

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: CS/CS/SB 336

INTRODUCER: Banking and Insurance Committee; Regulated Industries Committee; and Senator Richter

SUBJECT: Property Insurance Appraisers and Property Insurance Appraisal Umpires

DATE: February 17, 2016 REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Oxamendi	Caldwell	RI	Fav/CS
2. Billmeier	Knudson	BI	Fav/CS
3.		AP	

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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### I. Summary:

CS/CS/SB 336 provides for the licensing and regulation of property insurance appraisers and umpires by the Department of Financial Services (department). Property insurance contracts often contain “appraisal” provisions. Appraisal provisions are used when the parties agree that there is a covered loss but disagree as to the amount of the loss. Such provisions typically provide that each party select an appraiser. The two appraisers jointly select an umpire. The two appraisers submit a report to the insurer. If the appraisers agree as to the amount of the loss, the insurer pays the claim. If they do not agree, the umpire resolves the dispute. Current law does not limit or restrict who may act as an umpire and does not provide a method for either party to challenge whether an umpire is fair and impartial.

The bill establishes a licensing program for “property insurance appraisal umpires” within the department. The bill incorporates the program into part I of ch. 626, F.S., which sets forth the procedural provisions applicable to all insurance licensing programs administered by the department. Licensure is required only for appraisals involving residential claims. The bill creates definitions; qualifications and requirements for licensure, including prerequisite education, fees, and background screening; continuing education; grounds for the refusal, suspension, or revocation of a license; and a code of conduct that includes restrictions on the amount that may be charged. Florida-licensed engineers, contractors, architects, attorneys, and adjusters who meet specified experience requirements are eligible for licensure. Retired judges are not required to obtain licensure under the bill.

In addition, the bill allows only licensed adjusters or attorneys to practice as an appraiser in insurance claims related to residential property. Fees charged by public adjusters who serve as appraisers are capped at current statutory limits for adjusters, and contracts for appraisal services must contain specified notice regarding the right to negotiate fees. Appraisers for insurers are not similarly regulated.

The bill appropriates \$24,000 in recurring funds from the Insurance Regulatory Trust Fund to the DFS and appropriates \$73,107 in recurring funds and \$39,230 in nonrecurring funds from the Administrative Trust Fund to the DFS. The bill also authorizes one full-time equivalent position with associated salary rate of \$47,291 to implement provisions of the bill.

The bill provides an effective date of October 1, 2016.

## **II. Present Situation:**

### **Florida Insurance Code**

“Florida Insurance Code” (code) consists of chs. 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.

Section 624.11(1), F.S., prohibits a person from transacting insurance in this state, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of the code. Section 624.04, F.S., defines the term “person,” as used in the code, to include:

an individual, insurer, company, association, organization, Lloyds, society, reciprocal insurer or interinsurance exchange, partnership, syndicate, business trust, corporation, agent, general agent, broker, service representative, adjuster, and every legal entity.

The Department of Financial Services (department) and the Office of Insurance Regulation of the Financial Services Commission are charged with enforcing the code.<sup>1</sup>

### **Public Adjusters**

A public adjuster is a person, other than a licensed attorney, who, for compensation, prepares or files an insurance claim form for an insured or third-party claimant in negotiating or settling an insurance claim on behalf of the insured or third party.<sup>2</sup> The responsibilities of property insurance public adjusters include inspecting the loss site, analyzing damages, assembling claim support data, reviewing the insured’s coverage, determining current replacement costs, and conferring with the insurer’s representatives to adjust the claim. Public adjusters are licensed by the department and must meet specified age, residency, examination, and surety bond requirements.<sup>3</sup> The conduct of a public adjuster is governed by statute and by rule.<sup>4</sup> A company

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<sup>1</sup> Section 626.307, F.S.

<sup>2</sup> Section 626.854(1), F.S.

<sup>3</sup> Section 626.865, F.S.

<sup>4</sup> See generally, ss. 626.854, 626.8698, 626.876, 626.878, 626.8795, and 626.8796, F.S., and Rule 69B-220, F.A.C.

employee adjuster (known as a “company adjuster”) performs the same services as a public adjuster except he or she is employed by the insurer.<sup>5</sup>

### **Property Insurance Appraisers and Umpires**

Property insurance contracts often contain “appraisal” provisions. Appraisal provisions are used when the parties agree that there is a covered loss but disagree as to the amount of the loss.<sup>6</sup> Such provisions typically provide that each party select a property insurance appraiser (appraiser). The two appraisers jointly select an umpire. The two appraisers submit a report to the insurer. If the appraisers agree as to the amount of the loss, the insurer pays the claim. If they do not agree, the property insurance appraisal umpire (appraisal umpire) resolves the dispute.<sup>7</sup> Current law does not limit or restrict who may act as an appraiser or appraisal umpire or provide for the regulation of appraisers or appraisal umpires.

Section 627.70151, F.S., provides conflict of interest standards for appraisal umpires. It provides that insurers and policyholder may challenge an appraisal umpire’s impartiality and disqualify the proposed umpire only if:

- (1) A familial relationship within the third degree exists between the umpire and a party or a representative of a party;
- (2) The umpire has previously represented a party in a professional capacity in the same claim or matter involving the same property;
- (3) The umpire has represented another person in a professional capacity on the same or a substantially related matter that includes the claim, the same property or an adjacent property, and the other person’s interests are materially adverse to the interests of a party; or
- (4) The umpire has worked as an employer or employee of a party within the preceding 5 years.

### **The Sunrise Act**

Florida does not license or regulate appraisal umpires or appraisers.

A proposal for new regulation of a profession must meet the requirements in s. 11.62, F.S., the Sunrise Act. The act prohibits:

- Subjecting a profession or occupation to regulation by the state unless the regulation is necessary to protect the public health, safety, or welfare from significant and discernible harm or damage; or
- Regulating a profession or occupation by the state in a manner that unnecessarily restricts entry into the practice of the profession or occupation or adversely affects the availability of the professional or occupational services to the public.

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<sup>5</sup> Section 626.856, F.S.

<sup>6</sup> See Fla. Jur. Insurance s. 3292.

<sup>7</sup> *Citizens Property Insurance Corporation v. Mango Hill Condominium Association 12 Inc.*, 54 So.3d 578 (Fla. 3d DCA 2011) and *Intracoastal Ventures Corp. v. Safeco Ins. Co. of America*, 540 So.2d 162 (Fla. 3d DCA 1989), contain examples of appraisal provisions.

In determining whether to regulate a profession or occupation, s. 11.62, F.S., requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;
- Whether the practice of the profession or occupation requires specialized skill or training, and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice, or who are practicing, a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Section 11.62, F.S., requires the proponents of regulation to submit information, which is structured as a sunrise questionnaire to document that the regulation meets these criteria. A response to a sunrise questionnaire was prepared by the proponents of the legislation to assist the Legislature in determining the need for regulation.

The response submitted by the proponents of the bill, the Insurance Appraisers and Umpires Association (IAUA),<sup>8</sup> states that the unregulated profession poses a substantial harm to the public health, safety, or welfare.<sup>9</sup> In pertinent part, the response provides:

Currently, the state licenses adjusters in three categories, company adjuster, independent adjuster and public adjuster, if an individual is unable to pass these tests, or if they lose their license, they are able to become an insurance property appraisers and/or an insurance property umpire with no regulation. Further, convicted felons are able to become insurance property appraisers and/or insurance property umpires.

The Courts have ruled that a decision of the insurance appraisal panel (any 2 of the 3 members of the panel) is binding on the parties unless fraud is involved, (appraisals are for the dollar amount of the insurance loss and the panels are not empowered to determine coverage).

In the past, the public has been harmed when roofers, contractors and non-insurance people are involved and they don't properly appraise the amount of damages, for example, roofers have been known to appraise the roof of a home only without considering the interior of a home thus injuring the public in that they don't receive the proper insurance funds for the interior of their home and

<sup>8</sup> More information about the Insurance Appraisers and Umpires Association is available at: <http://www.iaua.us/about-iaua.aspx> (last visited March 13, 2015).

<sup>9</sup> Rep. Frank Artiles, *Sunrise Questionnaire for New Regulation Re: HB 491 Property Insurance Appraisal Umpires and Property Insurance Appraisers*, pg. 1 (March 6, 2015) (On file with the Senate Committee on Banking and Insurance).

thus they fail to repair the interior making the damages worse and affecting the value of the home.

### **III. Effect of Proposed Changes:**

The bill provides for the regulation of appraisal umpires and appraisers.

#### **Chapter 624, F.S. - Appraisal Umpires**

The bill amends s. 624.04, F.S., to include appraisal umpires within the definition of the term “person.” In effect, this provision requires appraisal umpires to comply with the provisions of the code.

The bill amends the following provisions in ch. 624, F.S., to include appraisal umpires:

- Section 624.303(2), F.S., to exempt certificates issued to umpires from the requirement to bear the seal of the department;
- Section 624.311(4), F.S., to provide a schedule for destruction of appraisal umpire licensing files and records; and
- Section 624.317, F.S., to authorize the department to investigate umpires for violations of the insurance code.

The bill amends s. 624.501, F.S., to authorize the following licensing fees for appraisal umpires, which are currently applicable to agent, adjusters, and other insurance representatives:

- A reasonable fee fixed by the department for preparing a list of appraisal umpires; and
- A \$20 fee for the late filing of an appointment renewal.

The bill requires a \$60 fee for each appointment and biennial renewal, and an unspecified fee to cover the actual cost of a credit report when such report must be secured by the department.

The bill also amends s. 624.523, F.S., to require the deposit of fees into the Insurance Regulatory Trust Fund.

#### **Chapter 626, F.S. - Appraisers and Appraisal Umpires**

The bill creates s. 626.112(6), F.S., to require that a person may not act, represent, or hold themselves out to be an appraisal umpire unless the person holds a current effective license and appointment as an appraisal umpire. Retired appellate, circuit, or county judges who are members in good standing with the Florida Bar are not required to obtain the license created by the bill.

The bill creates s. 626.112(7), F.S., to require that a person may not act, represent, or hold themselves out to be an appraiser who is eligible to represent an insured on a personal residential or commercial residential property insurance claim unless he or she holds a currently effective license as an adjuster or is exempt from license under s. 626.860, F.S.<sup>10</sup> This provision does not

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<sup>10</sup> Section 626.860, F.S., permits licensed attorneys to adjust or participate in the adjustment of any claim, loss, or damage arising under policies or contracts of insurance.

prohibit persons who are not licensed as an adjuster to act as an appraiser for insurance claims related to non-residential property.

The bill creates s. 626.112(8), F.S., to prohibit the following three classes of persons from acting or serving as an appraiser or appraisal umpire:

- Persons disqualified under s. 626.207, F.S.;<sup>11</sup>
- Persons who have been convicted of a felony or a crime punishable by imprisonment of 1 year or more; and
- Persons who have been dishonorably discharged from the Armed Forces of the United States.

The bill defines “convicted” as a “finding of guilt or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.”

The bill amends the following provisions in ch. 626, F.S., to include the regulation of appraisal umpires:

- Section 626.015(16), F.S., to provide that the terms “property insurance appraisal umpire” and “umpire” have the same meaning as the term “property insurance appraisal umpire” as defined in s. 626.9964, F.S.;
- Section 626.016, F.S., to expand the scope of the Chief Financial Officer’s powers and duties and the department’s enforcement jurisdiction to include appraisal umpires;
- Section 626.022, F.S., to include appraisal umpire licensing in the scope of part I of ch. 626, F.S., relating to licensing procedures and general requirements for insurance representatives;
- Section 626.171, F.S., to require applicants for licensure as an umpire to submit fingerprints;
- Section 626.207, F.S., to exclude appraisal umpire applicants from the application of s. 112.011, F.S., relating to disqualification from license or public employment;
- Section 626.2815, F.S., to include appraisal umpires in the continuing education requirement for adjusters;<sup>12</sup>
- Section s. 626.451, F.S., to include appraisal umpires in the procedures for appointment;
- Section 626.461, F.S., to include appraisal umpires in the procedure for the renewal, continuation, or termination of an appointment;
- Section 626.521, F.S., to authorize the department to obtain a credit and character report for appraisal umpire applicants;
- Section 626.541, F.S., to include appraisal umpires in procedure for doing business as a firm or corporate name;
- Section 626.601, F.S., to authorize the department to investigate improper conduct of any licensed umpire;
- Section 626.611, F.S., to require the department to refuse, suspend, or revoke an appraisal umpire’s license or appointment for the same grounds as current law provides for agents, title agencies, adjusters, customer representatives, service representatives, or managing general agents;

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<sup>11</sup> Section 626.207, F.S., prohibits persons who have engaged in specified felonies or misdemeanors related to the financial services business from engaging in financial activity regulated by the Department of Financial Services, the Office of Insurance Regulation, or the Office of Financial Regulation.

<sup>12</sup> However, s. 626.9965(2)(e), F.S., exempts retired county, circuit, or appellate judges from the continuing education requirement in s. 626.2815, F.S.

- Section 626.621, F.S., to grant the department the discretion to refuse, suspend, or revoke an umpire's license or appointment for the same grounds as current law provides for agents, title agencies, adjusters, customer representatives, service representatives, or managing general agents;
- Section 626.641(4), F.S., to prohibit an appraisal umpire from owning, controlling, or being employed by other licensees during the period that the appraisal umpire's license is suspended or revoked;
- Sections 626.7845(2), 626.8305, 626.8411, and 626.9957, F.S., to conform cross-references.
- Section 626.8443(4), F.S., to prohibit a title insurance agent or agency from owning, controlling, or being employed by an appraisal umpire or during the period the agent's license or appointment is suspended or revoked;
- Section 626.854(11)(d), F.S., to cap fees for appraisal or combined appraisal and adjusting services as provided in s. 626.854(11)(b), F.S., which caps fees for public adjuster services; and
- Section 626.8791, F.S., to provide a conspicuous notice in contracts for appraisal services that states that there is not legal requirement that the appraiser must charge a client a set fee or percentage on money recovered in a case, and that the client has the right to bargain the rate or percentage in the contract.

### **Property Insurance Appraisal Umpire Licensing Program**

The bill creates part XIV of ch. 626, F.S., consisting of ss. 626.9961 through 626.9968, F.S., to provide for the regulation of appraisal umpires.

Section 626.9961, F.S., provides that part XIV of ch. 626, may be referred to as the "Property Insurance Appraisal Umpire Law."

Section 626.9962, F.S., provides a statement of legislative intent that the regulation of appraisal umpires is intended to protect public safety and welfare and to avoid economic injury to the residents of this state.

Section 626.9963, F.S., provides that part XIV of ch. 626, F.S., supplements part I of ch. 626, F.S., the "Licensing Procedures Law."

#### ***Definitions***

Section 626.9964, F.S., defines the terms "appraisal," "competent," "department," "property insurance appraisal umpire," "umpire," "property insurance appraiser," and "appraiser."

The bill defines the terms "property insurance appraisal umpire" or "umpire" to mean:

A person selected by the appraisers representing the insurer and the insured, or, if the appraisers cannot agree, by the court, who is charged with resolving issues that the appraisers are unable to agree upon during the course of an appraisal;

#### ***Appraisal Umpire Qualifications***

Section 626.9965, F.S., provides the license qualifications for an appraisal umpire.

To be licensed as an appraisal umpire a person must be at least one of the following:

- An engineer as defined in s. 471.005, F.S., or as a retired professional engineer as defined in s. 471.005, F.S.;
- A general contractor, building contractor, or residential contractor pursuant to part I of ch. 489, F.S.;
- An architect licensed to engage in the practice of architecture pursuant to part I of ch. 481, F.S.;
- A Florida-licensed attorney; or
- A property and casualty adjuster licensed under part VI of ch. 626, F.S., who has been licensed for at least 5 years as an adjuster before he or she may be licensed as an appraisal umpire.

In addition to meeting the license requirements, an individual must:

- Be a natural person who is at least 18 years of age;
- Be a United States citizen or legal alien who possesses work authorization from the United States Citizenship and Immigration Services;
- Be of good moral character;
- Be trustworthy and competent;
- Pay the applicable fees; and
- Satisfactorily complete the education courses approved by the department that consist of at least 19 hours of insurance claims estimating and at least 5 hours of insurance law, ethics, disciplinary trends, and case studies.

Section 626.9965(2)(e), F.S., also exempts retired county, circuit, or appellate judges from the continuing education requirement in s. 626.2815, F.S., and the education requirement in this subsection.

The bill provides that an applicant seeking to become licensed under this part may not be rejected solely by virtue of membership or lack of membership in any particular appraisal organization.

#### ***Grounds for Discretionary Refusal, Suspension, or Revocation of a License***

The bill creates s. 626.9966, F.S., to provide discretionary grounds for the denial of an application, the suspension or revocation of a license, and to refuse to renew or continue a license, including:

- Violating a duty imposed by law or by the terms of the umpire agreement;
- Having a registration, license, or certification to practice or conduct any regulated profession, business, or vocation revoked, suspended, encumbered or denied;
- Making or filing a report or record, written or oral, which the umpire knows to be false;
- Agreeing to serve as an umpire if service is contingent upon the umpire reporting a predetermined amount, analysis, or opinion; and
- Violation of any ethical standard for umpires.

### ***Ethical Standards for Appraisal Umpires***

The bill creates s. 626.9967, F.S., to provide the following ethical standards for appraisal umpires. An appraisal umpire must:

- Charge a fee on an hourly basis and only bill for the actual time spent on or allocated for the appraisal;
- Not charge a fee based on a percentage value of the claim;
- Not charge a fee contingent on a specified outcome;
- Not charge a fee of more than \$500 if the amount reported by either appraiser does not exceed \$500;
- Maintain records necessary to support charges for services and expenses and maintain such records for at least 5 years;
- Not engage in false or misleading advertising or marketing practices;
- Not accept an appraisal unless the umpire can serve competently, promptly commence the appraisal, and devote the time and attention to its completion;
- Conduct the appraisal in a manner that advances the fair and efficient resolution of the issues;
- Deliberate and decide all issues within the scope of the appraisal, but may not render a decision on any other issues;
- Not delegate his or her duties to any other person;
- Disclose an expert's fees before retaining the expert;
- Not engage in any business, provide any service, or perform any act that would compromise his or her integrity or impartiality;
- Decline an appointment or selection, withdraw, or request appropriate assistance when the facts and circumstances of the service is beyond the person's skill or experience;
- Not give or accept any gift, favor, loan, or other item of value in excess of \$25 to any individual who participates in the appraisal process except for the reasonable fee; and
- Not engage in ex parte communications.

The bill provides that an appraiser may assign the duty of paying the umpire's fee to, and the umpire is entitled to receive payment directly from, the insurer and the insured only if the insurer and the insured acknowledge and accept that duty and agree in writing to be responsible for payment.

### ***Conflicts of Interest***

Section 626.9968, F.S., provides standards for conflicts of interest for appraisal umpires that are identical to the standards provided in current law in s. 627.70151, F.S. However, the bill also permits the insurer or the policyholder to challenge the impartiality of an appraisal umpire and disqualify his or her appointment if the appraisal umpire has violated one of the disciplinary grounds in s. 626.9966, F.S.

The bill repeals s. 627.70151, F.S.

### ***Appropriation***

For the 2016-2017 fiscal year, the bill appropriates \$24,000 in recurring funds from the Insurance Regulatory Trust Fund to the department, and appropriates \$73,107 in recurring funds

and \$39,230 in nonrecurring funds from the Administrative Trust Fund to the department. The bill authorizes one full-time equivalent position with the associated salary rate of \$47,291, for the purpose of implementing this act.

### **Effective Date**

The bill provides an effective date of October 1, 2016.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

## **V. Fiscal Impact Statement:**

### A. Tax/Fee Issues:

The bill amends s. 624.501, F.S., to apply the fees in this section to appraisal umpires, and to require a \$60 fee for each appointment and biennial renewal. The bill also provides an unspecified fee to cover the actual cost of a credit report when such report must be secured by the department.

### B. Private Sector Impact:

Applicants for an appraiser license and for an appraisal umpire license would be required to pay the application and license fees specified in the bill, including the cost of fingerprinting for a criminal history records check. According to FDLE, the cost for a state and national criminal history record check is \$38.75.<sup>13</sup> Licensees would also incur costs related to compliance with the continuing education requirements.

### C. Government Sector Impact:

For the 2016-2017 fiscal year, the bill appropriates \$24,000 in recurring funds from the Insurance Regulatory Trust Fund to the department, and appropriates \$73,107 in recurring funds and \$39,230 in nonrecurring funds from the Administrative Trust Fund to the department. The bill authorizes one full-time equivalent position with the associated salary rate of \$47,291, for the purpose of implementing this act.

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<sup>13</sup> See Criminal History Record Check Fee Schedule at: <http://www.fdle.state.fl.us/cms/Criminal-History-Records/Obtaining-Criminal-History-Information.aspx> (last visited February 8, 2016).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 624.04, 624.303, 624.311, 624.317, 624.501, 624.523, 626.015, 626.016, 626.022, 626.112, 626.171, 626.207, 626.2815, 626.451, 626.461, 626.521, 626.541, 626.601, 626.611, 626.621, 626.641, 626.7845, 626.8305, 626.8411, 626.8443, 626.854, 626.8791, and 626.9957.

This bill creates the following sections of the Florida Statutes: 626.9961, 626.9962, 626.9963, 626.9964, 626.9965, 626.9966, 626.9967, and 626.9968.

This bill repeals section 627.70151 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Banking and Insurance on February 16, 2016:**

The committee substitute removes the term “convicted felon” and provides that no person disqualified from licensure under s. 626.207, F.S., convicted of a felony, or dishonorably discharged from the U.S. Armed Forces may serve as a property insurance appraiser or property insurance appraisal umpire. The CS/CS defines “convicted” for purposes of the bill.

The CS/CS also exempts from umpire licensure retired county, circuit, or appellate judges in good standing with the Florida Bar.

**CS by Regulated Industries on February 9, 2016:**

The committee substitute (CS) changes the title from and act relating to “property insurance appraisals” to an act relating to “property insurance appraisers and property insurance appraisal umpires.”

The CS amends s. 624.04, F.S., to include appraisal umpires within the definition of the term “person.” In effect, this provision requires persons to comply with the provisions of the code.

The CS amends the following provisions in ch. 624, F.S., to include appraisal umpires:

- Section 624.303(2), F.S., relating to the seal of the department;
- Section 624.311(4)(c), F.S., relating to the schedule for destruction of licensing files and records;

- Section 624.317, F.S., relating to the department's authority to investigate violations of the insurance code; and
- Sections 624.501 and 624.523, F.S., relating to fees.

The CS does not create s. 626.9963, F.S., to provide the applicable fees for appraisal umpires and to require that the fees must be deposited in the Insurance Regulatory Trust Fund. Instead the CS creates s. 626.9963, F.S., to provide that part XIV of ch. 626, F.S., is supplementary to the “Licensing Procedures Law, in part I of ch. 626, F.S.

The CS creates s. 626.112(6), F.S., to require that a person may not act, represent, or hold themselves out to be an appraisal umpire unless the person holds a current effective license and appointment as an appraisal umpire.

The CS creates s. 626.112(7), F.S., to require that a person may not act, represent or hold themselves out to be an appraiser who is eligible to represent an insured on a personal residential or commercial residential property insurance claim unless he or she holds a currently effective license as an adjuster or is exempt from license under s. 626.860, F.S. This provision does not prohibit persons who are not licensed as an adjuster to act as an appraiser for insurance claims related to non-residential property.

The CS creates s. 626.112(8), F.S., to prohibit persons convicted of a felony or disqualified under s. 626.207, F.S., from acting or serving as an appraiser or appraisal umpire.

The bill amends the following provisions in ch. 626, F.S., to include appraisal umpires:

- Section 626.115(16), F.S., relating to the definition of the terms “property insurance appraisal umpire” and “umpire;”
- Section 626.016, F.S., relating to the scope of the Chief Financial Officer’s powers and duties and the department’s enforcement jurisdiction;
- Section 626.022, F.S., relating to the scope of part I of chapter 626, F.S.;
- Section 626.171, F.S., relating to submission of fingerprints;
- Section 626.207, F.S., relating to the application of s. 112.011, F.S.;
- Section 626.2815, F.S., relating to the continuing education requirement;
- Section s. 626.451, F.S., relating to procedures for appointment;
- Section 626.461, F.S., relating to the procedure for the renewal, continuation, or termination of an appointment;
- Section 626.521, F.S., relating to credit and character reports;
- Section 626.541, F.S., relating to the procedure for doing business as a firm or corporate name;
- Section 626.601, F.S., relating to the department’s authority to investigate improper conduct of any licensed umpire;
- Section 626.611, F.S., relating to the grounds for compulsory refusal, suspension, or revocation an appraisal umpire’s license or appointment;
- Section 626.621, F.S., relating to the grounds for discretionary refusal, suspension, or revocation an appraisal umpire’s license or appointment;

- Section 626.641(4), F.S., relating to prohibitions during the period that the appraisal umpire's license is suspended or revoked;
- Sections 626.7845(2), 626.8305, 626.8411, and 626.9957, F.S., to conform cross-references;
- Section 626.8443(4), F.S., relating to prohibitions during the period the agent's license or appointment is suspended or revoked;
- Section 626.854(11)(d), F.S., relating to cap fees; and
- Section 626.8791, F.S., relating to the required notice in contracts for appraisal services.

The CS does not create s. 626.9961, F.S., to create the property insurance appraisal umpire and appraiser licensing program within the department. Instead, the CS creates s. 626.9961, F.S., to provide that part XIV of ch. 626, may be referred to as the "Property Insurance Appraisal Umpire Law." The CS provides for the regulation of appraisal umpires in part XIV of ch. 626, F.S., but does not provide for the regulation of appraisers in part XIV of ch. 626. F.S.

The CS does not create s. 626.9962, F.S., to define the terms "appraisal," "competent," "department," "independent," "property insurance appraisal umpire," "umpire," "property insurance appraiser," and "appraiser." Instead, the bill creates s. 626.9962, F.S., to provide a statement of legislative intent.

The CS does not create s. 626.9963, F.S., to provide fees. Instead, the CS creates s. 626.9963, F.S., to provide that part XIV of ch. 626, F.S., supplements part I of ch. 626, F.S., the "Licensing Procedures Law."

The CS does not create s. 626.9964, F.S., to provide the application process for an appraiser or appraisal umpire license, and to provide the license qualifications for an appraiser or appraisal umpire. Instead, the CS creates s. 626.9964, F.S., to define the terms "appraisal," "competent," "department," "property insurance appraisal umpire," "umpire," "property insurance appraiser," and "appraiser." The CS does not define the term "independent." The CS defines the terms "property insurance appraisal umpire" and "umpire," to reference selection by a court.

The CS does not create s. 626.9965, F.S., to provide for licensure by endorsement for an appraiser or appraisal umpire. Instead, the CS creates s. 626.9965, F.S., to provide the qualifications for licensure as an appraisal umpire. It also provides that the continuing education must consist of at least 19 hours of insurance claims estimating and at least 5 hours of insurance law, ethics, disciplinary trends, and case studies. The CS also exempts retired county, circuit, or appellate judges from the continuing education requirement in s. 626.2815, F.S., and the education requirement in s. 626.9965(2)(e), F.S.

The CS does not create s. 626.9966, F.S., to provide for the appointment of an appraiser or umpire. Instead, the CS creates s. 626.9966, F.S., to provide grounds for the refusal, suspension, or revocation of an appraisal umpire license or appointment.

The CS does not create s. 626.9967, F.S., to provide a continuing education requirement for appraisers and appraisal umpire licensees.

The CS does not create s. 626.9968, F.S., to permit appraiser and umpire licensees to practice through a partnership, corporation, or other business entity that is registered with the department.

The CS does not create s. 626.9971, F.S., to provide the grounds for the discretionary denial of an application, the suspension or revocation of a license, and refusal to renew or continue a license.

The bill does not create s. 626.9972, F.S., to provide ethical standards for appraisers and appraisal umpires. Instead, the CS creates s. 626.9967, F.S., to provide ethical standards for appraisal umpires. The CS prohibits appraisal umpires from receiving or giving gifts, favors, loans, or other items of value that exceed \$25 to any individual who participates in the appraisal process, and prohibits the appraisal umpire from engaging in ex parte communications. The CS does not provide that the appraisal umpire must maintain the confidentiality of all information revealed during an appraisal except where disclosure is required by law, or require that the appraisal umpire must maintain confidentiality of records. The CS prohibits the appraisal umpire to charge more than \$500 if the amount reported by the appraiser for the insurer or insured does not exceed \$2,500. The CS requires that the appraisal umpire must disclose the expert's fees before retaining the expert. The CS does not specify the circumstances during which the appraisal umpire may engage in an ex parte communication.

The CS amends s. 626.9968, F.S., to permit the insurer or the policyholder to challenge the impartiality of an appraisal umpire and disqualify his or her appointment if the appraisal umpire has violated one of the disciplinary grounds in s. 626.9966, F.S.

The CS does not create s. 626.9973, F.S., to provide that, effective October 1, 2016, a person may not use the name or title "property insurance appraiser," "appraiser," "property insurance appraisal umpire," or "umpire" unless he or she is licensed pursuant to part XIV or ch. 626, F.S. It also does not provide that a person who violates this prohibition commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

The CS does not create s. 626.9974, F.S., to authorize the department to adopt rules.

The CS changes the appropriation for the 2016-2017 fiscal year. The CS does not appropriates \$605,874 in recurring funds and \$59,053 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Department of Financial Services for four full-time equivalent positions with associated salary rate of \$212,315 for the purpose of implementing this act. Instead, the CS appropriates specified recurring and nonrecurring funds from the Insurance Regulatory Trust Fund and the Administrative Trust Fund to the department, and authorizes one full-time equivalent position with the associated salary rate of \$47,291, for the purpose of implementing this act.

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The CS provides an effective date of October 1, 2016, instead of July 1, 2016.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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