

1 An act to be entitled

2 A bill relating to property insurance loss appraisers;
3 providing an effective date.

4 Be It Enacted by the Legislature of the State of
5 Florida:

6 Section 1. New subsection (16) is created and current
7 subsections (16), (17) and (18) are renumbered as
8 subsections (17), (18) and (19), respectively, in section
9 626.015, Florida Statutes, to read

10 626.015 Definitions.--As used in this part:

11 (16) "Property insurance loss appraiser" means a
12 property insurance loss appraiser as defined in s.
13 626.9931.

14 (17) "Resident" means an individual whose home state
15 is the State of Florida.

16 (18) ~~(17)~~ "Service representative" means an
17 individual employed by an insurer or managing general agent
18 for the purpose of assisting a general lines agent in
19 negotiating and effecting insurance contracts when
20 accompanied by a licensed general lines agent. A service
21 representative shall not be simultaneously licensed as a
22 general lines agent in this state. This subsection does not
23 apply to life insurance.

24 (19) ~~(18)~~ "Uniform application" means the uniform
25 application of the National Association of Insurance
26 Commissioners for nonresident agent licensing, effective
27 January 15, 2001, or subsequent versions adopted by rule by
28 the department.

29 Section 2. Subsection (1) of section 626.016, Florida
30 Statutes, is amended to read:

31 626.016 Powers and duties of department, commission,
32 and office.--

1 (1) The powers and duties of the Chief Financial
2 Officer and the department specified in this part apply
3 only with respect to insurance agents, insurance agencies,
4 managing general agents, insurance adjusters, reinsurance
5 intermediaries, viatical settlement brokers, customer
6 representatives, service representatives, and property
7 insurance loss appraisers agencies.

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

10 626.022 Scope of part.--

11 (1) This part applies as to insurance agents, service
12 representatives, adjusters, property insurance loss
13 appraisers and insurance agencies; as to any and all kinds
14 of insurance; and as to stock insurers, mutual insurers,
15 reciprocal insurers, and all other types of insurers,
16 except that:

17 (a) It does not apply as to reinsurance, except that
18 ss. 626.011-626.022, ss. 626.112-626.181, ss. 626.191-
19 626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-
20 626.521, ss. 626.541-626.591, and ss. 626.601-626.711 shall
21 apply as to reinsurance intermediaries as defined in s.
22 626.7492.

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

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

28 (d) This part does not apply to a certified public
29 accountant licensed under chapter 473 who is acting within
30 the scope of the practice of public accounting, as defined
31 in s. 473.302, provided that the activities of the
32 certified public accountant are limited to advising a

1 client of the necessity of obtaining insurance, the amount
2 of insurance needed, or the line of coverage needed, and
3 provided that the certified public accountant does not
4 directly or indirectly receive or share in any commission
5 or referral fee.

6 Section 4. Subsection (10) is added to section
7 626.121, Florida Statutes, to read:

8 626.112 License and appointment required; agents,
9 customer representatives, adjusters, insurance agencies,
10 service representatives, managing general agents, property
11 insurance loss appraisers.-

12 (10) Effective June 1, 2009, no person except a duly
13 licensed attorney at law shall be, act as, or represent or
14 hold him or herself out to be a property insurance loss
15 appraiser unless he or she then holds a currently effective
16 property insurance loss appraiser license issued by the
17 department.

18 Section 5. Sections 626.993, 626.9931, 626.9932,
19 626.9934, 626.9935, 626.9936, 626.9937, 626.9938, 626.9939,
20 626.9940, 626.9941, and 626.9942 are created in Part XII of
21 chapter 626, Florida Statutes, to read:

22 626.993 Purpose.--The Legislature deems it necessary
23 in the interest of the public welfare to regulate property
24 insurance loss appraisers in this state.

25 626.9931 Definitions.--

26 (1) As used in this part, the term:

27 (a) "Appraisal" or "appraisal services" means the
28 services provided by licensed property insurance loss
29 appraisers, and include:

30 1. An engagement in connection with the appraisal
31 process under a property insurance policy for which a
32 person is employed or retained to act as an agent or a

1 disinterested third party in rendering an unbiased
2 analysis, opinion, review, or conclusion relating to the
3 estimated cost to repair or replace property that is the
4 subject of a claim under a contract of insurance.

5 2. Appraisal services that relate to the employer's
6 or client's individual needs for analyses, opinions, and
7 conclusions given in connection with the appraisal process
8 under a property insurance policy.

9 3. An engagement for which an appraiser is employed
10 or retained to develop and communicate an opinion about the
11 quality of another appraiser's appraisal, appraisal report,
12 or work.

13 4. The act or process of developing and communicating
14 an opinion about the quality of another appraiser's
15 appraisal, appraisal report, or work.

16 5. The act of issuing any appraisal report containing
17 any communication, written or oral, of an appraisal,
18 appraisal review, appraisal consulting service, analysis,
19 opinion, or conclusion relating to the estimated cost to
20 repair or replace property that is the subject of a claim
21 under a contract of property insurance, and includes any
22 report communicating an appraisal analysis, opinion, or
23 conclusion of value.

24 (b) "Appraiser" and "Property insurance loss
25 appraiser" mean any individual who provides appraisal
26 services relating to the estimated cost to repair or
27 replace property that is the subject of a claim under a
28 contract of insurance covering residential or commercial
29 property.

30 (c) "Department" means the Department of Financial
31 Services.

1 (2) Wherever the word "act" or "acting" appears in
2 this part with respect to a licensed appraiser; in any
3 order, rule, or regulation of the department; in any
4 administrative proceeding under this part; in any pleading,
5 under this part; in any court action or proceeding; or in
6 any order or judgment of a court, it shall be deemed to
7 mean the commission of one or more acts described in this
8 part as constituting or defining a licensed appraiser, not
9 including, however, any of the exceptions stated therein. A
10 single act is sufficient to bring a person within the
11 meaning of this subsection, and each act, if prohibited
12 herein, constitutes a separate offense.

13 626.9932 Licensure required; application.--

14 (1) No person may act as a property insurance loss
15 appraiser, issue an appraisal report for a property
16 insurance loss or act as an appraiser in connection with
17 the appraisal process conducted pursuant to an insurance
18 policy that covers residential or commercial property,
19 unless such person is licensed by the department under this
20 part. However, the work upon which an appraisal report is
21 based may be performed by a person who is not a licensed
22 appraiser if the work is supervised and approved, and the
23 report is signed, by a licensed appraiser who has full
24 responsibility for all requirements of the report and
25 valuation service. Only a licensed appraiser may issue an
26 appraisal report and receive direct compensation for
27 providing services for the appraisal report. An unlicensed
28 person who performs work for a licensed appraiser may only
29 receive compensation for services from the licensed
30 appraiser.

1 (2) Application for a license under this part shall
2 be made as provided in s. 626.171 and related sections of
3 this code.

4 (3) At the time of application, the applicant must be
5 fingerprinted by a law enforcement agency or other entity
6 approved by the department and must pay the fingerprint
7 processing fee specified in s. 624.501. Fingerprints shall
8 be processed in accordance with s. 624.34.

9 (4) At the time of application the applicant shall
10 file with the department a bond executed and issued by a
11 surety insurer authorized to transact such business in this
12 state, in the amount of \$50,000, conditioned for the
13 faithful performance of his or her duties as a property
14 insurance loss appraiser under the license for which the
15 applicant has applied, and thereafter maintain the bond
16 unimpaired throughout the existence of the license and for
17 at least 1 year after termination of the license. The bond
18 shall be in favor of the department and shall specifically
19 authorize recovery by the department of the damages
20 sustained in case the licensee is guilty of fraud or unfair
21 practices in connection with his or her business as
22 property insurance loss appraiser. The aggregate liability
23 of the surety for all such damages shall in no event exceed
24 the amount of the bond. Such bond shall not be terminated
25 unless at least 30 days' written notice is given to the
26 licensee and filed with the department.

27 (5) This section does not apply to a Florida
28 licensed real estate appraiser or preclude a Florida
29 licensed property real estate broker, sales associate, or
30 broker associate who is not a Florida licensed property
31 insurance loss appraiser from performing a comparative
32 market analysis or giving an opinion of the value of real

1 property that is the subject of a claim under an insurance
2 policy.

3 (6) This section does not prevent any state court or
4 administrative law judge from certifying as an expert
5 witness in any legal or administrative proceeding an
6 appraiser who is not licensed; nor does it prevent any
7 appraiser from testifying, with respect to the results of
8 an appraisal.

9 (7) This section does not apply to any employee of a
10 local, state, or federal agency who performs appraisal
11 services within the scope of her or his employment.
12 However, this exemption does not apply where any local,
13 state, or federal agency requires an employee to be
14 licensed to perform appraisal services.

15 626.9933 Rulemaking authority.--The department has
16 authority to adopt rules pursuant to ss. 120.536(1) and
17 120.54 to implement provisions of law conferring duties
18 upon it under this part.

19 626.9934 Qualifications for licensure as a property
20 insurance loss appraiser.--

21 (1) The department shall not grant or issue a license
22 as a property insurance loss appraiser to any individual
23 found by it to be untrustworthy or incompetent, or who does
24 not meet each of the following qualifications:

25 (a) The applicant has filed an application with the
26 department in accordance with s. 626.171.

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

29 (c) 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 (d) The applicant has completed the education,
2 experience or licensing requirements in s. 626.9935.

3 (e) The applicant has passed the examination required
4 by s. 626.9936.

5 (2) An incomplete application shall expire 6 months
6 after the date received.

7 (3) No applicant seeking to become licensed under
8 this part may be rejected solely by virtue of membership or
9 lack of membership in any particular appraisal
10 organization.

11 626.9935 Requirement as to education, experience, or
12 instruction.--

13 (1) No applicant for a license as a property
14 insurance loss appraiser shall be qualified or licensed
15 unless:

16 (a) The applicant is currently licensed and appointed
17 as an adjuster as defined in s. 626.015;

18 (b) The applicant is currently licensed as an
19 engineer as defined in s. 471.005;

20 (c) The applicant is currently licensed as a general
21 contractor, building contractor or residential contractor
22 as defined in s. 489.105;

23 (d) Within the 4 years immediately preceding the date
24 the application is filed with the department, the
25 applicant taught or successfully completed 100 classroom
26 hours in courses approved by the department as follows:

27 1. At least 30 hours on valuation theory:

28 2. Up to 75 hours specifically related to estimating
29 the cost for repairing or replacing damaged or destroyed
30 personal property and residential and commercial buildings
31 and structures, including material that addresses building
32 codes, building materials;

1 3. 15 hours on the standards and ethical requirements
2 for property insurance loss appraisers as set forth in ss.
3 626.9940 and 626.9941;

4 (e) Within the 4 years immediately preceding the date
5 the application is filed with the department, the applicant
6 completed a correspondence course, approved by the
7 department, in property insurance loss appraisal and had at
8 least 6 months of responsible appraisal duties as an
9 employee of a licensed property insurance loss appraiser;
10 or

11 (f) Within the 4 years immediately preceding the date
12 the application is filed with the department, the applicant
13 completed at least 1 year in responsible appraisal duties
14 as an employee of a licensed property insurance loss
15 appraiser.

16 (2) Where an applicant's qualifications as required
17 in paragraph (1)(b) or paragraph (1)(c) are based in part
18 upon the periods of employment at responsible appraisal
19 duties prescribed therein, the applicant shall submit with
20 the application for license, on a form prescribed by the
21 department, the affidavit of his or her employer setting
22 forth the period of such employment, that the same was
23 substantially full-time, and giving a brief abstract of the
24 nature of the duties performed by the applicant.

25 626.9936 Regulation of appraisal course providers,
26 instructors and courses.--

27 (1) Each appraisal course provider, instructor and
28 course must be approved by and registered with the
29 department before prelicensure courses for property
30 insurance loss appraisers may be offered. Courses must
31 encompass the subjects that will be included in the
32 required license examination as set forth in s. 626.9937.

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

8 (3) The department shall adopt rules to establish a
9 process for determining compliance with the prelicensure
10 requirements of this part. The department shall adopt rules
11 prescribing the forms necessary to administer the
12 prelicensure requirements of this part.

13 (4) Approval to teach prescribed or approved
14 appraisal courses does not entitle the instructor to teach
15 any courses outside the scope of this part.

16 626.9937 Examination requirements.—

17 (1) An applicant for licensure as a property
18 insurance loss appraiser must successfully complete the
19 qualifying education, experience or licensing requirements
20 set forth in s. 626.9935 prior to approval by the
21 department to sit for the examination.

22 (2) To be licensed as a property insurance loss
23 appraiser, the applicant must demonstrate, by passing a
24 written examination that she or he possesses:

25 (a) Knowledge of technical terms commonly used in
26 property appraisal;

27 (b) An understanding of building codes, building
28 construction and building materials;

29 (c) Reliable sources of appraising data, and problems
30 likely to be encountered in the gathering, interpreting,
31 and processing of data in carrying out appraisal
32 disciplines;

1 (d) Appraisal principles and theory;

2 (e) The provisions of this part relating to
3 standards, ethics, prohibited acts and the types of
4 misconduct for which disciplinary proceedings may be
5 initiated against a licensed appraiser, as set forth in
6 this part.

7 626.9938 Grounds for compulsory refusal, suspension,
8 or revocation of an appraiser's license.—In addition to the
9 grounds set forth in s. 626.611, the department shall deny
10 an application for and suspend, revoke or refuse to renew
11 or continue a license as a property insurance loss
12 appraiser, if it finds that the licensee:

13 (1) Has violated a duty imposed upon her or him by
14 law or by the terms of a contract, whether written, oral,
15 express, or implied, in an appraisal assignment; has aided,
16 assisted, or conspired with any other person engaged in any
17 such misconduct and in furtherance thereof; or has formed
18 an intent, design, or scheme to engage in such misconduct
19 and committed an overt act in furtherance of such intent,
20 design, or scheme. It is immaterial to the guilt of the
21 licensee that the victim or intended victim of the
22 misconduct has sustained no damage or loss; that the damage
23 or loss has been settled and paid after discovery of the
24 misconduct; or that such victim or intended victim was a
25 customer or a person in confidential relation with the
26 licensee, or was an identified member of the general
27 public.

28 (2) Has advertised services in a manner which is
29 fraudulent, false, deceptive, or misleading in form or
30 content.

31 (3) Has violated any provision of this part or any
32 lawful order or rule of the department.

1 (4) Has been convicted or found guilty of, or entered
2 a plea of nolo contendere to, regardless of adjudication, a
3 crime in any jurisdiction which directly relates to the
4 activities of a licensed appraiser, or which involves moral
5 turpitude or fraudulent or dishonest conduct.

6 (5) Has had a registration, license, or certification
7 as an appraiser revoked, suspended, or otherwise acted
8 against, or has had her or his registration, license, or
9 certificate to practice or conduct any regulated
10 profession, business, or vocation revoked or suspended by
11 this or any other state, any nation, or any possession or
12 district of the United States, or has had an application
13 for such registration, licensure, or certification to
14 practice or conduct any regulated profession, business, or
15 vocation denied by this or any other state, any nation, or
16 any possession or district of he United States.

17 (6) Is confined in any county jail, post
18 adjudication; is confined in any state or federal prison or
19 mental institution; or, through mental disease or
20 deterioration, can no longer safely be entrusted to deal
21 with the public or in a confidential capacity.

22 (7) Has made or filed a report or record, either
23 written or oral, which the licensee 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 (8) Has accepted an appraisal assignment if the
29 employment itself is contingent upon the appraiser
30 reporting a predetermined result, analysis, or opinion, or
31 if the fee to be paid for the performance of the appraisal
32 assignment is contingent upon the opinion, conclusion, or

1 valuation reached upon the consequences resulting from the
2 appraisal assignment.

3 (9) Has made any false affidavit or affirmation
4 intended for use as evidence by or before the department or
5 any member thereof, or by any of its authorized
6 representatives, nor shall any person give false testimony
7 under oath or affirmation to or before the department or
8 any member thereof in any proceeding authorized by this
9 section.

10 626.9939 Grounds for discretionary refusal,
11 suspension, or revocation of an appraiser's license.-In
12 addition to the grounds set forth in s. 626.621, the
13 department may deny an application for and suspend, revoke
14 or refuse to renew or continue a license as a property
15 insurance loss appraiser, if it finds that the licensee:

16 (1) Has failed to communicate an appraisal without
17 good cause.

18 (2) Has failed or refused to exercise reasonable
19 diligence in developing an appraisal or preparing an
20 appraisal report.

21 (3) Has violated any standard for the development or
22 communication of a property appraisal or other provision of
23 the standards set forth in s. 626.9940 or the ethical
24 requirements of s. 626.9941.

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

28 (5) Has failed to timely notify the department of any
29 change in business location, or has failed to fully
30 disclose all business locations from which she or he
31 operates as a property insurance loss appraiser.

1 (6) Has become temporarily incapacitated from acting
2 as an appraiser with safety to those in a fiduciary
3 relationship with her or him because of the use of drugs or
4 alcohol, or temporary mental illness; however, suspension
5 of a license in such cases shall only be for the period of
6 such incapacity.

7 626.9940 Standards for development of a property
8 insurance loss appraisal; content of appraisal report.--

9 (1) In developing a property insurance loss
10 appraisal, an appraiser must identify the problem to be
11 solved, determine the scope of work necessary to solve the
12 problem, and correctly complete research and analyses
13 necessary to produce a credible appraisal.

14 (2) In developing a property insurance loss
15 appraisal, an appraiser must:

16 (a) Be aware of, understand, and correctly employ
17 those recognized methods and techniques that are necessary
18 to produce a credible appraisal;

19 (b) Not commit a substantial error of omission or
20 commission that significantly affects an appraisal; and

21 (c) Not render appraisal services in a careless or
22 negligent manner, such as by making a series of errors
23 that, although individually might not significantly affect
24 the results of an appraisal, in the aggregate affect the
25 credibility of those results.

26 (3) In developing a property insurance loss
27 appraisal, an appraiser must:

28 (a) Identify the client and other intended users;

29 (b) Identify the intended use of the appraiser's
30 opinions and conclusions;

31 (c) Identify the type and definition of value such as
32 actual cash value or replacement cost;

1 (d) Identify the effective date of the appraiser's
2 opinions and conclusions;

3 (e) Identify the characteristics of the property that
4 are relevant to the type and definition of value and
5 intended use of the appraisal, including:

6 1. Sufficient characteristics to establish the
7 identity of the item including the method of
8 identification;

9 2. Sufficient characteristics to establish the
10 relative quality of the item, and its component parts,
11 where applicable, within its type;

12 3. All other physical and economic attributes with a
13 material effect on value.

14 (4) In developing a property insurance loss
15 appraisal, an appraiser must collect, verify, and analyze
16 all information necessary for credible assignment results.

17 (5) In reporting the results of a personal property
18 appraisal, an appraiser must communicate each analysis,
19 opinion, and conclusion in a manner that is not misleading.

20 (6) Each property insurance loss appraisal report must
21 be in writing. The content of an appraisal report must be
22 consistent with the intended use of the appraisal and, at a
23 minimum:

24 (a) State the identity of the client and any intended
25 users, by name or type;

26 (b) Describe information sufficient to identify the
27 property involved in the appraisal, including the physical
28 and economic property characteristics relevant to the
29 assignment;

30 (c) State the effective date of the appraisal and the
31 date of the report;

1 (d) Describe the scope of work used to develop the
2 appraisal.

3 (e) Describe the information analyzed, the appraisal
4 methods and techniques employed, and the reasoning that
5 supports the analyses, opinions, and conclusions; exclusion
6 of the sales comparison approach, cost approach, or income
7 approach must be explained;

8 (f) State, as appropriate to the property involved,
9 the use of the property existing as of the date of value
10 and the use of the property reflected in the appraisal.

11
12 626.9941 Ethical standards for property insurance loss
13 appraisers.-

14 (1) Appraisers shall perform their duties as
15 appraisers ethically.

16 (2) An appraiser shall not charge, agree to, or
17 accept as compensation or reimbursement any payment,
18 commission, fee on a percentage basis or that are
19 contingent on arriving at a particular value, or future
20 happening or outcome of the assignment.

21 (3) An appraiser shall not act as an advocate, but as
22 objective estimators of value, repair costs and replacement
23 cost, as appropriate.

24 (4) An appraiser shall not appraise property in which
25 the appraiser has a present or future interest without
26 fully disclosing that fact.

27 (5) An appraiser shall not advertise or solicit
28 appraisal work through inaccurate, misleading, false or
29 deceptive claims.

30 (6) An appraisal assignment is a confidential matter
31 and the nature of the assignment may not be disclosed to

1 anyone except to the client, those the client directs the
2 appraiser to disclose to, or to a court of law.

3 626.9942 Retention of records.--An appraiser licensed
4 under this part shall retain, for at least 5 years,
5 original or true copies of any contracts engaging the
6 appraiser's services, appraisal reports, and supporting
7 data assembled and formulated by the appraiser in preparing
8 appraisal reports. The period for retention of the records
9 applicable to each engagement of the services of the
10 appraiser runs from the date of the submission of the
11 appraisal report to the client. These records must be made
12 available by the appraiser for inspection and copying by
13 the department on reasonable notice to the appraiser. If an
14 appraisal has been the subject of or has served as evidence
15 for litigation, reports and records must be retained for at
16 least 2 years after the trial.

17 Section 6. This act shall take effect upon becoming
18 law.