

By Senator Richter

23-00690-15

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1 A bill to be entitled
2 An act relating to property insurance appraisal
3 umpires and property insurance appraisers; creating
4 part XVII of chapter 468, F.S., relating to property
5 insurance appraisal umpires; creating the property
6 insurance appraisal umpire licensing program within
7 the Department of Business and Professional
8 Regulation; providing legislative findings; providing
9 applicability; authorizing the department to adopt
10 rules; providing definitions; authorizing the
11 department to establish fees; providing licensing
12 application requirements; providing authority and
13 procedures regarding submission and processing of
14 fingerprints; providing examination requirements;
15 providing application requirements for licensure as a
16 property insurance appraisal umpire; providing
17 licensure renewal requirements; authorizing the
18 department to adopt rules; providing continuing
19 education requirements; providing requirements for the
20 inactivation of a license by a licensee; providing
21 requirements for renewing an inactive license;
22 establishing license reactivation fees; providing for
23 certification of partnerships and corporations
24 offering property insurance appraisal umpire services;
25 providing grounds for compulsory refusal, suspension,
26 or revocation of an umpire's license; providing
27 grounds for discretionary denial, suspension, or
28 revocation of an umpire's license; providing ethical
29 standards for property insurance appraisal umpires;

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30 creating part XVIII of chapter 468, F.S., relating to
31 property insurance appraisers; creating the property
32 insurance appraiser licensing program within the
33 Department of Business and Professional Regulation;
34 providing legislative findings; providing
35 applicability; authorizing the department to adopt
36 rules; providing definitions; authorizing the
37 department to establish fees; limiting fee amounts;
38 providing licensing application requirements;
39 providing authority and procedures regarding
40 submission and processing of fingerprints; providing
41 examination requirements; providing application
42 requirements for licensure as a property insurance
43 appraiser; providing licensure renewal requirements;
44 authorizing the department to adopt rules; providing
45 continuing education requirements; providing
46 requirements for the inactivation of a license by a
47 licensee; providing requirements for renewing an
48 inactive license; establishing license reactivation
49 fees; providing for certification of partnerships and
50 corporations offering property insurance appraiser
51 services; providing grounds for compulsory refusal,
52 suspension, or revocation of an appraiser's license;
53 providing grounds for discretionary denial,
54 suspension, or revocation of an appraiser's license;
55 providing ethical standards; providing requirements
56 for certain residential or commercial property
57 insurance contracts that provide for the process of
58 appraisal when the insured and the insurer fail to

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59 mutually agree to the actual cash value, the amount of
 60 loss, or the cost of repair or replacement of property
 61 for which a claim has been filed; providing for the
 62 selection of appraisers and umpires; providing for
 63 compensation; providing applicability with respect to
 64 the Florida Arbitration Code; prohibiting the
 65 appraisal process from addressing issues involving
 66 coverage or lack thereof under an insurance contract;
 67 providing an effective date.

68
 69 Be It Enacted by the Legislature of the State of Florida:

70
 71 Section 1. Part XVII of chapter 468, Florida Statutes,
 72 consisting of sections 468.85 through 468.8519, is created to
 73 read:

74 PART XVII

75 PROPERTY INSURANCE APPRAISAL UMPIRES

76 468.85 Property insurance appraisal umpire licensing
 77 program; legislative purpose; scope of part.-

78 (1) The property insurance appraisal umpire licensing
 79 program is created within the Department of Business and
 80 Professional Regulation.

81 (2) The Legislature finds it necessary in the interest of
 82 the public safety and welfare to prevent damage to real and
 83 personal property, to avert economic injury to the residents of
 84 this state, and to regulate persons and companies that hold
 85 themselves out to the public as qualified to perform as property
 86 insurance appraisal umpires.

87 (3) This part applies to residential and commercial

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88 residential property insurance contracts and to the umpires and
89 appraisers who participate in the appraisal process.

90 (4) The department may adopt rules to administer this part.
91 468.851 Definitions.—As used in this part, the term:

92 (1) "Appraisal" means the process of estimating or
93 evaluating actual cash value, the amount of loss, or the cost of
94 repair or replacement of property for the purpose of quantifying
95 the monetary value of a property loss claim when an insurer and
96 an insured have failed to mutually agree on the value of the
97 loss pursuant to a residential or commercial residential
98 property insurance contract that is required in such contracts
99 for the resolution of a claim dispute by appraisal.

100 (2) "Competent" means properly licensed, sufficiently
101 qualified, and capable of performing an appraisal.

102 (3) "Department" means the Department of Business and
103 Professional Regulation.

104 (4) "Independent" means not subject to control,
105 restriction, modification, and limitation by the appointing
106 party. An independent umpire shall conduct his or her
107 investigation, evaluation, and estimation without instruction by
108 an appointing party.

109 (5) "Property insurance appraisal umpire" or "umpire" means
110 a competent, independent, licensed, and impartial third party
111 selected by the licensed appraisers for the insurer and the
112 insured to resolve issues that the licensed appraisers are
113 unable to reach an agreement during the course of the appraisal
114 process pursuant to a residential or commercial property
115 insurance contract that is required to provide for resolution of
116 a claim dispute by appraisal.

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117 (6) "Property insurance loss appraiser" or "appraiser"
118 means a competent, licensed, and independent and impartial third
119 party selected by an insurer or an insured to develop an
120 appraisal for purposes of the appraisal process under a
121 residential or commercial property insurance contract that
122 provides for resolution of a claim dispute by appraisal.

123 (7) "Uniform application" means the uniform application of
124 the National Association of Insurance Commissioners for
125 nonresident agent licensing, effective January 15, 2001, or
126 subsequent versions adopted by rule by the department.

127 468.8511 Fees.—

128 (1) The department, by rule, may establish fees to be paid
129 for application, examination, reexamination, licensing and
130 renewal, inactive status application, reactivation of inactive
131 licenses, and application for providers of continuing education.
132 The department may also establish by rule a delinquency fee.
133 Fees shall be based on department estimates of the revenue
134 required to implement the provisions of this part. Fees shall be
135 remitted with the application, examination, reexamination,
136 licensing and renewal, inactive status application, and
137 reactivation of inactive licenses, and application for providers
138 of continuing education.

139 (2) The application fee shall not exceed \$200 and is
140 nonrefundable. The examination fee shall not exceed \$200 plus
141 the actual per applicant cost to the department to purchase the
142 examination, if the department chooses to purchase the
143 examination. The examination fee shall be in an amount that
144 covers the cost of obtaining and administering the examination
145 and shall be refunded if the applicant is found ineligible to

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146 sit for the examination.

147 (3) The fee for an initial license shall not exceed \$250.

148 (4) The fee for an initial certificate of authorization
149 shall not exceed \$250.

150 (5) The fee for a biennial license renewal shall not exceed
151 \$500.

152 (6) The fee for application for inactive status shall not
153 exceed \$125.

154 (7) The fee for reactivation of an inactive license shall
155 not exceed \$250.

156 (8) The fee for applications from providers of continuing
157 education may not exceed \$600.

158 (9) The fee for fingerprinting shall be included in the
159 department's costs for each background check.

160 468.85115 Application for license as a property insurance
161 appraisal umpire.-

162 (1) The department shall not issue a license as a property
163 insurance appraisal umpire to any person except upon written
164 application previously filed with the department, with
165 qualification and advance payment of all applicable fees. Any
166 such application shall be made under oath or affirmation and
167 signed by the applicant. The department shall accept the uniform
168 application for a nonresident property insurance appraisal
169 umpire. The department may adopt revised versions of the uniform
170 application by rule.

171 (2) In the application, the applicant shall set forth:

172 (a) His or her full name, age, social security number,
173 residence address, business address, mailing address, contact
174 telephone numbers, including a business telephone number, and e-

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175 mail address.

176 (b) Proof that he or she has completed or is in the process
177 of completing any required prelicensing course.

178 (c) Whether he or she has been refused or has voluntarily
179 surrendered or has had suspended or revoked a professional
180 license by the supervising officials of any state.

181 (d) Proof that the applicant meets the requirements for
182 licensure as a property insurance appraisal umpire as required
183 under ss. 468.8511 and 468.8512, and this section.

184 (e) The applicant's gender.

185 (f) The applicant's native language.

186 (g) The applicant's highest achieved level of education.

187 (h) All education requirements that the applicant has
188 completed to qualify as a property insurance appraisal umpire,
189 including the name of the course, the course provider, and the
190 course completion dates.

191 (3) Each application shall be accompanied by payment of any
192 applicable fee.

193 (4) At the time of application, the applicant must be
194 fingerprinted by a law enforcement agency or other entity
195 approved by the department and he or she must pay the
196 fingerprint processing fee in s. 468.8511. Fingerprints must be
197 processed by the Department of Law Enforcement.

198 (5) The Department of Law Enforcement may, to the extent
199 provided for by federal law, exchange state, multistate, and
200 federal criminal history records with the department or office
201 for the purpose of the issuance, denial, suspension, or
202 revocation of a certificate of authority, certification, or
203 license to operate in this state.

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204 (6) The Department of Law Enforcement may accept
205 fingerprints of any other person required by statute or rule to
206 submit fingerprints to the department or office or any applicant
207 or licensee regulated by the department or office who is
208 required to demonstrate that he or she has not been convicted of
209 or pled guilty or nolo contendere to a felony or a misdemeanor.

210 (7) The Department of Law Enforcement shall, upon receipt
211 of fingerprints from the department or office, submit the
212 fingerprints to the Federal Bureau of Investigation for a
213 federal criminal history records check.

214 (8) Statewide criminal records obtained through the
215 Department of Law Enforcement, federal criminal records obtained
216 through the Federal Bureau of Investigation, and local criminal
217 records obtained through local law enforcement agencies shall be
218 used by the department and office for the purpose of issuance,
219 denial, suspension, or revocation of certificates of authority,
220 certifications, or licenses issued to operate in this state.

221 (9) The department shall develop and maintain as a public
222 record a current list of licensed property insurance appraisal
223 umpires.

224 468.8512 Examinations.-

225 (1) A person desiring to be licensed as a property
226 insurance appraisal umpire must apply to the department after
227 satisfying the examination requirements of this part.

228 (2) An applicant may practice in this state as a property
229 insurance appraisal umpire if he or she passes the required
230 examination, is of good moral character, and meets one of the
231 following requirements:

232 (a) The applicant is currently licensed, registered,

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233 certified, or approved as an engineer as defined in s. 471.005,
234 or as a retired professional engineer as defined in s. 471.005,
235 and has taught or successfully completed 4 hours of classroom
236 coursework, approved by the department, specifically related to
237 construction, building codes, appraisal procedures, appraisal
238 preparation, and any other related material deemed appropriate
239 by the department.

240 (b) The applicant is currently or, within the 5 years
241 immediately preceding the date on which the application is filed
242 with the department, has been licensed, registered, certified,
243 or approved as a general contractor, building contractor, or
244 residential contractor as defined in s. 489.105 and has taught
245 or successfully completed 4 hours of classroom coursework,
246 approved by the department, specifically related to
247 construction, building codes, appraisal procedure, appraisal
248 preparation, and any other related material deemed appropriate
249 by the department.

250 (c) The applicant is currently or, within the 5 years
251 immediately preceding the date on which the application is filed
252 with the department, has been licensed or registered as an
253 architect to engage in the practice of architecture pursuant to
254 part I of chapter 481 and has taught or successfully completed 4
255 hours of classroom coursework, approved by the department,
256 specifically related to construction, building codes, appraisal
257 procedure, appraisal preparation, and any other related material
258 deemed appropriate by the department.

259 (d) The applicant is currently or, within the 5 years
260 immediately preceding the date on which the application is filed
261 with the department, has been a qualified geologist or

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262 professional geologist as defined in s. 492.102 and has taught
263 or successfully completed 4 hours of classroom coursework,
264 approved by the department, specifically related to
265 construction, building codes, appraisal procedure, appraisal
266 preparation, and any other related material deemed appropriate
267 by the department.

268 (e) The applicant is currently or, within the 5 years
269 immediately preceding the date on which the application is filed
270 with the department, has been licensed as a certified public
271 accountant as defined in s. 473.302 and has taught or
272 successfully completed 4 hours of classroom coursework, approved
273 by the department, specifically related to construction,
274 building codes, appraisal procedure, appraisal preparation, and
275 any other related material deemed appropriate by the department.

276 (f) The applicant is currently or, within the 5 years
277 immediately preceding the date on which the application is filed
278 with the department, has been a licensed attorney in this state
279 and has taught or successfully completed 4 hours of classroom
280 coursework, approved by the department, specifically related to
281 construction, building codes, appraisal procedure, appraisal
282 preparation, and any other related material deemed appropriate
283 by the department.

284 (g) The applicant has received a baccalaureate degree from
285 an accredited 4-year college or university in the field of
286 engineering, architecture, or building construction and has
287 taught or successfully completed 4 hours of classroom
288 coursework, approved by the department, specifically related to
289 construction, building codes, appraisal procedure, appraisal
290 preparation, and any other related material deemed appropriate

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291 by the department.

292 (h) The applicant is a currently licensed adjuster whose
293 license covers all lines of insurance except the life and
294 annuities class. The adjuster's license must include the
295 property and casualty class of insurance. The currently licensed
296 adjuster must be licensed for at least 5 years to qualify for a
297 property insurance appraisal umpire's license.

298 (i) The applicant has received a minimum of 8 semester
299 hours or 12 quarter hours of credit from an accredited college
300 or university in the field of accounting, geology, engineering,
301 architecture, or building construction.

302 (j) The applicant has successfully completed 40 hours of
303 classroom coursework, approved by the department, specifically
304 related to construction, building codes, appraisal procedure,
305 appraisal preparation, property insurance, and any other related
306 material deemed appropriate by the department.

307 (3) The department shall review and approve courses of
308 study for the continuing education of property insurance
309 appraisal umpires.

310 (4) The department may not issue a license as a property
311 insurance appraisal umpire to any individual found by it to be
312 untrustworthy or incompetent or who:

313 (a) Has not filed an application with the department in
314 accordance with s. 485.85115.

315 (b) Is not a natural person who is at least 18 years of
316 age.

317 (c) Is not a United States citizen or legal alien who
318 possesses work authorization from the United States Citizenship
319 and Immigration Services.

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320 (d) Has not completed the education, experience, or
321 licensing requirements of this section.

322 (5) An incomplete application expires 6 months after the
323 date it is received by the department.

324 (6) An applicant seeking to become licensed under this part
325 may not be rejected solely by virtue of membership or lack of
326 membership in any particular appraisal organization.

327 468.8513 Licensure.-

328 (1) The department shall license any applicant who the
329 department certifies has completed the requirements of ss.
330 468.8511, 468.85115, and 468.8512.

331 (2) The department shall not issue a license by endorsement
332 to any applicant for a property insurance appraisal umpire
333 license who is under investigation in another state for any act
334 that would constitute a violation of this part until such time
335 that the investigation is complete and disciplinary proceedings
336 have been terminated.

337 468.8514 Renewal of license.-

338 (1) The department shall renew a license upon receipt of
339 the renewal application and fee and upon certification by the
340 department that the licensee has satisfactorily completed the
341 continuing education requirements of s. 468.8515.

342 (2) The department shall adopt rules establishing a
343 procedure for the biennial renewal of licenses.

344 468.8515 Continuing education.-

345 (1) The department may not renew a license until the
346 licensee submits satisfactory proof to the department that,
347 during the 2 years before his or her application for renewal,
348 the licensee completed at least 30 hours of continuing education

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349 in addition to 5 hours of ethics. Criteria and course content
350 shall be approved by the department by rule.

351 (2) The department may prescribe by rule additional
352 continuing professional education hours, not to exceed 25
353 percent of the total required hours, for failure to complete the
354 required hours by the end of the renewal period.

355 (3) Each umpire course provider, instructor, and classroom
356 course must be approved by and registered with the department
357 before prelicensure courses for property insurance appraisal
358 umpires may be offered. Each classroom course must include a
359 written examination at the conclusion of the course and must
360 cover all of the material contained in the course. A student may
361 not receive credit for the course unless the student achieves a
362 grade of at least 75 percent on the examination.

363 (4) The department shall adopt rules establishing:

364 (a) Standards for the approval, registration, discipline,
365 or removal from registration of course providers, instructors,
366 and courses. The standards must be designed to ensure that
367 instructors have the knowledge, competence, and integrity to
368 fulfill the educational objectives of the prelicensure
369 requirements of this part.

370 (b) A process for determining compliance with the
371 prelicensure requirements of this part.

372
373 The department shall adopt rules prescribing the forms necessary
374 to administer the prelicensure requirements of this part.

375 (5) Approval to teach prescribed or approved appraisal
376 courses does not entitle the instructor to teach any courses
377 outside the scope of this part.

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378 468.8516 Inactive license.-

379 (1) A licensee may request that his or her license be
380 placed on inactive status by filing an application with the
381 department.

382 (2) A license that has become inactive may be reactivated
383 upon application to the department. The department may prescribe
384 by rule continuing education requirements as a condition for
385 reactivation of an inactive license. The continuing education
386 requirements for reactivating a license may not exceed 14 hours
387 for each year the license was inactive.

388 (3) The department shall adopt rules relating to licenses
389 that have become inactive and for the renewal of inactive
390 licenses. The department shall prescribe by rule a fee not to
391 exceed \$250 for the reactivation of an inactive license and a
392 fee not to exceed \$250 for the renewal of an inactive license.

393 468.8517 Certification of partnerships, corporations, and
394 other business entities.-The practice of, or the offer to
395 practice as, a property insurance appraisal umpire by licensees
396 through a partnership, corporation, or other business entity
397 offering property insurance appraisal umpire services to the
398 public, or by a partnership, corporation, or other business
399 entities through licensees under this part as agents, employees,
400 officers, or partners is permitted, subject to the provisions of
401 this part. This section does not allow a corporation or other
402 business entity to hold a license to practice property insurance
403 appraisal umpire services. A partnership, corporation, or other
404 business entity is not relieved of responsibility for the
405 conduct or acts of its agents, employees, or officers by reason
406 of its compliance with this section. An individual practicing as

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407 a property insurance appraisal umpire is not relieved of
408 responsibility for professional services performed by reason of
409 his or her employment or relationship with a partnership,
410 corporation, or other business entity.

411 468.8518 Grounds for compulsory refusal, suspension, or
412 revocation of an umpire's license.-The department shall deny an
413 application for, suspend, revoke, or refuse to renew or continue
414 the license or appointment of any applicant, property insurance
415 appraisal umpire or licensee and shall suspend or revoke the
416 eligibility to hold a license or appointment of any such person
417 if it finds that any one or more of the following applicable
418 grounds exist:

419 (1) Lack of one or more of the qualifications for the
420 license as specified in this part.

421 (2) Material misstatement, misrepresentation, or fraud in
422 obtaining the license or in attempting to obtain the license or
423 appointment.

424 (3) Failure to pass to the satisfaction of the department
425 any examination required under this chapter.

426 (4) That the license or appointment was willfully used, or
427 will be used, to circumvent any of the requirements or
428 prohibitions of this chapter.

429 (5) Demonstrated a lack of fitness or trustworthiness to
430 engage as a property insurance appraisal umpire.

431 (6) Demonstrated a lack of reasonably adequate knowledge
432 and technical competence to engage in the transactions
433 authorized by the license.

434 (7) Fraudulent or dishonest practices in the conduct of
435 business under the license.

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436 (8) Willful failure to comply with, or willful violation
437 of, any proper order or rule of the department or willful
438 violation of any provision of this chapter.

439 (9) Having been found guilty of or having plead guilty or
440 nolo contendere to a felony or a crime punishable by
441 imprisonment of 1 year or more under the law of the United
442 States or of any state thereof or under the law of any other
443 country which involves moral turpitude, without regard to
444 whether a judgment of conviction has been entered by the court
445 having jurisdiction of such cases.

446 (10) (a) Violated a duty imposed upon her or him by law or
447 by the terms of a contract, whether written, oral, expressed, or
448 implied, in an appraisal;

449 (b) Has aided, assisted, or conspired with any other person
450 engaged in any such misconduct and in furtherance thereof; or

451 (c) Has formed an intent, design, or scheme to engage in
452 such misconduct and committed an overt act in furtherance of
453 such intent, design, or scheme.

454
455 It is immaterial to a finding that a licensee has committed a
456 violation of this subsection that the victim or intended victim
457 of the misconduct has sustained no damage or loss, that the
458 damage or loss has been settled and paid after the discovery of
459 misconduct, or that such victim or intended victim was a
460 customer or a person in a confidential relationship with the
461 licensee or was an identified member of the general public.

462 (11) (a) Had a registration, license, or certification as an
463 umpire revoked, suspended, or otherwise acted against;

464 (b) Has had his or her registration, license, or

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465 certificate to practice or conduct any regulated profession,
466 business, or vocation revoked or suspended by this or any other
467 state, any nation, or any possession or district of the United
468 States; or

469 (c) Has had an application for such registration,
470 licensure, or certification to practice or conduct any regulated
471 profession, business, or vocation denied by this or any other
472 state, any nation, or any possession or district of the United
473 States.

474 (12) (a) Made or filed a report or record, written or oral,
475 which the licensee knows to be false;

476 (b) Has willfully failed to file a report or record
477 required by state or federal law;

478 (c) Has willfully impeded or obstructed such filing; or

479 (d) Has induced another person to impede or obstruct such
480 filing.

481 (13) Accepted an appointment as an umpire if the
482 appointment is contingent upon the umpire reporting a
483 predetermined result, analysis, or opinion, or if the fee to be
484 paid for the services of the umpire is contingent upon the
485 opinion, conclusion, or valuation reached by the umpire.

486 468.85185 Grounds for discretionary denial, suspension, or
487 revocation of an umpire's license.-The department may deny an
488 application for and suspend, revoke, or refuse to renew or
489 continue a license as a property insurance appraisal umpire if
490 the applicant or licensee has:

491 (1) Failed to timely communicate with the appraisers
492 without good cause.

493 (2) Failed or refused to exercise reasonable diligence in

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494 submitting recommendations to the appraisers.

495 (3) Violated any ethical standard for property insurance
496 appraisal umpires set forth in s. 468.8519.

497 (4) Failed to inform the department in writing within 30
498 days after pleading guilty or nolo contendere to, or being
499 convicted or found guilty of, a felony.

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

504 468.8519 Ethical standards for property insurance appraisal
505 umpires.—

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

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

513 (3) FEES AND EXPENSES.—Fees charged for appraisal services
514 shall be reasonable and consistent with the nature of the case.
515 An umpire shall be guided by the following in determining fees:

516 (a) All charges for services as an umpire based on time may
517 not exceed actual time spent or allocated.

518 (b) Charges for costs shall be for those actually incurred.

519 (c) An umpire may not charge, agree to, or accept as
520 compensation or reimbursement any payment, commission, or fee
521 that is based on a percentage basis, or that is contingent upon
522 arriving at a particular value or any future happening or

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523 outcome of the assignment.

524 (4) MAINTENANCE OF RECORDS.—An umpire shall maintain
525 records necessary to support charges for services and expenses,
526 and upon request shall provide an accounting of all applicable
527 charges to the parties. An umpire licensed under this part shall
528 retain original or true copies of any contracts engaging the
529 umpire's services, appraisal reports, and supporting data
530 assembled and formulated by the umpire in preparing appraisal
531 reports for at least 5 years. The period for retaining the
532 records applicable to each engagement starts on the date of the
533 submission of the appraisal report to the client. The records
534 must be made available by the umpire for inspection and copying
535 by the department upon reasonable notice to the umpire. If an
536 appraisal has been the subject of, or has been admitted as
537 evidence in, a lawsuit, reports, and records, the appraisal must
538 be retained for at least 2 years after the date that the trial
539 ends.

540 (5) ADVERTISING.—An umpire may not engage in marketing
541 practices that contain false or misleading information. An
542 umpire shall ensure that any advertisements of the umpire's
543 qualifications, services to be rendered, or the appraisal
544 process are accurate and honest. An umpire may not make claims
545 of achieving specific outcomes or promises implying favoritism
546 for the purpose of obtaining business.

547 (6) INTEGRITY AND IMPARTIALITY.—An umpire may not engage in
548 any business, provide any service, or perform any act that would
549 compromise the umpire's integrity or impartiality.

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

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

554 (8) GIFTS AND SOLICITATION.—An umpire may not give or
555 accept any gift, favor, loan, or other item of value in an
556 appraisal process except for the umpire's reasonable fee. During
557 the appraisal process, an umpire may not solicit or otherwise
558 attempt to procure future professional services.

559 Section 2. Part XVIII of chapter 468, Florida Statutes,
560 consisting of sections 468.86 through 468.862, is created to
561 read:

562 PART XVIII

563 PROPERTY INSURANCE APPRAISERS

564 468.86 Property insurance appraiser licensing program;
565 legislative purpose; scope of part.—

566 (1) The property insurance appraiser licensing program is
567 created within the Department of Business and Professional
568 Regulation.

569 (2) The Legislature finds it necessary and in the interest
570 of the public safety and welfare, to prevent damage to real and
571 personal property, to avert economic injury to the residents of
572 this state, and to regulate persons and companies that hold
573 themselves out to the public as qualified to perform as a
574 property insurance appraiser.

575 (3) This part applies to residential and commercial
576 residential property insurance contracts and to the umpires and
577 appraisers who participate in the appraisal process.

578 (4) The department may adopt rules to administer the
579 requirements of this part.

580 468.861 Definitions.—As used in this part, the term:

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581 (1) "Appraisal" means the process of estimating or
582 evaluating actual cash value, the amount of loss, or the cost of
583 repair or replacement of property for the purpose of quantifying
584 the monetary value of a property loss claim when an insurer and
585 an insured have failed to mutually agree on the value of the
586 loss pursuant to a residential or commercial residential
587 property insurance contract that is required in such contracts
588 for the resolution of a claim dispute by appraisal.

589 (2) "Competent" means properly licensed, sufficiently
590 qualified, and capable of performing an appraisal.

591 (3) "Department" means the Department of Business and
592 Professional Regulation.

593 (4) "Independent" means not subject to control,
594 restriction, modification, and limitation by the appointing
595 party.

596 (5) "Property insurance appraisal umpire" or "umpire" means
597 a competent, independent, licensed, and impartial third party
598 selected by the licensed appraisers for the insurer and the
599 insured to resolve issues that the licensed appraisers are
600 unable to reach an agreement during the course of the appraisal
601 process pursuant to a residential or commercial property
602 insurance contract that is required to provide for resolution of
603 a claim dispute by appraisal.

604 (6) "Property insurance loss appraiser" or "appraiser"
605 means a competent, licensed, and independent and impartial third
606 party selected by an insurer or an insured to develop an
607 appraisal for purposes of the appraisal process under a
608 residential or commercial property insurance contract that
609 provides for resolution of a claim dispute by appraisal.

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610 (7) "Uniform application" means the uniform application of
611 the National Association of Insurance Commissioners for
612 nonresident agent licensing, effective January 15, 2001, or
613 subsequent versions adopted by rule by the department.

614 468.8611 Fees.—

615 (1) The department, by rule, may establish fees to be paid
616 for application, examination, reexamination, licensing and
617 renewal, inactive status application, reactivation of inactive
618 licenses, and application for providers of continuing education.
619 The department may also establish by rule a delinquency fee.
620 Fees shall be based on department estimates of the revenue
621 required to implement the provisions of this part. Fees shall be
622 remitted with the application, examination, reexamination,
623 licensing and renewal, inactive status application, reactivation
624 of inactive licenses, and application for providers of
625 continuing education.

626 (2) The application fee shall not exceed \$200 and is
627 nonrefundable. The examination fee shall not exceed \$200 plus
628 the actual per applicant cost to the department to purchase the
629 examination, if the department chooses to purchase the
630 examination. The examination fee shall be in an amount that
631 covers the cost of obtaining and administering the examination
632 and shall be refunded if the applicant is found ineligible to
633 sit for the examination.

634 (3) The fee for an initial license shall not exceed \$250.

635 (4) The fee for an initial certificate of authorization
636 shall not exceed \$250.

637 (5) The fee for a biennial license renewal shall not exceed
638 \$500.

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639 (6) The fee for application for inactive status shall not
640 exceed \$125.

641 (7) The fee for reactivation of an inactive license shall
642 not exceed \$250.

643 (8) The fee for applications from providers of continuing
644 education may not exceed \$600.

645 (9) The fee for fingerprinting shall be included in the
646 department's costs for the background check.

647 468.86115 Application for license as a property insurance
648 appraiser.—

649 (1) The department shall not issue a license as a property
650 insurance appraiser to any person except upon written
651 application previously filed with the department, with
652 qualification and advance payment of all applicable fees. Any
653 such application shall be made under oath or affirmation and
654 signed by the applicant. The department shall accept the uniform
655 application for a nonresident property insurance appraiser. The
656 department may adopt revised versions of the uniform application
657 by rule.

658 (2) In the application, the applicant shall set forth:

659 (a) His or her full name, age, social security number,
660 residence address, business address, mailing address, contact
661 telephone numbers, including a business telephone number, and e-
662 mail address.

663 (b) Proof that he or she has completed or is in the process
664 of completing any required prelicensing course.

665 (c) Whether he or she has been refused or has voluntarily
666 surrendered or has had suspended or revoked a professional
667 license by the supervising officials of any state.

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668 (d) Proof that the applicant meets the requirements of
669 licensure as a property insurance appraiser as required under
670 ss. 468.8611 and 468.8612, and this section.

671 (e) The applicant's gender.

672 (f) The applicant's native language.

673 (g) The applicant's highest achieved level of education.

674 (h) All education requirements that the applicant has
675 completed to qualify as a property insurance appraiser,
676 including the name of the course, the course provider, and the
677 course completion dates.

678 (3) Each application shall be accompanied by payment of any
679 applicable fee.

680 (4) At the time of application, the applicant must be
681 fingerprinted by a law enforcement agency or other entity
682 approved by the department, and he or she must pay the
683 fingerprint processing fee in s. 468.8611. Fingerprints must be
684 processed by the Department of Law Enforcement.

685 (5) The Department of Law Enforcement may, to the extent
686 provided for by federal law, exchange state, multistate, and
687 federal criminal history records with the department or office
688 for the purpose of the issuance, denial, suspension, or
689 revocation of a certificate of authority, certification, or
690 license to operate in this state.

691 (6) The Department of Law Enforcement may accept
692 fingerprints of any other person required by statute or rule to
693 submit fingerprints to the department or office or any applicant
694 or licensee regulated by the department or office who is
695 required to demonstrate that he or she has not been convicted of
696 or pled guilty or nolo contendere to a felony or a misdemeanor.

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697 (7) The Department of Law Enforcement shall, upon receipt
698 of fingerprints from the department or office, submit the
699 fingerprints to the Federal Bureau of Investigation for a
700 federal criminal history records check.

701 (8) Statewide criminal records obtained through the
702 Department of Law Enforcement, federal criminal records obtained
703 through the Federal Bureau of Investigation, and local criminal
704 records obtained through local law enforcement agencies shall be
705 used by the department and office for the purpose of issuance,
706 denial, suspension, or revocation of certificates of authority,
707 certifications, or licenses issued to operate in this state.

708 (9) The department shall develop and maintain as a public
709 record a current list of licensed property insurance appraisers.

710 468.8612 Examinations.-

711 (1) A person desiring to be licensed as a property
712 insurance appraiser must apply to the department after
713 satisfying the examination requirements of this part.

714 (2) An applicant may practice in this state as a property
715 insurance appraiser if he or she passes the required
716 examination, is of good moral character, and meets one of the
717 following requirements:

718 (a) The applicant is currently licensed, registered,
719 certified, or approved as an engineer as defined in s. 471.005,
720 or as a retired professional engineer as defined in s. 471.005,
721 and has taught or successfully completed 4 hours of classroom
722 coursework, approved by the department, specifically related to
723 construction, building codes, appraisal procedures, appraisal
724 preparation, and any other related material deemed appropriate
725 by the department.

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726 (b) The applicant is currently or, within the 5 years
727 immediately preceding the date on which the application is filed
728 with the department, has been licensed, registered, certified,
729 or approved as a general contractor, building contractor, or
730 residential contractor as defined in s. 489.105 and has taught
731 or successfully completed 4 hours of classroom coursework,
732 approved by the department, specifically related to
733 construction, building codes, appraisal procedure, appraisal
734 preparation, and any other related material deemed appropriate
735 by the department.

736 (c) The applicant is currently or, within the 5 years
737 immediately preceding the date on which the application is filed
738 with the department, has been licensed or registered as an
739 architect to engage in the practice of architecture pursuant to
740 part I of chapter 481 and has taught or successfully completed 4
741 hours of classroom coursework, approved by the department,
742 specifically related to construction, building codes, appraisal
743 procedure, appraisal preparation, and any other related material
744 deemed appropriate by the department.

745 (d) The applicant is currently or, within the 5 years
746 immediately preceding the date on which the application is filed
747 with the department, has been a qualified geologist or
748 professional geologist as defined in s. 492.102 and has taught
749 or successfully completed 4 hours of classroom coursework,
750 approved by the department, specifically related to
751 construction, building codes, appraisal procedure, appraisal
752 preparation, and any other related material deemed appropriate
753 by the department.

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

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755 immediately preceding the date on which the application is filed
756 with the department, has been licensed as a certified public
757 accountant as defined in s. 473.302 and has taught or
758 successfully completed 4 hours of classroom coursework, approved
759 by the department, specifically related to construction,
760 building codes, appraisal procedure, appraisal preparation, and
761 any other related material deemed appropriate by the department.

762 (f) The applicant is currently or, within the 5 years
763 immediately preceding the date on which the application is filed
764 with the department, has been a licensed attorney in this state
765 and has taught or successfully completed 4 hours of classroom
766 coursework, approved by the department, specifically related to
767 construction, building codes, appraisal procedure, appraisal
768 preparation, and any other related material deemed appropriate
769 by the department.

770 (g) The applicant has received a baccalaureate degree from
771 an accredited 4-year college or university in the field of
772 engineering, architecture, or building construction and has
773 taught or successfully completed 4 hours of classroom
774 coursework, approved by the department, specifically related to
775 construction, building codes, appraisal procedure, appraisal
776 preparation, and any other related material deemed appropriate
777 by the department.

778 (h) The applicant is a currently licensed adjuster whose
779 license covers all lines of insurance except the life and
780 annuities class. The adjuster's license must include the
781 property and casualty class of insurance. The currently licensed
782 adjuster must be licensed for at least 3 years to qualify for a
783 property insurance appraiser's license.

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784 (i) The applicant has received a minimum of 8 semester
785 hours or 12 quarter hours of credit from an accredited college
786 or university in the field of accounting, geology, engineering,
787 architecture, or building construction.

788 (j) The applicant has successfully completed 40 hours of
789 classroom coursework, approved by the department, specifically
790 related to construction, building codes, appraisal procedure,
791 appraisal preparation, property insurance, and any other related
792 material deemed appropriate by the department.

793 (3) The department shall review and approve courses of
794 study for the continuing education of property insurance
795 appraisers.

796 (4) The department may not issue a license as a property
797 insurance appraiser to any individual found by it to be
798 untrustworthy or incompetent or who:

799 (a) Has not filed an application with the department in
800 accordance with s. 468.85115.

801 (b) Is not a natural person who is at least 18 years of
802 age.

803 (c) Is not a United States citizen or legal alien who
804 possesses work authorization from the United States Citizenship
805 and Immigration Services.

806 (d) Has not completed the education, experience, or
807 licensing requirements in this section.

808 (5) An incomplete application expires 6 months after the
809 date it is received by the department.

810 (6) An applicant seeking to become licensed under this part
811 may not be rejected solely by virtue of membership or lack of
812 membership in any particular appraisal organization.

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813 468.8613 Licensure.—

814 (1) The department shall license any applicant who the
815 department certifies has completed the requirements of ss.
816 468.8611, 468.86115, and 468.8612.

817 (2) The department shall not issue a license by endorsement
818 to any applicant for a property insurance appraiser license who
819 is under investigation in another state for any act that would
820 constitute a violation of this part until such time that the
821 investigation is complete and disciplinary proceedings have been
822 terminated.

823 468.8614 Renewal of license.—

824 (1) The department shall renew a license upon receipt of
825 the renewal application and fee and upon certification by the
826 department that the licensee has satisfactorily completed the
827 continuing education requirements of s. 468.8615.

828 (2) The department shall adopt rules establishing a
829 procedure for the biennial renewal of licenses.

830 468.8615 Continuing education.—

831 (1) The department may not renew a license until the
832 licensee submits satisfactory proof to the department that,
833 during the 2 years before his or her application for renewal,
834 the licensee completed at least 30 hours of continuing education
835 in addition to 5 hours of ethics. Criteria and course content
836 shall be approved by the department by rule.

837 (2) The department may prescribe by rule additional
838 continuing professional education hours, not to exceed 25
839 percent of the total required hours, for failure to complete the
840 required hours for renewal by the end of the renewal period.

841 (3) Each appraiser course provider, instructor, and

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842 classroom course must be approved by and registered with the
843 department before prelicensure courses for property insurance
844 appraisers may be offered. Each classroom course must include a
845 written examination at the conclusion of the course and must
846 cover all of the material contained in the course. A student may
847 not receive credit for the course unless the student achieves a
848 grade of at least 75 percent on the examination.

849 (4) The department shall adopt rules establishing:

850 (a) Standards for the approval, registration, discipline,
851 or removal from registration of course providers, instructors,
852 and courses. The standards must be designed to ensure that
853 instructors have the knowledge, competence, and integrity to
854 fulfill the educational objectives of the prelicensure
855 requirements of this part.

856 (b) A process for determining compliance with the
857 prelicensure requirements of this part.

858

859 The department shall adopt rules prescribing the forms necessary
860 to administer the prelicensure requirements of this part.

861 (5) Approval to teach prescribed or approved appraisal
862 courses does not entitle the instructor to teach any courses
863 outside the scope of this part.

864 468.8616 Inactive license.—

865 (1) A licensee may request that his or her license be
866 placed on inactive status by filing an application with the
867 department.

868 (2) A license that has become inactive may be reactivated
869 upon application to the department. The department may prescribe
870 by rule continuing education requirements as a condition for

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871 reactivation of an inactive license. The continuing education
872 requirements for reactivating a license may not exceed 14 hours
873 for each year the license was inactive.

874 (3) The department shall adopt rules relating to licenses
875 that have become inactive and for the renewal of inactive
876 licenses. The department shall prescribe by rule a fee not to
877 exceed \$250 for the reactivation of an inactive license and a
878 fee not to exceed \$250 for the renewal of an inactive license.

879 468.8617 Certification of partnerships, corporations, and
880 other business entities.—The practice of, or the offer to
881 practice as, a property insurance appraiser by licensees through
882 a partnership, corporation, or other business entity offering
883 property insurance appraiser services to the public, or by a
884 partnership, corporation, or other business entity through
885 licensees under this part as agents, employees, officers, or
886 partners is permitted subject to the provisions of this part.
887 This section does not allow a corporation or other business
888 entity to hold a license to practice property insurance
889 appraiser services. A partnership, corporation, or other
890 business entity is not relieved of responsibility for the
891 conduct or acts of its agents, employees, or officers by reason
892 of its compliance with this section. An individual practicing as
893 a property insurance appraiser is not relieved of responsibility
894 for professional services performed by reason of his or her
895 employment or relationship with a partnership, corporation, or
896 other business entity.

897 468.8618 Grounds for compulsory refusal, suspension, or
898 revocation of an appraiser's license.—The department shall deny
899 an application for, suspend, revoke, or refuse to renew or

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900 continue the license or appointment of any applicant, property
901 insurance appraiser, or licensee and shall suspend or revoke the
902 eligibility to hold a license or appointment of any such person
903 if it finds that any one or more of the following applicable
904 grounds exist:

905 (1) Lack of one or more of the qualifications for the
906 license as specified in this part.

907 (2) Material misstatement, misrepresentation, or fraud in
908 obtaining the license or in attempting to obtain the license or
909 appointment.

910 (3) Failure to pass to the satisfaction of the department
911 any examination required under this act.

912 (4) That the license or appointment was willfully used, or
913 will be used, to circumvent any of the requirements or
914 prohibitions of this code.

915 (5) Demonstrated a lack of fitness or trustworthiness to
916 engage as a property insurance appraiser.

917 (6) Demonstrated a lack of reasonably adequate knowledge
918 and technical competence to engage in the transactions
919 authorized by the license.

920 (7) Fraudulent or dishonest practices in the conduct of
921 business under the license.

922 (8) Willful failure to comply with, or willful violation
923 of, any proper order or rule of the department or willful
924 violation of any provision of this act.

925 (9) Having been found guilty of or having pled guilty or
926 nolo contendere to a felony or a crime punishable by
927 imprisonment of 1 year or more under the law of the United
928 States or of any state thereof or under the law of any other

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929 country which involves moral turpitude, without regard to
930 whether a judgment of conviction has been entered by the court
931 having jurisdiction of such cases.

932 (10) Violated a duty imposed upon her or him by law or by
933 the terms of a contract, whether written, oral, expressed, or
934 implied, in an appraisal; has aided, assisted, or conspired with
935 any other person engaged in any such misconduct and in
936 furtherance thereof; or has formed an intent, design, or scheme
937 to engage in such misconduct and committed an overt act in
938 furtherance of such intent, design, or scheme. It is immaterial
939 to a finding that a licensee has committed a violation of this
940 subsection that the victim or intended victim of the misconduct
941 has sustained no damage or loss, that the damage or loss has
942 been settled and paid after the discovery of misconduct, or that
943 such victim or intended victim was a customer or a person in a
944 confidential relationship with the licensee or was an identified
945 member of the general public.

946 (11) Had a registration, license, or certification as an
947 appraiser revoked, suspended, or otherwise acted against; has
948 had his or her registration, license, or certificate to practice
949 or conduct any regulated profession, business, or vocation
950 revoked or suspended by this or any other state, any nation, or
951 any possession or district of the United States; or has had an
952 application for such registration, licensure, or certification
953 to practice or conduct any regulated profession, business, or
954 vocation denied by this or any other state, any nation, or any
955 possession or district of the United States.

956 (12) (a) Made or filed a report or record, written or oral,
957 which the licensee knows to be false;

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- 958 (b) Has willfully failed to file a report or record
959 required by state or federal law;
- 960 (c) Has willfully impeded or obstructed such filing; or
961 (d) Has induced another person to impede or obstruct such
962 filing.
- 963 (13) Accepted an appointment as an appraiser if the
964 appointment is contingent upon the appraiser reporting a
965 predetermined result, analysis, or opinion, or if the fee to be
966 paid for the services of the appraiser is contingent upon the
967 opinion, conclusion, or valuation reached by the appraiser.
- 968 468.86185 Grounds for discretionary denial, suspension, or
969 revocation of an appraiser's license.-The department may deny an
970 application for and suspend, revoke, or refuse to renew or
971 continue a license as a property insurance appraiser if the
972 applicant or licensee has:
- 973 (1) Failed to timely communicate with the opposing party's
974 appraiser without good cause.
- 975 (2) Failed or refused to exercise reasonable diligence in
976 submitting recommendations to the opposing party's appraiser.
- 977 (3) Violated any ethical standard for property insurance
978 appraisers set forth in s. 468.8619.
- 979 (4) Failed to inform the department in writing within 30
980 days after pleading guilty or nolo contendere to, or being
981 convicted or found guilty of, a felony.
- 982 (5) Failed to timely notify the department of any change in
983 business location or has failed to fully disclose all business
984 locations from which he or she operates as a property insurance
985 appraiser.
- 986 468.8619 Ethical standards for property insurance

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987 appraisers.-

988 (1) CONFIDENTIALITY.-An appraiser shall maintain
989 confidentiality of all information revealed during an appraisal
990 except to the party that hired the appraiser and except where
991 disclosure is required by law.

992 (2) RECORDKEEPING.-An appraiser shall maintain
993 confidentiality in the storage and disposal of records and may
994 not disclose any identifying information when materials are used
995 for research, training, or statistical compilations.

996 (3) FEES AND EXPENSES.-Fees charged for appraisal services
997 shall be reasonable and consistent with the nature of the case.
998 An appraiser shall be guided by the following in determining
999 fees:

1000 (a) All charges for services as an appraiser based on time
1001 may not exceed actual time spent or allocated.

1002 (b) Charges for costs shall be for those actually incurred.

1003 (4) MAINTENANCE OF RECORDS.-An appraiser shall maintain
1004 records necessary to support charges for services and expenses,
1005 and upon request shall provide an accounting of all applicable
1006 charges to the parties. An appraiser licensed under this part
1007 shall retain for at least 5 years original or true copies of any
1008 contracts engaging the appraiser's services, appraisal reports,
1009 and supporting data assembled and formulated by the appraiser in
1010 preparing appraisal reports. The period for retaining the
1011 records applicable to each engagement starts on the date of the
1012 submission of the appraisal report to the client. The records
1013 must be made available by the appraiser for inspection and
1014 copying by the department upon reasonable notice to the
1015 appraiser. If an appraisal has been the subject of, or has been

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1016 admitted as evidence in, a lawsuit, reports, and records the
1017 appraisal must be retained for at least 2 years after the date
1018 that the trial ends.

1019 (5) ADVERTISING.—An appraiser may not engage in marketing
1020 practices that contain false or misleading information. An
1021 appraiser shall ensure that any advertisements of the
1022 appraiser's qualifications, services to be rendered, or the
1023 appraisal process are accurate and honest. An appraiser may not
1024 make claims of achieving specific outcomes or promises implying
1025 favoritism for the purpose of obtaining business.

1026 (6) INTEGRITY AND IMPARTIALITY.—An appraiser may not accept
1027 any engagement, provide any service, or perform any act that
1028 would compromise the appraiser's integrity or impartiality.

1029 (a) An appraiser may not accept an appointment unless he or
1030 she can:

1031 1. Serve impartially;

1032 2. Serve independently from the party appointing him or
1033 her;

1034 3. Serve competently; and

1035 4. Be available to promptly commence the appraisal, and
1036 thereafter devote the time and attention to its completion in a
1037 manner expected by all involved parties.

1038 (b) An appraiser shall conduct the appraisal process in a
1039 manner that advances the fair and efficient resolution of the
1040 matters submitted for decision. A licensed appraiser shall make
1041 all reasonable efforts to prevent delays in the appraisal
1042 process, the harassment of parties or other participants, or
1043 other abuse or disruption of the appraisal process.

1044 (c) Once a licensed appraiser has accepted an appointment,

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1045 the appraiser may not withdraw or abandon the appointment unless
1046 compelled to do so by unanticipated circumstances that would
1047 render it impossible or impracticable to continue.

1048 (d) The licensed appraiser shall, after careful
1049 deliberation, decide all issues submitted for determination and
1050 no other issues. A licensed appraiser shall decide all matters
1051 justly, exercising independent judgment, and may not allow
1052 outside pressure to affect the decision. An appraiser may not
1053 delegate the duty to decide to any other person.

1054 (7) SKILL AND EXPERIENCE.—An appraiser shall decline an
1055 appointment or selection, withdraw, or request appropriate
1056 assistance when the facts and circumstances of the appraisal are
1057 beyond the appraiser's skill or experience.

1058 (8) GIFTS AND SOLICITATION.—An appraiser may not give or
1059 accept any gift, favor, loan, or other item of value in an
1060 appraisal process except for the appraiser's reasonable fee.
1061 During the appraisal process, an appraiser may not solicit or
1062 otherwise attempt to procure future professional services.

1063 (9) COMMUNICATIONS WITH PARTIES.—

1064 (a) If an agreement of the parties establishes the manner
1065 or content of the communications between the appraisers, the
1066 parties, and the umpire, the appraisers shall abide by such
1067 agreement. In the absence of agreement, an appraiser may not
1068 discuss a proceeding with any party or with the umpire in the
1069 absence of any other party, except in the following
1070 circumstances:

1071 1. If the appointment of the appraiser or umpire is being
1072 considered, the prospective appraiser or umpire may ask about
1073 the identities of the parties, counsel, and the general nature

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1074 of the case, and may respond to inquiries from a party, its
1075 counsel or an umpire designed to determine his or her
1076 suitability and availability for the appointment;

1077 2. To consult with the party who appointed the appraiser
1078 concerning the selection of a neutral umpire;

1079 3. To make arrangements for any compensation to be paid by
1080 the party who appointed the appraiser; or

1081 4. To make arrangements for obtaining materials and
1082 inspection of the property with the party who appointed the
1083 appraiser. Such communication is limited to scheduling and the
1084 exchange of materials.

1085 (b) There may be no communications whereby a party dictates
1086 to an appraiser what the result of the proceedings must be, what
1087 matters or elements may be included or considered by the
1088 appraiser, or what actions the appraiser may take.

1089 468.862 Residential or commercial property insurance loss
1090 appraisal.—The Legislature has determined that our court system
1091 is overwhelmed with litigation better served in the property
1092 insurance appraisal process. Appraisal is the preferred method
1093 of resolving disputes involving the scope of the damages
1094 occurring as the result of a covered loss. When the insured and
1095 the insurer agree that a residential or commercial residential
1096 property has been damaged by a covered peril in the policy, the
1097 best method to resolve the issues of scope will be the property
1098 insurance appraisal process.

1099 (1) When the only issue remaining between an insured and an
1100 insurer on a residential or commercial residential property is
1101 the actual cash value, the amount of loss, or the cost of repair
1102 or replacement of property for which a claim has been filed,

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1103 that process shall be governed by this section.

1104 (2) Either party may submit a written demand to enter into
1105 the process of appraisal.

1106 (3) The insurer may refuse to accept the demand only if the
1107 insured materially fails to comply with the proof-of-loss
1108 obligations of the insured as set forth in the policy
1109 conditions.

1110 (4) The insurer is deemed to have waived its right to
1111 demand an appraisal if it fails to invoke an appraisal within 30
1112 days after the insured substantially complies with the proof-of-
1113 loss obligation as set forth in the policy conditions.

1114 (5) Each party shall select a competent, licensed, and
1115 independent appraiser and notify the other party of the
1116 appraiser selected within 20 days after the date of the demand
1117 for an appraisal. The appraisers shall select a competent,
1118 independent, and impartial umpire who is on the department's
1119 list of licensed property insurance appraisal umpires as
1120 qualified under s. 468.85. If the appraisers are unable to agree
1121 on an umpire within 15 days, the insured or the insurer may file
1122 a petition with a county or circuit court in the jurisdiction in
1123 which the covered property is located to designate a licensed
1124 property insurance appraisal umpire for the appraisal.

1125 (6) Appraisal proceedings are informal unless the insured
1126 and the insurer mutually agree otherwise. For purposes of this
1127 section, "informal" means that no formal discovery shall be
1128 conducted, including depositions, interrogatories, requests for
1129 admission, or other forms of formal civil discovery; no formal
1130 rules of evidence shall be applied; and no court reporter shall
1131 be used for the proceedings. However, either appraiser may rely

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1132 on experts in reaching the value of loss.

1133 (7) Within 60 days after being appointed, each appraiser
1134 shall appraise the loss and submit a written report to the other
1135 appraiser, separately stating the cost of the loss, the actual
1136 cash value, or the cost to repair or replace each item. Within
1137 30 days after submitting the reports, the appraisers shall
1138 attempt to resolve any differences in the appraisals and reach a
1139 mutual agreement on all matters. If the appraisers are unable to
1140 agree, they shall, within 5 days, submit the differences in
1141 their findings in writing to the umpire. However, the appraisers
1142 have an additional 60 days after appointment to appraise the
1143 loss and submit a written report if the loss is covered under a
1144 commercial residential property insurance policy and the insured
1145 structure is 10,000 square feet or more, or is covered under a
1146 commercial residential or residential insurance policy and the
1147 claim is based on and made subsequent to a hurricane designated
1148 by the National Hurricane Center or a declared emergency by the
1149 Governor.

1150 (8) The umpire shall review any differences in appraisals
1151 submitted by the appraisers and determine the amount of the loss
1152 for each item submitted. Within 10 days after receipt of any
1153 differences in appraisals, the umpire shall submit the umpire's
1154 conclusions in writing to each appraiser.

1155 (9) If either appraiser agrees with the conclusions of the
1156 umpire, an itemized written appraisal award signed by the umpire
1157 and the appraiser shall be filed with the insurer and shall
1158 determine the amount of the loss.

1159 (10) The appraisal award is binding on the insurer and the
1160 insured with regard to the amount of the loss. If the insurance

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1161 policy so provides, the insurer may assert that there is no
1162 coverage under the policy for the loss as a whole or that there
1163 has been a violation of the policy conditions with respect to
1164 fraud, lack of notice, or failure to cooperate.

1165 (11) Each appraiser shall be paid by the party who selects
1166 the appraiser and the expenses of the appraisal and fees of the
1167 umpire shall be paid by the parties equally, except that if the
1168 final determination of the amount of the loss is 50 percent
1169 greater than the insurer's preappraisal estimate of the loss
1170 communicated to the insured in writing, the insurer shall pay
1171 all the expenses, including any fees and expenses charged by the
1172 insured's appraiser and all fees and expenses of the umpire.
1173 This subsection does not affect an insured's claim for attorney
1174 fees under s. 627.428.

1175 (12) The provisions of the Florida Arbitration Code do not
1176 apply to residential and commercial residential property
1177 insurance loss appraisal proceedings. However, the provisions
1178 regarding proceedings to compel and stay arbitration in s.
1179 682.03; procedures for correcting, vacating, or modifying an
1180 award in ss. 682.10, 682.13, and 682.14; procedures for entry of
1181 judgment on the award in s. 682.15; and procedures regarding
1182 confirmation of an award in s. 682.12 do apply.

1183 (13) The appraisal process may not address issues involving
1184 whether or not the loss or damage is covered under the terms of
1185 the insurance contract. However, the appraisers and the umpire
1186 may consider causation issues, if necessary, to determine the
1187 amount of loss.

1188 Section 3. This act shall take effect July 1, 2015.