 with respect to possessing an insurance agency license
282 for each place of business at which it engages in any activity
283 which may be performed only by a licensed insurance agent. Each
284 agency engaged in business in this state before January 1, 2003,
285 which is wholly owned by insurance agents currently licensed and
286 appointed under this chapter, each incorporated agency whose
287 voting shares are traded on a securities exchange, each agency
288 designated and subject to supervision and inspection as a branch
289 office under the rules of the National Association of Securities
290 Dealers, and each agency whose primary function is offering
291 insurance as a service or member benefit to members of a
292 nonprofit corporation may file an application for registration
293 in lieu of licensure in accordance with s. 626.172(3). ~~Each~~
294 ~~agency engaged in business before October 1, 2006, shall file an~~
295 ~~application for licensure or registration on or before October~~
296 ~~1, 2006.~~

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

301 2. If an agency is eligible for registration but fails to
302 file an application for registration or an application for
303 licensure in accordance with this section, the department shall
304 impose on the agency an administrative penalty in an amount of
305 up to \$5,000.

306 (b) A registered insurance agency shall, as a condition
307 precedent to continuing business, obtain an insurance agency

308 license if the department finds that, with respect to any
 309 majority owner, partner, manager, director, officer, or other
 310 person who manages or controls the agency, any person has:

311 1. Been found guilty of, or has pleaded guilty or nolo
 312 contendere to, a felony in this state or any other state
 313 relating to the business of insurance or to an insurance agency,
 314 without regard to whether a judgment of conviction has been
 315 entered by the court having jurisdiction of the cases.

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

325 3. Operated the agency or permitted the agency to be
 326 operated in violation of s. 626.747.

327 4. With such frequency as to have made the operation of
 328 the agency hazardous to the insurance-buying public or other
 329 persons:

330 a. Solicited or handled controlled business. This
 331 subparagraph shall not prohibit the licensing of any lending or
 332 financing institution or creditor, with respect to insurance
 333 only, under credit life or disability insurance policies of
 334 borrowers from the institutions, which policies are subject to
 335 part IX of chapter 627.

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

339 c. Unlawfully rebated, attempted to unlawfully rebate, or
 340 unlawfully divided or offered to divide commissions with
 341 another.

342 d. Misrepresented any insurance policy or annuity
 343 contract, or used deception with regard to any policy or
 344 contract, done ~~either~~ in person or by any form of dissemination
 345 of information or advertising.

346 e. Violated any provision of this code or any other law
 347 applicable to the business of insurance in the course of dealing
 348 under the license.

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

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

353 h. Violated the provision against twisting as defined in
 354 s. 626.9541(1) (1).

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

358 j. Willfully overinsured any property insurance risk.

359 k. Engaged in fraudulent or dishonest practices in the
 360 conduct of business arising out of activities related to
 361 insurance or the insurance agency.

362 l. Demonstrated lack of fitness or trustworthiness to
 363 engage in the business of insurance arising out of activities

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364 related to insurance or the insurance agency.

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

367 5. Knowingly employed any person who within the preceding
368 3 years has had his or her relationship with an agency
369 terminated in accordance with paragraph (d).

370 6. Willfully circumvented the requirements or prohibitions
371 of this code.

372 (10)~~(8)~~ No insurance agent, insurance agency, or other
373 person licensed under the Insurance Code may pay any fee or
374 other consideration to an unlicensed person other than an
375 insurance agency for the referral of prospective purchasers to
376 an insurance agent which is in any way dependent upon whether
377 the referral results in the purchase of an insurance product.

378 (11)~~(9)~~ Any person who knowingly transacts insurance or
379 otherwise engages in insurance activities in this state without
380 a license in violation of this section commits a felony of the
381 third degree, punishable as provided in s. 775.082, s. 775.083,
382 or s. 775.084.

383 (12) Effective July 1, 2012, a person may not act as,
384 represent himself or herself as, or hold himself or herself out
385 to be a property insurance appraisal umpire unless he or she
386 holds a current property insurance appraisal umpire license
387 issued by the department.

388 Section 6. Part XII of chapter 626, Florida Statutes,
389 consisting of sections 626.9931, 626.9932, 626.9933, 626.9934,
390 626.9935, 626.9936, 626.9937, 626.9938, 626.9939, 626.9940,
391 626.9941, 626.9942, and 626.9943, is created to read:

392 626.9931 Purpose.—The Legislature finds that it is in the
 393 interest of the public welfare to regulate property insurance
 394 loss appraisers and property insurance appraisal umpires in this
 395 state.

396 626.9932 Scope of part.—This part applies to residential
 397 and commercial residential property insurance contracts that
 398 contain an appraisal clause and to the umpires and appraisers
 399 who participate in the appraisal process as a result of an
 400 appraisal clause.

401 626.9933 Definitions.—As used in this part, the term:

402 (1) "Appraisal" means the process of estimating or
 403 evaluating actual cash value, the amount of loss, or the cost of
 404 repair or replacement of property for the purpose of quantifying
 405 the monetary value of a property loss claim when an insurer and
 406 an insured have failed to mutually agree on the value of the
 407 loss pursuant to a residential or commercial residential
 408 property insurance contract that is required in the residential
 409 or commercial residential property insurance contract for the
 410 resolution of a claim dispute by appraisal.

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

413 (3) "Independent" means not subject to control,
 414 restriction, modification, and limitation by the appointing
 415 party.

416 (4) "Property insurance appraisal umpire" or "umpire"
 417 means a competent, independent, licensed, and impartial third
 418 party selected by the licensed appraisers for the insurer and
 419 the insured to resolve issues for which the licensed appraisers

420 are unable to reach an agreement in the course of the appraisal
 421 process pursuant to a residential or commercial residential
 422 property insurance contract that is required to provide for the
 423 resolution of a claim dispute by appraisal.

424 (5) "Property insurance loss appraiser" or "appraiser"
 425 mean a competent, licensed, and independent third party selected
 426 by an insurer or an insured to develop an appraisal for purposes
 427 of the appraisal process under a residential or commercial
 428 residential property insurance contract that is required to
 429 provide for the resolution of a claim dispute by appraisal.

430 626.9934 Property insurance appraisal umpire and property
 431 insurance appraiser applications; fingerprinting required;
 432 umpire list.-

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

436 (2) At the time of application, the applicant must be
 437 fingerprinted by a law enforcement agency or other entity
 438 approved by the department and must pay the fingerprint
 439 processing fee specified in s. 624.501. Fingerprints must be
 440 processed in accordance with s. 624.34.

441 (3) The department shall develop and maintain as a public
 442 record a current list of licensed property insurance appraisal
 443 umpires and licensed property insurance appraisers.

444 626.9935 Rulemaking authority.-The department may adopt
 445 rules to administer the requirements of this part.

446 626.9936 Qualifications for licensure as a property
 447 insurance appraisal umpire or property insurance appraiser.-

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

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

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

456 (c) The applicant is a United States citizen or legal
457 alien who possesses work authorization from the United States
458 Bureau of Citizenship and Immigration Services.

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

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

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

466 626.9937 Professional or educational requirements for
467 insurance appraisal umpires and property insurance appraisers
468 applicants.—The department may not issue a license to an
469 applicant for licensure as a property insurance appraisal umpire
470 or property insurance appraiser unless the applicant meets one
471 of the following requirements:

472 (1) The applicant is currently licensed, registered,
473 certified, or approved as an engineer as defined in s. 471.005,
474 or as a retired professional engineer as defined in s. 471.005
475 and has taught or successfully completed 4 hours of classroom

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476 coursework, approved by the department, specifically related to
477 construction, building codes, appraisal procedure, appraisal
478 preparation, and any other related material deemed appropriate
479 by the department.

480 (2) 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, registered, certified,
483 or approved as a general contractor, building contractor, or
484 residential contractor as defined in s. 489.105 and has taught
485 or successfully completed 4 hours of classroom coursework,
486 approved by the department, specifically related to
487 construction, building codes, appraisal procedure, appraisal
488 preparation, and any other related material deemed appropriate
489 by the department.

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

499 (4) The applicant is currently or, within the 5 years
500 immediately preceding the date on which the application is filed
501 with the department, has been a qualified geologist or
502 professional geologist as defined in s. 492.102 and has taught
503 or successfully completed 4 hours of classroom coursework,

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504 approved by the department, specifically related to
505 construction, building codes, appraisal procedure, appraisal
506 preparation, and any other related material deemed appropriate
507 by the department.

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

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

524 (7) The applicant has received a baccalaureate degree from
525 an accredited 4-year college in the field of engineering,
526 architecture, or building construction and has taught or
527 successfully completed 4 hours of classroom coursework, approved
528 by the department, specifically related to construction,
529 building codes, appraisal procedure, appraisal preparation, and
530 any other related material deemed appropriate by the department.

531 (8) The applicant is a currently licensed adjuster whose

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532 license covers all lines of insurance except the life and
533 annuities class. The adjuster's license must include the
534 property and casualty class of insurance. The currently licensed
535 adjuster must be licensed for at least 3 years to qualify for a
536 property insurance appraiser's license. The currently licensed
537 adjuster must be licensed for at least 5 years to qualify for a
538 property insurance appraisal umpire's license.

539 (a) Has 1 year of proven experience as an employee of a
540 general contractor, building contractor, or residential
541 contractor; or

542 (b) Has received a minimum of 8 semester hours or 12
543 quarter hours of credit from an accredited college in the field
544 of accounting, geology, engineering, architecture, or building
545 construction.

546 (9) The applicant has successfully completed 40 hours of
547 classroom coursework, approved by the department, specifically
548 related to construction, building codes, appraisal procedure,
549 appraisal preparation, property insurance, and any other related
550 material deemed appropriate by the department.

551 626.9938 Regulation of umpire and property appraiser
552 course providers, instructors, and courses.-

553 (1) Each umpire or property appraiser course provider,
554 instructor, and classroom course must be approved by and
555 registered with the department before prelicensure courses for
556 property insurance appraisal umpires or property insurance
557 appraisers may be offered. Each classroom course must include a
558 written examination at the conclusion of the course and must
559 cover all of the material contained in the course. A student may

560 not receive credit for the course unless the student achieves a
 561 grade of at least 75 on the examination.

562 (2) The department shall adopt rules establishing:

563 (a) Standards for the approval, registration, discipline,
 564 or removal from registration of course providers, instructors,
 565 and courses. The standards must be designed to ensure that
 566 instructors have the knowledge, competence, and integrity to
 567 fulfill the educational objectives of the prelicensure
 568 requirements of this part.

569 (b) A process for determining compliance with the
 570 prelicensure requirements of this part. The department shall
 571 adopt rules prescribing the forms necessary to administer the
 572 prelicensure requirements of this part.

573 (3) Approval to teach prescribed or approved appraisal
 574 courses does not entitle the instructor to teach any courses
 575 outside the scope of this part.

576 626.9939 Grounds for compulsory refusal, suspension, or
 577 revocation of an umpire's or appraiser's license.—In addition to
 578 the grounds set forth in s. 626.611, the department shall deny
 579 an application for, and suspend, revoke, or refuse to renew or
 580 continue, a license as a property insurance appraisal umpire or
 581 property insurance appraiser if the applicant or licensee has:

582 (1) Violated a duty imposed upon her or him by law or by
 583 the terms of a contract, whether written, oral, express, or
 584 implied, in an appraisal; has aided, assisted, or conspired with
 585 any other person engaged in any such misconduct and in
 586 furtherance thereof; or has formed an intent, design, or scheme
 587 to engage in such misconduct and committed an overt act in

588 furtherance of such intent, design, or scheme. It is immaterial
 589 to a finding that a licensee has committed a violation of this
 590 subsection that the victim or intended victim of the misconduct
 591 has sustained no damage or loss, that the damage or loss has
 592 been settled and paid after the discovery of misconduct, or that
 593 such victim or intended victim was a customer or a person in a
 594 confidential relation with the licensee or was an identified
 595 member of the general public.

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

598 (3) Had a registration, license, or certification as an
 599 appraiser revoked, suspended, or otherwise acted against; has
 600 had his or her registration, license, or certificate to practice
 601 or conduct any regulated profession, business, or vocation
 602 revoked or suspended by this or any other state, any nation, or
 603 any possession or district of the United States; or has had an
 604 application for such registration, licensure, or certification
 605 to practice or conduct any regulated profession, business, or
 606 vocation denied by this or any other state, any nation, or any
 607 possession or district of the United States.

608 (4) Made or filed a report or record, written or oral,
 609 which the licensee knows to be false; has willfully failed to
 610 file a report or record required by state or federal law; has
 611 willfully impeded or obstructed such filing; or has induced
 612 another person to impede or obstruct such filing.

613 (5) Accepted an appointment as an umpire or appraiser if
 614 the appointment is contingent upon the umpire or appraiser
 615 reporting a predetermined result, analysis, or opinion, or if

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616 the fee to be paid for the services of the umpire or appraiser
 617 is contingent upon the opinion, conclusion, or valuation reached
 618 by the umpire or appraiser.

619 626.9940 Grounds for discretionary denial, suspension, or
 620 revocation of a license as a property insurance appraisal umpire
 621 or property insurance appraiser.-

622 (1) In addition to the applicable grounds set forth in s.
 623 626.621, the department may deny an application for and suspend,
 624 revoke, or refuse to renew or continue a license as a property
 625 insurance appraisal umpire if the applicant or licensee has:

626 (a) Failed to timely communicate with the appraisers
 627 without good cause.

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

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

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

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

639 (2) In addition to the applicable grounds set forth in s.
 640 626.621, the department may deny an application for and suspend,
 641 revoke, or refuse to renew or continue a license as a property
 642 insurance appraiser if the applicant or licensee has:

643 (a) Violated any ethical standard for property insurance

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644 appraisal umpires set forth in s. 626.9942.

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

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

652 626.9941 Ethical standards for property insurance
653 appraisal umpires.—

654 (1) CONFIDENTIALITY.—An umpire shall maintain
655 confidentiality of all information revealed during an appraisal
656 except where disclosure is required by law.

657 (2) RECORDKEEPING.—An umpire shall maintain
658 confidentiality in the storage and disposal of records and may
659 not disclose any identifying information when materials are used
660 for research, training, or statistical compilations.

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

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

667 (b) Charges for costs shall be for those actually
668 incurred; and

669 (c) An umpire may not charge, agree to, or accept as
670 compensation or reimbursement any payment, commission, or fee
671 that is based on a percentage basis, or that is contingent upon

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672 arriving at a particular value or any future happening or
673 outcome of the assignment.

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

678 (5) ADVERTISING.—An umpire may not engage in marketing
679 practices that contain false or misleading information. An
680 umpire shall ensure that any advertisements of the umpire's
681 qualifications, services to be rendered, or the appraisal
682 process are accurate and honest. An umpire may not make claims
683 of achieving specific outcomes or promises implying favoritism
684 for the purpose of obtaining business.

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

688 (7) SKILL AND EXPERIENCE.—An umpire shall decline an
689 appointment or selection, withdraw, or request appropriate
690 assistance when the facts and circumstances of the appraisal are
691 beyond the umpire's skill or experience.

692 626.9942 Retention of records.—An umpire or appraiser
693 licensed under this part shall retain for at least 5 years
694 original or true copies of any contracts engaging the umpire's
695 services, appraisal reports, and supporting data assembled and
696 formulated by the umpire in preparing appraisal reports. The
697 period for retaining the records applicable to each engagement
698 starts on the date of the submission of the appraisal report to
699 the client. These records must be made available by the umpire

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700 or appraiser for inspection and copying by the department upon
701 reasonable notice to the umpire. If an appraisal has been the
702 subject of, or has been admitted as evidence in, a lawsuit,
703 reports and records must be retained for at least 2 years after
704 the date the trial ends.

705 626.9943 Ethical standards for property insurance
706 appraisers.-

707 (1) INTEGRITY AND IMPARTIALITY.-

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

714 (b) A licensed appraiser shall conduct the appraisal
715 process in a manner that advances the fair and efficient
716 resolution of the matters submitted for decision. A licensed
717 appraiser shall make all reasonable efforts to prevent delays in
718 the appraisal process, the harassment of parties or other
719 participants, or other abuse or disruption of the appraisal
720 process.

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

725 (d) The licensed appraiser shall, after careful
726 deliberation, decide all issues submitted for determination and
727 no other issues. A licensed appraiser shall decide all matters

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728 justly, exercising independent judgment, and may not allow
729 outside pressure to affect the decision. An appraiser may not
730 delegate the duty to decide to any other person.

731 (2) COMMUNICATIONS WITH PARTIES.—

732 (a) If an agreement of the parties establishes the manner
733 or content of the communications between the appraisers and the
734 parties, the appraiser shall abide by such agreement. In the
735 absence of agreement, an appraiser may not discuss a proceeding
736 with any party in the absence of any other party, except in the
737 following circumstances:

738 1. If the appointment of the appraiser is being
739 considered, the prospective appraiser may ask about the
740 identities of the parties, counsel, and the general nature of
741 the case, and may respond to inquiries from a party or its
742 counsel designed to determine his or her suitability and
743 availability for the appointment;

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

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

748 4. To make arrangements for obtaining materials and
749 inspection of the property with the party who appointed the
750 appraiser. Such communication is limited to scheduling and the
751 exchange of materials.

752 (b) There may be no communications whereby a party
753 dictates to an appraiser what the result of the proceedings must
754 be, what matters or elements may be included or considered by
755 the appraiser, or what actions the appraiser may take.

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

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

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

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

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

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

781 (7) SKILL AND EXPERIENCE.—An appraiser shall decline an
782 appointment or selection, withdraw, or request appropriate
783 assistance when the facts and circumstances of the appraisal are

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784 beyond the appraiser's skill or experience.

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

787 627.4141 Residential or commercial property insurance loss
788 appraisal.—A residential or commercial residential property
789 insurance contract must provide that either party may submit a
790 written demand to enter into the process of appraisal if the
791 insured and the insurer fail to mutually agree as to the actual
792 cash value, the amount of loss, or the cost of repair or
793 replacement of property for which a claim has been filed, that
794 process shall be governed by this section. The insurer may
795 refuse to accept the demand only if the insured materially fails
796 to comply with the proof-of-loss obligations of the insured as
797 set forth in the policy conditions. The insurer is deemed to
798 have waived its right to demand an appraisal if it fails to
799 invoke an appraisal within 30 days after the insured
800 substantially complies with the proof-of-loss obligation as set
801 forth in the policy conditions.

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

812 covered property is located to designate a licensed property
 813 insurance appraisal umpire for the appraisal.

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

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

839 (4) The umpire shall review any differences in appraisals

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

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

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

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

864 (8) The provisions of the Florida Arbitration Code do not
865 apply to residential and commercial residential property
866 insurance loss appraisal proceedings. However, the provisions
867 regarding proceedings to compel and stay arbitration in s.

868 682.03; procedures for correcting, vacating, or modifying an
 869 award in ss. 682.10, 682.13, and 682.14; procedures for entry of
 870 judgment on the award in s. 682.15; and procedures regarding
 871 confirmation of an award in s. 682.12 do apply.

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

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

879 626.172 Application for insurance agency license.—

880 (3) The department shall issue a registration as an
 881 insurance agency to any agency that files a written application
 882 with the department and qualifies for registration. The
 883 application for registration shall require the agency to provide
 884 the same information required for an agency licensed under
 885 subsection (2), the agent identification number for each owner
 886 who is a licensed agent, proof that the agency qualifies for
 887 registration as provided in s. 626.112(9)~~(7)~~, and any other
 888 additional information that the department determines is
 889 necessary in order to demonstrate that the agency qualifies for
 890 registration. The application must be signed by the owner or
 891 owners of the agency. If the agency is incorporated, the
 892 application must be signed by the president and the secretary of
 893 the corporation. An agent who owns the agency need not file
 894 fingerprints with the department if the agent obtained a license
 895 under this chapter and the license is currently valid.

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

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

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

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

910 626.7845 Prohibition against unlicensed transaction of
 911 life insurance.—

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

915 (a) Solicit insurance or annuities or procure
 916 applications;

917 (b) In this state, engage or hold himself or herself out
 918 as engaging in the business of analyzing or abstracting
 919 insurance policies or of counseling or advising or giving
 920 opinions to persons relative to insurance or insurance contracts
 921 other than:

- 922 1. As a consulting actuary advising an insurer; or
- 923 2. As to the counseling and advising of labor unions,

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924 associations, trustees, employers, or other business entities,
 925 the subsidiaries and affiliates of each, relative to their
 926 interests and those of their members or employees under
 927 insurance benefit plans; or

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

931 Section 10. Section 626.8305, Florida Statutes, is amended
 932 to read:

933 626.8305 Prohibition against the unlicensed transaction of
 934 health insurance.—Except as provided in s. 626.112(8)~~(6)~~, with
 935 respect to any line of authority specified in s. 626.015(6), no
 936 individual shall, unless licensed as a health agent:

937 (1) Solicit insurance or procure applications; or

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

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

943 (b) As to the counseling and advising of labor unions,
 944 associations, trustees, employers, or other business entities,
 945 the subsidiaries and affiliates of each, relative to their
 946 interests and those of their members or employees under
 947 insurance benefit plans.

948 Section 11. Paragraph (a) of subsection (2) of section
 949 626.8411, Florida Statutes, is amended to read:

950 626.8411 Application of Florida Insurance Code provisions
 951 to title insurance agents or agencies.—

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952 (2) The following provisions of part I do not apply to
953 title insurance agents or title insurance agencies:

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

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