

1 An act to be entitled

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

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

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

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

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

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

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

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

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

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

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

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

10           626.022 Scope of part.--

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

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

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

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

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

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

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

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

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

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

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

25 626.9931 Definitions.--

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

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

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

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

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

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

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

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

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

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

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

13           626.9932 Licensure required; application.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (e) The applicant has passed the examination required  
4 by s. 626.9937.

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

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

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

13           (1) No applicant for a license as a property  
14 insurance loss appraiser shall be qualified or licensed  
15 unless the applicant meets one of the following  
16 requirements:

17           (a) The applicant is currently licensed and appointed  
18 as an independent, company employee or public pursuant to  
19 part VI;

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

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

25           (d) Within the 4 years immediately preceding the date  
26 the application is filed with the department, the  
27 applicant taught or successfully completed 120 classroom  
28 hours in courses approved by the department as follows:

29           1. 30 hours on valuation theory;

30           2. 75 hours specifically related to estimating the  
31 cost for repairing or replacing damaged or destroyed  
32 personal property and residential and commercial buildings

1 and structures, including material that addresses building  
2 codes, building materials; and

3 3. 15 hours on the standards and ethical requirements  
4 for property insurance loss appraisers as set forth in ss.  
5 626.9940 and 626.9941;

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

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

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

27 626.9936 Regulation of appraisal course providers,  
28 instructors and courses.--

29 (1) Each appraisal course provider, instructor and  
30 course must be approved by and registered with the  
31 department before prelicensure courses for property  
32 insurance loss appraisers may be offered. Courses must

1 encompass the subjects that will be included in the  
2 required license examination as set forth in s. 626.9937.

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

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

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

18 626.9937 Examination requirements.-

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

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

27 (a) Knowledge of technical terms commonly used in  
28 property appraisal;

29 (b) An understanding of building codes, building  
30 construction and building materials;

31 (c) Reliable sources of appraising data, and problems  
32 likely to be encountered in the gathering, interpreting,

1 and processing of data in carrying out appraisal  
2 disciplines;

3 (d) Appraisal principles and theory;

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

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

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

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

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

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

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

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

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

30           (8) Has accepted an appraisal assignment if the  
31 employment itself is contingent upon the appraiser  
32 reporting a predetermined result, analysis, or opinion, or

1 if the fee to be paid for the performance of the appraisal  
2 assignment is contingent upon the opinion, conclusion, or  
3 valuation reached upon the consequences resulting from the  
4 appraisal assignment.

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

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

18 (1) Has failed to communicate an appraisal without  
19 good cause.

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

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

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

30 (5) Has failed to timely notify the department of any  
31 change in business location, or has failed to fully

1 disclose all business locations from which she or he  
2 operates as a property insurance loss appraiser.

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

9 626.9940 Standards for development of a property  
10 insurance loss appraisal; content of appraisal report.--

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

16 (2) In developing a property insurance loss  
17 appraisal, an appraiser must:

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

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

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

28 (3) In developing a property insurance loss  
29 appraisal, an appraiser must:

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

31 (b) Identify the intended use of the appraiser's  
32 opinions and conclusions;

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

3           (d) Identify the effective date of the appraiser's  
4 opinions and conclusions;

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

8           1. Sufficient characteristics to establish the  
9 identity of the item including the method of  
10 identification;

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

14           3. All other physical and economic attributes with a  
15 material effect on value.

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

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

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

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

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

1           (c) State the effective date of the appraisal and the  
2 date of the report;

3           (d) Describe the scope of work used to develop the  
4 appraisal.

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

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

13  
14           626.9941 Ethical standards for property insurance loss  
15 appraisers.-

16           (1) Appraisers shall perform their duties as  
17 appraisers ethically.

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

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

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

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

1           (6) An appraisal assignment is a confidential matter  
2 and the nature of the assignment may not be disclosed to  
3 anyone except to the client, those the client directs the  
4 appraiser to disclose to, or to a court of law.

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

19           Section 6. This act shall take effect upon becoming  
20 law.