

1 A bill to be entitled

2 An act relating to property insurance loss appraisal;
3 amending s. 624.501, F.S.; providing licensing and
4 application fees for appraisal umpires; amending s.
5 626.015, F.S.; providing a definition; amending s. 626.016,
6 F.S.; providing authority to the Department of Financial
7 Services; amending s. 626.022, F.S.; providing for
8 application of existing laws; amending s. 626.112, F.S.,
9 requiring property insurance appraisal umpires to be
10 licenses by the department; creating ss. 626.9931-626.9942,
11 F.S.; stating the purpose of the law; requiring that
12 property insurance appraisal umpires be licensed; providing
13 rulemaking authority; providing qualifications for
14 licensure; providing education, experience or other
15 licensure in order to qualify for licensure as an appraisal
16 umpire; providing for regulation of umpire courses;
17 providing disciplinary grounds; providing ethical
18 standards; providing record retention requirements;
19 creating s. 627.4141, F.S.; providing procedures for the
20 conduct of appraisal of residential and commercial
21 residential property losses when a residential property
22 insurance contract provides that a party may seek appraisal
23 if the parties are unable to agree on the cost of the loss;
24 providing an effective date.

25 Be It Enacted by the Legislature of the State of
26 Florida:

27 Section 1. Subsection (5) of section 624.501, Florida
28 Statutes, is amended and subsection (29) of section
29 624.501, Florida Statutes, is created to read:

1 624.501 Filing, license, appointment, and
2 miscellaneous fees.--The department, commission, or office,
3 as appropriate, shall collect in advance, and persons so
4 served shall pay to it in advance, fees, licenses, and
5 miscellaneous charges as follows:

6 (5) All insurance representatives, property insurance
7 appraisal umpire, application for license, each filing,
8 filing fee \$50.00

9 (29) All property insurance appraisal umpires, fee
10 for issuance of original license and for biennial renewal
11 or continuation thereof \$50.00

12 Section 2. Present subsections (16), (17) and (18) of
13 section 626.015, Florida Statutes, are redesignated as
14 subsections (18), (19) and (20), respectively, and a new
15 subsections (16) and (17) are added to that section, to
16 read:

17 626.015 Definitions.--As used in this part:

18 (16) "Property insurance loss appraiser" has the same
19 meaning as in s. 626.9933.

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

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

24 626.016 Powers and duties of department, commission,
25 and office.--

26 (1) The powers and duties of the Chief Financial
27 Officer and the department specified in this part apply
28 only with respect to insurance agents, insurance agencies,
29 managing general agents, insurance adjusters, reinsurance
30 intermediaries, viatical settlement brokers, customer

1 representatives, service representatives, and property
2 insurance appraisal umpires agencies.

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

5 626.022 Scope of part.--

6 (1) This part applies as to insurance agents, service
7 representatives, adjusters, property insurance appraisal
8 umpires and insurance agencies; as to any and all kinds of
9 insurance; and as to stock insurers, mutual insurers,
10 reciprocal insurers, and all other types of insurers,
11 except that:

12 (a) It does not apply as to reinsurance, except that
13 ss. 626.011-626.022, ss. 626.112-626.181, ss. 626.191-
14 626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-
15 626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall
16 apply as to reinsurance intermediaries as defined in s.
17 626.7492.

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

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

23 (d) This part does not apply to a certified public
24 accountant approved under chapter 473 who is acting within
25 the scope of the practice of public accounting, as defined
26 in s. 473.302, provided that the activities of the
27 certified public accountant are limited to advising a
28 client of the necessity of obtaining insurance, the amount
29 of insurance needed, or the line of coverage needed, and
30 provided that the certified public accountant does not
31 directly or indirectly receive or share in any commission
32 or referral fee.

1 Section 5. Section 626.112, Florida Statutes, is
2 amended to read:

3 626.112 License and appointment required; agents,
4 customer representatives, adjusters, insurance agencies,
5 service representatives, managing general agents and
6 property insurance appraisal umpires.--

7 (1)(a) No person may be, act as, or advertise or hold
8 himself or herself out to be an insurance agent, insurance
9 adjuster, or customer representative unless he or she is
10 currently licensed by the department and appointed by an
11 appropriate appointing entity or person.

12 (b) Except as provided in subsection (6) or in
13 applicable department rules, and in addition to other
14 conduct described in this chapter with respect to
15 particular types of agents, a license as an insurance
16 agent, service representative, customer representative, or
17 limited customer representative is required in order to
18 engage in the solicitation of insurance. For purposes of
19 this requirement, as applicable to any of the license types
20 described in this section, the solicitation of insurance is
21 the attempt to persuade any person to purchase an insurance
22 product by:

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

25 2. Distributing an invitation to contract to
26 prospective purchasers;

1 3. Making general or specific recommendations as to
2 insurance products;

3 4. Completing orders or applications for insurance
4 products;

5 5. Comparing insurance products, advising as to
6 insurance matters, or interpreting policies or coverages;
7 or

8 6. Offering or attempting to negotiate on behalf of
9 another person a viatical settlement contract as defined in
10 s. 626.9911.

11

12 However, an employee leasing company licensed pursuant to
13 chapter 468 which is seeking to enter into a contract with
14 an employer that identifies products and services offered
15 to employees may deliver proposals for the purchase of
16 employee leasing services to prospective clients of the
17 employee leasing company setting forth the terms and
18 conditions of doing business; classify employees as
19 permitted by s. 468.529; collect information from
20 prospective clients and other sources as necessary to
21 perform due diligence on the prospective client and to
22 prepare a proposal for services; provide and receive
23 enrollment forms, plans, and other documents; and discuss
24 or explain in general terms the conditions, limitations,
25 options, or exclusions of insurance benefit plans available
26 to the client or employees of the employee leasing company
27 were the client to contract with the employee leasing
28 company. Any advertising materials or other documents
29 describing specific insurance coverages must identify and
30 be from a licensed insurer or its licensed agent or a

1 licensed and appointed agent employed by the employee
2 leasing company. The employee leasing company may not
3 advise or inform the prospective business client or
4 individual employees of specific coverage provisions,
5 exclusions, or limitations of particular plans. As to
6 clients for which the employee leasing company is providing
7 services pursuant to s. 468.525(4), the employee leasing
8 company may engage in activities permitted by ss. 626.7315,
9 626.7845, and 626.8305, subject to the restrictions
10 specified in those sections. If a prospective client
11 requests more specific information concerning the insurance
12 provided by the employee leasing company, the employee
13 leasing company must refer the prospective business client
14 to the insurer or its licensed agent or to a licensed and
15 appointed agent employed by the employee leasing company.

16 (2) No agent or customer representative shall solicit
17 or otherwise transact as agent or customer representative,
18 or represent or hold himself or herself out to be an agent
19 or customer representative as to, any kind or kinds of
20 insurance as to which he or she is not then licensed and
21 appointed.

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

25 (4) No person shall be, act as, or represent or hold
26 himself or herself out to be a service representative
27 unless he or she then holds a currently effective service
28 representative license and appointment. This subsection
29 does not apply as to similar representatives or employees

1 of casualty insurers whose duties are restricted to health
2 insurance.

3 (5) No person shall be, act as, or represent or hold
4 himself or herself out to be a managing general agent
5 unless he or she then holds a currently effective managing
6 general agent license and appointment.

7 (6) An individual employed by a life or health
8 insurer as an officer or other salaried representative may
9 solicit and effect contracts of life insurance or annuities
10 or of health insurance, without being licensed as an agent,
11 when and only when he or she is accompanied by and solicits
12 for and on the behalf of a licensed and appointed agent.

13 (7)(a) Effective October 1, 2006, no individual,
14 firm, partnership, corporation, association, or any other
15 entity shall act in its own name or under a trade name,
16 directly or indirectly, as an insurance agency, unless it
17 complies with s. 626.172 with respect to possessing an
18 insurance agency license for each place of business at
19 which it engages in any activity which may be performed
20 only by a licensed insurance agent. Each agency engaged in
21 business in this state before January 1, 2003, which is
22 wholly owned by insurance agents currently licensed and
23 appointed under this chapter, each incorporated agency
24 whose voting shares are traded on a securities exchange,
25 each agency designated and subject to supervision and
26 inspection as a branch office under the rules of the
27 National Association of Securities Dealers, and each agency
28 whose primary function is offering insurance as a service
29 or member benefit to members of a nonprofit corporation may
30 file an application for registration in lieu of licensure

1 in accordance with s. 626.172(3). Each agency engaged in
2 business before October 1, 2006, shall file an application
3 for licensure or registration on or before October 1, 2006.

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

8 2. If an agency is eligible for registration but
9 fails to file an application for registration or an
10 application for licensure in accordance with this section,
11 the department shall impose on the agency an administrative
12 penalty in an amount of up to \$5,000.

13 (b) A registered insurance agency shall, as a
14 condition precedent to continuing business, obtain an
15 insurance agency license if the department finds that, with
16 respect to any majority owner, partner, manager, director,
17 officer, or other person who manages or controls the
18 agency, any person has:

19 1. Been found guilty of, or has pleaded guilty or
20 nolo contendere to, a felony in this state or any other
21 state relating to the business of insurance or to an
22 insurance agency, without regard to whether a judgment of
23 conviction has been entered by the court having
24 jurisdiction of the cases.

25 2. Employed any individual in a managerial capacity
26 or in a capacity dealing with the public who is under an
27 order of revocation or suspension issued by the department.
28 An insurance agency may request, on forms prescribed by the

1 department, verification of any person's license status. If
2 a request is mailed within 5 working days after an employee
3 is hired, and the employee's license is currently suspended
4 or revoked, the agency shall not be required to obtain a
5 license, if the unlicensed person's employment is
6 immediately terminated.

7 3. Operated the agency or permitted the agency to be
8 operated in violation of s. 626.747.

9 4. With such frequency as to have made the operation
10 of the agency hazardous to the insurance-buying public or
11 other persons:

12 a. Solicited or handled controlled business. This
13 subparagraph shall not prohibit the licensing of any
14 lending or financing institution or creditor, with respect
15 to insurance only, under credit life or disability
16 insurance policies of borrowers from the institutions,
17 which policies are subject to part IX of chapter 627.

18 b. Misappropriated, converted, or unlawfully withheld
19 moneys belonging to insurers, insureds, beneficiaries, or
20 others and received in the conduct of business under the
21 license.

22 c. Unlawfully rebated, attempted to unlawfully
23 rebate, or unlawfully divided or offered to divide
24 commissions with another.

25 d. Misrepresented any insurance policy or annuity
26 contract, or used deception with regard to any policy or

1 contract, done either in person or by any form of
2 dissemination of information or advertising.

3 e. Violated any provision of this code or any other
4 law applicable to the business of insurance in the course
5 of dealing under the license.

6 f. Violated any lawful order or rule of the
7 department.

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

11 h. Violated the provision against twisting as defined
12 in s. 626.9541(1)(1).

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

16 j. Willfully overinsured any property insurance risk.

17 k. Engaged in fraudulent or dishonest practices in
18 the conduct of business arising out of activities related
19 to insurance or the insurance agency.

20 l. Demonstrated lack of fitness or trustworthiness to
21 engage in the business of insurance arising out of
22 activities related to insurance or the insurance agency.

23 m. Authorized or knowingly allowed individuals to
24 transact insurance who were not then licensed as required
25 by this code.

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

4 6. Willfully circumvented the requirements or
5 prohibitions of this code.

6 (8) No insurance agent, insurance agency, or other
7 person licensed under the Insurance Code may pay any fee or
8 other consideration to an unlicensed person other than an
9 insurance agency for the referral of prospective purchasers
10 to an insurance agent which is in any way dependent upon
11 whether the referral results in the purchase of an
12 insurance product.

13 (9) Any person who knowingly transacts insurance or
14 otherwise engages in insurance activities in this state
15 without a license in violation of this section commits a
16 felony of the third degree, punishable as provided in s.
17 775.082, s. 775.083, or s. 775.084.

18 (10) Effective July 1, 2009, an individual may not
19 act as, represent himself or herself as, or hold himself or
20 herself out to be a property insurance appraisal umpire
21 unless he or she holds a current license as a property
22 insurance appraisal umpire issued by the department as
23 evidenced by appearing on the department's list of approved
24 property insurance appraisal umpires.

25 Section 6. Part XII of chapter 626, Florida Statutes,
26 consisting of sections 626.9931, 626.9932, 626.9933,
27 626.9934, 626.9935, 626.9936, 626.9937, 626.9938, 626.9939,
28 626.9940, 626.9941 and 626.9942, are created to read:

1 626.9931 Purpose.--The Legislature deems it necessary
2 in the interest of the public welfare to regulate property
3 insurance appraisal umpires in this state.

4 626.9932 Scope of part.--The provisions of this part
5 apply to residential and commercial residential property
6 insurance contracts that contain an appraisal clause and to
7 the umpires and appraisers that participate in the
8 appraisal process as a result of an appraisal clause.

9 626.9933 Definitions. -- As used in this part, the
10 term:

11 (1) "Appraisal" means the process of estimating or
12 evaluating actual cash value, the amount of loss or the
13 cost of repair or replacement of property for the purpose
14 of quantifying the monetary value of a property loss claim
15 when an insurer and an insured have failed to mutually
16 agree on the value of the loss pursuant to a residential or
17 commercial residential property insurance contract that
18 permits the resolution of a claim dispute by appraisal.

19 (2) "Property insurance appraisal umpire" and
20 "umpire" mean a competent, independent and impartial third
21 party selected by the appraisers for the insurer and
22 insured to resolve issues that the appraisers are unable to
23 reach agreement on in the course of the appraisal process
24 pursuant to a residential or commercial residential
25 property insurance contract that permits the resolution of
26 a claim dispute by appraisal.

27 (3) "Property insurance loss appraiser" or
28 "appraiser" mean a competent and independent third party
29 selected by an insurer or an insured to develop an
30 appraisal for purposes of the appraisal process under a
31 residential or commercial residential property insurance

1 contract that permits the resolution of a claim dispute by
2 appraisal.

3 626.9934 Appraisal umpire application; fingerprinting
4 required; umpire list.--

5 (1) Application for a license under this part shall
6 be made as provided in s. 626.171 and related sections of
7 this code. An incomplete application shall expire 6 months
8 after the date received.

9 (2) At the time of application, the applicant must be
10 fingerprinted by a law enforcement agency or other entity
11 approved by the department and must pay the fingerprint
12 processing fee specified in s. 624.501. Fingerprints shall
13 be processed in accordance with s. 624.34.

14 (3) The department shall develop and maintain as a
15 public record a current list of approved property insurance
16 appraisal umpires.

17 626.9935 Rulemaking authority.-- The department may
18 adopt rules to administer the requirements of this part
19 pursuant to ss. 120.536(1) and 120.54.

20 626.9936 Qualifications for licensure as a property
21 insurance appraisal umpire.--The department shall not issue
22 a license to an individual as a property insurance
23 appraisal umpire who does not meet each of the following
24 qualifications:

25 (1) The applicant has filed an application with the
26 department in accordance with s. 626.9934.

27 (2) The applicant is a natural person who is at least
28 18 years of age.

29 (3) The applicant is a United States citizen or legal
30 alien who possesses work authorization from the United
31 States Bureau of Citizenship and Immigration Services.

1 (4) The applicant has meets the education, experience
2 or licensing requirements in s. 626.9937.

3 (5) The applicant has paid all required fees.

4 626.9937 Requirement as to licensure, education,
5 experience, or instruction.--An applicant for a license as
6 a property insurance loss appraiser is not qualified and
7 may not be licensed unless the applicant meets one of the
8 following requirements:

9 (1) Currently, licensed, registered, certified or
10 approved as an engineer as defined in s. 471.005 or as a
11 retired professional engineer as defined in s. 471.05 and
12 has taught or successfully completed 4 hours in classroom
13 courses, approved by the department, providing knowledge of
14 construction, building codes, appraisal procedure,
15 appraisal preparation and any related material deemed
16 appropriate by the department.

17 (2) Currently, or within the 5 years immediately
18 preceding the date the application is filed with the
19 department was, licensed, registered, certified or approved
20 as a general contractor, building contractor or residential
21 contractor as defined in s. 489.105 and has taught or
22 successfully completed 4 hours in classroom courses,
23 approved by the department, providing knowledge of
24 construction, building codes, appraisal procedure,
25 appraisal preparation and any related material deemed
26 appropriate by the department.

27 (3) Currently, or within the 5 years immediately
28 preceding the date the application is filed with the
29 department was, licensed or registered as an architect to
30 engage in the practice of architecture pursuant to part I
31 of chapter 481 and has taught or successfully completed 4
32 hours in classroom courses, approved by the department,

1 providing knowledge of construction, building codes,
2 appraisal procedure, appraisal preparation and any related
3 material deemed appropriate by the department.

4 (4) Currently, or within the 5 years immediately
5 preceding the date the application is filed with the
6 department was, a qualified geologist or professional
7 geologist as defined in s. 492.102 and has taught or
8 successfully completed 4 hours in classroom courses,
9 approved by the department, providing knowledge of
10 construction, building codes, appraisal procedure,
11 appraisal preparation and any related material deemed
12 appropriate by the department.

13 (5) Currently, or within the 5 years immediately
14 preceding the date the application is filed with the
15 department was, licensed as a certified public accountant
16 as defined in s. 473.302 and has taught or successfully
17 completed 4 hours in classroom courses, approved by the
18 department, providing knowledge of construction, building
19 codes, appraisal procedure, appraisal preparation and any
20 related material deemed appropriate by the department.

21 (6) Currently, or within the 5 years immediately
22 preceding the date the application is filed with the
23 department was, licensed as an attorney-at-law in this
24 state and has taught or successfully completed 4 hours in
25 classroom courses, approved by the department, providing
26 knowledge of construction, building codes, appraisal
27 procedure, appraisal preparation and any related material
28 deemed appropriate by the department.

29 (7) Has received a baccalaureate degree from an
30 accredited 4-year college in the field of engineering,
31 architecture, or building construction and has taught or
32 successfully completed 4 hours in classroom courses,

1 approved by the department, providing knowledge of
2 construction, building codes, appraisal procedure,
3 appraisal preparation and any related material deemed
4 appropriate by the department.

5 (8) Currently licensed as an all lines or property
6 and casualty adjuster pursuant to part VI and:

7 (a) Has 1 year of proven experience as a worker for a
8 general contractor, building contractor or residential
9 contractor;

10 (b) Has received a minimum of 8 semester hours or 12
11 quarter hours of credit from an accredited college in the
12 field of accounting, geology, engineering, architecture, or
13 building construction;

14 (c) Has taught or successfully completed 24 hours in
15 classroom courses, approved by the department, providing
16 knowledge of construction, building codes, appraisal
17 procedure, appraisal preparation and any related material
18 deemed appropriate by the department; or

19 (d) Has acted as an appraiser or umpire in a minimum
20 of 20 appraisal proceedings under a property insurance
21 contract within the 4 years immediately preceding the date
22 that an insurer or insured demands appraisal.

23 (9) Has successfully completed 40 hours in classroom
24 courses, approved by the department, providing knowledge of
25 construction, building codes, appraisal procedure,
26 appraisal preparation, property insurance and any related
27 material deemed appropriate by the department.

28 626.9938 Regulation of umpire course providers,
29 instructors and courses.--

30 (1) Each umpire course provider, instructor and
31 classroom course must be approved by and registered with
32 the department before prelicensure courses for property

1 insurance appraisal umpires may be offered. Each classroom
2 course must include a written examination at the conclusion
3 of the course and must cover all of the material contained
4 in the course. A student may not receive credit for the
5 course unless the student achieves a grade of not less than
6 75 on the examination.

7 (2) The department shall adopt rules establishing
8 standards for the approval, registration, discipline, or
9 removal from registration of course providers, instructors,
10 and courses. The standards must be designed to ensure that
11 instructors have the knowledge, competence, and integrity
12 to fulfill the educational objectives of the prelicensure
13 requirements of this part.

14 (3) The department shall adopt rules to establish a
15 process for determining compliance with the prelicensure
16 requirements of this part. The department shall adopt rules
17 prescribing the forms necessary to administer the
18 prelicensure requirements of this part.

19 (4) Approval to teach prescribed or approved
20 appraisal courses does not entitle the instructor to teach
21 any courses outside the scope of this part.

22 626.9939 Grounds for compulsory denial, suspension,
23 or revocation of an umpire's approval.—In addition to the
24 applicable grounds set forth in s. 626.611, the department
25 shall deny an application for, suspend, revoke, or refuse
26 to renew or continue the license of a property insurance
27 appraisal umpire, if it finds that the umpire:

28 (1) Has violated a duty imposed upon her or him by
29 law or by the terms of a contract, whether written, oral,
30 express, or implied, in an appraisal proceeding; has aided,
31 assisted, or conspired with any other person engaged in any
32 such misconduct and in furtherance thereof; or has formed

1 an intent, design, or scheme to engage in such misconduct
2 and committed an overt act in furtherance of such intent,
3 design, or scheme. It is immaterial to a finding that a
4 licensee has committed a violation of this subsection that
5 the victim or intended victim of the misconduct has
6 sustained no damage or loss; that the damage or loss has
7 been settled and paid after discovery of the misconduct; or
8 that such victim or intended victim was a customer or a
9 person in confidential relation with the umpire, or was an
10 identified member of the general public.

11 (2) Has violated any provision of this part or any
12 lawful order or rule of the department.

13 (3) Has had a license, registration, approval, or
14 certificate to practice or conduct any regulated
15 profession, business, or vocation revoked or suspended by
16 this or any other state, any nation, or any possession or
17 district of the United States, or has had an application
18 for such registration, licensure, or certification to
19 practice or conduct any regulated profession, business, or
20 vocation denied by this or any other state, any nation, or
21 any possession or district of he United States.

22 (4) Has made or filed a report or record, either
23 written or oral, which the umpire knows to be false; has
24 willfully failed to file a report or record required by
25 state or federal law; has willfully impeded or obstructed
26 such filing, or has induced another person to impede or
27 obstruct such filing.

28 (5) Has accepted an appointment as an umpire if the
29 appointment itself is contingent upon the umpire reporting
30 a predetermined result, analysis, or opinion, or if the fee
31 to be paid for the services of the umpire is contingent

1 upon the opinion, conclusion, or valuation reached by the
2 umpire.

3 626.9940 Grounds for discretionary denial,
4 suspension, or revocation of a license as a property
5 insurance appraisal umpire.-In addition to the applicable
6 grounds set forth in s. 626.621, the department may deny an
7 application for and suspend, revoke or refuse to renew or
8 continue a license as a property insurance appraisal
9 umpire, if it finds that the umpire:

10 (1) Has failed to timely communicate with the
11 appraisers without good cause.

12 (2) Has failed or refused to exercise reasonable
13 diligence in submitting recommendations to the appraisers.

14 (3) Has violated any ethical standard for property
15 insurance appraisal umpires set forth in s. 626.9941.

16 (4) Has failed to inform the department in writing
17 within 30 days after pleading guilty or nolo contendere to,
18 or being convicted or found guilty of, any felony.

19 (5) Has failed to timely notify the department of any
20 change in business location, or has failed to fully
21 disclose all business locations from which she or he
22 operates as a property insurance appraisal umpire.

23 626.9941 Ethical standards for property insurance
24 appraisal umpires.-

25 (1) Impartiality. An umpire shall be neutral and
26 maintain impartiality throughout the appraisal process.
27 Impartiality means freedom from favoritism or bias in word,
28 action, or appearance. An umpire shall withdraw from
29 appraisal if the umpire is no longer impartial.

30 (2) Gifts and solicitation. An umpire shall neither
31 give nor accept a gift, favor, loan, or other item of value
32 in any appraisal process. During the appraisal process, an

1 umpire shall not solicit or otherwise attempt to procure
2 future professional services.

3 (3) Conflicts of interest. An umpire shall not
4 participate in a matter that presents a clear or
5 undisclosed conflict of interest. A conflict of interest
6 arises when any relationship between the umpire and the
7 appraisal participants or the subject matter of the dispute
8 compromises or appears to compromise the umpire's
9 impartiality.

10 (4) Burden of disclosure. The burden of disclosure
11 of any potential conflict of interest rests on the umpire.
12 Disclosure shall be made as soon as practical after the
13 umpire becomes aware of the interest or relationship giving
14 rise to the potential conflict of interest.

15 (5) Effect of disclosure. After appropriate
16 disclosure, the umpire may serve if all parties agree.
17 However, if a conflict of interest clearly impairs an
18 umpire's impartiality, the umpire shall withdraw regardless
19 of the express agreement of the parties.

20 (6) Confidentiality. An umpire shall maintain
21 confidentiality of all information revealed during
22 appraisal except where disclosure is required by law.

23 (7) Record keeping. An umpire shall maintain
24 confidentiality in the storage and disposal of records and
25 shall not disclose any identifying information when
26 materials are used for research, training, or statistical
27 compilations.

28 (8) Fees and expenses. An umpire holds a position of
29 trust. Fees charged for appraisal services shall be
30 reasonable and consistent with the nature of the case. An
31 umpire shall be guided by the following general principles
32 in determining fees:

1 (a) Any charges for services as an umpire based on
2 time shall not exceed actual time spent or allocated;

3 (b) Charges for costs shall be for those actually
4 incurred; and

5 (c) An umpire shall not charge, agree to, or accept
6 as compensation or reimbursement any payment, commission,
7 or fee based on a percentage basis or that is contingent on
8 arriving at a particular value, or future happening or
9 outcome of the assignment.

10 (9) Maintenance of records. An umpire shall maintain
11 records necessary to support charges for services and
12 expenses and upon request shall make an accounting to the
13 parties.

14 (10) Advertising. An umpire shall not engage in
15 marketing practices which contain false or misleading
16 information. An umpire shall ensure that any advertisements
17 of the umpire's qualifications, services to be rendered, or
18 the appraisal process are accurate and honest. An umpire
19 shall not make claims of achieving specific outcomes or
20 promises implying favoritism for the purpose of obtaining
21 business.

22 (11) Integrity and impartiality. An umpire shall not
23 accept any engagement, provide any service, or perform any
24 act that would compromise the umpire's integrity or
25 impartiality.

26 (12) Skill and experience. An umpire shall decline an
27 appointment or selection, withdraw, or request appropriate
28 assistance when the facts and circumstances of the
29 appraisal are beyond the umpire's skill or experience.

30 626.9942 Retention of records.--An umpire shall
31 retain, for at least 5 years, original or true copies of
32 any contracts engaging the umpire's services, appraisal

1 awards, and supporting data assembled and formulated by the
2 umpire in preparing appraisal awards. The period for
3 retention of the records applicable to each engagement of
4 the services of the umpire runs from the date that an
5 umpire accepts an appointment by the appraisers or by the
6 court. These records must be made available for inspection
7 and copying by the department on reasonable notice to the
8 umpire. If an appraisal has been the subject of or has
9 served as evidence for litigation, reports and records must
10 be retained for at least 2 years after the trial.

11 Section 7. Section 627.4141, Florida Statutes, is
12 created to read:

13 627.4141 Residential property insurance loss
14 appraisal.—If a residential or commercial residential
15 property insurance contract provides that either party may
16 submit a written demand to enter into the process of
17 appraisal in the event the insured and the insurer fail to
18 mutually agree as to the actual cash value, the amount of
19 loss or the cost of repair or replacement of property for
20 which a claim has been filed, that process shall be
21 governed by this section. The insurer may refuse to accept
22 the demand only if the insured materially failed to comply
23 with the post-loss obligations of the insured as set forth
24 in the policy conditions.

25 (1) Each party shall select a competent and
26 independent appraiser and notify the other party of the
27 appraiser selected within twenty days of the demand for
28 appraisal. The appraisers shall select a competent,
29 independent and impartial umpire who is on the department's
30 list of licensed property insurance appraisal umpires. If
31 the appraisers are unable to agree on an umpire within
32 fifteen days, the insured or the insurer may petition a

1 judge of the county or circuit court of record in the
2 county in which the property covered is located to
3 designate a licensed property insurance appraisal umpire
4 for the appraisal.

5 (2) Appraisal proceedings are informal unless the
6 insured and the insurer mutually agree otherwise. For
7 purposes of this section, "informal" means that no formal
8 discovery shall be conducted, including depositions,
9 interrogatories, requests for admission, or other forms of
10 formal civil discovery, no formal rules of evidence shall
11 be applied, and no court reporter shall be used for the
12 proceedings.

13 (3) Each appraiser shall appraise the loss and submit
14 a written report to the other appraiser, separately stating
15 the cost of the loss, actual cash value, or the cost to
16 repair or replace each item. The appraisers shall attempt
17 to resolve any differences in their appraisals and reach a
18 mutual agreement on all matters. If the appraiser on unable
19 to agree, they shall submit their differences, only, to the
20 umpire.

21 (4) The umpire shall review the differences submitted
22 by the appraiser and determine the amount of the loss for
23 each item submitted. Within 10 days of receipt of the
24 differences, the umpire shall submit the umpire's
25 conclusions in writing to each appraiser.

26 (5) If either appraiser agrees with the conclusions
27 of the umpire, an itemized written appraisal award signed
28 by the umpire and appraiser shall be filed with the insurer
29 and shall determine the amount of the loss.

30 (6) The appraisal award is binding on the insurer and
31 insured with regard to the amount of the loss. The insurer

1 retains the right to enforce policy terms, conditions and
2 exclusions with regard to coverage issues.

3 (7) Each appraiser shall be paid by the party who
4 selects the appraiser and the expenses of the appraisal and
5 fees of the umpire shall be paid by the parties equally;
6 except that in the event that the final determination of
7 the amount of the loss exceeds fifty percent of the
8 insurer's original appraisal, the insurer shall pay all of
9 the expenses including any fees and expenses charged by the
10 insured's appraiser and all fees and expenses of the
11 umpire.

12 (8) The provisions of the Florida Arbitration Code do
13 not apply to residential and commercial property insurance
14 loss appraisal proceedings.

15 (9) The appraisal process shall not address issues
16 involving whether or not the loss or damage is covered
17 under the terms of the insurance contract. The appraisal
18 process is a means to determine values for calculating the
19 amount of the loss. However, it is permissible for the
20 appraisers and the umpire to consider causation issues when
21 necessary to determine the amount of loss.

22 Section 8. This act shall take effect upon becoming
23 law.

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