

1 A bill to be entitled
2 An act relating to property insurance appraisal
3 umpires and property insurance appraisers; creating
4 part XVII of chapter 468, F.S., relating to property
5 insurance appraisal umpires; creating the property
6 insurance appraisal umpire licensing program within
7 the Department of Business and Professional
8 Regulation; providing legislative findings; providing
9 applicability; authorizing the department to adopt
10 rules; providing definitions; authorizing the
11 department to establish fees; providing licensing
12 application requirements; providing authority and
13 procedures regarding submission and processing of
14 fingerprints; providing examination requirements;
15 providing application requirements for licensure as a
16 property insurance appraisal umpire; providing
17 licensure renewal requirements; authorizing the
18 department to adopt rules; providing continuing
19 education requirements; providing requirements for the
20 inactivation of a license by a licensee; providing
21 requirements for renewing an inactive license;
22 establishing license reactivation fees; providing for
23 certification of partnerships and corporations
24 offering property insurance appraisal umpire services;
25 providing grounds for compulsory refusal, suspension,
26 or revocation of an umpire's license; providing

27 grounds for discretionary denial, suspension, or
28 revocation of an umpire's license; providing ethical
29 standards for property insurance appraisal umpires;
30 creating part XVIII of chapter 468, F.S., relating to
31 property insurance appraisers; creating the property
32 insurance appraiser licensing program within the
33 Department of Business and Professional Regulation;
34 providing legislative findings; providing
35 applicability; authorizing the department to adopt
36 rules; providing definitions; authorizing the
37 department to establish fees; limiting fee amounts;
38 providing licensing application requirements;
39 providing authority and procedures regarding
40 submission and processing of fingerprints; providing
41 examination requirements; providing application
42 requirements for licensure as a property insurance
43 appraiser; providing licensure renewal requirements;
44 authorizing the department to adopt rules; providing
45 continuing education requirements; providing
46 requirements for the inactivation of a license by a
47 licensee; providing requirements for renewing an
48 inactive license; establishing license reactivation
49 fees; providing for certification of partnerships and
50 corporations offering property insurance appraiser
51 services; providing grounds for compulsory refusal,
52 suspension, or revocation of an appraiser's license;

53 providing grounds for discretionary denial,
 54 suspension, or revocation of an appraiser's license;
 55 providing ethical standards; providing an effective
 56 date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

59
 60 Section 1. Part XVII of chapter 468, Florida Statutes,
 61 consisting of sections 468.85 through 468.8519, is created to
 62 read:

63 PART XVII

64 PROPERTY INSURANCE APPRAISAL UMPIRES

65 468.85 Property insurance appraisal umpire licensing
 66 program; legislative purpose; scope of part.—

67 (1) The property insurance appraisal umpire licensing
 68 program is created within the Department of Business and
 69 Professional Regulation.

70 (2) The Legislature finds it necessary in the interest of
 71 the public safety and welfare to prevent damage to real and
 72 personal property, to avert economic injury to the residents of
 73 this state, and to regulate persons and companies that hold
 74 themselves out to the public as qualified to perform as property
 75 insurance appraisal umpires.

76 (3) This part applies to residential and commercial
 77 residential property insurance contracts and to the umpires and
 78 appraisers who participate in the appraisal process.

79 (4) The department may adopt rules to administer this
 80 part.

81 468.851 Definitions.—As used in this part, the term:

82 (1) "Appraisal" means the process of estimating or
 83 evaluating actual cash value, the amount of loss, or the cost of
 84 repair or replacement of property for the purpose of quantifying
 85 the monetary value of a property loss claim when an insurer and
 86 an insured have failed to mutually agree on the value of the
 87 loss pursuant to a residential or commercial residential
 88 property insurance contract that is required in such contracts
 89 for the resolution of a claim dispute by appraisal.

90 (2) "Competent" means properly licensed, sufficiently
 91 qualified, and capable of performing an appraisal.

92 (3) "Department" means the Department of Business and
 93 Professional Regulation.

94 (4) "Independent" means not subject to control,
 95 restriction, modification, and limitation by the appointing
 96 party. An independent umpire shall conduct his or her
 97 investigation, evaluation, and estimation without instruction by
 98 an appointing party.

99 (5) "Property insurance appraisal umpire" or "umpire"
 100 means a competent, independent, licensed, and impartial third
 101 party selected by the licensed appraisers for the insurer and
 102 the insured to resolve issues that the licensed appraisers are
 103 unable to reach an agreement during the course of the appraisal
 104 process pursuant to a residential or commercial property

105 insurance contract that is required to provide for resolution of
 106 a claim dispute by appraisal.

107 (6) "Property insurance loss appraiser" or "appraiser"
 108 means a competent, licensed, and independent and impartial third
 109 party selected by an insurer or an insured to develop an
 110 appraisal for purposes of the appraisal process under a
 111 residential or commercial property insurance contract that
 112 provides for resolution of a claim dispute by appraisal.

113 (7) "Uniform application" means the uniform application of
 114 the National Association of Insurance Commissioners for
 115 nonresident agent licensing, effective January 15, 2001, or
 116 subsequent versions adopted by rule by the department.

117 468.8511 Fees.—

118 (1) The department, by rule, may establish fees to be paid
 119 for application, examination, reexamination, licensing and
 120 renewal, inactive status application, reactivation of inactive
 121 licenses, and application for providers of continuing education.
 122 The department may also establish by rule a delinquency fee.
 123 Fees shall be based on department estimates of the revenue
 124 required to implement the provisions of this part. Fees shall be
 125 remitted with the application, examination, reexamination,
 126 licensing and renewal, inactive status application, and
 127 reactivation of inactive licenses, and application for providers
 128 of continuing education.

129 (2) The application fee shall not exceed \$200 and is
 130 nonrefundable. The examination fee shall not exceed \$200 plus

131 the actual per applicant cost to the department to purchase the
 132 examination, if the department chooses to purchase the
 133 examination. The examination fee shall be in an amount that
 134 covers the cost of obtaining and administering the examination
 135 and shall be refunded if the applicant is found ineligible to
 136 sit for the examination.

137 (3) The fee for an initial license shall not exceed \$250.

138 (4) The fee for an initial certificate of authorization
 139 shall not exceed \$250.

140 (5) The fee for a biennial license renewal shall not
 141 exceed \$500.

142 (6) The fee for application for inactive status shall not
 143 exceed \$125.

144 (7) The fee for reactivation of an inactive license shall
 145 not exceed \$250.

146 (8) The fee for applications from providers of continuing
 147 education may not exceed \$600.

148 (9) The fee for fingerprinting shall be included in the
 149 department's costs for each background check.

150 468.85115 Application for license as a property insurance
 151 appraisal umpire.-

152 (1) The department shall not issue a license as a property
 153 insurance appraisal umpire to any person except upon written
 154 application previously filed with the department, with
 155 qualification and advance payment of all applicable fees. Any
 156 such application shall be made under oath or affirmation and

157 signed by the applicant. The department shall accept the uniform
158 application for a nonresident property insurance appraisal
159 umpire. The department may adopt revised versions of the uniform
160 application by rule.

161 (2) In the application, the applicant shall set forth:

162 (a) His or her full name, age, social security number,
163 residence address, business address, mailing address, contact
164 telephone numbers, including a business telephone number, and e-
165 mail address.

166 (b) Proof that he or she has completed or is in the
167 process of completing any required prelicensing course.

168 (c) Whether he or she has been refused or has voluntarily
169 surrendered or has had suspended or revoked a professional
170 license by the supervising officials of any state.

171 (d) Proof that the applicant meets the requirements for
172 licensure as a property insurance appraisal umpire as required
173 under ss. 468.8511 and 468.8512, and this section.

174 (e) The applicant's gender.

175 (f) The applicant's native language.

176 (g) The applicant's highest achieved level of education.

177 (h) All education requirements that the applicant has
178 completed to qualify as a property insurance appraisal umpire,
179 including the name of the course, the course provider, and the
180 course completion dates.

181 (3) Each application shall be accompanied by payment of
182 any applicable fee.

183 (4) At the time of application, the applicant must be
184 fingerprinted by a law enforcement agency or other entity
185 approved by the department and he or she must pay the
186 fingerprint processing fee in s. 468.8511. Fingerprints must be
187 processed by the Department of Law Enforcement.

188 (5) The Department of Law Enforcement may, to the extent
189 provided for by federal law, exchange state, multistate, and
190 federal criminal history records with the department or office
191 for the purpose of the issuance, denial, suspension, or
192 revocation of a certificate of authority, certification, or
193 license to operate in this state.

194 (6) The Department of Law Enforcement may accept
195 fingerprints of any other person required by statute or rule to
196 submit fingerprints to the department or office or any applicant
197 or licensee regulated by the department or office who is
198 required to demonstrate that he or she has not been convicted of
199 or pled guilty or nolo contendere to a felony or a misdemeanor.

200 (7) The Department of Law Enforcement shall, upon receipt
201 of fingerprints from the department or office, submit the
202 fingerprints to the Federal Bureau of Investigation for a
203 federal criminal history records check.

204 (8) Statewide criminal records obtained through the
205 Department of Law Enforcement, federal criminal records obtained
206 through the Federal Bureau of Investigation, and local criminal
207 records obtained through local law enforcement agencies shall be
208 used by the department and office for the purpose of issuance,

209 denial, suspension, or revocation of certificates of authority,
 210 certifications, or licenses issued to operate in this state.

211 (9) The department shall develop and maintain as a public
 212 record a current list of licensed property insurance appraisal
 213 umpires.

214 468.8512 Examinations.-

215 (1) A person desiring to be licensed as a property
 216 insurance appraisal umpire must apply to the department after
 217 satisfying the examination requirements of this part.

218 (2) An applicant may practice in this state as a property
 219 insurance appraisal umpire if he or she passes the required
 220 examination, is of good moral character, and meets one of the
 221 following requirements:

222 (a) The applicant is currently licensed, registered,
 223 certified, or approved as an engineer as defined in s. 471.005
 224 or as a retired professional engineer as defined in s. 471.005,
 225 and has taught or successfully completed 4 hours of classroom
 226 coursework, approved by the department, specifically related to
 227 construction, building codes, appraisal procedures, appraisal
 228 preparation, and any other related material deemed appropriate
 229 by the department.

230 (b) The applicant is currently or, within the 2 years
 231 immediately preceding the date on which the application is filed
 232 with the department, has been licensed, registered, certified,
 233 or approved as a general contractor, building contractor, or
 234 residential contractor as defined in s. 489.105 and has taught

235 or successfully completed 4 hours of classroom coursework,
236 approved by the department, specifically related to
237 construction, building codes, appraisal procedure, appraisal
238 preparation, and any other related material deemed appropriate
239 by the department.

240 (c) The applicant is currently or, within the 2 years
241 immediately preceding the date on which the application is filed
242 with the department, has been licensed or registered as an
243 architect to engage in the practice of architecture pursuant to
244 part I of chapter 481 and has taught or successfully completed 4
245 hours of classroom coursework, approved by the department,
246 specifically related to construction, building codes, appraisal
247 procedure, appraisal preparation, and any other related material
248 deemed appropriate by the department.

249 (d) The applicant is currently or, within the 2 years
250 immediately preceding the date on which the application is filed
251 with the department, has been a qualified geologist or
252 professional geologist as defined in s. 492.102 and has taught
253 or successfully completed 4 hours of classroom coursework,
254 approved by the department, specifically related to
255 construction, building codes, appraisal procedure, appraisal
256 preparation, and any other related material deemed appropriate
257 by the department.

258 (e) The applicant is currently or, within the 2 years
259 immediately preceding the date on which the application is filed
260 with the department, has been licensed as a certified public

261 accountant as defined in s. 473.302 and has taught or
262 successfully completed 4 hours of classroom coursework, approved
263 by the department, specifically related to construction,
264 building codes, appraisal procedure, appraisal preparation, and
265 any other related material deemed appropriate by the department.

266 (f) The applicant is currently or, within the 2 years
267 immediately preceding the date on which the application is filed
268 with the department, has been a licensed attorney in this state
269 and has taught or successfully completed 4 hours of classroom
270 coursework, approved by the department, specifically related to
271 construction, building codes, appraisal procedure, appraisal
272 preparation, and any other related material deemed appropriate
273 by the department.

274 (g) The applicant has received a baccalaureate degree from
275 an accredited 4-year college or university in the field of
276 engineering, architecture, or building construction and has
277 taught or successfully completed 4 hours of classroom
278 coursework, approved by the department, specifically related to
279 construction, building codes, appraisal procedure, appraisal
280 preparation, and any other related material deemed appropriate
281 by the department.

282 (h) The applicant is a currently licensed adjuster whose
283 license covers all lines of insurance except the life and
284 annuities class. The adjuster's license must include the
285 property and casualty class of insurance. The currently licensed
286 adjuster must be licensed for at least 2 years to qualify for a

287 property insurance appraisal umpire's license.

288 (i) The applicant has received a minimum of 8 semester
289 hours or 12 quarter hours of credit from an accredited college
290 or university in the field of accounting, geology, engineering,
291 architecture, or building construction.

292 (j) The applicant has successfully completed 40 hours of
293 classroom coursework, approved by the department, specifically
294 related to construction, building codes, appraisal procedure,
295 appraisal preparation, property insurance, and any other related
296 material deemed appropriate by the department.

297 (3) The department shall review and approve courses of
298 study for the continuing education of property insurance
299 appraisal umpires.

300 (4) The department may not issue a license as a property
301 insurance appraisal umpire to any individual found by it to be
302 untrustworthy or incompetent or who:

303 (a) Has not filed an application with the department in
304 accordance with s. 485.85115.

305 (b) Is not a natural person who is at least 18 years of
306 age.

307 (c) Is not a United States citizen or legal alien who
308 possesses work authorization from the United States Citizenship
309 and Immigration Services.

310 (d) Has not completed the education, experience, or
311 licensing requirements of this section.

312 (5) An incomplete application expires 6 months after the

313 date it is received by the department.

314 (6) An applicant seeking to become licensed under this
315 part may not be rejected solely by virtue of membership or lack
316 of membership in any particular appraisal organization.

317 468.8513 Licensure.-

318 (1) The department shall license any applicant who the
319 department certifies has completed the requirements of ss.
320 468.8511, 468.85115, and 468.8512.

321 (2) The department shall not issue a license by
322 endorsement to any applicant for a property insurance appraisal
323 umpire license who is under investigation in another state for
324 any act that would constitute a violation of this part until
325 such time that the investigation is complete and disciplinary
326 proceedings have been terminated.

327 468.8514 Renewal of license.-

328 (1) The department shall renew a license upon receipt of
329 the renewal application and fee and upon certification by the
330 department that the licensee has satisfactorily completed the
331 continuing education requirements of s. 468.8515.

332 (2) The department shall adopt rules establishing a
333 procedure for the biennial renewal of licenses.

334 468.8515 Continuing education.-

335 (1) The department may not renew a license until the
336 licensee submits satisfactory proof to the department that,
337 during the 2 years before his or her application for renewal,
338 the licensee completed at least 30 hours of continuing education

339 in addition to 5 hours of ethics. Criteria and course content
340 shall be approved by the department by rule.

341 (2) The department may prescribe by rule additional
342 continuing professional education hours, not to exceed 25
343 percent of the total required hours, for failure to complete the
344 required hours by the end of the renewal period.

345 (3) Each umpire course provider, instructor, and classroom
346 course must be approved by and registered with the department
347 before prelicensure courses for property insurance appraisal
348 umpires may be offered. Each classroom course must include a
349 written examination at the conclusion of the course and must
350 cover all of the material contained in the course. A student may
351 not receive credit for the course unless the student achieves a
352 grade of at least 75 on the examination.

353 (4) The department shall adopt rules establishing:

354 (a) Standards for the approval, registration, discipline,
355 or removal from registration of course providers, instructors,
356 and courses. The standards must be designed to ensure that
357 instructors have the knowledge, competence, and integrity to
358 fulfill the educational objectives of the prelicensure
359 requirements of this part.

360 (b) A process for determining compliance with the
361 prelicensure requirements of this part.

362
363 The department shall adopt rules prescribing the forms necessary
364 to administer the prelicensure requirements of this part.

365 (5) Approval to teach prescribed or approved appraisal
366 courses does not entitle the instructor to teach any courses
367 outside the scope of this part.

368 468.8516 Inactive license.-

369 (1) A licensee may request that his or her license be
370 placed on inactive status by filing an application with the
371 department.

372 (2) A license that has become inactive may be reactivated
373 upon application to the department. The department may prescribe
374 by rule continuing education requirements as a condition for
375 reactivation of an inactive license. The continuing education
376 requirements for reactivating a license may not exceed 14 hours
377 for each year the license was inactive.

378 (3) The department shall adopt rules relating to licenses
379 that have become inactive and for the renewal of inactive
380 licenses. The department shall prescribe by rule a fee not to
381 exceed \$250 for the reactivation of an inactive license and a
382 fee not to exceed \$250 for the renewal of an inactive license.

383 468.8517 Certification of partnerships, corporations, and
384 other business entities.-The practice of or the offer to
385 practice as a property insurance appraisal umpire by licensees
386 through a partnership, corporation, or other business entity
387 offering property insurance appraisal umpire services to the
388 public, or by a partnership, corporation, or other business
389 entities through licensees under this part as agents, employees,
390 officers, or partners is permitted, subject to the provisions of

391 this part. This section does not allow a corporation or other
392 business entities to hold a license to practice property
393 insurance appraisal umpire services. A partnership, corporation,
394 or other business entity is not relieved of responsibility for
395 the conduct or acts of its agents, employees, or officers by
396 reason of its compliance with this section. An individual
397 practicing as a property insurance appraisal umpire is not
398 relieved of responsibility for professional services performed
399 by reason of his or her employment or relationship with a
400 partnership, corporation, or other business entity.

401 468.8518 Grounds for compulsory refusal, suspension, or
402 revocation of an umpire's license.-The department shall deny an
403 application for, suspend, revoke, or refuse to renew or continue
404 the license or appointment of any applicant, property insurance
405 appraisal umpire or licensee and shall suspend or revoke the
406 eligibility to hold a license or appointment of any such person
407 if it finds that any one or more of the following applicable
408 grounds exist:

409 (1) Lack of one or more of the qualifications for the
410 license as specified in this part.

411 (2) Material misstatement, misrepresentation, or fraud in
412 obtaining the license or in attempting to obtain the license or
413 appointment.

414 (3) Failure to pass to the satisfaction of the department
415 any examination required under this chapter.

416 (4) That the license or appointment was willfully used, or

417 will be used, to circumvent any of the requirements or
418 prohibitions of this chapter.

419 (5) Demonstrated a lack of fitness or trustworthiness to
420 engage as a property insurance appraisal umpire.

421 (6) Demonstrated a lack of reasonably adequate knowledge
422 and technical competence to engage in the transactions
423 authorized by the license.

424 (7) Fraudulent or dishonest practices in the conduct of
425 business under the license.

426 (8) Willful failure to comply with, or willful violation
427 of, any proper order or rule of the department or willful
428 violation of any provision of this chapter.

429 (9) Having been found guilty of or having plead guilty or
430 nolo contendere to a felony or a crime punishable by
431 imprisonment of 1 year or more under the law of the United
432 States or of any state thereof or under the law of any other
433 country which involves moral turpitude, without regard to
434 whether a judgment of conviction has been entered by the court
435 having jurisdiction of such cases.

436 (10) (a) Violated a duty imposed upon her or him by law or
437 by the terms of a contract, whether written, oral, expressed, or
438 implied, in an appraisal;

439 (b) Has aided, assisted, or conspired with any other
440 person engaged in any such misconduct and in furtherance
441 thereof; or

442 (c) Has formed an intent, design, or scheme to engage in

443 such misconduct and committed an overt act in furtherance of
 444 such intent, design, or scheme.

446 It is immaterial to a finding that a licensee has committed a
 447 violation of this subsection that the victim or intended victim
 448 of the misconduct has sustained no damage or loss, that the
 449 damage or loss has been settled and paid after the discovery of
 450 misconduct, or that such victim or intended victim was a
 451 customer or a person in a confidential relationship with the
 452 licensee or was an identified member of the general public.

453 (11) (a) Had a registration, license, or certification as
 454 an umpire revoked, suspended, or otherwise acted against;

455 (b) Has had his or her registration, license, or
 456 certificate to practice or conduct any regulated profession,
 457 business, or vocation revoked or suspended by this or any other
 458 state, any nation, or any possession or district of the United
 459 States; or

460 (c) Has had an application for such registration,
 461 licensure, or certification to practice or conduct any regulated
 462 profession, business, or vocation denied by this or any other
 463 state, any nation, or any possession or district of the United
 464 States.

465 (12) (a) Made or filed a report or record, written or oral,
 466 which the licensee knows to be false;

467 (b) Has willfully failed to file a report or record
 468 required by state or federal law;

469 (c) Has willfully impeded or obstructed such filing; or
470 (d) Has induced another person to impede or obstruct such
471 filing.

472 (13) Accepted an appointment as an umpire if the
473 appointment is contingent upon the umpire reporting a
474 predetermined result, analysis, or opinion, or if the fee to be
475 paid for the services of the umpire is contingent upon the
476 opinion, conclusion, or valuation reached by the umpire.

477 468.85185 Grounds for discretionary denial, suspension, or
478 revocation of an umpire's license.-The department may deny an
479 application for and suspend, revoke, or refuse to renew or
480 continue a license as a property insurance appraisal umpire if
481 the applicant or licensee has:

482 (1) Failed to timely communicate with the appraisers
483 without good cause.

484 (2) Failed or refused to exercise reasonable diligence in
485 submitting recommendations to the appraisers.

486 (3) Violated any ethical standard for property insurance
487 appraisal umpires set forth in s. 468.8519.

488 (4) Failed to inform the department in writing within 30
489 days after pleading guilty or nolo contendere to, or being
490 convicted or found guilty of, a felony.

491 (5) Failed to timely notify the department of any change
492 in business location, or has failed to fully disclose all
493 business locations from which he or she operates as a property
494 insurance appraisal umpire.

495 468.8519 Ethical standards for property insurance
496 appraisal umpires.—

497 (1) CONFIDENTIALITY.—An umpire shall maintain
498 confidentiality of all information revealed during an appraisal
499 except where disclosure is required by law.

500 (2) RECORDKEEPING.—An umpire shall maintain
501 confidentiality in the storage and disposal of records and may
502 not disclose any identifying information when materials are used
503 for research, training, or statistical compilations.

504 (3) FEES AND EXPENSES.—Fees charged for appraisal services
505 shall be reasonable and consistent with the nature of the case.
506 An umpire shall be guided by the following in determining fees:

507 (a) All charges for services as an umpire based on time
508 may not exceed actual time spent or allocated.

509 (b) Charges for costs shall be for those actually
510 incurred.

511 (c) An umpire may not charge, agree to, or accept as
512 compensation or reimbursement any payment, commission, or fee
513 that is based on a percentage basis, or that is contingent upon
514 arriving at a particular value or any future happening or
515 outcome of the assignment.

516 (4) MAINTENANCE OF RECORDS.—An umpire shall maintain
517 records necessary to support charges for services and expenses,
518 and upon request shall provide an accounting of all applicable
519 charges to the parties. An umpire licensed under this part shall
520 retain original or true copies of any contracts engaging the

521 umpire's services, appraisal reports, and supporting data
522 assembled and formulated by the umpire in preparing appraisal
523 reports for at least 5 years. The period for retaining the
524 records applicable to each engagement starts on the date of the
525 submission of the appraisal report to the client. The records
526 must be made available by the umpire for inspection and copying
527 by the department upon reasonable notice to the umpire. If an
528 appraisal has been the subject of, or has been admitted as
529 evidence in, a lawsuit, reports, and records the appraisal must
530 be retained for at least 2 years after the date that the trial
531 ends.

532 (5) ADVERTISING.—An umpire may not engage in marketing
533 practices that contain false or misleading information. An
534 umpire shall ensure that any advertisements of the umpire's
535 qualifications, services to be rendered, or the appraisal
536 process are accurate and honest. An umpire may not make claims
537 of achieving specific outcomes or promises implying favoritism
538 for the purpose of obtaining business.

539 (6) INTEGRITY AND IMPARTIALITY.—An umpire may not engage
540 in any business, provide any service, or perform any act that
541 would compromise the umpire's integrity or impartiality.

542 (7) SKILL AND EXPERIENCE.—An umpire shall decline an
543 appointment or selection, withdraw, or request appropriate
544 assistance when the facts and circumstances of the appraisal are
545 beyond the umpire's skill or experience.

546 (8) GIFTS AND SOLICITATION.—An umpire may not give or

547 accept any gift, favor, loan, or other item of value in an
548 appraisal process except for the umpire's reasonable fee. During
549 the appraisal process, an umpire may not solicit or otherwise
550 attempt to procure future professional services.

551 Section 2. Part XVIII of chapter 468, Florida Statutes,
552 consisting of sections 468.86 through 468.8619, is created to
553 read:

554 PART XVIII

555 PROPERTY INSURANCE APPRAISERS

556 468.86 Property insurance appraiser licensing program;
557 legislative purpose; scope of part.—

558 (1) The property insurance appraiser licensing program is
559 created within the Department of Business and Professional
560 Regulation.

561 (2) The Legislature finds it necessary and in the interest
562 of the public safety and welfare, to prevent damage to real and
563 personal property, to avert economic injury to the residents of
564 this state, and to regulate persons and companies that hold
565 themselves out to the public as qualified to perform as a
566 property insurance appraiser.

567 (3) This part applies to residential and commercial
568 residential property insurance contracts and to the umpires and
569 appraisers who participate in the appraisal process.

570 (4) The department may adopt rules to administer the
571 requirements of this part.

572 468.861 Definitions.—As used in this part, the term:

573 (1) "Appraisal" means the process of estimating or
574 evaluating actual cash value, the amount of loss, or the cost of
575 repair or replacement of property for the purpose of quantifying
576 the monetary value of a property loss claim when an insurer and
577 an insured have failed to mutually agree on the value of the
578 loss pursuant to a residential or commercial residential
579 property insurance contract that is required in such contracts
580 for the resolution of a claim dispute by appraisal.

581 (2) "Competent" means properly licensed, sufficiently
582 qualified, and capable to performing an appraisal.

583 (3) "Department" means the Department of Business and
584 Professional Regulation.

585 (4) "Independent" means not subject to control,
586 restriction, modification, and limitation by the appointing
587 party.

588 (5) "Property insurance appraisal umpire" or "umpire"
589 means a competent, independent, licensed, and impartial third
590 party selected by the licensed appraisers for the insurer and
591 the insured to resolve issues that the licensed appraisers are
592 unable to reach an agreement during the course of the appraisal
593 process pursuant to a residential or commercial property
594 insurance contract that is required to provide for resolution of
595 a claim dispute by appraisal.

596 (6) "Property insurance loss appraiser" or "appraiser"
597 means a competent, licensed, and independent and impartial third
598 party selected by an insurer or an insured to develop an

599 appraisal for purposes of the appraisal process under a
600 residential or commercial property insurance contract that
601 provides for resolution of a claim dispute by appraisal.

602 (7) "Uniform application" means the uniform application of
603 the National Association of Insurance Commissioners for
604 nonresident agent licensing, effective January 15, 2001, or
605 subsequent versions adopted by rule by the department.

606 468.8611 Fees.—

607 (1) The department, by rule, may establish fees to be paid
608 for application, examination, reexamination, licensing and
609 renewal, inactive status application, reactivation of inactive
610 licenses, and application for providers of continuing education.
611 The department may also establish by rule a delinquency fee.
612 Fees shall be based on department estimates of the revenue
613 required to implement the provisions of this part. Fees shall be
614 remitted with the application, examination, reexamination,
615 licensing and renewal, inactive status application, and
616 reactivation of inactive licenses, and application for providers
617 of continuing education.

618 (2) The application fee shall not exceed \$200 and is
619 nonrefundable. The examination fee shall not exceed \$200 plus
620 the actual per applicant cost to the department to purchase the
621 examination, if the department chooses to purchase the
622 examination. The examination fee shall be in an amount that
623 covers the cost of obtaining and administering the examination
624 and shall be refunded if the applicant is found ineligible to

625 sit for the examination.

626 (3) The fee for an initial license shall not exceed \$250.

627 (4) The fee for an initial certificate of authorization
628 shall not exceed \$250.

629 (5) The fee for a biennial license renewal shall not
630 exceed \$500.

631 (6) The fee for application for inactive status shall not
632 exceed \$125.

633 (7) The fee for reactivation of an inactive license shall
634 not exceed \$250.

635 (8) The fee for applications from providers of continuing
636 education may not exceed \$600.

637 (9) The fee for fingerprinting shall be included in the
638 department's costs for the background check.

639 468.86115 Application for license as a property insurance
640 appraiser.—

641 (1) The department shall not issue a license as a property
642 insurance appraiser to any person except upon written
643 application previously filed with the department, with
644 qualification and advance payment of all applicable fees. Any
645 such application shall be made under oath or affirmation of and
646 signed by the applicant. The department shall accept the uniform
647 application for a nonresident property insurance appraiser. The
648 department may adopt revised versions of the uniform application
649 by rule.

650 (2) In the application, the applicant shall set forth:

651 (a) His or her full name, age, social security number,
652 residence address, business address, mailing address, contact
653 telephone numbers, including a business telephone number, and e-
654 mail address.

655 (b) Proof that he or she has completed or is in the
656 process of completing any required prelicensing course.

657 (c) Whether he or she has been refused or has voluntarily
658 surrendered or has had suspended or revoked a professional
659 license by the supervising officials of any state.

660 (d) Proof that the applicant meets the requirements of
661 licensure as a property insurance appraiser as required under
662 ss. 468.8611 and 468.8612, and this section.

663 (e) The applicant's gender.

664 (f) The applicant's native language.

665 (g) The applicant's highest achieved level of education.

666 (h) All education requirements that the applicant has
667 completed to qualify as a property insurance appraiser,
668 including the name of the course, the course provider, and the
669 course completion dates.

670 (3) Each application shall be accompanied by payment of
671 any applicable fee.

672 (4) At the time of application, the applicant must be
673 fingerprinted by a law enforcement agency or other entity
674 approved by the department and he or she must pay the
675 fingerprint processing fee in s. 468.8611. Fingerprints must be
676 processed by the Department of Law Enforcement.

677 (5) The Department of Law Enforcement may, to the extent
678 provided for by federal law, exchange state, multistate, and
679 federal criminal history records with the department or office
680 for the purpose of the issuance, denial, suspension, or
681 revocation of a certificate of authority, certification, or
682 license to operate in this state.

683 (6) The Department of Law Enforcement may accept
684 fingerprints of any other person required by statute or rule to
685 submit fingerprints to the department or office or any applicant
686 or licensee regulated by the department or office who is
687 required to demonstrate that he or she has not been convicted of
688 or pled guilty or nolo contendere to a felony or a misdemeanor.

689 (7) The Department of Law Enforcement shall, upon receipt
690 of fingerprints from the department or office, submit the
691 fingerprints to the Federal Bureau of Investigation for a
692 federal criminal history records check.

693 (8) Statewide criminal records obtained through the
694 Department of Law Enforcement, federal criminal records obtained
695 through the Federal Bureau of Investigation, and local criminal
696 records obtained through local law enforcement agencies shall be
697 used by the department and office for the purpose of issuance,
698 denial, suspension, or revocation of certificates of authority,
699 certifications, or licenses issued to operate in this state.

700 (9) The department shall develop and maintain as a public
701 record a current list of licensed property insurance appraisers.

702 468.8612 Examinations -

703 (1) A person desiring to be licensed as a property
704 insurance appraiser must apply to the department after
705 satisfying the examination requirements of this part.

706 (2) An applicant may practice in this state as a property
707 insurance appraiser if he or she passes the required
708 examination, is of good moral character, and meets one of the
709 following requirements:

710 (a) The applicant is currently licensed, registered,
711 certified, or approved as an engineer as defined in s. 471.005
712 or as a retired professional engineer as defined in s. 471.005,
713 and has taught or successfully completed 4 hours of classroom
714 coursework, approved by the department, specifically related to
715 construction, building codes, appraisal procedures, appraisal
716 preparation, and any other related material deemed appropriate
717 by the department.

718 (b) The applicant is currently or, within the 2 years
719 immediately preceding the date on which the application is filed
720 with the department, has been licensed, registered, certified,
721 or approved as a general contractor, building contractor, or
722 residential contractor as defined in s. 489.105 and has taught
723 or successfully completed 4 hours of classroom coursework,
724 approved by the department, specifically related to
725 construction, building codes, appraisal procedure, appraisal
726 preparation, and any other related material deemed appropriate
727 by the department.

728 (c) The applicant is currently or, within the 2 years

729 immediately preceding the date on which the application is filed
730 with the department, has been licensed or registered as an
731 architect to engage in the practice of architecture pursuant to
732 part I of chapter 481 and has taught or successfully completed 4
733 hours of classroom coursework, approved by the department,
734 specifically related to construction, building codes, appraisal
735 procedure, appraisal preparation, and any other related material
736 deemed appropriate by the department.

737 (d) The applicant is currently or, within the 2 years
738 immediately preceding the date on which the application is filed
739 with the department, has been a qualified geologist or
740 professional geologist as defined in s. 492.102 and has taught
741 or successfully completed 4 hours of classroom coursework,
742 approved by the department, specifically related to
743 construction, building codes, appraisal procedure, appraisal
744 preparation, and any other related material deemed appropriate
745 by the department.

746 (e) The applicant is currently or, within the 2 years
747 immediately preceding the date on which the application is filed
748 with the department, has been licensed as a certified public
749 accountant as defined in s. 473.302 and has taught or
750 successfully completed 4 hours of classroom coursework, approved
751 by the department, specifically related to construction,
752 building codes, appraisal procedure, appraisal preparation, and
753 any other related material deemed appropriate by the department.

754 (f) The applicant is currently or, within the 2 years

755 immediately preceding the date on which the application is filed
756 with the department, has been a licensed attorney in this state
757 and has taught or successfully completed 4 hours of classroom
758 coursework, approved by the department, specifically related to
759 construction, building codes, appraisal procedure, appraisal
760 preparation, and any other related material deemed appropriate
761 by the department.

762 (g) The applicant has received a baccalaureate degree from
763 an accredited 4-year college or university in the field of
764 engineering, architecture, or building construction and has
765 taught or successfully completed 4 hours of classroom
766 coursework, approved by the department, specifically related to
767 construction, building codes, appraisal procedure, appraisal
768 preparation, and any other related material deemed appropriate
769 by the department.

770 (h) The applicant is a currently licensed adjuster whose
771 license covers all lines of insurance except the life and
772 annuities class. The adjuster's license must include the
773 property and casualty class of insurance. The currently licensed
774 adjuster must be licensed for at least 2 years to qualify for a
775 property insurance appraiser's license.

776 (i) The applicant has received a minimum of 8 semester
777 hours or 12 quarter hours of credit from an accredited college
778 or university in the field of accounting, geology, engineering,
779 architecture, or building construction.

780 (j) The applicant has successfully completed 40 hours of

781 classroom coursework, approved by the department, specifically
782 related to construction, building codes, appraisal procedure,
783 appraisal preparation, property insurance, and any other related
784 material deemed appropriate by the department.

785 (3) The department shall review and approve courses of
786 study for the continuing education of property insurance
787 appraisers.

788 (4) The department may not issue a license as a property
789 insurance appraiser to any individual found by it to be
790 untrustworthy or incompetent or who:

791 (a) Has not filed an application with the department in
792 accordance with s. 485.86115.

793 (b) Is not a natural person who is at least 18 years of
794 age.

795 (c) Is not a United States citizen or legal alien who
796 possesses work authorization from the United States Citizenship
797 and Immigration Services.

798 (d) Has not completed the education, experience, or
799 licensing requirements in this section.

800 (5) An incomplete application expires 6 months after the
801 date it is received by the department.

802 (6) An applicant seeking to become licensed under this
803 part may not be rejected solely by virtue of membership or lack
804 of membership in any particular appraisal organization.

805 468.8613 Licensure.—

806 (1) The department shall license any applicant who the

807 department certifies has completed the requirements of ss.
808 468.8611, 468.86115, and 468.8612.

809 (2) The department shall not issue a license by
810 endorsement to any applicant for a property insurance appraiser
811 license who is under investigation in another state for any act
812 that would constitute a violation of this part until such time
813 that the investigation is complete and disciplinary proceedings
814 have been terminated.

815 468.8614 Renewal of license.—

816 (1) The department shall renew a license upon receipt of
817 the renewal application and fee and upon certification by the
818 department that the licensee has satisfactorily completed the
819 continuing education requirements of s. 468.8615.

820 (2) The department shall adopt rules establishing a
821 procedure for the biennial renewal of licenses.

822 468.8615 Continuing education.—

823 (1) The department may not renew a license until the
824 licensee submits satisfactory proof to the department that,
825 during the 2 years before his or her application for renewal,
826 the licensee completed at least 30 hours of continuing education
827 in addition to 5 hours of ethics. Criteria and course content
828 shall be approved by the department by rule.

829 (2) The department may prescribe by rule additional
830 continuing professional education hours, not to exceed 25
831 percent of the total required hours, for failure to complete the
832 required hours for renewal by the end of the renewal period.

833 (3) Each appraiser course provider, instructor, and
834 classroom course must be approved by and registered with the
835 department before prelicensure courses for property insurance
836 appraisers may be offered. Each classroom course must include a
837 written examination at the conclusion of the course and must
838 cover all of the material contained in the course. A student may
839 not receive credit for the course unless the student achieves a
840 grade of at least 75 on the examination.

841 (4) The department shall adopt rules establishing:

842 (a) Standards for the approval, registration, discipline,
843 or removal from registration of course providers, instructors,
844 and courses. The standards must be designed to ensure that
845 instructors have the knowledge, competence, and integrity to
846 fulfill the educational objectives of the prelicensure
847 requirements of this part.

848 (b) A process for determining compliance with the
849 prelicensure requirements of this part.

850
851 The department shall adopt rules prescribing the forms necessary
852 to administer the prelicensure requirements of this part.

853 (5) Approval to teach prescribed or approved appraisal
854 courses does not entitle the instructor to teach any courses
855 outside the scope of this part.

856 468.8616 Inactive license.—

857 (1) A licensee may request that his or her license be
858 placed on inactive status by filing an application with the

859 department.

860 (2) A license that has become inactive may be reactivated
861 upon application to the department. The department may prescribe
862 by rule continuing education requirements as a condition for
863 reactivation of an inactive license. The continuing education
864 requirements for reactivating a license may not exceed 14 hours
865 for each year the license was inactive.

866 (3) The department shall adopt rules relating to licenses
867 that have become inactive and for the renewal of inactive
868 licenses. The department shall prescribe by rule a fee not to
869 exceed \$250 for the reactivation of an inactive license and a
870 fee not to exceed \$250 for the renewal of an inactive license.

871 468.8617 Certification of partnerships, corporations, and
872 other business entities.—The practice of or the offer to
873 practice as a property insurance appraiser by licensees through
874 a partnership, corporation, or other business entity offering
875 property insurance appraiser services to the public, or by a
876 partnership, corporation, or other business entity through
877 licensees under this part as agents, employees, officers, or
878 partners is permitted subject to the provisions of this part.
879 This section does not allow a corporation or other business
880 entity to hold a license to practice property insurance
881 appraiser services. A partnership, corporation, or other
882 business entity is not relieved of responsibility for the
883 conduct or acts of its agents, employees, or officers by reason
884 of its compliance with this section. An individual practicing as

885 a property insurance appraiser is not relieved of responsibility
 886 for professional services performed by reason of his or her
 887 employment or relationship with a partnership, corporation, or
 888 other business entity.

889 468.8618 Grounds for compulsory refusal, suspension, or
 890 revocation of an appraiser's license.—The department shall deny
 891 an application for, suspend, revoke, or refuse to renew or
 892 continue the license or appointment of any applicant, property
 893 insurance appraiser or licensee and shall suspend or revoke the
 894 eligibility to hold a license or appointment of any such person
 895 if it finds that any one or more of the following applicable
 896 grounds exist:

897 (1) Lack of one or more of the qualifications for the
 898 license as specified in this part.

899 (2) Material misstatement, misrepresentation, or fraud in
 900 obtaining the license or in attempting to obtain the license or
 901 appointment.

902 (3) Failure to pass to the satisfaction of the department
 903 any examination required under this act.

904 (4) That the license or appointment was willfully used, or
 905 will be used, to circumvent any of the requirements or
 906 prohibitions of this code.

907 (5) Demonstrated a lack of fitness or trustworthiness to
 908 engage as a property insurance appraiser.

909 (6) Demonstrated a lack of reasonably adequate knowledge
 910 and technical competence to engage in the transactions

911 authorized by the license.

912 (7) Fraudulent or dishonest practices in the conduct of
913 business under the license.

914 (8) Willful failure to comply with, or willful violation
915 of, any proper order or rule of the department or willful
916 violation of any provision of this act.

917 (9) Having been found guilty of or having plead guilty or
918 nolo contendere to a felony or a crime punishable by
919 imprisonment of 1 year or more under the law of the United
920 States or of any state thereof or under the law of any other
921 country which involves moral turpitude, without regard to
922 whether a judgment of conviction has been entered by the court
923 having jurisdiction of such cases.

924 (10) Violated a duty imposed upon her or him by law or by
925 the terms of a contract, whether written, oral, expressed, or
926 implied, in an appraisal; has aided, assisted, or conspired with
927 any other person engaged in any such misconduct and in
928 furtherance thereof; or has formed an intent, design, or scheme
929 to engage in such misconduct and committed an overt act in
930 furtherance of such intent, design, or scheme. It is immaterial
931 to a finding that a licensee has committed a violation of this
932 subsection that the victim or intended victim of the misconduct
933 has sustained no damage or loss, that the damage or loss has
934 been settled and paid after the discovery of misconduct, or that
935 such victim or intended victim was a customer or a person in a
936 confidential relationship with the licensee or was an identified

937 member of the general public.

938 (11) Had a registration, license, or certification as an
939 appraiser revoked, suspended, or otherwise acted against; has
940 had his or her registration, license, or certificate to practice
941 or conduct any regulated profession, business, or vocation
942 revoked or suspended by this or any other state, any nation, or
943 any possession or district of the United States; or has had an
944 application for such registration, licensure, or certification
945 to practice or conduct any regulated profession, business, or
946 vocation denied by this or any other state, any nation, or any
947 possession or district of the United States.

948 (12) (a) Made or filed a report or record, written or oral,
949 which the licensee knows to be false;

950 (b) Has willfully failed to file a report or record
951 required by state or federal law;

952 (c) Has willfully impeded or obstructed such filing; or

953 (d) Has induced another person to impede or obstruct such
954 filing.

955 (13) Accepted an appointment as an appraiser if the
956 appointment is contingent upon the appraiser reporting a
957 predetermined result, analysis, or opinion, or if the fee to be
958 paid for the services of the appraiser is contingent upon the
959 opinion, conclusion, or valuation reached by the appraiser.

960 468.86185 Grounds for discretionary denial, suspension, or
961 revocation of an appraiser's license.-The department may deny an
962 application for and suspend, revoke, or refuse to renew or

963 continue a license as a property insurance appraiser if the
 964 applicant or licensee has:

965 (1) Failed to timely communicate with the opposing party's
 966 appraiser without good cause.

967 (2) Failed or refused to exercise reasonable diligence in
 968 submitting recommendations to the opposing party's appraiser.

969 (3) Violated any ethical standard for property insurance
 970 appraisers set forth in s. 468.8619.

971 (4) Failed to inform the department in writing within 30
 972 days after pleading guilty or nolo contendere to, or being
 973 convicted or found guilty of, a felony.

974 (5) Failed to timely notify the department of any change
 975 in business location, or has failed to fully disclose all
 976 business locations from which he or she operates as a property
 977 insurance appraiser.

978 468.8619 Ethical standards for property insurance
 979 appraisers.-

980 (1) CONFIDENTIALITY.-An appraiser shall maintain
 981 confidentiality of all information revealed during an appraisal
 982 except to the party that hired the appraiser and except where
 983 disclosure is required by law.

984 (2) RECORDKEEPING.-An appraiser shall maintain
 985 confidentiality in the storage and disposal of records and may
 986 not disclose any identifying information when materials are used
 987 for research, training, or statistical compilations.

988 (3) FEES AND EXPENSES.-Fees charged for appraisal services

989 shall be reasonable and consistent with the nature of the case.

990 An appraiser shall be guided by the following in determining
 991 fees:

992 (a) All charges for services as an appraiser based on time
 993 may not exceed actual time spent or allocated.

994 (b) Charges for costs shall be for those actually
 995 incurred.

996 (4) MAINTENANCE OF RECORDS.—An appraiser shall maintain
 997 records necessary to support charges for services and expenses,
 998 and upon request shall provide an accounting of all applicable
 999 charges to the parties. An appraiser licensed under this part
 1000 shall retain for at least 5 years original or true copies of any
 1001 contracts engaging the appraiser's services, appraisal reports,
 1002 and supporting data assembled and formulated by the appraiser in
 1003 preparing appraisal reports. The period for retaining the
 1004 records applicable to each engagement starts on the date of the
 1005 submission of the appraisal report to the client. The records
 1006 must be made available by the appraiser for inspection and
 1007 copying by the department upon reasonable notice to the
 1008 appraiser. If an appraisal has been the subject of, or has been
 1009 admitted as evidence in, a lawsuit, reports, and records the
 1010 appraisal must be retained for at least 2 years after the date
 1011 that the trial ends.

1012 (5) ADVERTISING.—An appraiser may not engage in marketing
 1013 practices that contain false or misleading information. An
 1014 appraiser shall ensure that any advertisements of the

1015 appraiser's qualifications, services to be rendered, or the
 1016 appraisal process are accurate and honest. An appraiser may not
 1017 make claims of achieving specific outcomes or promises implying
 1018 favoritism for the purpose of obtaining business.

1019 (6) INTEGRITY AND IMPARTIALITY.—An appraiser may not
 1020 accept any engagement, provide any service, or perform any act
 1021 that would compromise the appraiser's integrity or impartiality.

1022 (a) An appraiser may not accept an appointment unless he
 1023 or she can:

1024 1. Serve impartially;

1025 2. Serve independently from the party appointing him or
 1026 her;

1027 3. Serve competently; and

1028 4. Be available to promptly commence the appraisal, and
 1029 thereafter devote the time and attention to its completion in a
 1030 manner expected by all involved parties.

1031 (b) An appraiser shall conduct the appraisal process in a
 1032 manner that advances the fair and efficient resolution of the
 1033 matters submitted for decision. A licensed appraiser shall make
 1034 all reasonable efforts to prevent delays in the appraisal
 1035 process, the harassment of parties or other participants, or
 1036 other abuse or disruption of the appraisal process.

1037 (c) Once a licensed appraiser has accepted an appointment,
 1038 the appraiser may not withdraw or abandon the appointment unless
 1039 compelled to do so by unanticipated circumstances that would
 1040 render it impossible or impracticable to continue.

1041 (d) The licensed appraiser shall, after careful
 1042 deliberation, decide all issues submitted for determination and
 1043 no other issues. A licensed appraiser shall decide all matters
 1044 justly, exercising independent judgment, and may not allow
 1045 outside pressure to affect the decision. An appraiser may not
 1046 delegate the duty to decide to any other person.

1047 (7) SKILL AND EXPERIENCE.—An appraiser shall decline an
 1048 appointment or selection, withdraw, or request appropriate
 1049 assistance when the facts and circumstances of the appraisal are
 1050 beyond the appraiser's skill or experience.

1051 (8) GIFTS AND SOLICITATION.—An appraiser may not give or
 1052 accept any gift, favor, loan, or other item of value in an
 1053 appraisal process except for the appraiser's reasonable fee.
 1054 During the appraisal process, an appraiser may not solicit or
 1055 otherwise attempt to procure future professional services.

1056 (9) COMMUNICATIONS WITH PARTIES.—

1057 (a) If an agreement of the parties establishes the manner
 1058 or content of the communications between the appraisers, the
 1059 parties and the umpire, the appraisers shall abide by such
 1060 agreement. In the absence of agreement, an appraiser may not
 1061 discuss a proceeding with any party or with the umpire in the
 1062 absence of any other party, except in the following
 1063 circumstances:

1064 1. If the appointment of the appraiser or umpire is being
 1065 considered, the prospective appraiser or umpire may ask about
 1066 the identities of the parties, counsel, and the general nature

1067 of the case, and may respond to inquiries from a party, its
 1068 counsel or an umpire designed to determine his or her
 1069 suitability and availability for the appointment;

1070 2. To consult with the party who appointed the appraiser
 1071 concerning the selection of a neutral umpire.

1072 3. To make arrangements for any compensation to be paid by
 1073 the party who appointed the appraiser; or

1074 4. To make arrangements for obtaining materials and
 1075 inspection of the property with the party who appointed the
 1076 appraiser. Such communication is limited to scheduling and the
 1077 exchange of materials.

1078 (b) There may be no communications whereby a party
 1079 dictates to an appraiser what the result of the proceedings must
 1080 be, what matters or elements may be included or considered by
 1081 the appraiser, or what actions the appraiser may take.

1082 Section 3. This act shall take effect July 1, 2015.