

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Articles offered the following:

2
3 **Substitute Amendment for Amendment (140807) (with title**
4 **amendment)**

5 Remove lines 781-981 and insert:

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

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

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15 626.9964 Definitions.—As used in this part, the term:

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

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

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

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

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

33 626.9965 Qualification for license as a property insurance
34 appraisal umpire.—

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

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

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

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

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

45 (e) A member of The Florida Bar.

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

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

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

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

57 (c) Is of good moral character;

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

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

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

64 2. At least 5 hours of insurance law, ethics for insurance
65 professionals, disciplinary trends, and case studies.
66

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

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

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

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

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

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

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

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

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

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

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

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

119 (1) FEES AND EXPENSES.-

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

122 (b) In determining fees, an umpire:

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

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

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

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

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

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

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

162 (4) INTEGRITY AND IMPARTIALITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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