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# **Insurance & Banking Subcommittee**

**Wednesday, November 4, 2015**

**8:30 AM**

**Sumner Hall (404 HOB)**

**MEETING PACKET**

**Steve Crisafulli  
Speaker**

**John Wood  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Insurance & Banking Subcommittee

**Start Date and Time:** Wednesday, November 04, 2015 08:30 am

**End Date and Time:** Wednesday, November 04, 2015 10:00 am

**Location:** Sumner Hall (404 HOB)

**Duration:** 1.50 hrs

**Consideration of the following bill(s):**

HB 145 Financial Transactions by McGhee

**Consideration of the following proposed committee substitute(s):**

PCS for HB 79 -- Property Insurance Appraisers and Property Insurance Appraisal Umpires

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, November 3, 2015.

By request of the Chair, all Insurance & Banking Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, November 3, 2015.

**NOTICE FINALIZED on 10/28/2015 4:01PM by McCloskey.Michele**



# **The Florida House of Representatives**

**Regulatory Affairs Committee**

**Insurance & Banking Subcommittee**

**Steve Crisafulli**  
Speaker

**John Wood**  
Chair

## **AGENDA**

November 4, 2015  
404 House Office Building  
8:30 AM – 10:00 AM

- I. Prayer and Pledge of Allegiance**
- II. Call to Order & Roll Call**
- III. Consideration of the following bill(s):**
  - A. HB 145 Financial Transactions by McGhee
  - B. PCS for HB 79 Property Insurance Appraisers and Property Insurance Appraisal Umpires by Artiles
- IV. Adjournment**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 145 Financial Transactions  
**SPONSOR(S):** McGhee  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 260

| REFERENCE                           | ACTION | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|-------------------------------------|--------|----------|--|
| 1) Insurance & Banking Subcommittee |        | Bauer JB | Luczynski MJ                             |
| 2) Regulatory Affairs Committee     |        |          |  |

### SUMMARY ANALYSIS

#### Transfers of Funds

*Funds transfers* are generally large, rapid money transfers between commercial entities, and involve a series of transactions. A funds transfer may involve numerous commercial parties, including financial institutions that accept a payment order and carry out the transfer. The rights and obligations of these commercial parties involved in a funds transfer are primarily governed by ch. 670, F.S. (the Act), which is Florida's codification of the Uniform Commercial Code (UCC) Article 4A. On the other hand, a federal law known as the Electronic Funds Transfer Act (EFTA) governs *electronic funds transfers*, which are initiated through certain electronic means, such as direct deposits and telephone transfers, for the purpose of having a financial institution debit or credit a *consumer's* account. The primary purpose of the EFTA is to provide individual consumer rights. Both the Act and the EFTA may apply to a transfer, depending on how the transaction is structured.

Effective 2013, the EFTA was amended to add consumer protections for transfers of funds sent from U.S. consumers to recipients (individuals or businesses) in other countries, known as *remittance transfers*. As the Act is currently written, there is uncertainty as to the Act's applicability to certain types of remittance transfers. The bill amends s. 670.108, F.S., to clarify that the Act applies to funds transfers that are remittance transfers under the EFTA, unless the remittance transfer is also an electronic funds transfer under the EFTA. The bill also provides that the federal EFTA will preempt the Act in the event any inconsistency exists between the Act and the EFTA regarding a funds transfer.

#### Cancellation of Mortgages

Currently, once a borrower fully repays his or her mortgage securing property in Florida, s. 701.03, F.S., requires the lender to cancel the mortgage within 60 days of payment. This is required regardless whether the mortgage is open-end, which allows a borrower to borrow new sums of money on the same loan up to a certain limit. The cancellation restriction can be burdensome on consumers and lending institutions, as a new line must be established each time the consumer seeks additional access to credit. The bill amends s. 701.03, F.S., to clarify that a lender must cancel an open-end mortgage upon the borrower's written notice of intent to close the open-end mortgage *and* full payment of the mortgage, so that an open-end mortgage may remain open after payoff for future credit draws.

The bill does not appear to have a fiscal impact on state and local governments. The bill may have a positive fiscal impact on the private sector.

The bill is effective on July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation: Transfers of Funds**

Individuals and businesses alike rely on transfers of bank funds to efficiently satisfy payment obligations of all sizes. Two bodies of law apply to funds transfers, electronic funds transfers, and remittance transfers: the federal Electronic Funds Transfer Act and the Uniform Commercial Code's Article 4A, as adopted by the states.

##### *Federal Electronic Funds Transfer Act*

In 1978, Congress enacted the federal Electronic Funds Transfers Act (EFTA) to protect individual consumers when they use electronic funds transfers.<sup>1</sup> Under the EFTA, *electronic funds transfers* mean any transfer of funds initiated through certain electronic means for the purpose of having a financial institution debit or credit a consumer's account.<sup>2</sup> Electronic funds transfers include transfers made by automated teller machines (ATMs), direct deposits, gift cards, overdrafts, point of sale transfers, and telephone transfers, but does *not* include transactions originated by paper instruments (such as checks) and certain other transfers set forth in the EFTA. The EFTA covers topics such as disclosure of fees and limits, error resolution procedures, liability, preauthorized transfers, and receipts.

##### *Uniform Commercial Code Article 4A & Ch. 670, F.S.*

In 1989, the Uniform Law Commission finalized Uniform Commercial Code (UCC) Article 4A for the states' adoption, and described it as an essential statutory backdrop to promote uniformity, efficiency, and certainty by governing the rights and obligations among the commercial participants in funds transfers and allocating the risk of loss for unauthorized or improperly executed payment orders. At the time UCC Article 4A was originally drafted, it was intended to govern large, rapid money transfers (typically wholesale wire transfers) between the commercial parties to a funds transfer, keeping in mind that the primary objective of the EFTA is the provision of individual consumer rights.<sup>3</sup>

A majority of the states have adopted UCC Article 4A. In 1991, the Florida Legislature adopted the UCC Article 4A through the enactment of ch. 670, F.S. (the Act), relating to funds transfers.<sup>4</sup> The Act defines "*funds transfers*" as a series of transactions that begin with the originator's *payment order* (an unconditional instruction to a bank to pay a fixed amount), made for the purpose of making payment to the beneficiary of the order.<sup>5</sup> The funds transfer transaction includes the relationship between intermediary banks that execute and settle the payment order, and concludes upon the ultimate, actual payment to the beneficiary. A basic example of a funds transfer, as effectuated by Alpha Corporation's payment order, is described below:

Alpha Corp.                      First Bank                      Second Bank                      Beta Corp.  
(originator/sender) → (originator's bank) → (receiving bank) → (beneficiary)

<sup>1</sup> The EFTA is codified at 15 U.S.C. 1693 et seq. The EFTA is implemented in the Federal Reserve Board of Governors' Regulation E, at 12 C.F.R. pt. 1005.

<sup>2</sup> 15 U.S.C. §1693a(7).

<sup>3</sup> 15 U.S.C. §1693(b). See also UNIFORM LAW COMMISSION, *Why States Should Adopt UCC Article 4A*, at <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20UCC%20Article%204A> (last viewed Sept. 28, 2015).

<sup>4</sup> Ch. 91-70, Laws of Fla.

<sup>5</sup> ss. 670.103(1)(c) and 670.104(1), F.S.

Frequently, the EFTA may partially apply to a funds transfer because the transfer is intended to credit a *consumer's* account in a financial institution. In these cases, the Act does *not* apply to the funds transfer to the extent it is governed by the EFTA.<sup>6</sup>

### *Remittance Transfers*

According to World Bank data, the United States is the number one sender of international remittances, accounting for nearly a quarter of remittances (23.3%).<sup>7</sup> Several studies from the mid- to late 2000s estimated that \$12-42 billion in monetary transfers were made from the U.S. to family and friends abroad.<sup>8</sup>

Although remittances can be sent through depository institutions (such as an automated clearinghouse transaction or a wire transfer), a large number of U.S. remittance transfers are sent through money transmitters, which are primarily regulated by state money transmitter laws requiring licensure and examination by their state banking and financial regulators. In Florida, ch. 560, F.S., governs non-bank money services businesses, which include “money transmitters” who receive and transmit currency or monetary value through a broad range of means within the U.S. or to or from the U.S.<sup>9</sup> However, ch. 560, F.S., is a regulatory statute setting forth licensure, examination, recordkeeping, and reporting requirements for money transmitters and is administratively enforced by the Office of Financial Regulation, but does not contain specific consumer protections or private remedies.<sup>10</sup>

On the federal level, wire transfers and transfers sent by money transmitters have generally fallen outside of the scope of the EFTA and its implementing rule, Regulation E. Until 2010, no federal consumer protection law directly regulated foreign remittance transfers, which can be sent through depository institutions as well as money transmitters. In 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203, H.R. 4173, commonly referred to as “Dodd-Frank”) was signed into law. Among many changes to federal financial regulatory law, Dodd-Frank amended the EFTA to create new compliance requirements for *remittance transfers*.<sup>11</sup> A remittance transfer is:

- an electronic transfer of funds requested by a consumer sender, regardless of whether the remittance transfer is also an electronic funds transfer under the EFTA,
- initiated by a remittance transfer provider (a person or financial institution that provides this service for a consumer in the normal course of its business), and
- sent to a designated recipient (which can be either an individual or business), located in a foreign country.

Similar to the other consumer protections in the EFTA, these new remittance regulations require certain protections for the sending consumer, including disclosures, error resolution procedures, cancellation and refund policies, and a remittance transfer provider's liability for the acts of its agents.

Under the EFTA, not all remittance transfers qualify as an “electronic funds transfer”, raising questions about the applicability of the EFTA. This could occur, for example, if the transfer permits payment in

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<sup>6</sup> s. 670.108, F.S.; Business Law Section of the Florida Bar, *White Paper in support of the proposed amendment to UCC Section 670.108*, p. 1 (on file with the Insurance & Banking Subcommittee staff).

<sup>7</sup> PEW RESEARCH CENTER, *Remittance Flows Worldwide in 2012*, <http://www.pewsocialtrends.org/2014/02/20/remittance-map/>

<sup>8</sup> Electronic Fund Transfers (Regulation E); Final Rule and Proposed Rule, 77 Fed. Reg. 6195 (issued Feb. 7, 2012) (codified at 12 C.F.R. pt. 1005).

<sup>9</sup> s. 560.103(23), F.S.

<sup>10</sup> Ch. 560, F.S., does require money transmitter licensees to maintain a corporate surety bond or a collateral deposit to ensure a source of recovery for aggrieved claimants. Section 560.209, F.S.

<sup>11</sup> Section 1073 of Dodd-Frank created Section 919 of the EFTA, relating to remittance transfers. Section 919 is codified at 15 U.S.C. §1693o-1. Dodd-Frank transferred EFTA rulemaking authority from the Federal Reserve Board to the CFPB. The CFPB's remittance transfer rule became effective on October 28, 2013. The CFPB's final remittance transfer rule was codified as new subpart B to Regulation E, 12 C.F.R. §§ 1005.30-1005.36.

cash and does not instruct nor authorize a financial institution to credit a consumer account in a financial institution. The Uniform Law Commission expressed concern that absent a change to UCC Article 4A, there could be legal uncertainty for some remittance transfers currently governed by Article 4A, particularly for industry participants.<sup>12</sup> The Consumer Financial Protection Bureau (CFPB), in its proposed remittance transfer rules (Regulation E), also noted the uncertainty raised for traditional cash-based remittances sent through money transmitters (which have not been covered by the EFTA) and international wire transfers, which are not electronic funds transfers.<sup>13</sup>

In 2012, the Uniform Law Commission proposed an amendment to UCC Article 4A, which a majority of states have adopted.<sup>14</sup> The amendment provides an affirmative statement of the Act's applicability to remittance transfers that are *not* electronic funds transfers under the EFTA. Without this amendment, neither the federal EFTA nor UCC Article 4A (as codified in the Act) will apply to some aspects of remittance transfers, and the result would be no statutory rules for remittance transfers that may involve mistaken addresses or payees, duties of intermediaries and other issues beyond the initial sending of the transfer.<sup>15</sup>

### **Effect of the Bill on Transfers of Funds**

Section 1 of the bill adopts the Uniform Law Commission's 2012 amendment, and amends s. 670.108, F.S., to clarify that the Act applies to funds transfers that are remittance transfers as defined in the EFTA, *unless* the remittance transfer is an electronic funds transfer (which will be covered by federal law). The bill provides that if there is any inconsistency between a funds transfer under the Act and the EFTA, the EFTA will govern the inconsistency. This parallels language in the EFTA stating that state law is preempted only if it is inconsistent with the EFTA or Regulation E, and then only to the extent of the inconsistency.<sup>16</sup>

### **Current Situation: Cancellation of Mortgages**

Currently, a lender must cancel a mortgage within 60 days after it has been paid off.<sup>17</sup> The statute is silent as to different types of mortgages, such as open-end mortgages and home equity lines of credit, and does not provide any exceptions. "Open-end mortgages" are not defined in the Florida Statutes, but are generally understood in the financial services industry to allow borrowers to pay down the balance and then draw credit back up to the maximum limit as needed, in contrast to "closed-end mortgages" that disburse the entire loan amount upfront to or on behalf of the borrower and do not allow future redraws of credit.<sup>18</sup>

According to the Florida Bankers Association, open-end lines of credit provide flexibility to consumers by allowing continual access to their home equity by paying off the mortgage in full and then re-accessing the equity when and if needed by the consumer. Under current law, lenders must cancel

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<sup>12</sup> UNIFORM LAW COMMISSION, *UCC Article 4A Amendments (2012) Summary*, at [http://www.uniformlaws.org/ActSummary.aspx?title=UCC%20Article%204A%20Amendments%20\(2012\)](http://www.uniformlaws.org/ActSummary.aspx?title=UCC%20Article%204A%20Amendments%20(2012))

<sup>13</sup> Electronic Fund Transfers (Regulation E); Final Rule and Proposed Rule, 77 Fed. Reg. 6211-6212 (issued Feb. 7, 2012) (codified at 12 C.F.R. pt. 1005).

<sup>14</sup> UNIFORM LAW COMMISSION, *UCC Article 4A Amendments (2012): Enactment Status Map*, at [http://www.uniformlaws.org/Act.aspx?title=UCC Article 4A Amendments \(2012\)](http://www.uniformlaws.org/Act.aspx?title=UCC Article 4A Amendments (2012)) (last viewed Sept. 30, 2015).

<sup>15</sup> See footnote 12, above.

<sup>16</sup> 15 U.S.C. §1693q.

<sup>17</sup> s. 701.03, F.S.

<sup>18</sup> CONSUMER FINANCIAL PROTECTION BUREAU, *Ask CFPB: What is a second mortgage loan or "junior-lien"?*, at <http://www.consumerfinance.gov/askcfpb/105/what-is-a-second-mortgage-loan-or-junior-lien.html> (last viewed Sept. 29, 2015). Additionally, Regulation Z, which implements the federal Truth in Lending Act, defines "open-end credit" as "consumer credit extended by a credit under a plan in which: (i) The creditor reasonably contemplates repeated transactions; (ii) The creditor may impose a finance charge from time to time on an outstanding unpaid balance; and (iii) The amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid." 12 C.F.R. § 226.2(20).

“any mortgage” upon payoff and must release the lien without exception. This undermines the purpose of open-end mortgages and creates costly and burdensome work for both the consumer and the lender each time the consumer seeks new access to credit secured by the home.<sup>19</sup>

Surrounding states such as Alabama, Georgia, Mississippi, and North Carolina have laws requiring that open-end mortgages and similar lines of credit be cancelled only upon the borrower’s full payment and written notice to the lender that he or she wishes to terminate the open-end mortgage.<sup>20</sup>

### **Effect of the Bill on Cancellation of Mortgages**

The bill amends s. 701.03, F.S., to clarify that a mortgagee or assignee’s duty to cancel a mortgage is triggered upon 60 days of *full payment* of the mortgage. The bill also provides that this section does not apply to open-end mortgages, unless the borrower provides written notice after full payoff that he or she intends to close the open-end mortgage. If these conditions are met, the mortgagee or assignee must cancel the open-end mortgage within 60 days after receiving the notice as if it were any other type of mortgage.

#### **B. SECTION DIRECTORY:**

Section 1. Amends 670.108, F.S., relating to the exclusion of consumer transactions governed by federal law.

Section 2. Amends s. 701.03, F.S., relating to cancellation of mortgages.

Section 3. Provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Indeterminate but positive. The bill’s clarification of the coverage of the Act to remittance transfers may provide greater transactional and operational efficiency for remittance transfer providers and intermediary institutions. In addition, the bill’s allowance for open-end mortgages to remain open after a borrower pays it off may reduce administrative costs for lenders and borrowers.

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<sup>19</sup> E-mail from the Florida Bankers Association, RE: HB 145 – Financial Transactions, regarding background of Section 2 (Sept. 28, 2015).

<sup>20</sup> Ala. Code 1975 §35-10-26; Ga. Code Ann. § 44-14-3; Miss. Code Ann. § 89-5-21; N.C.G.S.A. § 45-36.9.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill is silent regarding how or if the changes would apply to pending remittance transfers or open-end mortgages made prior to the effective date of July 1, 2016.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to financial transactions; amending s.  
 3           670.108, F.S.; revising applicability; providing that  
 4           ch. 670, F.S., governs certain funds transfers that  
 5           are remittance transfers; providing that the federal  
 6           Electronic Fund Transfer Act governs any inconsistency  
 7           between a funds transfer made under the federal act  
 8           and a funds transfer made under ch. 670, F.S.;  
 9           amending s. 701.03, F.S.; requiring that an open-end  
 10          mortgage be cancelled within a specified timeframe if  
 11          the borrower provides written notice of his or her  
 12          intent to close the open-end mortgage; providing an  
 13          effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17           Section 1.   Section 670.108, Florida Statutes, is amended  
 18   to read:

19           670.108   Relationship to Electronic Fund Transfer Act  
 20   ~~Exclusion of consumer transactions governed by federal law.--~~

21           (1) Except as provided in subsection (2), this chapter  
 22   does not apply to a funds transfer any part of which is governed  
 23   by the Electronic Fund Transfer Act of 1978 (Title XX, Pub. L.  
 24   No. 95-630, 92 Stat. 3728, 15 U.S.C. ss. 1693 et seq.), as  
 25   amended from time to time.

26           (2) This chapter applies to a funds transfer that is a

CODING: Words stricken are deletions; words underlined are additions.

27 remittance transfer as defined in the Electronic Fund Transfer  
 28 Act, 15 U.S.C. s. 1693o-1, as amended from time to time, unless  
 29 the remittance transfer is an electronic fund transfer as  
 30 defined in the Electronic Fund Transfer Act, 15 U.S.C s. 1693a,  
 31 as amended from time to time.

32 (3) If there is an inconsistency between a funds transfer  
 33 under this chapter and the Electronic Fund Transfer Act, the  
 34 Electronic Fund Transfer Act governs the inconsistency.

35 Section 2. Section 701.03, Florida Statutes, is amended to  
 36 read:

37 701.03 Cancellation.—When ~~Whenever~~ the amount of money due  
 38 on any mortgage is shall be fully paid, the mortgagee or  
 39 assignee shall, within 60 days of full payment, ~~thereafter~~  
 40 cancel the mortgage same in the manner provided by law. This  
 41 section does not apply to an open-end mortgage unless, after  
 42 fully paying the mortgage, the borrower provides written notice  
 43 of his or her intent to close the open-end mortgage. If such  
 44 notice is given, the mortgagee or assignee shall cancel the  
 45 open-end mortgage within 60 days after receiving the notice.

46 Section 3. This act shall take effect July 1, 2016.

**INSURANCE & BANKING SUBCOMMITTEE**

**HB 145 by Rep. McGhee  
Financial Transactions**

**AMENDMENT SUMMARY  
November 4, 2015**

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**Amendment by Rep. McGhee (line 46):** Clarifies that the bill's effective date of July 1, 2016 applies prospectively to all remittance transfers and mortgages made on or after that date.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative McGhee offered the following:

4  
 5 **Amendment**

6 Remove line 46 and insert:

7 Section 3. This act shall take effect July 1, 2016, and  
 8 applies to all remittance transfers and mortgages made on or  
 9 after that date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 79 Property Insurance Appraisers and Property Insurance Appraisal Umpires  
**SPONSOR(S):** Insurance & Banking Subcommittee  
**TIED BILLS:** IDEN./SIM. BILLS: SB 336

| REFERENCE                                     | ACTION | ANALYST     | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF  |
|---|--------|-------------|---|
| Orig. Comm.: Insurance & Banking Subcommittee |        | Peterson RP | Luczynski  |

### SUMMARY ANALYSIS

Insurance companies often include an appraisal clause in property insurance policies. The appraisal clause provides a procedure to resolve disputes between the policyholder and the insurer concerning the value of a covered loss.

The appraisal process *generally* works as follows:

- The insurance company and the policyholder each appoint an independent, disinterested appraiser.
- Each appraiser evaluates the loss independently.
- The appraisers negotiate and attempt to reach an agreed amount of the damages.
- If the appraisers agree as to the amount of the claim, the insurer pays the claim.
- If the appraisers cannot agree on the amount, they together choose a mutually acceptable umpire.
- Once the umpire has been chosen, the appraisers each present their loss assessment to the umpire.
- The umpire will subsequently provide a written decision to both appraisers. A decision agreed to by any two of the three will set the amount of the loss.
- The insurance company or the policyholder may challenge the umpire's impartiality and disqualify a proposed umpire based on criteria set forth in statute.

Current law does not regulate who may serve as a property insurance appraiser or property insurance appraisal umpire.

The proposed committee substitute (PCS) establishes a licensing program for "property insurance appraisers," "property insurance appraisal umpires," and "property insurance appraisal firms" within the Department of Financial Services (DFS). The PCS 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 DFS. The bill creates definitions; qualifications and requirements for licensure, including prerequisite education, fees, and background screening; continuing education; mandatory and discretionary grounds for refusal, suspension, or revocation of a license; and a code of conduct. Only retired judges and Florida-licensed engineers, contractors, architects, attorneys, and adjusters who meet specified experience requirements are eligible for licensure.

The PCS authorizes two full-time equivalent positions and appropriates \$74,851 in recurring funds, and \$3,882 in nonrecurring funds from the Insurance Regulatory Trust Fund and \$67,398 in recurring funds and \$38,882 in nonrecurring funds from the Administrative Trust Fund to implement provisions of the PCS. The PCS is not anticipated to have a fiscal impact on local government. The PCS will have a negative fiscal impact on the private sector because it imposes licensing fees and ongoing costs of licensure in order to practice as an appraiser or umpire which may also affect the cost to obtain those services. It may, however, improve appraisal results, which would have a positive impact on both insurers and policyholders.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

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

Insurance companies often include an appraisal clause in property insurance policies.<sup>1</sup> The appraisal clause provides a procedure to resolve disputes between the policyholder and the insurer concerning the value of a covered loss. The appraisal clause is used only to determine disputed values. An appraisal cannot be used to determine what is covered under an insurance policy. Coverage issues are litigated and determined by the courts.

The appraisal process *generally* works as follows:

- The insurance company and the policyholder each appoint an independent, disinterested appraiser.
- Each appraiser evaluates the loss independently.
- The appraisers negotiate and attempt to reach an agreed amount of the damages.
- If the appraisers agree as to the amount of the claim, the insurer pays the claim.
- If the appraisers cannot agree on the amount, they together choose a mutually acceptable umpire.
- Once the umpire has been chosen, the appraisers each present their loss assessment to the umpire.
- The umpire will subsequently provide a written decision to both appraisers. A decision agreed to by any two of the three will set the amount of the loss.
- The insurance company or the policyholder may challenge the umpire's impartiality and disqualify a proposed umpire based on criteria set forth in statute.<sup>2</sup>

Current law does not regulate who may serve as a property insurance appraiser or property insurance appraisal umpire.

##### **The Sunrise Act**

A proposal for new regulation of a profession must meet the requirements of s. 11.62, F.S., the Sunrise Act. In general, the act states that regulation should not occur unless it is:

- Necessary to protect the public health, safety, or welfare from significant and discernible harm or damage;
- Exercised only to the extent necessary to prevent the harm; and
- Limited so as not to unnecessarily restrict entry into the practice of the profession or adversely affect public access to the professional services.

In determining whether to regulate a profession or occupation, the act 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;

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<sup>1</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 clauses.

<sup>2</sup> See s. 627.70151, F.S.

- 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.

The act requires proponents of legislation proposing new regulation to provide the following information, upon request, to document the need for regulation:

- The number of individuals or businesses that would be subject to the regulation;
- The name of each association that represents members of the profession or occupation, together with a copy of its codes of ethics or conduct;
- Documentation of the nature and extent of the harm to the public caused by the unregulated practice of the profession or occupation, including a description of any complaints that have been lodged against persons who have practiced the profession or occupation in this state during the preceding three years;
- A list of states that regulate the profession or occupation, and the dates of enactment of each law providing for such regulation and a copy of each law;
- A list and description of state and federal laws that have been enacted to protect the public with respect to the profession or occupation and a statement of the reasons why these laws have not proven adequate to protect the public;
- A description of the voluntary efforts made by members of the profession or occupation to protect the public and a statement of the reasons why these efforts are not adequate to protect the public;
- A copy of any federal legislation mandating regulation;
- An explanation of the reasons why other types of less restrictive regulation would not effectively protect the public;
- The cost, availability, and appropriateness of training and examination requirements;
- The cost of regulation, including the indirect cost to consumers, and the method proposed to finance the regulation;
- The cost imposed on applicants or practitioners or on employers of applicants or practitioners as a result of the regulation; and
- The details of any previous efforts in this state to implement regulation of the profession or occupation.

The act requires the agency proposed to have jurisdiction over the regulation to provide the Legislature with the following information:

- The resources required to implement and enforce the regulation;
- The technical sufficiency of the proposal, including its consistency with the regulation of other professions; and
- Any alternatives that may result in less restrictive or more cost-effective regulation.

In determining whether to recommend regulation, the legislative committee reviewing the proposal is directed to assess whether the proposed regulation is:

- Justified based on the statutory criteria and the information provided by both the proponents of regulation and the agency responsible for its implementation;
- The least restrictive and most cost-effective regulatory scheme necessary to protect the public; and

- Technically sufficient and consistent with the regulation of other professions under existing law.

#### *Proponents' Response to the Sunrise Act*

The sponsor of the bill has submitted a response<sup>3</sup> in support of the need for regulation. It states that the unregulated profession poses a substantial harm to the public health, safety, or welfare. 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 [sic] 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 thus they fail to repair the interior making the damages worse and affecting the value of the home.

The sponsor notes that specific information regarding the current scope and nature of the public harm and the potential impact of regulation is not available. The sponsor estimates that 2,000 individuals will become licensed if the proposed committee substitute (PCS) becomes law.

#### **Licensing of Property Insurance Appraisers, Property Insurance Appraisal Umpires, and Property Insurance Appraisal Firms**

Currently, no state licenses property insurance appraisers, property insurance appraisal umpires, or property insurance appraisal firms. Two private organizations<sup>4</sup> offer voluntary certification programs that appear to impose limited eligibility standards. Both programs, however, require compliance with a code of ethics to maintain certification, although neither program indicates how compliance is monitored. Less than 5 percent of the 2,000 individuals the sponsor estimates will seek licensure in Florida if the PCS becomes law are currently certified members of one or both of the organizations.<sup>5</sup>

#### **Effect of the PCS**

The PCS establishes a licensing program for "property insurance appraisers," (appraisers) "property insurance appraisal umpires," (umpires) and "property insurance appraisal firms" (appraisal firms) within the Department of Financial Services (DFS). The PCS 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 DFS. As a result, the PCS prohibits an individual from practicing or holding him or herself out as an appraiser or umpire and prohibits an individual or entity from acting or holding himself, herself, or itself out as a firm unless licensed and, in the case of an appraiser or umpire, currently appointed with the DFS.

<sup>3</sup> On file with the House Insurance & Banking Subcommittee.

<sup>4</sup> Windstorm Insurance Network, Inc.; Insurance Appraisal and Umpire Association, Inc.

<sup>5</sup> See Windstorm Insurance Network, *Wind Credential Program*, <http://windnetwork.com/wind-credential-programs/> (last visited Oct. 28, 2015); Insurance Appraisal and Umpire Association, Inc., *Certified Directory*, <http://www.iaua.us/certified-directory.aspx> (last visited Oct. 28, 2015).

▪ *Definitions*

The PCS provides definitions of terms, including “property insurance appraiser,” “property insurance appraisal umpire,” and “property insurance appraisal firm.”

▪ *Licensure Requirements – Appraiser and Umpire*

The PCS establishes licensure requirements for an applicant. An applicant must:

- Be at least 18 years of age;
- Be a citizen or legal alien authorized to work in the U.S.;
- Be of good moral character;
- Submit a written application made under oath;
- Pay fees, to be deposited into the Insurance Regulatory Trust Fund;
- Undergo level two background screening; and
- Prior to submitting the application, have completed DFS-approved courses in claims estimating and insurance law and ethics.

Only the following individuals are eligible for licensure:

- A retired county, circuit, or appellate judge;
- An engineer licensed pursuant to ch. 471, F.S., or a retired professional engineer as defined in s. 471.005, F.S.;
- A general contractor, building contractor, or residential contractor licensed pursuant to part I of ch. 489, F.S.;
- An architect licensed or registered to engage in the practice of architecture pursuant to part I of ch. 481, F.S.;
- A member of The Florida Bar; or
- An adjuster licensed pursuant to part VI of ch. 626, F.S., which license includes the property and casualty lines of insurance. An adjuster must have been licensed for at least 3 years as an adjuster before he or she may be licensed as an appraiser and must have been licensed for at least 5 years as an adjuster before he or she may be licensed as an umpire.

▪ *Licensure Requirements – Property Insurance Appraisal Firm*

The PCS establishes licensure requirements for an appraisal firm. An application must be signed and include:

- Contact information for each principal who directs, manages, or controls the firm; the firm; any branch offices; and its registered agent.<sup>6</sup>
- Fingerprints for each principal, unless already on file with the DFS.
- Other information deemed necessary to ascertain the trustworthiness and competence of the principals.

An appraiser or umpire who practices under his or her own name and does not employ others is exempt from the firm licensing requirement.

Failure to obtain a firm license, if required, may result in a fine of up to \$10,000.

▪ *Appointment – Appraiser and Umpire*

The PCS requires an appraiser or umpire to be appointed with the DFS in order to practice in the state. The fee for appointment and biennial renewal of appointment is \$60.

▪ *Continuing Education – Appraiser and Umpire*

The PCS requires the same continuing education currently required of an adjuster: 19 hours of approved continuing education and five hours of ethics biennially.

▪ *Code of Conduct – Appraiser and Umpire*

The PCS establishes ethical standards related to confidentiality; fees and expenses; maintenance of records; advertising; integrity and impartiality; skill and experience; and gifts and solicitation.

▪ *Grounds for Refusal, Suspension, or Revocation of a License – Appraiser, Umpire, and Firm*

The PCS establishes conditions for mandatory and discretionary refusal, suspension, or revocation of a license.

▪ *Investigation – Appraiser, Umpire, and Firm*

The PCS authorizes the DFS to investigate any appraiser, umpire, or firm for suspected or reported violations of the insurance code.

B. SECTION DIRECTORY:

**Section 1:** amends s. 624.04, F.S., revising the definition of the term “person.”

**Section 2:** amends s. 624.303, F.S., excepting certificates issued to appraisers and umpires from the requirement to bear the seal of the DFS.

**Section 3:** amends s. 624.311, F.S., providing a schedule for destruction of property insurance appraiser and umpire licensing files and records.

**Section 4:** amends s. 624.317, F.S., authorizing the DFS to investigate appraisers, umpires, and appraisal firms for violations of the insurance code.

**Section 5:** amends s. 624.501, F.S., authorizing specified licensing fees for appraisers and umpires.

**Section 6:** amends s. 624.523, F.S., requiring the deposit of fees into the Insurance Regulatory Trust Fund.

**Section 7:** amends s. 626.015, F.S., revising the definition of “appraisal” and creating definitions of “property insurance appraisal umpire,” “property insurance appraiser,” and “property insurance appraisal firm.”

**Section 8:** amends s. 626.016, F.S., expanding the scope of the Chief Financial Officer’s powers and duties and the DFS’s enforcement jurisdiction to include appraisers, umpires, and appraisal firms.

**Section 9:** amends s. 626.022, F.S., including appraiser, umpire, and appraisal firm licensing in the scope of part I of chapter 626, F.S., relating to licensing to procedures.

**Section 10:** amends s. 626.112, F.S., requiring licensure as an appraiser, umpire, or appraisal firm.

**Section 11:** amends s. 626.171, F.S., requiring applicants for licensure as an appraiser or umpire to submit fingerprints.

**Section 12:** amends s. 626.207, F.S., excluding applicants for licensure as appraisers, umpires, and appraisal firms from application of s. 112.011, F.S., relating to disqualification from license or public employment.

**Section 13:** amends s. 626.2815, F.S., requiring specified continuing education for licensure as an appraiser or umpire.

**Section 14:** amends s. 626.382, F.S., providing that an appraisal firm license continues in force until canceled, suspended, or revoked or otherwise terminated by law.

**Section 15:** amends s. 626.521, F.S., authorizing the DFS to obtain a credit and character report for certain appraiser and umpire applicants.

**Section 16:** amends s. 626.536, F.S., requiring appraisal firms to submit a copy of certain documents to the DFS within 30 days after disposition of certain administrative actions.

**Section 17:** amends s. 626.541, F.S., requiring an appraiser or umpire to provide certain information to the DFS when doing business under a different business name or when information in the licensure application changes.

**Section 18:** amends s. 626.601, F.S., authorizing the DFS to investigate improper conduct of any licensed appraiser, umpire, or appraisal firm.

**Section 19:** amends s. 626.602, F.S., authorizing the DFS to disapprove certain appraisal firm names.

- Section 20:** amends s. 626.611, F.S., requiring the DFS to refuse, suspend, or revoke an appraiser's or umpire's license under certain circumstances.
- Section 21:** amends s. 626.6115, F.S., requiring the DFS to refuse, suspend, or revoke an appraisal firm license under certain circumstances.
- Section 22:** amends s. 626.621, F.S., authorizing the DFS to refuse, suspend, or revoke an appraiser's or umpire's license under certain circumstances.
- Section 23:** amends s. 626.6215, F.S., authorizing the DFS to refuse, suspend, or revoke an appraisal firm's license under certain circumstances.
- Section 24:** amends s. 626.641, F.S., prohibiting an appraiser or umpire from owning, controlling, or being employed by other licensees during the period the appraiser or umpire's license is suspended or revoked.
- Section 25:** amends s. 626.6515, F.S., authorizing the DFS to suspend or revoke the license of an appraisal firm under the control of any person who participated in activities resulting in the suspension or revocation of the license of an associated firm.
- Section 26:** amends s. 626.681, F.S., authorizing an administrative fine in lieu of or in addition to suspension, revocation, or refusal of an appraisal firm license.
- Section 27:** amends s. 626.8443, F.S., prohibiting a title insurance agent from owning, controlling, or being employed by an appraiser, umpire, or appraisal firm during the period the agent's license is suspended or revoked.
- Section 28:** creates part XIV of chapter 626, F.S., relating to appraisers and umpires.
- Section 29:** providing an appropriation.
- Section 30:** providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The PCS authorizes the following fees applicable to appraisers and umpires:

- Appointment and biennial appointment: \$60
- Application fee: \$50
- License fee: \$5
- Late filing of appointment: \$20
- Fee to cover the cost of a credit report when requested by the DFS: actual cost
- Fee to cover the cost of a level two background screening: actual cost (\$38.75)

#### 2. Expenditures:

The PCS authorizes two full-time equivalent positions and appropriates \$74,851 in recurring funds, and \$3,882 in nonrecurring funds from the Insurance Regulatory Trust Fund and \$67,398 in recurring funds and \$38,882 in nonrecurring funds from the Administrative Trust Fund to implement provisions of the PCS. The PCS is not anticipated to have a fiscal impact on local government.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The PCS will have a negative fiscal impact on the private sector because it imposes licensing fees and ongoing costs of licensure in order to practice as an appraiser or umpire which may also affect the cost to obtain those services. It may, however, improve appraisal results which would have a positive impact on both insurers and policyholders.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The PCS authorizes the DFS to adopt a rule, as needed, defining additional information that may be required in an appraisal firm application to determine compliance with the insurance code.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



28 property insurance appraisal umpires, and property  
 29 insurance appraisal firms; amending s. 626.022, F.S.;  
 30 including property insurance appraiser, property  
 31 insurance appraisal umpire, and property insurance  
 32 appraisal firm licensing in the scope of part I of  
 33 chapter 626, F.S., relating to licensing to  
 34 procedures; amending s. 626.112, F.S.; requiring  
 35 licensure as a property insurance appraiser, property  
 36 insurance appraisal umpire, or property insurance  
 37 appraisal firm; amending s. 626.171, F.S.; requiring  
 38 applicants for licensure as a property insurance  
 39 appraiser or property insurance appraisal umpire to  
 40 submit fingerprints; amending s. 626.207, F.S.;  
 41 excluding applicants for licensure as property  
 42 insurance appraisers, property insurance appraisal  
 43 umpires, and property insurance appraisal firms from  
 44 application of s. 112.011, F.S., relating to  
 45 disqualification from license or public employment;  
 46 amending s. 626.2815, F.S.; requiring specified  
 47 continuing education for licensure as a property  
 48 insurance appraiser or property insurance appraisal  
 49 umpire; amending s. 626.382, F.S.; providing that a  
 50 property insurance appraisal firm license continues in  
 51 force until canceled, suspended, or revoked or  
 52 otherwise terminated by law; amending s. 626.521,  
 53 F.S.; authorizing the department to obtain a credit  
 54 and character report for certain property insurance

55 appraiser and property insurance appraisal umpire  
 56 applicants; amending s. 626.536, F.S.; requiring  
 57 property insurance appraisal firms to submit a copy of  
 58 certain documents to the department within 30 days  
 59 after disposition of certain administrative actions;  
 60 amending s. 626.541, F.S.; requiring a property  
 61 insurance appraiser or property insurance appraisal  
 62 umpire to provide certain information to the  
 63 department when doing business under a different  
 64 business name or when information in the licensure  
 65 application changes; amending s. 626.601, F.S.;

66 authorizing the department to investigate improper  
 67 conduct of any licensed property insurance appraiser,  
 68 property insurance appraisal umpire, or property  
 69 insurance appraisal firm; amending s. 626.602, F.S.;

70 authorizing the department to disapprove certain  
 71 property insurance appraisal firm names; amending s.  
 72 626.611, F.S.; requiring the department to refuse,  
 73 suspend, or revoke a property insurance appraiser's or  
 74 property insurance appraisal umpire's license under  
 75 certain circumstances; amending s. 626.6115, F.S.;

76 requiring the department to refuse, suspend, or revoke  
 77 a property insurance appraisal firm license under  
 78 certain circumstances; amending s. 626.621, F.S.;

79 authorizing the department to refuse, suspend, or  
 80 revoke a property insurance appraiser's or property  
 81 insurance appraisal umpire's license under certain

82 | circumstances; amending s. 626.6215, F.S.; authorizing  
 83 | the department to refuse, suspend, or revoke a  
 84 | property insurance appraisal firm's license under  
 85 | certain circumstances; amending s. 626.641, F.S.;  
 86 | prohibiting a property insurance appraiser or property  
 87 | insurance appraisal umpire from owning, controlling,  
 88 | or being employed by other licensees during the period  
 89 | the appraiser or umpire's license is suspended or  
 90 | revoked; amending s. 626.6515, F.S.; authorizing the  
 91 | department to suspend or revoke the license of a  
 92 | property insurance appraisal firm under the control of  
 93 | any person who participated in activities resulting in  
 94 | the suspension or revocation of the license of an  
 95 | associated firm; amending s. 626.681, F.S.;  
 96 | authorizing an administrative fine in lieu of or in  
 97 | addition to suspension, revocation, or refusal of a  
 98 | property insurance appraisal firm license; amending s.  
 99 | 626.8443, F.S.; prohibiting a title insurance agent  
 100 | from owning, controlling, or being employed by a  
 101 | property insurance appraiser, property insurance  
 102 | appraisal umpire, or property insurance appraisal firm  
 103 | during the period the agent's license is suspended or  
 104 | revoked; creating part XIV of chapter 626, F.S.,  
 105 | relating to property insurance appraisers and property  
 106 | insurance appraisal umpires; creating s. 626.9961,  
 107 | F.S.; providing a short title; creating s. 626.9962,  
 108 | F.S.; providing legislative purpose; creating s.

109 626.9963, F.S.; providing that the part supplements  
 110 part I of chapter 626, F.S., the "Licensing Procedure  
 111 Law; creating s. 626.9964, F.S.; providing  
 112 definitions; creating s. 626.9965, F.S.; providing  
 113 qualifications for license as a property insurance  
 114 appraiser or property insurance appraisal umpire;  
 115 creating s. 626.9966, F.S.; requiring the department  
 116 to issue a license as a property insurance appraisal  
 117 firm upon receipt of an application and qualification  
 118 for the license; creating s. 626.9967, F.S.;  
 119 authorizing the department to refuse, suspend, or  
 120 revoke a property insurance appraiser's, property  
 121 insurance appraisal umpire's, or property insurance  
 122 appraisal firm's license under certain circumstances;  
 123 creating s. 626.9968, F.S.; providing ethical  
 124 standards; providing an appropriation; providing an  
 125 effective date.

126

127 Be It Enacted by the Legislature of the State of Florida:

128

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

131 624.04 "Person" defined.—"Person" includes an individual,  
 132 insurer, company, association, organization, Lloyds, society,  
 133 reciprocal insurer or interinsurance exchange, partnership,  
 134 syndicate, business trust, corporation, agent, general agent,  
 135 broker, service representative, adjuster, property insurance

136 appraiser, property insurance appraisal umpire, and every legal  
 137 entity.

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

140 624.303 Seal; certified copies as evidence.-

141 (2) All certificates executed by the department or office,  
 142 other than licenses of agents, property insurance appraisers,  
 143 property insurance appraisal umpires, ~~or~~ adjusters, or similar  
 144 licenses or permits, shall bear its respective seal.

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

147 624.311 Records; reproductions; destruction.-

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

152 (b) Agent, adjuster, property insurance appraiser,  
 153 property insurance appraisal umpire, and similar license files,  
 154 including license files of the Division of State Fire Marshal,  
 155 over 2 years old; except that the department or office shall  
 156 preserve by reproduction or otherwise a copy of the original  
 157 records upon the basis of which each such licensee qualified for  
 158 her or his initial license, except a competency examination, and  
 159 of any disciplinary proceeding affecting the licensee;

160 (c) All agent, adjuster, property insurance appraiser,  
 161 property insurance appraisal umpire, and similar license files  
 162 and records, including original license qualification records

163 and records of disciplinary proceedings 5 years after a licensee  
 164 has ceased to be qualified for a license;

165 Section 4. Subsection (1) of section 624.317, Florida  
 166 Statutes, is amended to read:

167 624.317 Investigation of agents, adjusters, property  
 168 insurance appraisers, property insurance appraisal umpires,  
 169 administrators, service companies, and others.—If it has reason  
 170 to believe that any person has violated or is violating any  
 171 provision of this code, or upon the written complaint signed by  
 172 any interested person indicating that any such violation may  
 173 exist:

174 (1) The department shall conduct such investigation as it  
 175 deems necessary of the accounts, records, documents, and  
 176 transactions pertaining to or affecting the insurance affairs of  
 177 any general agent, surplus lines agent, adjuster, property  
 178 insurance appraiser, property insurance appraisal umpire,  
 179 property insurance appraisal firm, managing general agent,  
 180 insurance agent, insurance agency, customer representative,  
 181 service representative, or other person subject to its  
 182 jurisdiction, subject to the requirements of s. 626.601.

183 Section 5. Paragraph (c) of subsection (19) and subsection  
 184 (28) of section 624.501, Florida Statutes, is amended and new  
 185 subsection (29) is created to read:

186 624.501 Filing, license, appointment, and miscellaneous  
 187 fees.—The department, commission, or office, as appropriate,  
 188 shall collect in advance, and persons so served shall pay to it  
 189 in advance, fees, licenses, and miscellaneous charges as

190 follows:

191 (19) Miscellaneous services:

192 (c) For preparing lists of agents, adjusters, property  
193 insurance appraisers, property insurance appraisal umpires, and  
194 other insurance representatives, and for other miscellaneous  
195 services, such reasonable charge as may be fixed by the office  
196 or department.

197 (28) Late filing of appointment renewals for agents,  
198 adjusters, property insurance appraisers, property insurance  
199 appraisal umpires, and other insurance representatives, each  
200 appointment.....\$20.00

201 (29) Property insurance appraisers and property insurance  
202 appraisal umpires:

203 (a) Property insurance appraiser's and property insurance  
204 appraisal umpire's appointment and biennial renewal or  
205 continuation thereof, appointment .....\$60.00

206 (b) Fee to cover actual cost of credit report, when such  
207 report must be secured by department.

208 Section 6. Paragraph (e) of subsection (1) of section  
209 624.523, Florida Statutes, is amended to read:

210 624.523 Insurance Regulatory Trust Fund.—

211 (1) There is created in the State Treasury a trust fund  
212 designated "Insurance Regulatory Trust Fund" to which shall be  
213 credited all payments received on account of the following  
214 items:

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

- 217 1. Subsection (1) (certificate of authority of insurer).
- 218 2. Subsection (2) (charter documents of insurer).
- 219 3. Subsection (3) (annual license tax of insurer).
- 220 4. Subsection (4) (annual statement of insurer).
- 221 5. Subsection (5) (application fee for insurance
- 222 representatives).
- 223 6. The "appointment fee" portion of any appointment
- 224 provided for under paragraphs (6) (a) and (b) (insurance
- 225 representatives, property, marine, casualty and surety
- 226 insurance, and agents).
- 227 7. Paragraph (6) (c) (nonresident agents).
- 228 8. Paragraph (6) (d) (service representatives).
- 229 9. The "appointment fee" portion of any appointment
- 230 provided for under paragraph (7) (a) (life insurance agents,
- 231 original appointment, and renewal or continuation of
- 232 appointment).
- 233 10. Paragraph (7) (b) (nonresident agent license).
- 234 11. The "appointment fee" portion of any appointment
- 235 provided for under paragraph (8) (a) (health insurance agents,
- 236 agent's appointment, and renewal or continuation fee).
- 237 12. Paragraph (8) (b) (nonresident agent appointment).
- 238 13. The "appointment fee" portion of any appointment
- 239 provided for under subsections (9) and (10) (limited licenses
- 240 and fraternal benefit society agents).
- 241 14. Subsection (11) (surplus lines agent).
- 242 15. Subsection (12) (adjusters' appointment).
- 243 16. Subsection (13) (examination fee).

244 17. Subsection (14) (temporary license and appointment as  
245 agent or adjuster).

246 18. Subsection (15) (reissuance, reinstatement, etc.).

247 19. Subsection (16) (additional license continuation  
248 fees).

249 20. Subsection (17) (filing application for permit to form  
250 insurer).

251 21. Subsection (18) (license fee of rating organization).

252 22. Subsection (19) (miscellaneous services).

253 23. Subsection (20) (insurance agencies).

254 24. Subsection (29) (property insurance appraisers' and  
255 property insurance appraisal umpires' appointment).

256 Section 7. Subsection (3) of section 626.015, Florida  
257 Statutes, is amended, subsections (15), (16), (17), (18), and  
258 (19) are renumbered as subsections (18), (19), (20), (21) and  
259 (22), respectively, and subsections (15), (16), and (17) are  
260 added to that section, to read:

261 626.015 Definitions.—As used in this part:

262 (3) "Appointment" means the authority given by an insurer  
263 or employer to a licensee to transact insurance, ~~or~~ adjust  
264 claims, or conduct property insurance appraisals on behalf of an  
265 insurer or employer.

266 (15) "Property insurance appraisal umpire" means a  
267 property insurance appraisal umpire as defined in s. 626.9964.

268 (16) "Property insurance appraiser" means property  
269 insurance appraiser as defined in s. 626.9964.

270 (17) "Property insurance appraisal firm" means a property

271 insurance appraisal firm as defined in s. 626.9964.

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

274 626.016 Powers and duties of department, commission, and  
 275 office.—

276 (1) The powers and duties of the Chief Financial Officer  
 277 and the department specified in this part apply only with  
 278 respect to insurance agents, insurance agencies, managing  
 279 general agents, insurance adjusters, property insurance  
 280 appraisers, property insurance appraisal umpires, property  
 281 insurance appraisal firms, reinsurance intermediaries, viatical  
 282 settlement brokers, customer representatives, service  
 283 representatives, and agencies.

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

286 626.022 Scope of part.—

287 (1) This part applies as to insurance agents, service  
 288 representatives, adjusters, property insurance appraisers,  
 289 property insurance appraisal umpires, property insurance  
 290 appraisal firms, and insurance agencies; as to any and all kinds  
 291 of insurance; and as to stock insurers, mutual insurers,  
 292 reciprocal insurers, and all other types of insurers, except  
 293 that:

294 (a) It does not apply as to reinsurance, except that ss.  
 295 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.  
 296 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-  
 297 626.591, and ss. 626.601-626.711 shall apply as to reinsurance

298 intermediaries as defined in s. 626.7492.

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

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

303 (d) This part does not apply to a certified public  
304 accountant licensed under chapter 473 who is acting within the  
305 scope of the practice of public accounting, as defined in s.  
306 473.302, provided that the activities of the certified public  
307 accountant are limited to advising a client of the necessity of  
308 obtaining insurance, the amount of insurance needed, or the line  
309 of coverage needed, and provided that the certified public  
310 accountant does not directly or indirectly receive or share in  
311 any commission or referral fee.

312 Section 10. Subsections (6), (7), and (8) of section  
313 626.112, Florida Statutes, are renumbered as subsections (7),  
314 (8), and (9), respectively, subsection (9) is renumbered  
315 subsection (11) and subsections (6) and (10) are added to read:

316 626.112 License and appointment required; agents, customer  
317 representatives, adjusters, property insurance appraisers,  
318 property insurance appraisal umpires, property insurance  
319 appraisal firms, insurance agencies, service representatives,  
320 managing general agents.-

321 (1)(a) No person may be, act as, or advertise or hold  
322 himself or herself out to be an insurance agent, insurance  
323 adjuster, or customer representative unless he or she is  
324 currently licensed by the department and appointed by an

325 appropriate appointing entity or person.

326 (b) Except as provided in subsection (7)~~(6)~~ or in  
 327 applicable department rules, and in addition to other conduct  
 328 described in this chapter with respect to particular types of  
 329 agents, a license as an insurance agent, service representative,  
 330 customer representative, or limited customer representative is  
 331 required in order to engage in the solicitation of insurance.  
 332 For purposes of this requirement, as applicable to any of the  
 333 license types described in this section, the solicitation of  
 334 insurance is the attempt to persuade any person to purchase an  
 335 insurance product by:

- 336 1. Describing the benefits or terms of insurance coverage,  
 337 including premiums or rates of return;
- 338 2. Distributing an invitation to contract to prospective  
 339 purchasers;
- 340 3. Making general or specific recommendations as to  
 341 insurance products;
- 342 4. Completing orders or applications for insurance  
 343 products;
- 344 5. Comparing insurance products, advising as to insurance  
 345 matters, or interpreting policies or coverages; or
- 346 6. Offering or attempting to negotiate on behalf of  
 347 another person a viatical settlement contract as defined in s.  
 348 626.9911.

349  
 350 However, an employee leasing company licensed pursuant to  
 351 chapter 468 which is seeking to enter into a contract with an

352 employer that identifies products and services offered to  
 353 employees may deliver proposals for the purchase of employee  
 354 leasing services to prospective clients of the employee leasing  
 355 company setting forth the terms and conditions of doing  
 356 business; classify employees as permitted by s. 468.529; collect  
 357 information from prospective clients and other sources as  
 358 necessary to perform due diligence on the prospective client and  
 359 to prepare a proposal for services; provide and receive  
 360 enrollment forms, plans, and other documents; and discuss or  
 361 explain in general terms the conditions, limitations, options,  
 362 or exclusions of insurance benefit plans available to the client  
 363 or employees of the employee leasing company were the client to  
 364 contract with the employee leasing company. Any advertising  
 365 materials or other documents describing specific insurance  
 366 coverages must identify and be from a licensed insurer or its  
 367 licensed agent or a licensed and appointed agent employed by the  
 368 employee leasing company. The employee leasing company may not  
 369 advise or inform the prospective business client or individual  
 370 employees of specific coverage provisions, exclusions, or  
 371 limitations of particular plans. As to clients for which the  
 372 employee leasing company is providing services pursuant to s.  
 373 468.525(4), the employee leasing company may engage in  
 374 activities permitted by ss. 626.7315, 626.7845, and 626.8305,  
 375 subject to the restrictions specified in those sections. If a  
 376 prospective client requests more specific information concerning  
 377 the insurance provided by the employee leasing company, the  
 378 employee leasing company must refer the prospective business

379 client to the insurer or its licensed agent or to a licensed and  
 380 appointed agent employed by the employee leasing company.

381 (6) No person shall be, act as, or represent or hold  
 382 himself or herself out to be a property insurance appraiser or  
 383 property insurance appraisal umpire unless he or she then holds  
 384 a currently effective license and appointment as a property  
 385 insurance appraiser or property insurance appraisal umpire.

386 (10) An individual, firm, partnership, corporation,  
 387 association, or other entity shall not act in its own name or  
 388 under a trade name, directly or indirectly, as a property  
 389 insurance appraisal firm unless it complies with s. 626.9966  
 390 with respect to possessing a property insurance appraisal firm  
 391 license for each place of business at which it engages in an  
 392 activity that may be performed only by a licensed property  
 393 insurance appraiser or property insurance appraisal umpire.

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

396 626.171 Application for license as an agent, customer  
 397 representative, adjuster, property insurance appraiser, property  
 398 insurance appraisal umpire, service representative, managing  
 399 general agent, or reinsurance intermediary.—

400 (1) The department may not issue a license as agent,  
 401 customer representative, adjuster, property insurance appraiser,  
 402 property insurance appraisal umpire, service representative,  
 403 managing general agent, or reinsurance intermediary to any  
 404 person except upon written application filed with the  
 405 department, meeting the qualifications for the license applied

406 for as determined by the department, and payment in advance of  
 407 all applicable fees. The application must be made under the oath  
 408 of the applicant and be signed by the applicant. An applicant  
 409 may permit a third party to complete, submit, and sign an  
 410 application on the applicant's behalf, but is responsible for  
 411 ensuring that the information on the application is true and  
 412 correct and is accountable for any misstatements or  
 413 misrepresentations. The department shall accept the uniform  
 414 application for nonresident agent licensing. The department may  
 415 adopt revised versions of the uniform application by rule.

416 (4) An applicant for a license as an agent, customer  
 417 representative, adjuster, property insurance appraiser, property  
 418 insurance appraisal umpire, service representative, managing  
 419 general agent, or reinsurance intermediary must submit a set of  
 420 the individual applicant's fingerprints, or, if the applicant is  
 421 not an individual, a set of the fingerprints of the sole  
 422 proprietor, majority owner, partners, officers, and directors,  
 423 to the department and must pay the fingerprint processing fee  
 424 set forth in s. 624.501. Fingerprints shall be used to  
 425 investigate the applicant's qualifications pursuant to s.  
 426 626.201. The fingerprints shall be taken by a law enforcement  
 427 agency, designated examination center, or other department-  
 428 approved entity. The department shall require all designated  
 429 examination centers to have fingerprinting equipment and to take  
 430 fingerprints from any applicant or prospective applicant who  
 431 pays the applicable fee. The department may not approve an  
 432 application for licensure as an agent, customer service

433 representative, adjuster, property insurance appraiser, property  
 434 insurance appraisal umpire, service representative, managing  
 435 general agent, or reinsurance intermediary if fingerprints have  
 436 not been submitted.

437 Section 12. Subsection (9) of section 626.207, Florida  
 438 Statutes, are amended to read:

439 626.207 Disqualification of applicants and licensees;  
 440 penalties against licensees; rulemaking authority.-

441 (9) Section 112.011 does not apply to any applicants for  
 442 licensure under the Florida Insurance Code, including, but not  
 443 limited to, agents, agencies, adjusters, adjusting firms,  
 444 property insurance appraisers, property insurance appraisal  
 445 umpires, property insurance appraisal firms, customer  
 446 representatives, or managing general agents.

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

449 626.2815 Continuing education requirements.-

450 (1) The purpose of this section is to establish  
 451 requirements and standards for continuing education courses for  
 452 individuals licensed to solicit, sell, or adjust insurance or to  
 453 serve as a property insurance appraiser or property insurance  
 454 appraisal umpire in the state.

455 (2) Except as otherwise provided in this section, this  
 456 section applies to individuals licensed to transact ~~engage in~~  
 457 ~~the sale of~~ insurance or adjust ~~adjustment of~~ insurance claims  
 458 in this state for all lines of insurance for which an  
 459 examination is required for licensing and to ~~each insurer,~~

460 ~~employer, or appointing entity, including, but not limited to,~~  
 461 ~~those created or existing pursuant to s. 627.351~~ individuals  
 462 licensed to serve as a property insurance appraiser or property  
 463 insurance appraisal umpire. This section does not apply to an  
 464 individual who holds a license for the sale of any line of  
 465 insurance for which an examination is not required by the laws  
 466 of this state or who holds a limited license as a crop or hail  
 467 and multiple-peril crop insurance agent. Licensees who are  
 468 unable to comply with the continuing education requirements due  
 469 to active duty in the military may submit a written request for  
 470 a waiver to the department.

471 Section 14. Section 626.382, Florida Statutes, is amended  
 472 to read:

473 626.382 Continuation, expiration of license; insurance  
 474 agencies; property insurance appraisal firms.—The license of an  
 475 insurance agency or property insurance appraisal firm shall  
 476 continue in force until canceled, suspended, or revoked or until  
 477 it is otherwise terminated or expires by operation of law.

478 Section 15. Subsection (3) of section 626.521, Florida  
 479 Statutes, is amended to read:

480 626.521 Character, credit reports.—

481 (3) As to an applicant for an adjuster's, property  
 482 insurance appraiser's, property insurance appraisal umpire's, or  
 483 reinsurance intermediary's license who is to be self-employed,  
 484 the department may secure, at the cost of the applicant, a full  
 485 detailed credit and character report made by an established and  
 486 reputable independent reporting service relative to the

487 applicant.

488 Section 16. Section 626.536, Florida Statutes, is amended  
489 to read:

490 626.536 Reporting of administrative actions.— Within 30  
491 days after the final disposition of an administrative action  
492 taken against a licensee, ~~or~~ insurance agency, or property  
493 insurance appraisal firm by a governmental agency or other  
494 regulatory agency in this or any other state or jurisdiction  
495 relating to the business of insurance, the sale of securities,  
496 or activity involving fraud, dishonesty, trustworthiness, or  
497 breach of a fiduciary duty, the licensee, ~~or~~ insurance agency,  
498 or property insurance appraisal firm must submit a copy of the  
499 order, consent to order, or other relevant legal documents to  
500 the department. The department may adopt rules to administer  
501 this section.

502 Section 17. Subsections (1) and (3) of section 626.541,  
503 Florida Statutes, are amended to read:

504 626.541 Firm, corporate, and business names; officers;  
505 associates; notice of changes.—

506 (1) Any licensed agent, ~~or~~ adjuster, property insurance  
507 appraiser, or property insurance appraisal umpire doing business  
508 under a firm or corporate name or under any business name other  
509 than his or her own individual name shall, within 30 days after  
510 initially transacting the initial transaction of insurance or  
511 engaging in insurance activities under such business name, file  
512 with the department, on forms adopted and furnished by the  
513 department, a written statement of the firm, corporate, or

514 business name being so used, the address of any office or  
 515 offices or places of business making use of such name, and the  
 516 name and social security number of each officer and director of  
 517 the corporation and of each individual associated in such firm  
 518 or corporation as to the insurance transactions thereof or in  
 519 the use of such business name.

520 (3) Any licensed insurance agency or property insurance  
 521 appraisal firm shall, within 30 days after a change, notify the  
 522 department of any change in the information contained in the  
 523 application filed pursuant to s. 626.172 or s. 626.9966.

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

526 626.601 Improper conduct; inquiry; fingerprinting.—

527 (1) The department or office may, upon its own motion or  
 528 upon a written complaint signed by any interested person and  
 529 filed with the department or office, inquire into any alleged  
 530 improper conduct of any licensed, approved, or certified  
 531 licensee, insurance agency, agent, adjuster, property insurance  
 532 appraiser, property insurance appraisal umpire, property  
 533 insurance appraisal firm, service representative, managing  
 534 general agent, customer representative, title insurance agent,  
 535 title insurance agency, mediator, neutral evaluator, navigator,  
 536 continuing education course provider, instructor, school  
 537 official, or monitor group under this code. The department or  
 538 office may thereafter initiate an investigation of any such  
 539 individual or entity if it has reasonable cause to believe that  
 540 the individual or entity has violated any provision of the

541 insurance code. During the course of its investigation, the  
 542 department or office shall contact the individual or entity  
 543 being investigated unless it determines that contacting such  
 544 individual or entity could jeopardize the successful completion  
 545 of the investigation or cause injury to the public.

546 Section 19. Section 626.602, Florida Statutes, is amended  
 547 to read:

548 626.602 Insurance agency or property insurance appraisal  
 549 firm names; disapproval.—The department may disapprove the use  
 550 of any true or fictitious name, other than the bona fide natural  
 551 name of an individual, by any insurance agency or property  
 552 insurance appraisal firm on any of the following grounds:

553 (1) The name interferes with or is too similar to a name  
 554 already filed and in use by another agency, property insurance  
 555 appraisal firm, or insurer.

556 (2) The use of the name may mislead the public in any  
 557 respect.

558 (3) The name states or implies that the agency or firm is  
 559 an insurer, motor club, hospital service plan, state or federal  
 560 agency, charitable organization, or entity that primarily  
 561 provides advice and counsel rather than sells or solicits  
 562 insurance or provides property insurance appraisal services, or  
 563 is entitled to engage in insurance activities not permitted  
 564 under licenses held or applied for. This provision does not  
 565 prohibit the use of the word "state" or "states" in the name of  
 566 the agency. The use of the word "state" or "states" in the name  
 567 of an agency does not in and of itself imply that the agency is

568 a state agency.

569 Section 20. Subsection (1) of section 626.611, Florida  
570 Statutes, is amended to read:

571 626.611 Grounds for compulsory refusal, suspension, or  
572 revocation of agent's, title agency's, adjuster's, property  
573 insurance appraiser's, property insurance appraisal umpire's,  
574 customer representative's, service representative's, or managing  
575 general agent's license or appointment.-

576 (1) The department shall deny an application for, suspend,  
577 revoke, or refuse to renew or continue the license or  
578 appointment of any applicant, agent, title agency, adjuster,  
579 property insurance appraiser, property insurance appraisal  
580 umpire, customer representative, service representative, or  
581 managing general agent, and it shall suspend or revoke the  
582 eligibility to hold a license or appointment of any such person,  
583 if it finds that as to the applicant, licensee, or appointee any  
584 one or more of the following applicable grounds exist:

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

587 (b) Material misstatement, misrepresentation, or fraud in  
588 obtaining the license or appointment or in attempting to obtain  
589 the license or appointment.

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

592 (d) If the license or appointment is willfully used, or to  
593 be used, to circumvent any of the requirements or prohibitions  
594 of this code.

595 (e) Willful misrepresentation of any insurance policy or  
 596 annuity contract or willful deception with regard to any such  
 597 policy or contract, done either in person or by any form of  
 598 dissemination of information or advertising.

599 (f) If, as an adjuster, or agent licensed and appointed to  
 600 adjust claims under this code, he or she has materially  
 601 misrepresented to an insured or other interested party the terms  
 602 and coverage of an insurance contract with intent and for the  
 603 purpose of effecting settlement of claim for loss or damage or  
 604 benefit under such contract on less favorable terms than those  
 605 provided in and contemplated by the contract.

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

608 (h) Demonstrated lack of reasonably adequate knowledge and  
 609 technical competence to engage in the transactions authorized by  
 610 the license or appointment.

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

613 (j) Misappropriation, conversion, or unlawful withholding  
 614 of moneys belonging to insurers or insureds or beneficiaries or  
 615 to others and received in conduct of business under the license  
 616 or appointment.

617 (k) Unlawfully rebating, attempting to unlawfully rebate,  
 618 or unlawfully dividing or offering to divide his or her  
 619 commission with another.

620 (l) Having obtained or attempted to obtain, or having used  
 621 or using, a license or appointment as agent or customer

622 representative for the purpose of soliciting or handling  
 623 "controlled business" as defined in s. 626.730 with respect to  
 624 general lines agents, s. 626.784 with respect to life agents,  
 625 and s. 626.830 with respect to health agents.

626 (m) Willful failure to comply with, or willful violation  
 627 of, any proper order or rule of the department or willful  
 628 violation of any provision of this code.

629 (n) Having been found guilty of or having pleaded guilty  
 630 or nolo contendere to a felony or a crime punishable by  
 631 imprisonment of 1 year or more under the law of the United  
 632 States of America or of any state thereof or under the law of  
 633 any other country which involves moral turpitude, without regard  
 634 to whether a judgment of conviction has been entered by the  
 635 court having jurisdiction of such cases.

636 (o) Fraudulent or dishonest practice in submitting or  
 637 aiding or abetting any person in the submission of an  
 638 application for workers' compensation coverage under chapter 440  
 639 containing false or misleading information as to employee  
 640 payroll or classification for the purpose of avoiding or  
 641 reducing the amount of premium due for such coverage.

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

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

- 646 1. Commission of a fraudulent or dishonest act.
- 647 2. No longer meeting the requirements for initial
- 648 licensure.

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

655           4. Dealing in bad faith with viators.

656           Section 21. Subsections (1) and (3) of section 626.6115,  
 657 Florida Statutes, are amended to read:

658           626.6115 Grounds for compulsory refusal, suspension, or  
 659 revocation of insurance agency or property insurance appraisal  
 660 firm license.—The department shall deny, suspend, revoke, or  
 661 refuse to continue the license of any insurance agency or  
 662 property insurance appraisal firm if it finds, as to any  
 663 insurance agency or property insurance appraisal firm or as to  
 664 any majority owner, partner, manager, director, officer, or  
 665 other person who manages or controls such agency or firm, that  
 666 any of the following applicable grounds exist:

667           (1) Lack by the agency or firm of one or more of the  
 668 qualifications for the license as specified in this code.

669           (3) Denial, suspension, or revocation of a license to  
 670 practice or conduct any regulated profession, business, or  
 671 vocation relating to the business of insurance by this state,  
 672 any other state, any nation, any possession or district of the  
 673 United States, any court, or any lawful agency thereof. However,  
 674 the existence of grounds for administrative action against a  
 675 licensed agency or firm does not constitute grounds for action

676 against any other licensed agency or firm, including an agency  
 677 or firm that owns, is under common ownership with, or is owned  
 678 by, in whole or in part, the agency or firm for which grounds  
 679 for administrative action exist.

680 Section 22. Subsection (1) of section 626.621, Florida  
 681 Statutes, is amended to read:

682 626.621 Grounds for discretionary refusal, suspension, or  
 683 revocation of agent's, adjuster's, property insurance  
 684 appraiser's, property insurance appraisal umpire's, customer  
 685 representative's, service representative's, or managing general  
 686 agent's license or appointment.—The department may, in its  
 687 discretion, deny an application for, suspend, revoke, or refuse  
 688 to renew or continue the license or appointment of any  
 689 applicant, agent, adjuster, property insurance appraiser,  
 690 property insurance appraisal umpire, customer representative,  
 691 service representative, or managing general agent, and it may  
 692 suspend or revoke the eligibility to hold a license or  
 693 appointment of any such person, if it finds that as to the  
 694 applicant, licensee, or appointee any one or more of the  
 695 following applicable grounds exist under circumstances for which  
 696 such denial, suspension, revocation, or refusal is not mandatory  
 697 under s. 626.611:

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

701 Section 23. Subsections (3), (5), and (6) of section  
 702 626.6215, Florida Statutes, are amended to read:

703           626.6215   Grounds for discretionary refusal, suspension, or  
 704   revocation of insurance agency or property insurance appraisal  
 705   firm license.—The department may, in its discretion, deny,  
 706   suspend, revoke, or refuse to continue the license of any  
 707   insurance agency or property insurance appraisal firm if it  
 708   finds, as to any insurance agency or property insurance  
 709   appraisal firm or as to any majority owner, partner, manager,  
 710   director, officer, or other person who manages or controls such  
 711   insurance agency or property insurance appraisal firm, that any  
 712   one or more of the following applicable grounds exist:

713           (3)   Having been found guilty of, or having pleaded guilty  
 714   or nolo contendere to, a felony in this state or any other state  
 715   relating to the business of insurance, ~~or~~ an insurance agency,  
 716   or a property insurance appraisal firm, without regard to  
 717   whether a judgment of conviction has been entered by the court  
 718   having jurisdiction of such cases.

719           (5)   Committing any of the following acts with such  
 720   frequency as to have made the operation of the agency or firm  
 721   hazardous to the insurance-buying public or other persons:

722           (a)   Misappropriation, conversion, or unlawful withholding  
 723   of moneys belonging to insurers or insureds or beneficiaries or  
 724   to others and received in the conduct of business under the  
 725   license.

726           (b)   Unlawfully rebating, attempting to unlawfully rebate,  
 727   or unlawfully dividing or offering to divide commissions with  
 728   another.

729           (c)   Misrepresentation of any insurance policy or annuity

730 contract, or deception with regard to any such policy or  
 731 contract, done either in person or by any form of dissemination  
 732 of information or advertising.

733 (d) Violation of any provision of this code or of any  
 734 other law applicable to the business of insurance in the course  
 735 of dealing under the license.

736 (e) Violation of any lawful order or rule of the  
 737 department.

738 (f) Failure or refusal, upon demand, to pay over to any  
 739 insurer he or she represents or has represented any money coming  
 740 into his or her hands belonging to the insurer.

741 (g) Violation of the provision against twisting as defined  
 742 in s. 626.9541(1)(1).

743 (h) In the conduct of business under the license, engaging  
 744 in unfair methods of competition or in unfair or deceptive acts  
 745 or practices as prohibited under part IX of this chapter.

746 (i) Willful overinsurance of any property insurance risk.

747 (j) Fraudulent or dishonest practices in the conduct of  
 748 business arising out of activities related to insurance, ~~or~~ the  
 749 insurance agency, or the property insurance appraisal firm.

750 (k) Demonstrated lack of fitness or trustworthiness to  
 751 engage in the business of insurance arising out of activities  
 752 related to insurance, ~~or~~ the insurance agency, or the property  
 753 insurance appraisal firm.

754 (6) Failure to take corrective action or report a  
 755 violation to the department within 30 days after an individual  
 756 licensee's violation is known or should have been known by one

757 or more of the partners, officers, or managers acting on behalf  
 758 of the agency or firm. However, the existence of grounds for  
 759 administrative action against a licensed agency or firm does not  
 760 constitute grounds for action against any other licensed agency  
 761 or firm, including an agency or firm that owns, is under common  
 762 ownership with, or is owned by, in whole or in part, the agency  
 763 or firm for which grounds for administrative action exist.

764 Section 24. Subsection (4) of section 626.641, Florida  
 765 Statutes, is amended to read:

766 626.641 Duration of suspension or revocation.—

767 (4) During the period of suspension or revocation of a  
 768 license or appointment, and until the license is reinstated or,  
 769 if revoked, a new license issued, the former licensee or  
 770 appointee may not engage in or attempt or profess to engage in  
 771 any transaction or business for which a license or appointment  
 772 is required under this code or directly or indirectly own,  
 773 control, or be employed in any manner by an agent, agency,  
 774 adjuster, ~~or~~ adjusting firm, property insurance appraiser,  
 775 property insurance appraisal umpire, or property insurance  
 776 appraisal firm.

777 Section 25. Section 626.6515, Florida Statutes, is amended  
 778 to read:

779 626.6515 Effect of suspension or revocation upon  
 780 associated agencies or firms.—Upon suspension or revocation of  
 781 the license of an insurance agency or property insurance  
 782 appraisal firm, the department may at the same time revoke,  
 783 suspend, or refuse to continue the license of any other

784 insurance agency or property insurance appraisal firm under the  
 785 management, ownership, control, or directorship of any person or  
 786 persons who participated in activities which resulted in the  
 787 suspension, revocation, or refusal to continue the initial  
 788 license if acts occurred at that specific agency or firm  
 789 location which are grounds for refusal, suspension, or  
 790 revocation of a license under this code. The department shall  
 791 not, during the period of revocation or suspension, grant any  
 792 new license for the establishment of any additional agency or  
 793 firm not in operation at the time of suspension, revocation, or  
 794 refusal to any agency or firm under or proposed to be under  
 795 substantially the same management, ownership, control, or  
 796 directorship of individuals who directed or participated in  
 797 activities which resulted in suspension, revocation, or refusal  
 798 of an agency or firm license.

799 Section 26. Subsections (1) and (2) of section 626.681,  
 800 Florida Statutes, are amended to read:

801 626.681 Administrative fine in lieu of or in addition to  
 802 suspension, revocation, or refusal of license, appointment, or  
 803 disapproval.—

804 (1) Except as to insurance agencies or property insurance  
 805 appraisal firms, if the department finds that one or more  
 806 grounds exist for the suspension, revocation, or refusal to  
 807 issue, renew, or continue any license or appointment issued  
 808 under this chapter, or disapproval of a continuing education  
 809 course provider, instructor, school official, or monitor groups,  
 810 the department may, in its discretion, in lieu of or in addition

811 to such suspension or revocation, or in lieu of such refusal, or  
 812 disapproval, and except on a second offense or when such  
 813 suspension, revocation, or refusal is mandatory, impose upon the  
 814 licensee, appointee, course provider, instructor, school  
 815 official, or monitor group an administrative penalty in an  
 816 amount up to \$500 or, if the department has found willful  
 817 misconduct or willful violation on the part of the licensee,  
 818 appointee, course provider, instructor, school official, or  
 819 monitor group up to \$3,500. The administrative penalty may, in  
 820 the discretion of the department, be augmented by an amount  
 821 equal to any commissions received by or accruing to the credit  
 822 of the licensee or appointee in connection with any transaction  
 823 as to which the grounds for suspension, revocation, or refusal  
 824 related.

825 (2) With respect to insurance agencies or property  
 826 insurance appraisal firms, if the department finds that one or  
 827 more grounds exist for the suspension, revocation, or refusal to  
 828 issue, renew, or continue any license issued under this chapter,  
 829 the department may, in its discretion, in lieu of or in addition  
 830 to such suspension or revocation, or in lieu of such refusal,  
 831 impose upon the licensee an administrative penalty in an amount  
 832 not to exceed \$10,000 per violation. The administrative penalty  
 833 may, in the discretion of the department, be augmented by an  
 834 amount equal to any commissions received by or accruing to the  
 835 credit of the licensee in connection with any transaction as to  
 836 which the grounds for suspension, revocation, or refusal  
 837 related.

838 Section 27. Subsection (4) of section 626.8443, Florida  
 839 Statutes, is amended to read:

840 626.8443 Duration of suspension or revocation.—

841 (4) During the period of suspension or after revocation of  
 842 the license and appointment, the former licensee shall not  
 843 engage in or attempt to profess to engage in any transaction or  
 844 business for which a license or appointment is required under  
 845 this code or directly or indirectly own, control, or be employed  
 846 in any manner by any insurance agent or agency, ~~or~~ adjuster, ~~or~~  
 847 adjusting firm, property insurance appraiser, property insurance  
 848 appraisal umpire, or property insurance appraisal firm.

849 Section 28. Part XIV of chapter 626, Florida Statutes,  
 850 consisting of sections 626.9961 through 626.9968, is created to  
 851 read:

852 PART XIV

853 PROPERTY INSURANCE APPRAISERS AND PROPERTY INSURANCE APPRAISAL  
 854 UMPIRES

855  
 856 626.9961 Short title.—This part may be referred to as the  
 857 "Property Insurance Appraiser and Property Insurance Appraisal  
 858 Umpire Law."

859 626.9962 Legislative purpose.—The Legislature finds it  
 860 necessary to regulate persons and companies that hold themselves  
 861 out to the public as qualified to provide services as property  
 862 insurance appraisers, property insurance appraisal umpires, and  
 863 property insurance appraisal firms to protect the public safety  
 864 and welfare and to avoid economic injury to the residents of

865 this state.

866 (2) This part applies only to property insurance  
 867 appraisers, property insurance appraisal umpires, and property  
 868 insurance appraisal firms as defined in this part.

869 626.9963 Part supplements licensing law.—This part is  
 870 supplementary to part I, the "Licensing Procedures Law."

871 626.9964 Definitions.—As used in this part, the term:

872 (1) "Appraisal" means the process of dispute resolution,  
 873 conducted pursuant to a personal residential, commercial  
 874 residential, or commercial property insurance contract, which  
 875 determines the amount of loss when the insurer and the insured  
 876 are unable to agree on the amount of the loss, or, if the  
 877 insurer has elected to repair the property and the insurer and  
 878 the insured are unable to agree on the scope of repairs.  
 879 Appraisal occurs after coverage is established.

880 (2) "Competent" means sufficiently qualified and capable  
 881 of performing an appraisal.

882 (3) "Department" means the Department of Financial  
 883 Services.

884 (4) "Property insurance appraisal firm" or "appraisal  
 885 firm" means a person, firm, partnership, corporation,  
 886 association, or other entity offering property insurance  
 887 appraisal services as an appraiser or umpire.

888 (5) "Property insurance appraisal umpire" or "umpire"  
 889 means a person selected by the appraisers representing the  
 890 insurer and the insured, or, when the appraisers cannot agree,  
 891 by the court, who is charged with resolving issues that the

892 appraisers are unable to agree upon during the course of an  
 893 appraisal.

894 (6) "Property insurance appraiser" or "appraiser" means a  
 895 person selected by an insurer or an insured to perform an  
 896 appraisal.

897 626.9965 Qualification for license as a property insurance  
 898 appraiser or property insurance appraisal umpire.-

899 (1) The department shall issue a license as a property  
 900 insurance appraiser or a property insurance appraisal umpire to  
 901 a person who meets the requirements of subsection (2) and is one  
 902 of the following:

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

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

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

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

910 (e) A member of The Florida Bar.

911 (f) Licensed as an adjuster pursuant to part VI of chapter  
 912 626, which license includes the property and casualty lines of  
 913 insurance. An adjuster must have been licensed for at least 3  
 914 years as an adjuster before he or she may be licensed as an  
 915 appraiser and must have been licensed for at least 5 years as an  
 916 adjuster before he or she may be licensed as an umpire.

917 (2) An applicant may be licensed to practice in this state  
 918 as an appraiser or umpire if the applicant:

919           (a) Is a natural person at least 18 years of age;  
 920           (b) Is a United States citizen or legal alien who  
 921 possesses work authorization from the United States Bureau of  
 922 Citizenship and Immigration;  
 923           (c) Is of good moral character;  
 924           (d) Has paid the applicable fees specified in s. 624.501;  
 925 and  
 926           (e) Has, prior to the date of the application for  
 927 licensure, satisfactorily completed education courses approved  
 928 by the department covering:  
 929           1. Insurance claims estimating; and  
 930           2. Insurance law, ethics for insurance professionals,  
 931 disciplinary trends, and case studies.  
 932           (3) The department may not reject an application solely  
 933 because the applicant is or is not a member of a given appraisal  
 934 organization.  
 935           626.9966 Application for property insurance appraisal firm  
 936 license.-  
 937           (1) The department shall issue a license as a property  
 938 insurance appraisal firm to a person who files a written  
 939 application with the department and qualifies for such license.  
 940           (2) An application for a property insurance appraisal firm  
 941 license must be signed by an individual required to be listed in  
 942 the application under paragraph (a). An appraisal firm may  
 943 permit a third party to complete, submit, and sign an  
 944 application on the appraisal firm's behalf; however, the  
 945 appraisal firm is responsible for ensuring that the information

946 on the application is true and correct and is accountable for  
 947 any misstatements or misrepresentations. The application for a  
 948 property insurance appraisal firm license must include:

949 (a) The name of each owner, partner, officer, director,  
 950 president, senior vice president, secretary, treasurer, and  
 951 limited liability company member who directs or participates in  
 952 the management or control of the appraisal firm, whether through  
 953 ownership of voting securities, by contract, by ownership of any  
 954 agency bank account, or otherwise.

955 (b) The residence address of each person required to be  
 956 listed in the application under paragraph (a).

957 (c) The name, principal business street address, and valid  
 958 e-mail address of the appraisal firm and the name, address, and  
 959 e-mail address of the appraisal firm's registered agent or  
 960 person or company authorized to accept service on behalf of the  
 961 firm.

962 (d) The physical address of each branch location,  
 963 including its name, e-mail address, and telephone number, and  
 964 the date that the branch location began appraisal activities.

965 (e) The name of the appraiser or umpire in full-time  
 966 charge of the firm office, including branch locations, and his  
 967 or her corresponding location.

968 (f) The fingerprints of each of the following:

969 1. A sole proprietor;

970 2. Each individual required to be listed in the  
 971 application under paragraph (a); and

972 3. Each individual who directs or participates in the

973 management or control of an incorporated firm. Fingerprints must  
 974 be taken by a law enforcement agency or other entity approved by  
 975 the department and must be accompanied by the fingerprint  
 976 processing fee specified in s. 624.501. Fingerprints must be  
 977 processed in accordance with s. 624.34. However, fingerprints  
 978 need not be filed for an individual who is currently licensed  
 979 and appointed under this chapter.

980 (g) Such additional information as the department requires  
 981 by rule to ascertain the trustworthiness and competence of  
 982 persons required to be listed on the application and to  
 983 ascertain that such persons meet the requirements of this code.  
 984 However, the department may not require that credit or character  
 985 reports be submitted for persons required to be listed on the  
 986 application.

987 (3) The department shall issue a license to each appraisal  
 988 firm upon approval of the application, and each firm location  
 989 must display the license prominently in a manner that makes it  
 990 clearly visible to any customer or potential customer who enters  
 991 the firm location.

992 (4) (a) Each place of business established by a property  
 993 insurance appraisal firm must be in the active full-time charge  
 994 of a licensed and appointed appraiser or umpire. The appraiser  
 995 or umpire is considered the appraiser in charge of the firm.  
 996 The appraiser or umpire in charge of an appraisal firm may also  
 997 be in charge of additional branch office locations of the firm.

998 (b) Appraisal firms and each branch firm must file the  
 999 name and license number of the appraiser or umpire in charge and

1000 the physical address of the firm location with the department at  
 1001 the department's designated website. The designation of an  
 1002 appraiser or umpire in charge may be changed at the option of  
 1003 the firm. A change of the designated appraiser or umpire in  
 1004 charge is effective upon notification to the department, which  
 1005 shall be provided within 30 days after such change.

1006 (c) For the purposes of this subsection, an appraiser or  
 1007 umpire in charge is the licensed and appointed appraiser or  
 1008 umpire who is responsible for the supervision of all individuals  
 1009 within a firm location.

1010 (d) An appraiser or umpire in charge of a firm is  
 1011 accountable for misconduct or violations of this code committed  
 1012 by the licensee or licensees under his or her supervision while  
 1013 acting on behalf of the firm. This section does not render an  
 1014 appraiser or umpire in charge criminally liable for an act  
 1015 unless he or she personally committed the act or knew or should  
 1016 have known of the act and of the facts constituting a violation  
 1017 of this chapter.

1018 (e) A firm location may not conduct the business of  
 1019 insurance appraisal unless an appraiser or umpire in charge is  
 1020 designated by, and providing services to, the firm at all times.  
 1021 If the appraiser or umpire in charge designated with the  
 1022 department ends his or her affiliation with the firm for any  
 1023 reason and the firm fails to designate another appraiser or  
 1024 umpire in charge within the 30 days provided for in paragraph  
 1025 (b) and such failure continues for 90 days, the firm license  
 1026 shall automatically expire on the 91st day from the date the

1027 designated appraiser or umpire in charge ended his or her  
 1028 affiliation with the firm.

1029 (5) An individual who conducts business as an appraiser or  
 1030 umpire in his or her individual name and not employing or  
 1031 otherwise using the services of or appointing other licensees  
 1032 shall be exempt from the appraisal firm licensing requirements  
 1033 of this section.

1034 (6) A branch place of business that is established by a  
 1035 licensed appraisal firm is considered a branch location and is  
 1036 not required to be licensed so long as it transacts business  
 1037 under the same name and federal tax identification number as the  
 1038 licensed appraisal firm and has designated with the department a  
 1039 licensed appraiser or umpire in charge of the branch location  
 1040 and the address and telephone number of the branch location have  
 1041 been submitted to the department for inclusion in the licensing  
 1042 record of the licensed appraisal firm within 30 days after  
 1043 appraisal activities begin at the branch location.

1044 (7) If an appraisal firm is required to be licensed but  
 1045 fails to file an application for licensure in accordance with  
 1046 this section, the department shall impose on the firm an  
 1047 administrative penalty of up to \$10,000.

1048 626.9967 Grounds for refusal, suspension, or revocation of  
 1049 an appraiser or umpire license or appointment.—The department  
 1050 may deny an application for license or appointment under this  
 1051 part; suspend, revoke, or refuse to renew or continue a license  
 1052 or appointment of an applicant, property insurance appraiser, or  
 1053 property insurance appraisal umpire; or suspend or revoke

1054 eligibility for licensure or appointment as an appraiser or  
 1055 umpire if the department finds that one or more of the following  
 1056 applicable grounds exist:

1057 (1) Violating a duty imposed upon him or her by law or by  
 1058 the terms of a contract, whether written, oral, expressed, or  
 1059 implied, during the course of an appraisal; aiding, assisting,  
 1060 or conspiring with any other person engaged in any such  
 1061 misconduct and in furtherance thereof; or forming the intent,  
 1062 design, or scheme to engage in such misconduct and committing an  
 1063 overt act in furtherance of such intent, design, or scheme. An  
 1064 appraiser or umpire commits a violation of this part regardless  
 1065 of whether the victim or intended victim of the misconduct has  
 1066 sustained any damage or loss; the damage or loss has been  
 1067 settled and paid after the discovery of misconduct; or the  
 1068 victim or intended victim is an insurer or customer or a person  
 1069 in a confidential relationship with the appraiser or umpire or  
 1070 is an identified member of the general public.

1071 (2) Having a registration, license, or certification to  
 1072 practice or conduct any regulated profession, business, or  
 1073 vocation revoked, suspended, or encumbered; or having an  
 1074 application for such registration, licensure, or certification  
 1075 to practice or conduct any regulated profession, business, or  
 1076 vocation denied, by this or any other state, any nation, or any  
 1077 possession or district of the United States.

1078 (3) Making or filing a report or record, written or oral,  
 1079 which the appraiser or umpire knows to be false; willfully  
 1080 failing to file a report or record required by state or federal

1081 law; willfully impeding or obstructing such filing; or inducing  
 1082 another person to impede or obstruct such filing.

1083 (4) Agreeing to serve as an appraiser or umpire if service  
 1084 is contingent upon the appraiser or umpire reporting a  
 1085 predetermined amount, analysis, or opinion.

1086 (5) Agreeing to serve as an umpire, if the fee to be paid  
 1087 for his or her services is contingent upon the opinion,  
 1088 conclusion, or valuation he or she reaches.

1089 (6) Failure of an umpire or appraiser, without good cause,  
 1090 to communicate within 5 business days of a request for  
 1091 communication from another appraiser or the umpire or failure or  
 1092 refusal to submit recommendations to the opposing appraiser  
 1093 within 5 business days of completing the appraisal.

1094 (7) Violation of any ethical standard for appraisers and  
 1095 umpires specified in s. 626.9968.

1096 626.9968 Ethical standards for property insurance  
 1097 appraisers and property insurance appraisal umpires.-

1098 (1) CONFIDENTIALITY.-

1099 (a) Unless disclosure is otherwise required by law, an  
 1100 appraiser or umpire shall maintain confidentiality of all  
 1101 information revealed during an appraisal. However, an appraiser  
 1102 may disclose such information to the person who hired him or  
 1103 her.

1104 (b) An appraiser or umpire shall maintain confidentiality  
 1105 in the storage and disposal of records and may not disclose any  
 1106 identifying information if materials are used in research,  
 1107 training, or statistical compilations.

1108        (2) FEES AND EXPENSES.—  
 1109        (a) The fees charged by an appraiser or umpire must be  
 1110 reasonable and consistent with the nature of the case.  
 1111        (b) In determining fees, an appraiser:  
 1112        1.a. If charging on an hourly basis, may bill for services  
 1113 only for actual time spent on or allocated for the appraisal.  
 1114        b. If charging based on a percentage of the claim, may  
 1115 not receive more than 20 percent of any additional money paid on  
 1116 the claim as a result of the appraisal process.  
 1117        2. May charge for costs actually incurred, and no other  
 1118 costs.  
 1119        (c) In determining fees, an umpire:  
 1120        1. Must charge on an hourly basis and may bill only for  
 1121 actual time spent on or allocated for the appraisal.  
 1122        2. May not charge, agree to, or accept as compensation or  
 1123 reimbursement any payment, commission, or fee that is based on a  
 1124 percentage of the value of the claim or that is contingent upon  
 1125 a specified outcome.  
 1126        3. May charge for costs actually incurred, and no other  
 1127 costs.  
 1128        (3) MAINTENANCE OF RECORDS.—An appraiser or umpire shall  
 1129 maintain records necessary to support charges for services and  
 1130 expenses, and, upon request, shall provide an accounting of all  
 1131 applicable charges to the insurer and insured. An appraiser or  
 1132 umpire shall retain original or true copies of any contracts  
 1133 engaging his or her services, appraisal reports, and supporting  
 1134 data assembled and formulated by the appraiser or umpire in

1135 preparing appraisal reports for at least 5 years. The appraiser  
 1136 or umpire shall make the records available to the department for  
 1137 inspection and copying within 3 business days of a request. If  
 1138 an appraisal has been the subject of, or has been admitted as  
 1139 evidence in, a lawsuit, reports and records related to the  
 1140 appraisal must be retained for at least 2 years after the date  
 1141 that the trial ends.

1142 (4) ADVERTISING.—An appraiser or umpire may not engage in  
 1143 marketing practices that contain false or misleading  
 1144 information. An appraiser or umpire shall ensure that any  
 1145 advertisement of his or her qualifications, services to be  
 1146 rendered, or the appraisal process are accurate and honest. An  
 1147 appraiser or umpire may not make claims of achieving specific  
 1148 outcomes or promises implying favoritism for the purpose of  
 1149 obtaining business.

1150 (5) INTEGRITY AND IMPARTIALITY.—

1151 (a)1. An appraiser or umpire may not accept an appraisal  
 1152 unless he or she can serve competently, promptly commence the  
 1153 appraisal and, thereafter, devote the time and attention to its  
 1154 completion in the manner expected by all persons involved in the  
 1155 appraisal.

1156 2. An appraiser or umpire shall conduct the appraisal  
 1157 process in a manner that advances the fair and efficient  
 1158 resolution of issues that arise. An appraiser shall make all  
 1159 reasonable efforts to prevent delays, harassment of the insured,  
 1160 the insurer or other participants, or other abuse or disruption  
 1161 of the appraisal process.

1162           3. After an appraiser or umpire accepts a selection, the  
 1163 appraiser or umpire may not withdraw or abandon the selection  
 1164 unless compelled to do so by unanticipated circumstances that  
 1165 would render it impossible or impracticable to continue or when  
 1166 the facts and circumstances of the appraisal prove to be beyond  
 1167 his or her skill or experience.

1168           4. An appraiser or umpire shall deliberate and decide all  
 1169 issues within the scope of the appraisal, but may not render a  
 1170 decision on any other issues. An appraiser or umpire shall  
 1171 decide all matters justly, exercising independent judgment. An  
 1172 appraiser or umpire may not delegate his or her duties to any  
 1173 other person, but may employ the services of independent experts  
 1174 to assist in preparing estimates.

1175           (b) An umpire may not engage in any business, provide any  
 1176 service, or perform any act that would compromise his or her  
 1177 integrity or impartiality.

1178           (6) SKILL AND EXPERIENCE.—An appraiser or umpire shall  
 1179 decline or withdraw from an appraisal or request appropriate  
 1180 assistance when the facts and circumstances of the appraisal  
 1181 prove to be beyond his or her skill or experience.

1182           (7) GIFTS AND SOLICITATION.—During the appraisal process,  
 1183 an appraiser or umpire may not solicit, give, or accept any  
 1184 gift, favor, loan, or other item of value or solicit or  
 1185 otherwise attempt to procure future work from any person who  
 1186 participates in the appraisal.

1187           Section 29. For the 2016-2017 fiscal year, the sums of  
 1188 \$74,851 in recurring funds and \$3,882 in nonrecurring funds from

1189 the Insurance Regulatory Trust Fund and \$67,398 in recurring  
 1190 funds and \$38,882 in nonrecurring funds from the Administrative  
 1191 Trust Fund are appropriated to the Department of Financial  
 1192 Services, and two full-time equivalent positions with associated  
 1193 salary rate of 83,106 are authorized, for the purpose of  
 1194 implementing this act.

1195 Section 30. This act shall take effect October 1, 2016.

## INSURANCE AND BANKING SUBCOMMITTEE

### PCS/HB 79 by Rep. Artiles Property Insurance Appraisers and Property Insurance Appraisal Umpires

#### AMENDMENT SUMMARY November 4, 2015

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**Amendment 1 by Rep. Artiles (Lines 477 - 478):** Inserts two sections amending part I of ch. 626, F.S., the "Licensing Procedure Law," which were inadvertently omitted from the PCS. The sections specify procedures and responsibilities related to appointment of a property insurance appraiser or property insurance appraisal umpire and the term of his or her appointment.

**Amendment 2 by Rep. (Lines 872 - 879):** Makes minor clarifying changes to the definition of "appraisal."



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Artiles offered the following:

4

5 **Amendment (with title amendment)**

6 Between lines 477 and 478, insert:

7 Section 1. Subsections (1), (3), (5), and (6) of section  
 8 626.451, Florida Statutes, are amended to read:

9 626.451 Appointment of agent or other representative.—

10 (1) Each appointing entity or person designated by the  
 11 department to administer the appointment process appointing an  
 12 agent, adjuster, property insurance appraiser, property  
 13 insurance appraisal umpire, service representative, customer  
 14 representative, or managing general agent in this state shall  
 15 file the appointment with the department or office and, at the  
 16 same time, pay the applicable appointment fee and taxes. Every  
 17 appointment shall be subject to the prior issuance of the



## Amendment No. 1

18 appropriate agent's, adjuster's, property insurance appraiser's,  
19 property insurance appraisal umpire's, service representative's,  
20 customer representative's, or managing general agent's license.

21 (3) By authorizing the effectuation of the appointment of  
22 an agent, adjuster, property insurance appraiser, property  
23 insurance appraisal umpire, service representative, customer  
24 representative, or managing general agent the appointing entity  
25 is thereby certifying to the department that it is willing to be  
26 bound by the acts of the agent, adjuster, property insurance  
27 appraiser, property insurance appraisal umpire, service  
28 representative, customer representative, or managing general  
29 agent, within the scope of the licensee's employment or  
30 appointment.

31 (5) Any law enforcement agency or state attorney's office  
32 that is aware that an agent, adjuster, property insurance  
33 appraiser, property insurance appraisal umpire, service  
34 representative, customer representative, or managing general  
35 agent has pleaded guilty or nolo contendere to or has been found  
36 guilty of a felony shall notify the department or office of such  
37 fact.

38 (6) Upon the filing of an information or indictment  
39 against an agent, adjuster, property insurance appraiser,  
40 property insurance appraisal umpire, service representative,  
41 customer representative, or managing general agent, the state  
42 attorney shall immediately furnish the department or office a  
43 certified copy of the information or indictment.

Amendment No. 1

44 Section 2. Section 626.461, Florida Statutes, is amended  
45 to read:

46 626.461 Continuation of appointment of agent or other  
47 representative.—Subject to renewal or continuation by the  
48 appointing entity, the appointment of the agent, adjuster,  
49 property insurance appraiser, property insurance appraisal  
50 umpire, service representative, customer representative, or  
51 managing general agent shall continue in effect until the  
52 person's license is revoked or otherwise terminated, unless  
53 written notice of earlier termination of the appointment is  
54 filed with the department or person designated by the department  
55 to administer the appointment process by either the appointing  
56 entity or the appointee.

57  
58 -----

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

60 Remove line 52 and insert:  
61 otherwise terminated by law; amending s. 626.451, F.S.;  
62 specifying procedures and responsibilities related to  
63 appointment of a property insurance appraiser or property  
64 insurance appraisal umpire; amending s. 626.461, F.S.; providing  
65 that a property insurance appraiser or property insurance  
66 appraisal umpire appointment continues in effect, subject to  
67 renewal or earlier written notice of termination, until the  
68 person's license is revoked or otherwise terminated; amending s.  
69 626.521,



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Articles offered the following:

4

5 **Amendment**

6 Remove lines 872-879 and insert:

7 (1) "Appraisal" means the process of alternative dispute  
 8 resolution, as defined in a personal residential, commercial  
 9 residential, or commercial property insurance contract, for  
 10 determining the amount of loss after coverage is established and  
 11 the insurer and insured are unable to agree on the amount of the  
 12 loss, or for determining the scope of repairs if the insurer has  
 13 elected to repair the property and the insurer and insured are  
 14 unable to agree on the scope of repairs.