



416356

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/10/2016	.	
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The Committee on Regulated Industries (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 624.04, Florida Statutes, is amended to
read:

624.04 "Person" defined.—"Person" includes an individual,
insurer, company, association, organization, Lloyds, society,
reciprocal insurer or interinsurance exchange, partnership,
syndicate, business trust, corporation, agent, general agent,



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11 broker, service representative, adjuster, property insurance
12 appraisal umpire, and every legal entity.

13 Section 2. Subsection (2) of section 624.303, Florida
14 Statutes, is amended to read:

15 624.303 Seal; certified copies as evidence.—

16 (2) All certificates executed by the department or office,
17 other than licenses of agents, property insurance appraisal
18 umpires, ~~or~~ adjusters, or similar licenses or permits, shall
19 bear its respective seal.

20 Section 3. Paragraphs (b) and (c) of subsection (4) of
21 section 624.311, Florida Statutes, are amended to read:

22 624.311 Records; reproductions; destruction.—

23 (4) To facilitate the efficient use of floor space and
24 filing equipment in its offices, the department, commission, and
25 office may each destroy the following records and documents
26 pursuant to chapter 257:

27 (b) Agent, adjuster, property insurance appraisal umpire,
28 and similar license files, including license files of the
29 Division of State Fire Marshal, over 2 years old; except that
30 the department or office shall preserve by reproduction or
31 otherwise a copy of the original records upon the basis of which
32 each such licensee qualified for her or his initial license,
33 except a competency examination, and of any disciplinary
34 proceeding affecting the licensee;

35 (c) All agent, adjuster, property insurance appraisal
36 umpire, and similar license files and records, including
37 original license qualification records and records of
38 disciplinary proceedings 5 years after a licensee has ceased to
39 be qualified for a license;



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40 Section 4. Section 624.317, Florida Statutes, is amended to
41 read:

42 624.317 Investigation of agents, adjusters, property
43 insurance appraisal umpires, administrators, service companies,
44 and others.—If it has reason to believe that any person has
45 violated or is violating any provision of this code, or upon the
46 written complaint signed by any interested person indicating
47 that any such violation may exist:

48 (1) The department shall conduct such investigation as it
49 deems necessary of the accounts, records, documents, and
50 transactions pertaining to or affecting the insurance affairs of
51 any general agent, surplus lines agent, adjuster, property
52 insurance appraisal umpire, managing general agent, insurance
53 agent, insurance agency, customer representative, service
54 representative, or other person subject to its jurisdiction,
55 subject to the requirements of s. 626.601.

56 (2) The office shall conduct such investigation as it deems
57 necessary of the accounts, records, documents, and transactions
58 pertaining to or affecting the insurance affairs of any:

59 (a) Administrator, service company, or other person subject
60 to its jurisdiction.

61 (b) Person having a contract or power of attorney under
62 which she or he enjoys in fact the exclusive or dominant right
63 to manage or control an insurer.

64 (c) Person engaged in or proposing to be engaged in the
65 promotion or formation of:

- 66 1. A domestic insurer;
- 67 2. An insurance holding corporation; or
- 68 3. A corporation to finance a domestic insurer or in the



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69 production of the domestic insurer's business.

70 Section 5. Paragraph (c) of subsection (19) and subsection
71 (28) of section 624.501, Florida Statutes, are amended, and
72 subsection (29) is added to that section, to read:

73 624.501 Filing, license, appointment, and miscellaneous
74 fees.—The department, commission, or office, as appropriate,
75 shall collect in advance, and persons so served shall pay to it
76 in advance, fees, licenses, and miscellaneous charges as
77 follows:

78 (19) Miscellaneous services:

79 (c) For preparing lists of agents, adjusters, property
80 insurance appraisal umpires, and other insurance
81 representatives, and for other miscellaneous services, such
82 reasonable charge as may be fixed by the office or department.

83 (28) Late filing of appointment renewals for agents,
84 adjusters, property insurance appraisal umpires, and other
85 insurance representatives, each appointment.....\$20.00

86 (29) Property insurance appraisal umpires:

87 (a) Property insurance appraisal umpire's appointment and
88 biennial renewal or continuation thereof, each
89 appointment.....\$60.00

90 (b) Fee to cover the actual cost of a credit report when
91 such report must be secured by department.

92 Section 6. Paragraph (e) of subsection (1) of section
93 624.523, Florida Statutes, is amended to read:

94 624.523 Insurance Regulatory Trust Fund.—

95 (1) There is created in the State Treasury a trust fund
96 designated "Insurance Regulatory Trust Fund" to which shall be
97 credited all payments received on account of the following



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98 items:

99 (e) All payments received on account of items provided for
100 under respective provisions of s. 624.501, as follows:

101 1. Subsection (1) (certificate of authority of insurer).

102 2. Subsection (2) (charter documents of insurer).

103 3. Subsection (3) (annual license tax of insurer).

104 4. Subsection (4) (annual statement of insurer).

105 5. Subsection (5) (application fee for insurance
106 representatives).

107 6. The "appointment fee" portion of any appointment
108 provided for under paragraphs (6) (a) and (b) (insurance
109 representatives, property, marine, casualty and surety
110 insurance, and agents).

111 7. Paragraph (6) (c) (nonresident agents).

112 8. Paragraph (6) (d) (service representatives).

113 9. The "appointment fee" portion of any appointment
114 provided for under paragraph (7) (a) (life insurance agents,
115 original appointment, and renewal or continuation of
116 appointment).

117 10. Paragraph (7) (b) (nonresident agent license).

118 11. The "appointment fee" portion of any appointment
119 provided for under paragraph (8) (a) (health insurance agents,
120 agent's appointment, and renewal or continuation fee).

121 12. Paragraph (8) (b) (nonresident agent appointment).

122 13. The "appointment fee" portion of any appointment
123 provided for under subsections (9) and (10) (limited licenses
124 and fraternal benefit society agents).

125 14. Subsection (11) (surplus lines agent).

126 15. Subsection (12) (adjusters' appointment).



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- 127 16. Subsection (13) (examination fee).
128 17. Subsection (14) (temporary license and appointment as
129 agent or adjuster).
130 18. Subsection (15) (reissuance, reinstatement, etc.).
131 19. Subsection (16) (additional license continuation fees).
132 20. Subsection (17) (filing application for permit to form
133 insurer).
134 21. Subsection (18) (license fee of rating organization).
135 22. Subsection (19) (miscellaneous services).
136 23. Subsection (20) (insurance agencies).
137 24. Subsection (29) (property insurance appraisal umpires'

138 appointment).
139 Section 7. Subsections (16) through (19) of section
140 626.015, Florida Statutes, are renumbered as subsections (17)
141 through (20), respectively, and a new subsection (16) is added
142 to that section, to read:

143 626.015 Definitions.—As used in this part:
144 (16) "Property insurance appraisal umpire" or "umpire"
145 means a property insurance appraisal umpire as defined in s.
146 626.9964.

147 Section 8. Subsection (1) of section 626.016, Florida
148 Statutes, is amended to read:

149 626.016 Powers and duties of department, commission, and
150 office.—

151 (1) The powers and duties of the Chief Financial Officer
152 and the department specified in this part apply only with
153 respect to insurance agents, insurance agencies, managing
154 general agents, ~~insurance~~ adjusters, umpires, reinsurance
155 intermediaries, viatical settlement brokers, customer



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156 representatives, service representatives, and agencies.

157 Section 9. Subsection (1) of section 626.022, Florida
158 Statutes, is amended to read:

159 626.022 Scope of part.—

160 (1) This part applies as to insurance agents, service
161 representatives, adjusters, umpires, and insurance agencies; as
162 to any and all kinds of insurance; and as to stock insurers,
163 mutual insurers, reciprocal insurers, and all other types of
164 insurers, except that:

165 (a) It does not apply as to reinsurance, except that ss.
166 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.
167 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-
168 626.591, and ss. 626.601-626.711 shall apply as to reinsurance
169 intermediaries as defined in s. 626.7492.

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

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

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

183 Section 10. Subsections (6) through (9) of section 626.112,
184 Florida Statutes, are renumbered as subsections (8) through



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185 (11), respectively, subsection (1) is amended, and new
186 subsections (6) and (7) are added to that section, to read:

187 626.112 License and appointment required; agents, customer
188 representatives, adjusters, umpires, insurance agencies, service
189 representatives, managing general agents.-

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

195 (b) Except as provided in subsection (8) ~~(6)~~ or in
196 applicable department rules, and in addition to other conduct
197 described in this chapter with respect to particular types of
198 agents, a license as an insurance agent, service representative,
199 customer representative, or limited customer representative is
200 required in order to engage in the solicitation of insurance.
201 For purposes of this requirement, as applicable to any of the
202 license types described in this section, the solicitation of
203 insurance is the attempt to persuade any person to purchase an
204 insurance product by:

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

207 2. Distributing an invitation to contract to prospective
208 purchasers;

209 3. Making general or specific recommendations as to
210 insurance products;

211 4. Completing orders or applications for insurance
212 products;

213 5. Comparing insurance products, advising as to insurance



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214 matters, or interpreting policies or coverages; or
215 6. Offering or attempting to negotiate on behalf of another
216 person a viatical settlement contract as defined in s. 626.9911.
217
218 However, an employee leasing company licensed pursuant to
219 chapter 468 which is seeking to enter into a contract with an
220 employer that identifies products and services offered to
221 employees may deliver proposals for the purchase of employee
222 leasing services to prospective clients of the employee leasing
223 company setting forth the terms and conditions of doing
224 business; classify employees as permitted by s. 468.529; collect
225 information from prospective clients and other sources as
226 necessary to perform due diligence on the prospective client and
227 to prepare a proposal for services; provide and receive
228 enrollment forms, plans, and other documents; and discuss or
229 explain in general terms the conditions, limitations, options,
230 or exclusions of insurance benefit plans available to the client
231 or employees of the employee leasing company were the client to
232 contract with the employee leasing company. Any advertising
233 materials or other documents describing specific insurance
234 coverages must identify and be from a licensed insurer or its
235 licensed agent or a licensed and appointed agent employed by the
236 employee leasing company. The employee leasing company may not
237 advise or inform the prospective business client or individual
238 employees of specific coverage provisions, exclusions, or
239 limitations of particular plans. As to clients for which the
240 employee leasing company is providing services pursuant to s.
241 468.525(4), the employee leasing company may engage in
242 activities permitted by ss. 626.7315, 626.7845, and 626.8305,



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243 subject to the restrictions specified in those sections. If a
244 prospective client requests more specific information concerning
245 the insurance provided by the employee leasing company, the
246 employee leasing company must refer the prospective business
247 client to the insurer or its licensed agent or to a licensed and
248 appointed agent employed by the employee leasing company.

249 (6) No person shall be, act as, or represent or hold
250 himself or herself out to be a property insurance appraisal
251 umpire unless he or she holds a currently effective license and
252 appointment as a property insurance appraisal umpire.

253 (7) No person shall be, act as, or represent or hold
254 himself or herself out to be a property insurance appraiser who
255 is eligible to represent an insured on a personal residential or
256 commercial residential property insurance claim unless he or she
257 holds a currently effective license as an adjuster or is exempt
258 from licensure under s. 626.860.

259 Section 11. Subsections (1) and (4) of section 626.171,
260 Florida Statutes, are amended to read:

261 626.171 Application for license as an agent, customer
262 representative, adjuster, umpire, service representative,
263 managing general agent, or reinsurance intermediary.—

264 (1) The department may not issue a license as agent,
265 customer representative, adjuster, umpire, service
266 representative, managing general agent, or reinsurance
267 intermediary to any person except upon written application filed
268 with the department, meeting the qualifications for the license
269 applied for as determined by the department, and payment in
270 advance of all applicable fees. The application must be made
271 under the oath of the applicant and be signed by the applicant.



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272 An applicant may permit a third party to complete, submit, and
273 sign an application on the applicant's behalf, but is
274 responsible for ensuring that the information on the application
275 is true and correct and is accountable for any misstatements or
276 misrepresentations. The department shall accept the uniform
277 application for nonresident agent licensing. The department may
278 adopt revised versions of the uniform application by rule.

279 (4) An applicant for a license as an agent, customer
280 representative, adjuster, umpire, service representative,
281 managing general agent, or reinsurance intermediary must submit
282 a set of the individual applicant's fingerprints, or, if the
283 applicant is not an individual, a set of the fingerprints of the
284 sole proprietor, majority owner, partners, officers, and
285 directors, to the department and must pay the fingerprint
286 processing fee set forth in s. 624.501. Fingerprints shall be
287 used to investigate the applicant's qualifications pursuant to
288 s. 626.201. The fingerprints shall be taken by a law enforcement
289 agency, designated examination center, or other department-
290 approved entity. The department shall require all designated
291 examination centers to have fingerprinting equipment and to take
292 fingerprints from any applicant or prospective applicant who
293 pays the applicable fee. The department may not approve an
294 application for licensure as an agent, customer service
295 representative, adjuster, umpire, service representative,
296 managing general agent, or reinsurance intermediary if
297 fingerprints have not been submitted.

298 Section 12. Subsection (9) of section 626.207, Florida
299 Statutes, is amended to read:

300 626.207 Disqualification of applicants and licensees;



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301 penalties against licensees; rulemaking authority.-

302 (9) Section 112.011 does not apply to any applicants for
303 licensure under the Florida Insurance Code, including, but not
304 limited to, agents, agencies, adjusters, adjusting firms,
305 umpires, customer representatives, or managing general agents.

306 Section 13. Subsections (1) and (2) of section 626.2815,
307 Florida Statutes, are amended to read:

308 626.2815 Continuing education requirements.-

309 (1) The purpose of this section is to establish
310 requirements and standards for continuing education courses for
311 individuals licensed to solicit, sell, or adjust insurance or to
312 serve as an umpire in the state.

313 (2) Except as otherwise provided in this section, this
314 section applies to individuals licensed to transact ~~engage in~~
315 ~~the sale of~~ insurance or adjust ~~adjustment of~~ insurance claims
316 in this state for all lines of insurance for which an
317 examination is required for licensing and to individuals
318 licensed to serve as an umpire ~~each insurer, employer, or~~
319 ~~appointing entity, including, but not limited to, those created~~
320 ~~or existing pursuant to s. 627.351~~. This section does not apply
321 to an individual who holds a license for the sale of any line of
322 insurance for which an examination is not required by the laws
323 of this state or who holds a limited license as a crop or hail
324 and multiple-peril crop insurance agent. Licensees who are
325 unable to comply with the continuing education requirements due
326 to active duty in the military may submit a written request for
327 a waiver to the department.

328 Section 14. Subsections (1), (3), (5), and (6) of section
329 626.451, Florida Statutes, are amended to read:



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330 626.451 Appointment of agent or other representative.—

331 (1) Each appointing entity or person designated by the
332 department to administer the appointment process appointing an
333 agent, adjuster, umpire, service representative, customer
334 representative, or managing general agent in this state shall
335 file the appointment with the department or office and, at the
336 same time, pay the applicable appointment fee and taxes. Every
337 appointment shall be subject to the prior issuance of the
338 appropriate agent's, adjuster's, umpire's, service
339 representative's, customer representative's, or managing general
340 agent's license.

341 (3) By authorizing the effectuation of the appointment of
342 an agent, adjuster, umpire, service representative, customer
343 representative, or managing general agent the appointing entity
344 is thereby certifying to the department that it is willing to be
345 bound by the acts of the agent, adjuster, umpire, service
346 representative, customer representative, or managing general
347 agent, within the scope of the licensee's employment or
348 appointment.

349 (5) Any law enforcement agency or state attorney's office
350 that is aware that an agent, adjuster, umpire, service
351 representative, customer representative, or managing general
352 agent has pleaded guilty or nolo contendere to or has been found
353 guilty of a felony shall notify the department or office of such
354 fact.

355 (6) Upon the filing of an information or indictment against
356 an agent, adjuster, umpire, service representative, customer
357 representative, or managing general agent, the state attorney
358 shall immediately furnish the department or office a certified



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359 copy of the information or indictment.

360 Section 15. Section 626.461, Florida Statutes, is amended
361 to read:

362 626.461 Continuation of appointment of agent or other
363 representative.—Subject to renewal or continuation by the
364 appointing entity, the appointment of the agent, adjuster,
365 umpire, service representative, customer representative, or
366 managing general agent shall continue in effect until the
367 person's license is revoked or otherwise terminated, unless
368 written notice of earlier termination of the appointment is
369 filed with the department or person designated by the department
370 to administer the appointment process by either the appointing
371 entity or the appointee.

372 Section 16. Subsection (3) of section 626.521, Florida
373 Statutes, is amended to read:

374 626.521 Character, credit reports.—

375 (3) As to an applicant for an adjuster's, umpire's, or
376 reinsurance intermediary's license who is to be self-employed,
377 the department may secure, at the cost of the applicant, a full
378 detailed credit and character report made by an established and
379 reputable independent reporting service relative to the
380 applicant.

381 Section 17. Subsection (1) of section 626.541, Florida
382 Statutes, is amended to read:

383 626.541 Firm, corporate, and business names; officers;
384 associates; notice of changes.—

385 (1) Any licensed agent, ~~or~~ adjuster, or umpire doing
386 business under a firm or corporate name or under any business
387 name other than his or her own individual name shall, within 30



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388 days after initially transacting ~~the initial transaction of~~
389 insurance or engaging in insurance activities under such
390 business name, file with the department, on forms adopted and
391 furnished by the department, a written statement of the firm,
392 corporate, or business name being so used, the address of any
393 office or offices or places of business making use of such name,
394 and the name and social security number of each officer and
395 director of the corporation and of each individual associated in
396 such firm or corporation as to the insurance transactions
397 thereof or in the use of such business name.

398 Section 18. Subsection (1) of section 626.601, Florida
399 Statutes, is amended to read:

400 626.601 Improper conduct; inquiry; fingerprinting.—

401 (1) The department or office may, upon its own motion or
402 upon a written complaint signed by any interested person and
403 filed with the department or office, inquire into any alleged
404 improper conduct of any licensed, approved, or certified
405 licensee, insurance agency, agent, adjuster, umpire, service
406 representative, managing general agent, customer representative,
407 title insurance agent, title insurance agency, mediator, neutral
408 evaluator, navigator, continuing education course provider,
409 instructor, school official, or monitor group under this code.
410 The department or office may thereafter initiate an
411 investigation of any such individual or entity if it has
412 reasonable cause to believe that the individual or entity has
413 violated any provision of the insurance code. During the course
414 of its investigation, the department or office shall contact the
415 individual or entity being investigated unless it determines
416 that contacting such individual or entity could jeopardize the



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417 successful completion of the investigation or cause injury to
418 the public.

419 Section 19. Subsection (1) of section 626.611, Florida
420 Statutes, is amended to read:

421 626.611 Grounds for compulsory refusal, suspension, or
422 revocation of agent's, title agency's, adjuster's, umpire's,
423 customer representative's, service representative's, or managing
424 general agent's license or appointment.—

425 (1) The department shall deny an application for, suspend,
426 revoke, or refuse to renew or continue the license or
427 appointment of any applicant, agent, title agency, adjuster,
428 umpire, customer representative, service representative, or
429 managing general agent, and it shall suspend or revoke the
430 eligibility to hold a license or appointment of any such person,
431 if it finds that as to the applicant, licensee, or appointee any
432 one or more of the following applicable grounds exist:

433 (a) Lack of one or more of the qualifications for the
434 license or appointment as specified in this code.

435 (b) Material misstatement, misrepresentation, or fraud in
436 obtaining the license or appointment or in attempting to obtain
437 the license or appointment.

438 (c) Failure to pass to the satisfaction of the department
439 any examination required under this code.

440 (d) If the license or appointment is willfully used, or to
441 be used, to circumvent any of the requirements or prohibitions
442 of this code.

443 (e) Willful misrepresentation of any insurance policy or
444 annuity contract or willful deception with regard to any such
445 policy or contract, done either in person or by any form of



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446 dissemination of information or advertising.

447 (f) If, as an adjuster, or agent licensed and appointed to
448 adjust claims under this code, he or she has materially
449 misrepresented to an insured or other interested party the terms
450 and coverage of an insurance contract with intent and for the
451 purpose of effecting settlement of claim for loss or damage or
452 benefit under such contract on less favorable terms than those
453 provided in and contemplated by the contract.

454 (g) Demonstrated lack of fitness or trustworthiness to
455 engage in the business of insurance.

456 (h) Demonstrated lack of reasonably adequate knowledge and
457 technical competence to engage in the transactions authorized by
458 the license or appointment.

459 (i) Fraudulent or dishonest practices in the conduct of
460 business under the license or appointment.

461 (j) Misappropriation, conversion, or unlawful withholding
462 of moneys belonging to insurers or insureds or beneficiaries or
463 to others and received in conduct of business under the license
464 or appointment.

465 (k) Unlawfully rebating, attempting to unlawfully rebate,
466 or unlawfully dividing or offering to divide his or her
467 commission with another.

468 (l) Having obtained or attempted to obtain, or having used
469 or using, a license or appointment as agent or customer
470 representative for the purpose of soliciting or handling
471 "controlled business" as defined in s. 626.730 with respect to
472 general lines agents, s. 626.784 with respect to life agents,
473 and s. 626.830 with respect to health agents.

474 (m) Willful failure to comply with, or willful violation



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475 of, any proper order or rule of the department or willful
476 violation of any provision of this code.

477 (n) Having been found guilty of or having pleaded guilty or
478 nolo contendere to a felony or a crime punishable by
479 imprisonment of 1 year or more under the law of the United
480 States of America or of any state thereof or under the law of
481 any other country which involves moral turpitude, without regard
482 to whether a judgment of conviction has been entered by the
483 court having jurisdiction of such cases.

484 (o) Fraudulent or dishonest practice in submitting or
485 aiding or abetting any person in the submission of an
486 application for workers' compensation coverage under chapter 440
487 containing false or misleading information as to employee
488 payroll or classification for the purpose of avoiding or
489 reducing the amount of premium due for such coverage.

490 (p) Sale of an unregistered security that was required to
491 be registered, pursuant to chapter 517.

492 (q) In transactions related to viatical settlement
493 contracts as defined in s. 626.9911:

494 1. Commission of a fraudulent or dishonest act.

495 2. No longer meeting the requirements for initial
496 licensure.

497 3. Having received a fee, commission, or other valuable
498 consideration for his or her services with respect to viatical
499 settlements that involved unlicensed viatical settlement
500 providers or persons who offered or attempted to negotiate on
501 behalf of another person a viatical settlement contract as
502 defined in s. 626.9911 and who were not licensed life agents.

503 4. Dealing in bad faith with viators.



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504 Section 20. Section 626.621, Florida Statutes, is amended
505 to read:

506 626.621 Grounds for discretionary refusal, suspension, or
507 revocation of agent's, adjuster's, umpire's, customer
508 representative's, service representative's, or managing general
509 agent's license or appointment.—The department may, in its
510 discretion, deny an application for, suspend, revoke, or refuse
511 to renew or continue the license or appointment of any
512 applicant, agent, adjuster, umpire, customer representative,
513 service representative, or managing general agent, and it may
514 suspend or revoke the eligibility to hold a license or
515 appointment of any such person, if it finds that as to the
516 applicant, licensee, or appointee any one or more of the
517 following applicable grounds exist under circumstances for which
518 such denial, suspension, revocation, or refusal is not mandatory
519 under s. 626.611:

520 (1) Any cause for which issuance of the license or
521 appointment could have been refused had it then existed and been
522 known to the department.

523 (2) Violation of any provision of this code or of any other
524 law applicable to the business of insurance in the course of
525 dealing under the license or appointment.

526 (3) Violation of any lawful order or rule of the
527 department, commission, or office.

528 (4) Failure or refusal, upon demand, to pay over to any
529 insurer he or she represents or has represented any money coming
530 into his or her hands belonging to the insurer.

531 (5) Violation of the provision against twisting, as defined
532 in s. 626.9541(1)(1).



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533 (6) In the conduct of business under the license or
534 appointment, engaging in unfair methods of competition or in
535 unfair or deceptive acts or practices, as prohibited under part
536 IX of this chapter, or having otherwise shown himself or herself
537 to be a source of injury or loss to the public.

538 (7) Willful overinsurance of any property or health
539 insurance risk.

540 (8) Having been found guilty of or having pleaded guilty or
541 nolo contendere to a felony or a crime punishable by
542 imprisonment of 1 year or more under the law of the United
543 States of America or of any state thereof or under the law of
544 any other country, without regard to whether a judgment of
545 conviction has been entered by the court having jurisdiction of
546 such cases.

547 (9) If a life agent, violation of the code of ethics.

548 (10) Cheating on an examination required for licensure or
549 violating test center or examination procedures published
550 orally, in writing, or electronically at the test site by
551 authorized representatives of the examination program
552 administrator. Communication of test center and examination
553 procedures must be clearly established and documented.

554 (11) Failure to inform the department in writing within 30
555 days after pleading guilty or nolo contendere to, or being
556 convicted or found guilty of, any felony or a crime punishable
557 by imprisonment of 1 year or more under the law of the United
558 States or of any state thereof, or under the law of any other
559 country without regard to whether a judgment of conviction has
560 been entered by the court having jurisdiction of the case.

561 (12) Knowingly aiding, assisting, procuring, advising, or



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562 abetting any person in the violation of or to violate a
563 provision of the insurance code or any order or rule of the
564 department, commission, or office.

565 (13) Has been the subject of or has had a license, permit,
566 appointment, registration, or other authority to conduct
567 business subject to any decision, finding, injunction,
568 suspension, prohibition, revocation, denial, judgment, final
569 agency action, or administrative order by any court of competent
570 jurisdiction, administrative law proceeding, state agency,
571 federal agency, national securities, commodities, or option
572 exchange, or national securities, commodities, or option
573 association involving a violation of any federal or state
574 securities or commodities law or any rule or regulation adopted
575 thereunder, or a violation of any rule or regulation of any
576 national securities, commodities, or options exchange or
577 national securities, commodities, or options association.

578 (14) Failure to comply with any civil, criminal, or
579 administrative action taken by the child support enforcement
580 program under Title IV-D of the Social Security Act, 42 U.S.C.
581 ss. 651 et seq., to determine paternity or to establish, modify,
582 enforce, or collect support.

583 (15) Directly or indirectly accepting any compensation,
584 inducement, or reward from an inspector for the referral of the
585 owner of the inspected property to the inspector or inspection
586 company. This prohibition applies to an inspection intended for
587 submission to an insurer in order to obtain property insurance
588 coverage or establish the applicable property insurance premium.

589 Section 21. Subsection (4) of section 626.641, Florida
590 Statutes, is amended to read:



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591 626.641 Duration of suspension or revocation.—

592 (4) During the period of suspension or revocation of a
593 license or appointment, and until the license is reinstated or,
594 if revoked, a new license issued, the former licensee or
595 appointee may not engage in or attempt or profess to engage in
596 any transaction or business for which a license or appointment
597 is required under this code or directly or indirectly own,
598 control, or be employed in any manner by an agent, agency,
599 adjuster, ~~or~~ adjusting firm, or umpire.

600 Section 22. Subsection (2) of section 626.7845, Florida
601 Statutes, is amended to read:

602 626.7845 Prohibition against unlicensed transaction of life
603 insurance.—

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

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

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

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

613 2. As to the counseling and advising of labor unions,
614 associations, trustees, employers, or other business entities,
615 the subsidiaries and affiliates of each, relative to their
616 interests and those of their members or employees under
617 insurance benefit plans; or

618 (c) In this state, from this state, or with a resident of
619 this state, offer or attempt to negotiate on behalf of another



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620 person a viatical settlement contract as defined in s. 626.9911.

621 Section 23. Section 626.8305, Florida Statutes, is amended
622 to read:

623 626.8305 Prohibition against the unlicensed transaction of
624 health insurance.—Except as provided in s. 626.112(8)
625 ~~626.112(6)~~, with respect to any line of authority specified in
626 s. 626.015(6), no individual shall, unless licensed as a health
627 agent:

628 (1) Solicit insurance or procure applications; or

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

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

634 (b) As to the counseling and advising of labor unions,
635 associations, trustees, employers, or other business entities,
636 the subsidiaries and affiliates of each, relative to their
637 interests and those of their members or employees under
638 insurance benefit plans.

639 Section 24. Paragraph (a) of subsection (2) of section
640 626.8411, Florida Statutes, is amended to read:

641 626.8411 Application of Florida Insurance Code provisions
642 to title insurance agents or agencies.—

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

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

647 Section 25. Subsection (4) of section 626.8443, Florida
648 Statutes, is amended to read:



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649 626.8443 Duration of suspension or revocation.—

650 (4) During the period of suspension or after revocation of
651 the license and appointment, the former licensee shall not
652 engage in or attempt to profess to engage in any transaction or
653 business for which a license or appointment is required under
654 this code or directly or indirectly own, control, or be employed
655 in any manner by any insurance agent or agency, ~~or~~ adjuster, ~~or~~
656 adjusting firm, or umpire.

657 Section 26. Paragraph (d) is added to subsection (11) of
658 section 626.854, Florida Statutes, to read:

659 626.854 "Public adjuster" defined; prohibitions.—The
660 Legislature finds that it is necessary for the protection of the
661 public to regulate public insurance adjusters and to prevent the
662 unauthorized practice of law.

663 (11)

664 (d) If a public adjuster enters into a contract with an
665 insured or a claimant to perform an appraisal, as defined in s.
666 626.9964, the public adjuster may not charge, agree to, or
667 accept from any source compensation, payment, commission, fee,
668 or any other thing of value in excess of the limitations set
669 forth in paragraph (b) for the appraisal services or, if also
670 serving as adjuster on the claim, a combination of adjuster and
671 appraisal services.

672 Section 27. Section 626.8791, Florida Statutes, is created
673 to read:

674 626.8791 Contracts for appraisal services; required
675 notice.—A contract between an adjuster and an insured or
676 claimant to perform an appraisal must contain the following
677 language in at least 14-point boldfaced, uppercase type: "THERE



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678 IS NO LEGAL REQUIREMENT THAT AN APPRAISER CHARGE A CLIENT A SET
679 FEE OR A PERCENTAGE OF MONEY RECOVERED IN A CASE. YOU, THE
680 CLIENT, HAVE THE RIGHT TO TALK WITH YOUR APPRAISER ABOUT THE
681 PROPOSED FEE AND TO BARGAIN ABOUT THE RATE OR PERCENTAGE AS IN
682 ANY OTHER CONTRACT. IF YOU DO NOT REACH AN AGREEMENT WITH ONE
683 APPRAISER YOU MAY TALK WITH OTHER APPRAISERS."

684 Section 28. Subsection (1) of section 626.9957, Florida
685 Statutes, is amended to read:

686 626.9957 Conduct prohibited; denial, revocation, or
687 suspension of registration.—

688 (1) As provided in s. 626.112, only a person licensed as an
689 insurance agent or customer representative may engage in the
690 solicitation of insurance. A person who engages in the
691 solicitation of insurance as described in s. 626.112(1) without
692 such license is subject to the penalties provided under s.
693 626.112(11) ~~626.112(9)~~.

694 Section 29. Part XIV of chapter 626, Florida Statutes,
695 consisting of sections 626.9961 through 626.9968, is created to
696 read:

697 PART XIV

698 PROPERTY INSURANCE APPRAISAL UMPIRES

699 626.9961 Short title.—This part may be referred to as the
700 "Property Insurance Appraisal Umpire Law."

701 626.9962 Legislative purpose.—The Legislature finds it
702 necessary to regulate persons that hold themselves out to the
703 public as qualified to provide services as property insurance
704 appraisal umpires in order to protect the public safety and
705 welfare and to avoid economic injury to the residents of this
706 state. This part applies only to property insurance appraisal



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707 umpires as defined in this part.

708 626.9963 Part supplements licensing law.—This part is
709 supplementary to part I, the “Licensing Procedures Law.”

710 626.9964 Definitions.—As used in this part, the term:

711 (1) “Appraisal” means, for purposes of licensure under this
712 part only, a process of alternative dispute resolution used in a
713 personal residential or commercial residential property
714 insurance claim.

715 (2) “Competent” means sufficiently qualified and capable of
716 performing an appraisal.

717 (3) “Department” means the Department of Financial
718 Services.

719 (4) “Property insurance appraisal umpire” or “umpire” means
720 a person selected by the appraisers representing the insurer and
721 the insured, or, if the appraisers cannot agree, by the court,
722 who is charged with resolving issues that the appraisers are
723 unable to agree upon during the course of an appraisal.

724 (5) “Property insurance appraiser” or “appraiser” means the
725 person selected by an insurer or insured to perform an
726 appraisal.

727 626.9965 Qualification for license as a property insurance
728 appraisal umpire.—

729 (1) The department shall issue a license as an umpire to a
730 person who meets the requirements of subsection (2) and is one
731 of the following:

732 (a) A retired county, circuit, or appellate judge.

733 (b) Licensed as an engineer pursuant to chapter 471 or is a
734 retired professional engineer as defined in s. 471.005.

735 (c) Licensed as a general contractor, building contractor,



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736 or residential contractor pursuant to part I of chapter 489.
737 (d) Licensed or registered as an architect to engage in the
738 practice of architecture pursuant to part I of chapter 481.
739 (e) A member of The Florida Bar.
740 (f) Licensed as an adjuster pursuant to part VI of chapter
741 626, which license includes the property and casualty lines of
742 insurance. An adjuster must have been licensed for at least 5
743 years as an adjuster before he or she may be licensed as an
744 umpire.
745 (2) An applicant may be licensed to practice in this state
746 as an umpire if the applicant:
747 (a) Is a natural person at least 18 years of age;
748 (b) Is a United States citizen or legal alien who possesses
749 work authorization from the United States Bureau of Citizenship
750 and Immigration;
751 (c) Is of good moral character;
752 (d) Has paid the applicable fees specified in s. 624.501;
753 and
754 (e) Has, before the date of the application for licensure,
755 satisfactorily completed education courses approved by the
756 department covering:
757 1. Insurance claims estimating; and
758 2. Insurance law, ethics for insurance professionals,
759 disciplinary trends, and case studies.
760 (3) The department may not reject an application solely
761 because the applicant is or is not a member of a given appraisal
762 organization.
763 626.9966 Grounds for refusal, suspension, or revocation of
764 an umpire license or appointment.—The department may deny an



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765 application for license or appointment under this part; suspend,
766 revoke, or refuse to renew or continue a license or appointment
767 of an umpire; or suspend or revoke eligibility for licensure or
768 appointment as an umpire if the department finds that one or
769 more of the following applicable grounds exist:

770 (1) Violating a duty imposed upon him or her by law or by
771 the terms of the umpire agreement; aiding, assisting, or
772 conspiring with any other person engaged in any such misconduct
773 and in furtherance thereof; or forming the intent, design, or
774 scheme to engage in such misconduct and committing an overt act
775 in furtherance of such intent, design, or scheme. An umpire
776 commits a violation of this part regardless of whether the
777 victim or intended victim of the misconduct has sustained any
778 damage or loss; the damage or loss has been settled and paid
779 after the discovery of misconduct; or the victim or intended
780 victim is an insurer or customer or a person in a confidential
781 relationship with the umpire or is an identified member of the
782 general public.

783 (2) Having a registration, license, or certification to
784 practice or conduct any regulated profession, business, or
785 vocation revoked, suspended, or encumbered; or having an
786 application for such registration, licensure, or certification
787 to practice or conduct any regulated profession, business, or
788 vocation denied, by this or any other state, any nation, or any
789 possession or district of the United States.

790 (3) Making or filing a report or record, written or oral,
791 which the umpire knows to be false; willfully failing to file a
792 report or record required by state or federal law; willfully
793 impeding or obstructing such filing; or inducing another person



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794 to impede or obstruct such filing.

795 (4) Agreeing to serve as an umpire if service is contingent
796 upon the umpire reporting a predetermined amount, analysis, or
797 opinion.

798 (5) Agreeing to serve as an umpire, if the fee to be paid
799 for his or her services is contingent upon the opinion,
800 conclusion, or valuation he or she reaches.

801 (6) Failure of an umpire, without good cause, to
802 communicate within 10 business days of a request for
803 communication from an appraiser.

804 (7) Violation of any ethical standard for umpires specified
805 in s. 626.9967.

806 626.9967 Ethical standards for property insurance appraisal
807 umpires.-

808 (1) CONFIDENTIALITY.-

809 (a) Unless disclosure is otherwise required by law, an
810 umpire shall maintain confidentiality of all information
811 revealed during an appraisal.

812 (b) An umpire shall maintain confidentiality in the storage
813 and disposal of records and may not disclose any identifying
814 information if materials are used in research, training, or
815 statistical compilations.

816 (2) FEES AND EXPENSES.-

817 (a) The fees charged by an umpire must be reasonable and
818 consistent with the nature of the case.

819 (b) In determining fees, an umpire:

820 1. Must charge on an hourly basis and may bill only for
821 actual time spent on or allocated for the appraisal.

822 2. May not charge, agree to, or accept as compensation or



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823 reimbursement any payment, commission, or fee that is based on a
824 percentage of the value of the claim or that is contingent upon
825 a specified outcome.

826 3. May charge for costs actually incurred, and no other
827 costs.

828 (c) An appraiser may assign the duty of paying the umpire's
829 fee to, and the umpire is entitled to receive payment directly
830 from, the insurer and the insured if the insurer and the insured
831 acknowledge and accept the duty and agree in writing to be
832 responsible for payment.

833 (3) MAINTENANCE OF RECORDS.—An umpire shall maintain
834 records necessary to support charges for services and expenses,
835 and, upon request, shall provide an accounting of all applicable
836 charges to the insurer and insured. An umpire shall retain
837 original or true copies of any contracts engaging his or her
838 services, appraisal reports, and supporting data assembled and
839 formulated by the umpire in preparing appraisal reports for at
840 least 5 years. The umpire shall make the records available to
841 the department for inspection and copying within 7 business days
842 of a request. If an appraisal has been the subject of, or has
843 been admitted as evidence in, a lawsuit, reports and records
844 related to the appraisal must be retained for at least 2 years
845 after the date that the trial ends.

846 (4) ADVERTISING.—An umpire may not engage in marketing
847 practices that contain false or misleading information. An
848 umpire shall ensure that any advertisement of his or her
849 qualifications, services to be rendered, or the appraisal
850 process are accurate and honest. An umpire may not make claims
851 of achieving specific outcomes or promises implying favoritism



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852 for the purpose of obtaining business.

853 (5) INTEGRITY AND IMPARTIALITY.—

854 (a)1. An umpire may not accept an appraisal unless he or
855 she can serve competently, promptly commence the appraisal and,
856 thereafter, devote the time and attention to its completion in
857 the manner expected by all persons involved in the appraisal.

858 2. An umpire shall conduct the appraisal process in a
859 manner that advances the fair and efficient resolution of issues
860 that arise.

861 3. An umpire shall deliberate and decide all issues within
862 the scope of the appraisal, but may not render a decision on any
863 other issues. An umpire shall decide all matters justly,
864 exercising independent judgment. An umpire may not delegate his
865 or her duties to any other person. An umpire who considers the
866 opinion of an independent expert does not violate this
867 paragraph.

868 (b) An umpire may not engage in any business, provide any
869 service, or perform any act that would compromise his or her
870 integrity or impartiality.

871 (6) SKILL AND EXPERIENCE.—An umpire shall decline or
872 withdraw from an appraisal or request appropriate assistance
873 when the facts and circumstances of the appraisal prove to be
874 beyond his or her skill or experience.

875 (7) GIFTS AND SOLICITATION.—An umpire or any individual or
876 entity acting on behalf of an umpire may not solicit, accept,
877 give, or offer to give, directly or indirectly, any gift, favor,
878 loan, or other item of value in excess of \$25 to any individual
879 who participates in the appraisal, for the purpose of
880 solicitation or otherwise attempting to procure future work from



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881 any person who participates in the appraisal, or as an
882 inducement to entering into an appraisal with an umpire. This
883 subsection does not prevent an umpire from accepting other
884 appraisals where the appraisers agree upon the umpire or the
885 court appoints the umpire.

886 626.9968 Conflicts of interest.—An insurer may challenge an
887 umpire's impartiality and disqualify the proposed umpire only
888 if:

889 (1) A familial relationship within the third degree exists
890 between the umpire and a party or a representative of a party;

891 (2) The umpire has previously represented a party in a
892 professional capacity in the same claim or matter involving the
893 same property;

894 (3) The umpire has represented another person in a
895 professional capacity in the same or a substantially related
896 matter that includes the claim, the same property or an adjacent
897 property, and the other person's interests are materially
898 adverse to the interests of a party; or

899 (4) The umpire has worked as an employer or employee of a
900 party within the preceding 5 years.

901 Section 30. Section 627.70151, Florida Statutes, is
902 repealed.

903 Section 31. For the 2016-2017 fiscal year, the sums of
904 \$24,000 in recurring funds from the Insurance Regulatory Trust
905 Fund and \$73,107 in recurring funds and \$39,230 in nonrecurring
906 funds from the Administrative Trust Fund are appropriated to the
907 Department of Financial Services, and one full-time equivalent
908 position with associated salary rate of 47,291 is authorized,
909 for the purpose of implementing this act.



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910 Section 32. This act applies to all appraisals requested on
911 or after October 1, 2016.

912 Section 33. This act shall take effect October 1, 2016.

913

914 ===== T I T L E A M E N D M E N T =====

915 And the title is amended as follows:

916 Delete everything before the enacting clause
917 and insert:

918 A bill to be entitled

919 An act relating to property insurance appraisers and
920 property insurance appraisal umpires; amending s.
921 624.04, F.S.; revising the definition of the term
922 "person"; amending s. 624.303, F.S.; exempting
923 certificates issued to property insurance appraisal
924 umpires from the requirement to bear a seal of the
925 Department of Financial Services; amending s. 624.311,
926 F.S.; providing a schedule for destruction of property
927 insurance appraisal umpire licensing files and
928 records; amending s. 624.317, F.S.; authorizing the
929 department to investigate property insurance appraisal
930 umpires for violations of the insurance code; amending
931 s. 624.501, F.S.; authorizing specified licensing fees
932 for property insurance appraisal umpires; amending s.
933 624.523, F.S.; requiring fees associated with property
934 insurance appraisal umpires' appointments to be
935 deposited into the Insurance Regulatory Trust Fund;
936 amending s. 626.015, F.S.; providing a definition;
937 amending s. 626.016, F.S.; revising the scope of the
938 Chief Financial Officer's powers and duties and the



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939 department's enforcement jurisdiction to include
940 umpires; amending s. 626.022, F.S.; including property
941 insurance appraisal umpire licensing in the scope of
942 part I of chapter 626, F.S., relating to licensing
943 procedures; amending s. 626.112, F.S.; requiring
944 umpires to be licensed and appointed; requiring
945 licensure as an adjuster when serving as an appraiser
946 under certain conditions; amending s. 626.171, F.S.;
947 requiring applicants for licensure as an umpire to
948 submit fingerprints to the department; amending s.
949 626.207, F.S.; excluding applicants for licensure as
950 umpires from application of s. 112.011, F.S., relating
951 to disqualification from license or public employment;
952 amending s. 626.2815, F.S.; requiring specified
953 continuing education for licensure as an umpire;
954 amending s. 626.451, F.S.; providing requirements
955 relating to the appointment of an umpire; amending s.
956 626.461, F.S.; providing that an umpire appointment
957 continues in effect, subject to renewal or earlier
958 written notice of termination, until the person's
959 license is revoked or otherwise terminated; amending
960 s. 626.521, F.S.; authorizing the department to obtain
961 a credit and character report for certain umpire
962 applicants; amending s. 626.541, F.S.; requiring an
963 umpire to provide certain information to the
964 department when doing business under a different
965 business name or when information in the licensure
966 application changes; amending s. 626.601, F.S.;
967 authorizing the department to investigate improper



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968 conduct of any licensed umpire; amending s. 626.611,
969 F.S.; requiring the department to refuse, suspend, or
970 revoke an umpire's license under certain
971 circumstances; amending s. 626.621, F.S.; authorizing
972 the department to refuse, suspend, or revoke an
973 umpire's license under certain circumstances; amending
974 s. 626.641, F.S.; prohibiting an umpire from owning,
975 controlling, or being employed by other licensees
976 during the period the umpire's license is suspended or
977 revoked; amending ss. 626.7845, 626.8305, and
978 626.8411, F.S.; conforming provisions to changes made
979 by the act; amending s. 626.8443, F.S.; prohibiting a
980 title insurance agent from owning, controlling, or
981 being employed by an umpire during the period the
982 agent's license is suspended or revoked; amending s.
983 626.854, F.S.; providing limitations on fees charged
984 by a public adjuster during an appraisal; creating s.
985 626.8791, F.S.; establishing required notice in a
986 contract for appraisal services; amending s. 626.9957,
987 F.S.; conforming a cross-reference; creating part XIV
988 of chapter 626, F.S., relating to property insurance
989 appraisal umpires; creating s. 626.9961, F.S.;
990 providing a short title; creating s. 626.9962, F.S.;
991 providing legislative purpose; creating s. 626.9963,
992 F.S.; providing that the part supplements part I of
993 chapter 626, F.S., the "Licensing Procedure Law";
994 creating s. 626.9964, F.S.; providing definitions;
995 creating s. 626.9965, F.S.; providing qualifications
996 for license as an umpire; creating s. 626.9966, F.S.;



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997 authorizing the department to refuse, suspend, or
998 revoke an umpire's license under certain
999 circumstances; creating s. 626.9967, F.S.; providing
1000 ethical standards for property insurance appraisal
1001 umpires; creating s. 626.9968, F.S.; providing for
1002 disqualification of an umpire under certain
1003 circumstances; repealing s. 627.70151, F.S., relating
1004 to appraisal conflicts of interest; providing an
1005 appropriation and authorizing positions; providing
1006 applicability; providing an effective date.
1007