

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Articles offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 781-981 and insert:

5 626.9962 Legislative findings.—The Legislature finds it  
6 necessary to regulate persons that hold themselves out to the  
7 public as qualified to provide services as property insurance  
8 appraisal umpires in order to protect the public safety and  
9 welfare and to avoid economic injury to the residents of this  
10 state. This part applies only to property insurance appraisal  
11 umpires as defined in this part.

12 626.9963 Part supplements licensing law.—This part is  
13 supplementary to part I, the "Licensing Procedures Law."

14 626.9964 Definitions.—As used in this part, the term:

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15 (1) "Appraisal" means, for purposes of licensure under  
16 this part only, a process of alternative dispute resolution used  
17 in a personal residential or commercial residential property  
18 insurance claim.

19 (2) "Competent" means sufficiently qualified and capable  
20 of performing an appraisal.

21 (3) "Department" means the Department of Financial  
22 Services.

23 (4) "Property insurance appraisal umpire" or "umpire"  
24 means a person selected by the appraisers representing the  
25 insurer and the insured, or, if the appraisers cannot agree, by  
26 the court, who is charged with resolving issues that the  
27 appraisers are unable to agree upon during the course of an  
28 appraisal.

29 (5) "Property insurance appraiser" or "appraiser" means  
30 the person selected by an insurer or insured to perform an  
31 appraisal.

32 626.9965 Qualification for license as a property insurance  
33 appraisal umpire.-

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

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

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

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40 (c) Licensed as a general contractor, building contractor,  
41 or residential contractor pursuant to part I of chapter 489.

42 (d) Licensed or registered as an architect to engage in  
43 the practice of architecture pursuant to part I of chapter 481.

44 (e) A member of The Florida Bar.

45 (f) Licensed as an adjuster pursuant to part VI of chapter  
46 626, which license includes the property and casualty lines of  
47 insurance. An adjuster must have been licensed for at least 5  
48 years as an adjuster before he or she may be licensed as an  
49 umpire.

50 (2) An applicant may be licensed to practice in this state  
51 as an umpire if the applicant:

52 (a) Is a natural person at least 18 years of age;

53 (b) Is a United States citizen or legal alien who  
54 possesses work authorization from the United States Bureau of  
55 Citizenship and Immigration;

56 (c) Is of good moral character;

57 (d) Has paid the applicable fees specified in s. 624.501;  
58 and

59 (e) Has, before the date of the application for licensure,  
60 satisfactorily completed education courses approved by the  
61 department covering:

62 1. At least 19 hours of insurance claims estimating; and

63 2. At least 5 hours of insurance law, ethics for insurance  
64 professionals, disciplinary trends, and case studies.

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66 A retired county, circuit, or appellate judge who is a member in  
67 good standing of The Florida Bar is exempt from the continuing  
68 education requirements of s. 626.2815 and the education courses  
69 required by this subsection.

70 (3) The department may not reject an application solely  
71 because the applicant is or is not a member of a given appraisal  
72 organization.

73 626.9966 Grounds for refusal, suspension, or revocation of  
74 an umpire license or appointment.—The department may deny an  
75 application for license or appointment under this part; suspend,  
76 revoke, or refuse to renew or continue a license or appointment  
77 of an umpire; or suspend or revoke eligibility for licensure or  
78 appointment as an umpire if the department finds that one or  
79 more of the following applicable grounds exist:

80 (1) Violating a duty imposed upon him or her by law or by  
81 the terms of the umpire agreement; aiding, assisting, or  
82 conspiring with any other person engaged in any such misconduct  
83 and in furtherance thereof; or forming the intent, design, or  
84 scheme to engage in such misconduct and committing an overt act  
85 in furtherance of such intent, design, or scheme. An umpire  
86 commits a violation of this part regardless of whether the  
87 victim or intended victim of the misconduct has sustained any  
88 damage or loss; the damage or loss has been settled and paid  
89 after the discovery of misconduct; or the victim or intended  
90 victim is an insurer or customer or a person in a confidential

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91 relationship with the umpire or is an identified member of the  
92 general public.

93 (2) Having a registration, license, or certification to  
94 practice or conduct any regulated profession, business, or  
95 vocation revoked, suspended, or encumbered; or having an  
96 application for such registration, licensure, or certification  
97 to practice or conduct any regulated profession, business, or  
98 vocation denied, by this or any other state, any nation, or any  
99 possession or district of the United States.

100 (3) Making or filing a report or record, written or oral,  
101 which the umpire knows to be false; willfully failing to file a  
102 report or record required by state or federal law; willfully  
103 impeding or obstructing such filing; or inducing another person  
104 to impede or obstruct such filing.

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

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

111 (6) Failure of an umpire, without good cause, to  
112 communicate within 10 business days after a request for  
113 communication from an appraiser.

114 (7) Violation of any ethical standard for umpires  
115 specified in s. 626.9967.

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116 626.9967 Ethical standards for property insurance  
117 appraisal umpires.-

118 (1) FEES AND EXPENSES.-

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

121 (b) In determining fees, an umpire:

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

124 2. May not charge, agree to, or accept as compensation or  
125 reimbursement any payment, commission, or fee that is based on a  
126 percentage of the value of the claim or that is contingent upon  
127 a specified outcome.

128 3. May charge for costs actually incurred, and no other  
129 costs. An umpire may not charge for the cost of an expert unless  
130 the umpire has disclosed the amount of the expert's fee to the  
131 appraiser for the insurer and the appraiser for the insured  
132 before incurring the cost for the expert's services.

133 4. May not charge a fee of more than \$500 if the amount  
134 reported by the appraiser for the insurer or by the appraiser  
135 for the insured does not exceed \$2,500.

136 (c) An appraiser may assign the duty of paying the  
137 umpire's fee to, and the umpire is entitled to receive payment  
138 directly from, the insurer and the insured only if the insurer  
139 and the insured acknowledge and accept that duty and agree in  
140 writing to be responsible for payment.

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141       (2) MAINTENANCE OF RECORDS.—An umpire shall maintain  
142 records necessary to support charges for services and expenses,  
143 and, upon request, shall provide an accounting of all applicable  
144 charges to the insurer and insured. An umpire shall retain  
145 original or true copies of any contracts engaging his or her  
146 services, appraisal reports, and supporting data assembled and  
147 formulated by the umpire in preparing appraisal reports for at  
148 least 5 years. The umpire shall make the records available to  
149 the department for inspection and copying within 7 business days  
150 after a request. If an appraisal has been the subject of, or has  
151 been admitted as evidence in, a lawsuit, reports and records  
152 related to the appraisal must be retained for at least 2 years  
153 after the date that the trial ends.

154       (3) ADVERTISING.—An umpire may not engage in marketing  
155 practices that contain false or misleading information. An  
156 umpire shall ensure that any advertisement of his or her  
157 qualifications, services to be rendered, or the appraisal  
158 process are accurate and honest. An umpire may not make claims  
159 of achieving specific outcomes or promises implying favoritism  
160 for the purpose of obtaining business.

161       (4) INTEGRITY AND IMPARTIALITY.—

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

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166 2. An umpire shall conduct the appraisal process in a  
167 manner that advances the fair and efficient resolution of issues  
168 that arise.

169 3. An umpire shall deliberate and decide all issues within  
170 the scope of the appraisal, but may not render a decision on any  
171 other issues. An umpire shall decide all matters justly,  
172 exercising independent judgment. An umpire may not delegate his  
173 or her duties to any other person. An umpire who considers the  
174 opinion of an expert does not violate this paragraph.

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

178 (5) SKILL AND EXPERIENCE.—An umpire shall decline or  
179 withdraw from an appraisal or request appropriate assistance  
180 when the facts and circumstances of the appraisal prove to be  
181 beyond his or her skill or experience.

182 (6) GIFTS AND SOLICITATION.—An umpire or any individual or  
183 entity acting on behalf of an umpire may not solicit, accept,  
184 give, or offer to give, directly or indirectly, any gift, favor,  
185 loan, or other item of value in excess of \$25 to any individual  
186 who participates in the appraisal, for the purpose of  
187 solicitation or otherwise attempting to procure future work from  
188 any person who participates in the appraisal, or as an  
189 inducement to entering into an appraisal with an umpire. This  
190 subsection does not prevent an umpire from accepting other

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191 appraisals where the appraisers agree upon the umpire or the  
192 court appoints the umpire.

193 (7) EX PARTE COMMUNICATION.—In any property insurance  
194 appraisal, ex parte communication between an umpire and an  
195 appraiser is prohibited. However, an appraiser may communicate  
196 with another appraiser if an umpire is not present or does not  
197 receive the ex parte communication.

198 626.9968 Conflicts of interest.—An insurer or a  
199 policyholder may challenge an umpire's impartiality and  
200 disqualify the proposed umpire only if:

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

203 (2) The umpire has previously represented a party in a  
204 professional capacity in the same claim or matter involving the  
205 same property;

206 (3) The umpire has represented another person in a  
207 professional capacity in the same or a substantially related  
208 matter that includes the claim, the same property or an adjacent  
209 property, and the other person's interests are materially  
210 adverse to the interests of a party;

211 (4) The umpire has worked as an employer or employee of a  
212 party within the preceding 5 years; or

213 (5) The umpire has violated s. 626.9966.

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215 -----

216 **T I T L E A M E N D M E N T**

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217 | Remove line 74 and insert:  
218 | providing legislative findings; creating s. 626.9963,

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