



Government Operations Appropriations Subcommittee Meeting Packet

**December 2, 2015
4:00 p.m. – 6:00 p.m.
Morris Hall**



AGENDA

Government Operations Appropriations Subcommittee
December 2, 2015
4:00 p.m. – 6:00 p.m.
Morris Hall

- I. Call to Order/Roll Call
- II. Consideration of Bill
CS/HB 79 Insurance & Banking Subcommittee, Articles
- III. Presentation of the Governor's Recommended Budget for Fiscal Year 2016-2017
Laurie Grasel, General Government Policy Coordinator, Office of Policy and Budget, Executive Office of the Governor

Ken Lawson, Secretary, Department of Business and Professional Regulation

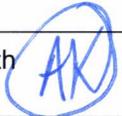
Tom Delacenserie, Secretary, Department of the Lottery

Chad Poppell, Secretary, Department of Management Services

Jason Allison, Executive Director, Agency for State Technology
- IV. Closing Remarks/Adjourn

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|---|--|
| 1) Insurance & Banking Subcommittee | 10 Y, 3 N, As CS | Peterson | Luczynski |
| 2) Government Operations Appropriations Subcommittee | | Keith  | Topp  |
| 3) Regulatory Affairs Committee | | | |

SUMMARY ANALYSIS

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

The appraisal process *generally* works as follows:

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

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

The bill establishes a licensing program for "property insurance appraisers," "property insurance appraisal umpires," and "property insurance appraisal firms" within the Department of Financial Services (DFS). The bill incorporates the program into part I of ch. 626, F.S., which sets forth the procedural provisions applicable to all insurance licensing programs administered by the DFS. The bill creates definitions; qualifications and requirements for licensure, including prerequisite education, fees, and background screening; continuing education; mandatory and discretionary grounds for refusal, suspension, or revocation of a license; and a code of conduct. Only retired judges and Florida-licensed engineers, contractors, architects, attorneys, and adjusters who meet specified experience requirements are eligible for licensure.

The bill appropriates \$74,851 in recurring funds, and \$3,882 in nonrecurring funds from the Insurance Regulatory Trust Fund and \$67,398 in recurring funds and \$38,882 in nonrecurring funds from the Administrative Trust Fund to the DFS, and authorizes two full-time equivalent positions with associated salary rate of 83,106 to implement provisions of the bill. The bill is not anticipated to have a fiscal impact on local government. The bill will have a negative fiscal impact on the private sector to the extent that it imposes licensing fees and ongoing costs of licensure in order to practice as an appraiser or umpire which may also affect the cost to obtain those services. It may, however, improve appraisal results, which would have a positive impact on both insurers and policyholders.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME:

DATE:

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Property Insurance Appraisers and Umpires

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

The appraisal process *generally* works as follows:

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

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

The Sunrise Act

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

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

In determining whether to regulate a profession or occupation, the act requires the Legislature to consider the following:

- Whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare, and whether the potential for harm is recognizable and not remote;

¹ *Citizens Property Insurance Corporation v. Mango Hill Condominium Association 12 Inc.*, 54 So.3d 578 (Fla.3d DCA 2011) and *Intracoastal Ventures Corp. v. Safeco Ins. Co. of America*, 540 So.2d 162 (Fla. 3d DCA 1989), contain examples of appraisal clauses.

² See s. 627.70151, F.S.

- Whether the practice of the profession or occupation requires specialized skill or training and whether that skill or training is readily measurable or quantifiable so that examination or training requirements would reasonably assure initial and continuing professional or occupational ability;
- Whether the regulation will have an unreasonable effect on job creation or job retention in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to find employment;
- Whether the public is or can be effectively protected by other means; and
- Whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

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

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

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

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

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

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

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

Proponents' Response to the Sunrise Act

The sponsor of the bill has submitted a response³ in support of the need for regulation. It states that the unregulated profession poses a substantial harm to the public health, safety, or welfare. In pertinent part, the response provides:

Currently, the state licenses adjusters in three categories, company adjuster, independent adjuster and public adjuster, if an individual is unable to pass these tests, or if they lose their license, they are able to become an insurance property appraisers [sic] and/or an insurance property umpire with no regulation. Further, convicted felons are able to become insurance property appraisers and/or insurance property umpires.

The Courts have ruled that a decision of the insurance appraisal panel (any 2 of the 3 members of the panel) is binding on the parties unless fraud is involved, (appraisals are for the dollar amount of the insurance loss and the panels are not empowered to determine coverage).

In the past, the public has been harmed when roofers, contractors and non-insurance people are involved and they don't properly appraise the amount of damages, for example, roofers have been known to appraise the roof of a home only without considering the interior of a home thus injuring the public in that they don't receive the proper insurance funds for the interior of their home and thus they fail to repair the interior making the damages worse and affecting the value of the home.

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

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

Currently, no state licenses property insurance appraisers, property insurance appraisal umpires, or property insurance appraisal firms. Two private organizations⁴ offer voluntary certification programs that appear to impose limited eligibility standards. Both programs, however, require compliance with a code of ethics to maintain certification, although neither program indicates how compliance is monitored. If the bill becomes law, currently certified members of one or both of the organizations⁵ will represent less than five percent of the 2,000 individuals the sponsor estimates will seek licensure in Florida.

Effect of the Bill

The bill establishes a licensing program for "property insurance appraisers," (appraisers) "property insurance appraisal umpires," (umpires) and "property insurance appraisal firms" (appraisal firms) within the Department of Financial Services (DFS). The bill incorporates the program into part I of ch. 626, F.S., which sets forth the procedural provisions applicable to all insurance licensing programs administered by the DFS. As a result, the bill prohibits an individual from practicing or holding him or herself out as an appraiser or umpire and prohibits an individual or entity from acting or holding himself, herself, or itself out as a firm unless licensed and, in the case of an appraiser or umpire, currently appointed with the DFS.

³ On file with the House Insurance & Banking Subcommittee.

⁴ Windstorm Insurance Network, Inc.; Insurance Appraisal and Umpire Association, Inc.

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

▪ **Definitions**

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

▪ **Licensure Requirements – Appraiser and Umpire**

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

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

Only the following individuals are eligible for licensure:

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

▪ **Licensure Requirements – Property Insurance Appraisal Firm**

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

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

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

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

▪ **Appointment – Appraiser and Umpire**

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

⁶ Separate licensure is not required for branches.

▪ **Continuing Education – Appraiser and Umpire**

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

▪ **Code of Conduct – Appraiser and Umpire**

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

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

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

▪ **Investigation – Appraiser, Umpire, and Firm**

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

B. SECTION DIRECTORY:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 15: amends s. 626.451, F.S., specifying procedures and responsibilities related to appointment of a property insurance appraiser or property insurance appraisal umpire;

Section 16: amends s. 626.461, F.S., providing that a property insurance appraiser or property insurance appraisal umpire appointment continues in effect, subject to renewal or earlier written notice of termination, until the person’s license is revoked or otherwise terminated;

Section 17: amends s. 626.521, F.S., authorizing the DFS to obtain a credit and character report for certain appraiser and umpire applicants.

Section 18: amends s. 626.536, F.S., requiring appraisal firms to submit a copy of certain documents to the DFS within 30 days after disposition of certain administrative actions.

Section 19: amends s. 626.541, F.S., requiring an appraiser or umpire to provide certain information to the DFS when doing business under a different business name or when information in the licensure application changes.

Section 20: amends s. 626.601, F.S., authorizing the DFS to investigate improper conduct of any licensed appraiser, umpire, or appraisal firm.

Section 21: amends s. 626.602, F.S., authorizing the DFS to disapprove certain appraisal firm names.

Section 22: amends s. 626.611, F.S., requiring the DFS to refuse, suspend, or revoke an appraiser's or umpire's license under certain circumstances.

Section 23: amends s. 626.6115, F.S., requiring the DFS to refuse, suspend, or revoke an appraisal firm license under certain circumstances.

Section 24: amends s. 626.621, F.S., authorizing the DFS to refuse, suspend, or revoke an appraiser's or umpire's license under certain circumstances.

Section 25: amends s. 626.6215, F.S., authorizing the DFS to refuse, suspend, or revoke an appraisal firm's license under certain circumstances.

Section 26: amends s. 626.641, F.S., prohibiting an appraiser or umpire from owning, controlling, or being employed by other licensees during the period the appraiser or umpire's license is suspended or revoked.

Section 27: amends s. 626.6515, F.S., authorizing the DFS to suspend or revoke the license of an appraisal firm under the control of any person who participated in activities resulting in the suspension or revocation of the license of an associated firm.

Section 28: amends s. 626.681, F.S., authorizing an administrative fine in lieu of or in addition to suspension, revocation, or refusal of an appraisal firm license.

Section 29: amends s. 626.7845, F.S., prohibiting against unlicensed transaction of life insurance.

Section 30: amends s. 626.8305, F.S., prohibiting against the unlicensed transaction of health insurance.

Section 31: amends s. 626.8411, F.S., providing that certain provisions of part I do not apply to title insurance agents or title insurance agencies.

Section 32: amends s. 626.8443, F.S., prohibiting a title insurance agent from owning, controlling, or being employed by an appraiser, umpire, or appraisal firm during the period the agent's license is suspended or revoked.

Section 33: creates part XIV of chapter 626, F.S., relating to appraisers and umpires

Section 34: providing an appropriation.

Section 35: providing an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

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

The DFS estimates receiving approximately 750 applications the first year.⁷ Based on the proposed fee structure, estimated revenues from licensure for FY 2016-2017 would be \$86,250.

⁷ Email correspondence from the DFS on 11/23/2015 on file with the Government Operations Appropriations Subcommittee.

2. Expenditures:

The bill appropriates \$74,851 in recurring funds, and \$3,882 in nonrecurring funds from the Insurance Regulatory Trust Fund and \$67,398 in recurring funds and \$38,882 in nonrecurring funds from the Administrative Trust Fund to the DFS, and authorizes two full-time equivalent positions with associated salary rate of 83,106 to implement provisions of the bill.

FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

C. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 4, 2015, the Insurance & Banking Subcommittee adopted a proposed committee substitute (PCS) and two amendments to the PCS and reported the bill favorably as a committee substitute. The amended PCS:

- Moved the licensing program to the Department of Financial Services (DFS).
- Incorporated the program into part I of chapter 626, F.S., which sets forth the procedural provisions applicable to all insurance related licensing programs administered by DFS.

- Refined the definitions of “appraisal,” “property insurance appraiser,” and “property insurance appraisal umpire”; deleted the definition of “independent,” but retained its component provisions as grounds for discipline; and created a definition of “property insurance appraisal firm.”
- Removed the requirement for an examination.
- Removed the prerequisite 4-hour class in building-related topics and substituted prerequisite courses in claims estimating, and insurance law and ethics.
- Required applicants who qualify based on separate professional license to be currently licensed as such.
- Capped contingency fees charged by an appraiser to not more than 20% of any additional money paid on the claim as a result of the appraisal process.
- Created a one-time license requirement for property insurance appraisal firms.
- Revised the code of conduct for clarity of administration and removed portions that regulated the process of appraisal.
- Reduced the proposed fiscal from more than \$650,000 and 4 FTEs to 2 FTEs and \$185,013.

The staff analysis is drafted to reflect the committee substitute.

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

53 terminated by law; amending s. 626.451, F.S.;

54 providing requirements relating to the appointment of

55 a property insurance appraiser or property insurance

56 appraisal umpire; amending s. 626.461, F.S.; providing

57 that a property insurance appraiser or property

58 insurance appraisal umpire appointment continues in

59 effect, subject to renewal or earlier written notice

60 of termination, until the person's license is revoked

61 or otherwise terminated; amending s. 626.521, F.S.;

62 authorizing the department to obtain a credit and

63 character report for certain property insurance

64 appraiser and property insurance appraisal umpire

65 applicants; amending s. 626.536, F.S.; requiring

66 property insurance appraisal firms to submit a copy of

67 certain documents to the department within 30 days

68 after disposition of certain administrative actions;

69 amending s. 626.541, F.S.; requiring a property

70 insurance appraiser or property insurance appraisal

71 umpire to provide certain information to the

72 department when doing business under a different

73 business name or when information in the licensure

74 application changes; amending s. 626.601, F.S.;

75 authorizing the department to investigate improper

76 conduct of any licensed property insurance appraiser,

77 property insurance appraisal umpire, or property

78 insurance appraisal firm; amending s. 626.602, F.S.;

79 | authorizing the department to disapprove certain
80 | property insurance appraisal firm names; amending s.
81 | 626.611, F.S.; requiring the department to refuse,
82 | suspend, or revoke a property insurance appraiser's or
83 | property insurance appraisal umpire's license under
84 | certain circumstances; amending s. 626.6115, F.S.;
85 | requiring the department to refuse, suspend, or revoke
86 | a property insurance appraisal firm license under
87 | certain circumstances; amending s. 626.621, F.S.;
88 | authorizing the department to refuse, suspend, or
89 | revoke a property insurance appraiser's or property
90 | insurance appraisal umpire's license under certain
91 | circumstances; amending s. 626.6215, F.S.; authorizing
92 | the department to refuse, suspend, or revoke a
93 | property insurance appraisal firm's license under
94 | certain circumstances; amending s. 626.641, F.S.;
95 | prohibiting a property insurance appraiser or property
96 | insurance appraisal umpire from owning, controlling,
97 | or being employed by other licensees during the period
98 | the appraiser's or umpire's license is suspended or
99 | revoked; amending s. 626.6515, F.S.; authorizing the
100 | department to suspend or revoke the license of a
101 | property insurance appraisal firm under the control of
102 | any person who participated in activities resulting in
103 | the suspension or revocation of the license of an
104 | associated firm; amending s. 626.681, F.S.;

105 | authorizing an administrative fine in lieu of or in
 106 | addition to suspension, revocation, or refusal of a
 107 | property insurance appraisal firm license; amending
 108 | ss. 626.7845, 626.8305, and 626.8411, F.S.; conforming
 109 | provisions to changes made by the act; amending s.
 110 | 626.8443, F.S.; prohibiting a title insurance agent
 111 | from owning, controlling, or being employed by a
 112 | property insurance appraiser, property insurance
 113 | appraisal umpire, or property insurance appraisal firm
 114 | during the period the agent's license is suspended or
 115 | revoked; creating part XIV of chapter 626, F.S.,
 116 | relating to property insurance appraisers and property
 117 | insurance appraisal umpires; creating s. 626.9961,
 118 | F.S.; providing a short title; creating s. 626.9962,
 119 | F.S.; providing legislative purpose; creating s.
 120 | 626.9963, F.S.; providing that the part supplements
 121 | part I of chapter 626, F.S., the "Licensing Procedure
 122 | Law; creating s. 626.9964, F.S.; providing
 123 | definitions; creating s. 626.9965, F.S.; providing
 124 | qualifications for license as a property insurance
 125 | appraiser or property insurance appraisal umpire;
 126 | creating s. 626.9966, F.S.; requiring the department
 127 | to issue a license as a property insurance appraisal
 128 | firm upon receipt of an application and qualification
 129 | for the license; creating s. 626.9967, F.S.;

130 | authorizing the department to refuse, suspend, or

131 revoke a property insurance appraiser's, property
 132 insurance appraisal umpire's, or property insurance
 133 appraisal firm's license under certain circumstances;
 134 creating s. 626.9968, F.S.; providing ethical
 135 standards; providing an appropriation and authorizing
 136 positions; providing an effective date.

137

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

139

140 Section 1. Section 624.04, Florida Statutes, is amended to
 141 read:

142 624.04 "Person" defined.—"Person" includes an individual,
 143 insurer, company, association, organization, Lloyds, society,
 144 reciprocal insurer or interinsurance exchange, partnership,
 145 syndicate, business trust, corporation, agent, general agent,
 146 broker, service representative, adjuster, property insurance
 147 appraiser, property insurance appraisal umpire, and every legal
 148 entity.

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

151 624.303 Seal; certified copies as evidence.—

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

156 Section 3. Paragraphs (b) and (c) of subsection (4) of

157 section 624.311, Florida Statutes, are amended to read:

158 624.311 Records; reproductions; destruction.—

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

163 (b) Agent, adjuster, property insurance appraiser,
164 property insurance appraisal umpire, and similar license files,
165 including license files of the Division of State Fire Marshal,
166 over 2 years old; except that the department or office shall
167 preserve by reproduction or otherwise a copy of the original
168 records upon the basis of which each such licensee qualified for
169 her or his initial license, except a competency examination, and
170 of any disciplinary proceeding affecting the licensee;

171 (c) All agent, adjuster, property insurance appraiser,
172 property insurance appraisal umpire, and similar license files
173 and records, including original license qualification records
174 and records of disciplinary proceedings 5 years after a licensee
175 has ceased to be qualified for a license;

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

178 624.317 Investigation of agents, adjusters, property
179 insurance appraisers, property insurance appraisal umpires,
180 property insurance appraisal firms, administrators, service
181 companies, and others.—If it has reason to believe that any
182 person has violated or is violating any provision of this code,

183 or upon the written complaint signed by any interested person
 184 indicating that any such violation may exist:

185 (1) The department shall conduct such investigation as it
 186 deems necessary of the accounts, records, documents, and
 187 transactions pertaining to or affecting the insurance affairs of
 188 any general agent, surplus lines agent, adjuster, property
 189 insurance appraiser, property insurance appraisal umpire,
 190 property insurance appraisal firm, managing general agent,
 191 insurance agent, insurance agency, customer representative,
 192 service representative, or other person subject to its
 193 jurisdiction, subject to the requirements of s. 626.601.

194 Section 5. Paragraph (c) of subsection (19) and subsection
 195 (28) of section 624.501, Florida Statutes, are amended, and
 196 subsection (29) is added to that section, to read:

197 624.501 Filing, license, appointment, and miscellaneous
 198 fees.—The department, commission, or office, as appropriate,
 199 shall collect in advance, and persons so served shall pay to it
 200 in advance, fees, licenses, and miscellaneous charges as
 201 follows:

202 (19) Miscellaneous services:

203 (c) For preparing lists of agents, adjusters, property
 204 insurance appraisers, property insurance appraisal umpires, and
 205 other insurance representatives, and for other miscellaneous
 206 services, such reasonable charge as may be fixed by the office
 207 or department.

208 (28) Late filing of appointment renewals for agents,

209 adjusters, property insurance appraisers, property insurance
 210 appraisal umpires, and other insurance representatives, each
 211 appointment \$20.00

212 (29) Property insurance appraisers and property insurance
 213 appraisal umpires:

214 (a) Property insurance appraiser's and property insurance
 215 appraisal umpire's appointment and biennial renewal or
 216 continuation thereof, each appointment.....\$60.00

217 (b) Fee to cover the actual cost of a credit report when
 218 such report must be secured by department.

219 Section 6. Paragraph (e) of subsection (1) of section
 220 624.523, Florida Statutes, is amended to read:

221 624.523 Insurance Regulatory Trust Fund.—

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

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

- 228 1. Subsection (1) (certificate of authority of insurer).
- 229 2. Subsection (2) (charter documents of insurer).
- 230 3. Subsection (3) (annual license tax of insurer).
- 231 4. Subsection (4) (annual statement of insurer).
- 232 5. Subsection (5) (application fee for insurance
- 233 representatives).
- 234 6. The "appointment fee" portion of any appointment

235 provided for under paragraphs (6)(a) and (b) (insurance
 236 representatives, property, marine, casualty and surety
 237 insurance, and agents).

238 7. Paragraph (6)(c) (nonresident agents).

239 8. Paragraph (6)(d) (service representatives).

240 9. The "appointment fee" portion of any appointment
 241 provided for under paragraph (7)(a) (life insurance agents,
 242 original appointment, and renewal or continuation of
 243 appointment).

244 10. Paragraph (7)(b) (nonresident agent license).

245 11. The "appointment fee" portion of any appointment
 246 provided for under paragraph (8)(a) (health insurance agents,
 247 agent's appointment, and renewal or continuation fee).

248 12. Paragraph (8)(b) (nonresident agent appointment).

249 13. The "appointment fee" portion of any appointment
 250 provided for under subsections (9) and (10) (limited licenses
 251 and fraternal benefit society agents).

252 14. Subsection (11) (surplus lines agent).

253 15. Subsection (12) (adjusters' appointment).

254 16. Subsection (13) (examination fee).

255 17. Subsection (14) (temporary license and appointment as
 256 agent or adjuster).

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

258 19. Subsection (16) (additional license continuation
 259 fees).

260 20. Subsection (17) (filing application for permit to form

261 insurer).

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

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

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

265 24. Subsection (29) (property insurance appraisers' and
 266 property insurance appraisal umpires' appointment).

267 Section 7. Subsections (15), (16), (17), (18), and (19) of
 268 section 626.015, Florida Statutes, are renumbered as subsections
 269 (18), (19), (20), (21), and (22), respectively, subsection (3)
 270 of that section is amended, and new subsections (15), (16), and
 271 (17) are added to that section, to read:

272 626.015 Definitions.—As used in this part:

273 (3) "Appointment" means the authority given by an insurer
 274 or employer to a licensee to transact insurance, ~~or~~ adjust
 275 claims, or conduct property insurance appraisals on behalf of an
 276 insurer or employer.

277 (15) "Property insurance appraisal firm" means a property
 278 insurance appraisal firm as defined in s. 626.9964.

279 (16) "Property insurance appraisal umpire" means a
 280 property insurance appraisal umpire as defined in s. 626.9964.

281 (17) "Property insurance appraiser" means property
 282 insurance appraiser as defined in s. 626.9964.

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

285 626.016 Powers and duties of department, commission, and
 286 office.—

287 (1) The powers and duties of the Chief Financial Officer
 288 and the department specified in this part apply only with
 289 respect to insurance agents, insurance agencies, managing
 290 general agents, ~~insurance~~ adjusters, property insurance
 291 appraisers, property insurance appraisal umpires, property
 292 insurance appraisal firms, reinsurance intermediaries, viatical
 293 settlement brokers, customer representatives, service
 294 representatives, and agencies.

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

297 626.022 Scope of part.—

298 (1) This part applies as to insurance agents, service
 299 representatives, adjusters, property insurance appraisers,
 300 property insurance appraisal umpires, property insurance
 301 appraisal firms, and insurance agencies; as to any and all kinds
 302 of insurance; and as to stock insurers, mutual insurers,
 303 reciprocal insurers, and all other types of insurers, except
 304 that:

305 (a) It does not apply as to reinsurance, except that ss.
 306 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss.
 307 626.291-626.301, s. 626.331, ss. 626.342-626.521, ss. 626.541-
 308 626.591, and ss. 626.601-626.711 shall apply as to reinsurance
 309 intermediaries as defined in s. 626.7492.

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

312 (c) It does not apply to a bail bond agent, as defined in

313 s. 648.25, except as provided in chapter 648 or chapter 903.

314 (d) This part does not apply to a certified public
315 accountant licensed under chapter 473 who is acting within the
316 scope of the practice of public accounting, as defined in s.
317 473.302, provided that the activities of the certified public
318 accountant are limited to advising a client of the necessity of
319 obtaining insurance, the amount of insurance needed, or the line
320 of coverage needed, and provided that the certified public
321 accountant does not directly or indirectly receive or share in
322 any commission or referral fee.

323 Section 10. Subsections (6), (7), and (8) of section
324 626.112, Florida Statutes, are renumbered as subsections (7),
325 (8), and (9), respectively, present subsection (9) is renumbered
326 as subsection (11), subsection (1) is amended, and a new
327 subsection (6) and subsection (10) are added to that section, to
328 read:

329 626.112 License and appointment required; agents, customer
330 representatives, adjusters, property insurance appraisers,
331 property insurance appraisal umpires, property insurance
332 appraisal firms, insurance agencies, service representatives,
333 managing general agents.—

334 (1)(a) No person may be, act as, or advertise or hold
335 himself or herself out to be an insurance agent, insurance
336 adjuster, or customer representative unless he or she is
337 currently licensed by the department and appointed by an
338 appropriate appointing entity or person.

339 (b) Except as provided in subsection (7) ~~(6)~~ or in
 340 applicable department rules, and in addition to other conduct
 341 described in this chapter with respect to particular types of
 342 agents, a license as an insurance agent, service representative,
 343 customer representative, or limited customer representative is
 344 required in order to engage in the solicitation of insurance.
 345 For purposes of this requirement, as applicable to any of the
 346 license types described in this section, the solicitation of
 347 insurance is the attempt to persuade any person to purchase an
 348 insurance product by:

349 1. Describing the benefits or terms of insurance coverage,
 350 including premiums or rates of return;

351 2. Distributing an invitation to contract to prospective
 352 purchasers;

353 3. Making general or specific recommendations as to
 354 insurance products;

355 4. Completing orders or applications for insurance
 356 products;

357 5. Comparing insurance products, advising as to insurance
 358 matters, or interpreting policies or coverages; or

359 6. Offering or attempting to negotiate on behalf of
 360 another person a viatical settlement contract as defined in s.
 361 626.9911.

362
 363 However, an employee leasing company licensed pursuant to
 364 chapter 468 which is seeking to enter into a contract with an

365 employer that identifies products and services offered to
 366 employees may deliver proposals for the purchase of employee
 367 leasing services to prospective clients of the employee leasing
 368 company setting forth the terms and conditions of doing
 369 business; classify employees as permitted by s. 468.529; collect
 370 information from prospective clients and other sources as
 371 necessary to perform due diligence on the prospective client and
 372 to prepare a proposal for services; provide and receive
 373 enrollment forms, plans, and other documents; and discuss or
 374 explain in general terms the conditions, limitations, options,
 375 or exclusions of insurance benefit plans available to the client
 376 or employees of the employee leasing company were the client to
 377 contract with the employee leasing company. Any advertising
 378 materials or other documents describing specific insurance
 379 coverages must identify and be from a licensed insurer or its
 380 licensed agent or a licensed and appointed agent employed by the
 381 employee leasing company. The employee leasing company may not
 382 advise or inform the prospective business client or individual
 383 employees of specific coverage provisions, exclusions, or
 384 limitations of particular plans. As to clients for which the
 385 employee leasing company is providing services pursuant to s.
 386 468.525(4), the employee leasing company may engage in
 387 activities permitted by ss. 626.7315, 626.7845, and 626.8305,
 388 subject to the restrictions specified in those sections. If a
 389 prospective client requests more specific information concerning
 390 the insurance provided by the employee leasing company, the

391 employee leasing company must refer the prospective business
 392 client to the insurer or its licensed agent or to a licensed and
 393 appointed agent employed by the employee leasing company.

394 (6) No person shall be, act as, or represent or hold
 395 himself or herself out to be a property insurance appraiser or
 396 property insurance appraisal umpire unless he or she holds a
 397 currently effective license and appointment as a property
 398 insurance appraiser or property insurance appraisal umpire.

399 (10) An individual, firm, partnership, corporation,
 400 association, or other entity shall not act in its own name or
 401 under a trade name, directly or indirectly, as a property
 402 insurance appraisal firm unless it complies with s. 626.9966
 403 with respect to possessing a property insurance appraisal firm
 404 license for each place of business at which it engages in an
 405 activity that may be performed only by a licensed property
 406 insurance appraiser or property insurance appraisal umpire.

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

409 626.171 Application for license as an agent, customer
 410 representative, adjuster, property insurance appraiser, property
 411 insurance appraisal umpire, service representative, managing
 412 general agent, or reinsurance intermediary.-

413 (1) The department may not issue a license as agent,
 414 customer representative, adjuster, property insurance appraiser,
 415 property insurance appraisal umpire, service representative,
 416 managing general agent, or reinsurance intermediary to any

417 person except upon written application filed with the
 418 department, meeting the qualifications for the license applied
 419 for as determined by the department, and payment in advance of
 420 all applicable fees. The application must be made under the oath
 421 of the applicant and be signed by the applicant. An applicant
 422 may permit a third party to complete, submit, and sign an
 423 application on the applicant's behalf, but is responsible for
 424 ensuring that the information on the application is true and
 425 correct and is accountable for any misstatements or
 426 misrepresentations. The department shall accept the uniform
 427 application for nonresident agent licensing. The department may
 428 adopt revised versions of the uniform application by rule.

429 (4) An applicant for a license as an agent, customer
 430 representative, adjuster, property insurance appraiser, property
 431 insurance appraisal umpire, service representative, managing
 432 general agent, or reinsurance intermediary must submit a set of
 433 the individual applicant's fingerprints, or, if the applicant is
 434 not an individual, a set of the fingerprints of the sole
 435 proprietor, majority owner, partners, officers, and directors,
 436 to the department and must pay the fingerprint processing fee
 437 set forth in s. 624.501. Fingerprints shall be used to
 438 investigate the applicant's qualifications pursuant to s.
 439 626.201. The fingerprints shall be taken by a law enforcement
 440 agency, designated examination center, or other department-
 441 approved entity. The department shall require all designated
 442 examination centers to have fingerprinting equipment and to take

443 fingerprints from any applicant or prospective applicant who
 444 pays the applicable fee. The department may not approve an
 445 application for licensure as an agent, customer service
 446 representative, adjuster, property insurance appraiser, property
 447 insurance appraisal umpire, service representative, managing
 448 general agent, or reinsurance intermediary if fingerprints have
 449 not been submitted.

450 Section 12. Subsection (9) of section 626.207, Florida
 451 Statutes, is amended to read:

452 626.207 Disqualification of applicants and licensees;
 453 penalties against licensees; rulemaking authority.-

454 (9) Section 112.011 does not apply to any applicants for
 455 licensure under the Florida Insurance Code, including, but not
 456 limited to, agents, agencies, adjusters, adjusting firms,
 457 property insurance appraisers, property insurance appraisal
 458 umpires, property insurance appraisal firms, customer
 459 representatives, or managing general agents.

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

462 626.2815 Continuing education requirements.-

463 (1) The purpose of this section is to establish
 464 requirements and standards for continuing education courses for
 465 individuals licensed to solicit, sell, or adjust insurance or to
 466 serve as a property insurance appraiser or property insurance
 467 appraisal umpire in the state.

468 (2) Except as otherwise provided in this section, this

469 section applies to individuals licensed to transact ~~engage in~~
 470 ~~the sale of~~ insurance or adjust ~~adjustment of~~ insurance claims
 471 in this state for all lines of insurance for which an
 472 examination is required for licensing and to individuals
 473 licensed to serve as a property insurance appraiser or property
 474 insurance appraisal umpire ~~each insurer, employer, or appointing~~
 475 ~~entity, including, but not limited to, those created or existing~~
 476 ~~pursuant to s. 627.351.~~ This section does not apply to an
 477 individual who holds a license for the sale of any line of
 478 insurance for which an examination is not required by the laws
 479 of this state or who holds a limited license as a crop or hail
 480 and multiple-peril crop insurance agent. Licensees who are
 481 unable to comply with the continuing education requirements due
 482 to active duty in the military may submit a written request for
 483 a waiver to the department.

484 Section 14. Section 626.382, Florida Statutes, is amended
 485 to read:

486 626.382 Continuation, expiration of license; insurance
 487 agencies; property insurance appraisal firms.—The license of an
 488 insurance agency or property insurance appraisal firm shall
 489 continue in force until canceled, suspended, or revoked or until
 490 it is otherwise terminated or expires by operation of law.

491 Section 15. Subsections (1), (3), (5), and (6) of section
 492 626.451, Florida Statutes, are amended to read:

493 626.451 Appointment of agent or other representative.—

494 (1) Each appointing entity or person designated by the

495 department to administer the appointment process appointing an
 496 agent, adjuster, property insurance appraiser, property
 497 insurance appraisal umpire, service representative, customer
 498 representative, or managing general agent in this state shall
 499 file the appointment with the department or office and, at the
 500 same time, pay the applicable appointment fee and taxes. Every
 501 appointment shall be subject to the prior issuance of the
 502 appropriate agent's, adjuster's, property insurance appraiser's,
 503 property insurance appraisal umpire's, service representative's,
 504 customer representative's, or managing general agent's license.

505 (3) By authorizing the effectuation of the appointment of
 506 an agent, adjuster, property insurance appraiser, property
 507 insurance appraisal umpire, service representative, customer
 508 representative, or managing general agent the appointing entity
 509 is thereby certifying to the department that it is willing to be
 510 bound by the acts of the agent, adjuster, property insurance
 511 appraiser, property insurance appraisal umpire, service
 512 representative, customer representative, or managing general
 513 agent, within the scope of the licensee's employment or
 514 appointment.

515 (5) Any law enforcement agency or state attorney's office
 516 that is aware that an agent, adjuster, property insurance
 517 appraiser, property insurance appraisal umpire, service
 518 representative, customer representative, or managing general
 519 agent has pleaded guilty or nolo contendere to or has been found
 520 guilty of a felony shall notify the department or office of such

521 fact.

522 (6) Upon the filing of an information or indictment
 523 against an agent, adjuster, property insurance appraiser,
 524 property insurance appraisal umpire, service representative,
 525 customer representative, or managing general agent, the state
 526 attorney shall immediately furnish the department or office a
 527 certified copy of the information or indictment.

528 Section 16. Section 626.461, Florida Statutes, is amended
 529 to read:

530 626.461 Continuation of appointment of agent or other
 531 representative.—Subject to renewal or continuation by the
 532 appointing entity, the appointment of the agent, adjuster,
 533 property insurance appraiser, property insurance appraisal
 534 umpire, service representative, customer representative, or
 535 managing general agent shall continue in effect until the
 536 person's license is revoked or otherwise terminated, unless
 537 written notice of earlier termination of the appointment is
 538 filed with the department or person designated by the department
 539 to administer the appointment process by either the appointing
 540 entity or the appointee.

541 Section 17. Subsection (3) of section 626.521, Florida
 542 Statutes, is amended to read:

543 626.521 Character, credit reports.—

544 (3) As to an applicant for an adjuster's, property
 545 insurance appraiser's, property insurance appraisal umpire's, or
 546 reinsurance intermediary's license who is to be self-employed,

547 the department may secure, at the cost of the applicant, a full
 548 detailed credit and character report made by an established and
 549 reputable independent reporting service relative to the
 550 applicant.

551 Section 18. Section 626.536, Florida Statutes, is amended
 552 to read:

553 626.536 Reporting of administrative actions.— Within 30
 554 days after the final disposition of an administrative action
 555 taken against a licensee, ~~or~~ insurance agency, or property
 556 insurance appraisal firm by a governmental agency or other
 557 regulatory agency in this or any other state or jurisdiction
 558 relating to the business of insurance, the sale of securities,
 559 or activity involving fraud, dishonesty, trustworthiness, or
 560 breach of a fiduciary duty, the licensee, ~~or~~ insurance agency,
 561 or property insurance appraisal firm must submit a copy of the
 562 order, consent to order, or other relevant legal documents to
 563 the department. The department may adopt rules to administer
 564 this section.

565 Section 19. Subsections (1) and (3) of section 626.541,
 566 Florida Statutes, are amended to read:

567 626.541 Firm, corporate, and business names; officers;
 568 associates; notice of changes.—

569 (1) Any licensed agent, ~~or~~ adjuster, property insurance
 570 appraiser, or property insurance appraisal umpire doing business
 571 under a firm or corporate name or under any business name other
 572 than his or her own individual name shall, within 30 days after

573 initially transacting ~~the initial transaction of insurance~~ or
 574 engaging in insurance activities under such business name, file
 575 with the department, on forms adopted and furnished by the
 576 department, a written statement of the firm, corporate, or
 577 business name being so used, the address of any office or
 578 offices or places of business making use of such name, and the
 579 name and social security number of each officer and director of
 580 the corporation and of each individual associated in such firm
 581 or corporation as to the insurance transactions thereof or in
 582 the use of such business name.

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

587 Section 20. Subsection (1) of section 626.601, Florida
 588 Statutes, is amended to read:

589 626.601 Improper conduct; inquiry; fingerprinting.—

590 (1) The department or office may, upon its own motion or
 591 upon a written complaint signed by any interested person and
 592 filed with the department or office, inquire into any alleged
 593 improper conduct of any licensed, approved, or certified
 594 licensee, insurance agency, agent, adjuster, property insurance
 595 appraiser, property insurance appraisal umpire, property
 596 insurance appraisal firm, service representative, managing
 597 general agent, customer representative, title insurance agent,
 598 title insurance agency, mediator, neutral evaluator, navigator,

599 continuing education course provider, instructor, school
 600 official, or monitor group under this code. The department or
 601 office may thereafter initiate an investigation of any such
 602 individual or entity if it has reasonable cause to believe that
 603 the individual or entity has violated any provision of the
 604 insurance code. During the course of its investigation, the
 605 department or office shall contact the individual or entity
 606 being investigated unless it determines that contacting such
 607 individual or entity could jeopardize the successful completion
 608 of the investigation or cause injury to the public.

609 Section 21. Section 626.602, Florida Statutes, is amended
 610 to read:

611 626.602 Insurance agency or property insurance appraisal
 612 firm names; disapproval.—The department may disapprove the use
 613 of any true or fictitious name, other than the bona fide natural
 614 name of an individual, by any insurance agency or property
 615 insurance appraisal firm on any of the following grounds:

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

619 (2) The use of the name may mislead the public in any
 620 respect.

621 (3) The name states or implies that the agency or firm is
 622 an insurer, motor club, hospital service plan, state or federal
 623 agency, charitable organization, or entity that primarily
 624 provides advice and counsel rather than sells or solicits

625 | insurance or provides property insurance appraisal services, or
 626 | is entitled to engage in insurance activities not permitted
 627 | under licenses held or applied for. This provision does not
 628 | prohibit the use of the word "state" or "states" in the name of
 629 | the agency. The use of the word "state" or "states" in the name
 630 | of an agency does not in and of itself imply that the agency is
 631 | a state agency.

632 | Section 22. Subsection (1) of section 626.611, Florida
 633 | Statutes, is amended to read:

634 | 626.611 Grounds for compulsory refusal, suspension, or
 635 | revocation of agent's, title agency's, adjuster's, property
 636 | insurance appraiser's, property insurance appraisal umpire's,
 637 | customer representative's, service representative's, or managing
 638 | general agent's license or appointment.-

639 | (1) The department shall deny an application for, suspend,
 640 | revoke, or refuse to renew or continue the license or
 641 | appointment of any applicant, agent, title agency, adjuster,
 642 | property insurance appraiser, property insurance appraisal
 643 | umpire, customer representative, service representative, or
 644 | managing general agent, and it shall suspend or revoke the
 645 | eligibility to hold a license or appointment of any such person,
 646 | if it finds that as to the applicant, licensee, or appointee any
 647 | one or more of the following applicable grounds exist:

648 | (a) Lack of one or more of the qualifications for the
 649 | license or appointment as specified in this code.

650 | (b) Material misstatement, misrepresentation, or fraud in

651 obtaining the license or appointment or in attempting to obtain
 652 the license or appointment.

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

655 (d) If the license or appointment is willfully used, or to
 656 be used, to circumvent any of the requirements or prohibitions
 657 of this code.

658 (e) Willful misrepresentation of any insurance policy or
 659 annuity contract or willful deception with regard to any such
 660 policy or contract, done either in person or by any form of
 661 dissemination of information or advertising.

662 (f) If, as an adjuster, or agent licensed and appointed to
 663 adjust claims under this code, he or she has materially
 664 misrepresented to an insured or other interested party the terms
 665 and coverage of an insurance contract with intent and for the
 666 purpose of effecting settlement of claim for loss or damage or
 667 benefit under such contract on less favorable terms than those
 668 provided in and contemplated by the contract.

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

671 (h) Demonstrated lack of reasonably adequate knowledge and
 672 technical competence to engage in the transactions authorized by
 673 the license or appointment.

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

676 (j) Misappropriation, conversion, or unlawful withholding

677 of moneys belonging to insurers or insureds or beneficiaries or
 678 to others and received in conduct of business under the license
 679 or appointment.

680 (k) Unlawfully rebating, attempting to unlawfully rebate,
 681 or unlawfully dividing or offering to divide his or her
 682 commission with another.

683 (l) Having obtained or attempted to obtain, or having used
 684 or using, a license or appointment as agent or customer
 685 representative for the purpose of soliciting or handling
 686 "controlled business" as defined in s. 626.730 with respect to
 687 general lines agents, s. 626.784 with respect to life agents,
 688 and s. 626.830 with respect to health agents.

689 (m) Willful failure to comply with, or willful violation
 690 of, any proper order or rule of the department or willful
 691 violation of any provision of this code.

692 (n) Having been found guilty of or having pleaded guilty
 693 or nolo contendere to a felony or a crime punishable by
 694 imprisonment of 1 year or more under the law of the United
 695 States of America or of any state thereof or under the law of
 696 any other country which involves moral turpitude, without regard
 697 to whether a judgment of conviction has been entered by the
 698 court having jurisdiction of such cases.

699 (o) Fraudulent or dishonest practice in submitting or
 700 aiding or abetting any person in the submission of an
 701 application for workers' compensation coverage under chapter 440
 702 containing false or misleading information as to employee

703 payroll or classification for the purpose of avoiding or
 704 reducing the amount of premium due for such coverage.

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

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

709 1. Commission of a fraudulent or dishonest act.

710 2. No longer meeting the requirements for initial
 711 licensure.

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

718 4. Dealing in bad faith with viators.

719 Section 23. Section 626.6115, Florida Statutes, is amended
 720 to read:

721 626.6115 Grounds for compulsory refusal, suspension, or
 722 revocation of insurance agency or property insurance appraisal
 723 firm license.—The department shall deny, suspend, revoke, or
 724 refuse to continue the license of any insurance agency or
 725 property insurance appraisal firm if it finds, as to any
 726 insurance agency or property insurance appraisal firm or as to
 727 any majority owner, partner, manager, director, officer, or
 728 other person who manages or controls such agency or firm, that

729 any of the following applicable grounds exist:

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

732 (2) Material misstatement, misrepresentation, or fraud in
733 obtaining the license or in attempting to obtain the license.

734 (3) Denial, suspension, or revocation of a license to
735 practice or conduct any regulated profession, business, or
736 vocation relating to the business of insurance by this state,
737 any other state, any nation, any possession or district of the
738 United States, any court, or any lawful agency thereof. However,
739 the existence of grounds for administrative action against a
740 licensed agency or firm does not constitute grounds for action
741 against any other licensed agency or firm, including an agency
742 or firm that owns, is under common ownership with, or is owned
743 by, in whole or in part, the agency or firm for which grounds
744 for administrative action exist.

745 Section 24. Section 626.621, Florida Statutes, is amended
746 to read:

747 626.621 Grounds for discretionary refusal, suspension, or
748 revocation of agent's, adjuster's, property insurance
749 appraiser's, property insurance appraisal umpire's, customer
750 representative's, service representative's, or managing general
751 agent's license or appointment.—The department may, in its
752 discretion, deny an application for, suspend, revoke, or refuse
753 to renew or continue the license or appointment of any
754 applicant, agent, adjuster, property insurance appraiser,

755 property insurance appraisal umpire, customer representative,
 756 service representative, or managing general agent, and it may
 757 suspend or revoke the eligibility to hold a license or
 758 appointment of any such person, if it finds that as to the
 759 applicant, licensee, or appointee any one or more of the
 760 following applicable grounds exist under circumstances for which
 761 such denial, suspension, revocation, or refusal is not mandatory
 762 under s. 626.611:

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

766 (2) Violation of any provision of this code or of any
 767 other law applicable to the business of insurance in the course
 768 of dealing under the license or appointment.

769 (3) Violation of any lawful order or rule of the
 770 department, commission, or office.

771 (4) Failure or refusal, upon demand, to pay over to any
 772 insurer he or she represents or has represented any money coming
 773 into his or her hands belonging to the insurer.

774 (5) Violation of the provision against twisting, as
 775 defined in s. 626.9541(1)(1).

776 (6) In the conduct of business under the license or
 777 appointment, engaging in unfair methods of competition or in
 778 unfair or deceptive acts or practices, as prohibited under part
 779 IX of this chapter, or having otherwise shown himself or herself
 780 to be a source of injury or loss to the public.

781 (7) Willful overinsurance of any property or health
 782 insurance risk.

783 (8) Having been found guilty of or having pleaded guilty
 784 or nolo contendere to a felony or a crime punishable by
 785 imprisonment of 1 year or more under the law of the United
 786 States of America or of any state thereof or under the law of
 787 any other country, without regard to whether a judgment of
 788 conviction has been entered by the court having jurisdiction of
 789 such cases.

790 (9) If a life agent, violation of the code of ethics.

791 (10) Cheating on an examination required for licensure or
 792 violating test center or examination procedures published
 793 orally, in writing, or electronically at the test site by
 794 authorized representatives of the examination program
 795 administrator. Communication of test center and examination
 796 procedures must be clearly established and documented.

797 (11) Failure to inform the department in writing within 30
 798 days after pleading guilty or nolo contendere to, or being
 799 convicted or found guilty of, any felony or a crime punishable
 800 by imprisonment of 1 year or more under the law of the United
 801 States or of any state thereof, or under the law of any other
 802 country without regard to whether a judgment of conviction has
 803 been entered by the court having jurisdiction of the case.

804 (12) Knowingly aiding, assisting, procuring, advising, or
 805 abetting any person in the violation of or to violate a
 806 provision of the insurance code or any order or rule of the

807 department, commission, or office.

808 (13) Has been the subject of or has had a license, permit,
 809 appointment, registration, or other authority to conduct
 810 business subject to any decision, finding, injunction,
 811 suspension, prohibition, revocation, denial, judgment, final
 812 agency action, or administrative order by any court of competent
 813 jurisdiction, administrative law proceeding, state agency,
 814 federal agency, national securities, commodities, or option
 815 exchange, or national securities, commodities, or option
 816 association involving a violation of any federal or state
 817 securities or commodities law or any rule or regulation adopted
 818 thereunder, or a violation of any rule or regulation of any
 819 national securities, commodities, or options exchange or
 820 national securities, commodities, or options association.

821 (14) Failure to comply with any civil, criminal, or
 822 administrative action taken by the child support enforcement
 823 program under Title IV-D of the Social Security Act, 42 U.S.C.
 824 ss. 651 et seq., to determine paternity or to establish, modify,
 825 enforce, or collect support.

826 (15) Directly or indirectly accepting any compensation,
 827 inducement, or reward from an inspector for the referral of the
 828 owner of the inspected property to the inspector or inspection
 829 company. This prohibition applies to an inspection intended for
 830 submission to an insurer in order to obtain property insurance
 831 coverage or establish the applicable property insurance premium.

832 Section 25. Section 626.6215, Florida Statutes, is amended

833 | to read:

834 | 626.6215 Grounds for discretionary refusal, suspension, or
 835 | revocation of insurance agency or property insurance appraisal
 836 | firm license.—The department may, in its discretion, deny,
 837 | suspend, revoke, or refuse to continue the license of any
 838 | insurance agency or property insurance appraisal firm if it
 839 | finds, as to any insurance agency or property insurance
 840 | appraisal firm or as to any majority owner, partner, manager,
 841 | director, officer, or other person who manages or controls such
 842 | insurance agency or property insurance appraisal firm, that any
 843 | one or more of the following applicable grounds exist:

844 | (1) Any cause for which issuance of the license could have
 845 | been refused had it then existed and been known to the
 846 | department.

847 | (2) If the license is used, or to be used, to circumvent
 848 | any of the requirements or prohibitions of this code.

849 | (3) Having been found guilty of, or having pleaded guilty
 850 | or nolo contendere to, a felony in this state or any other state
 851 | relating to the business of insurance, ~~or~~ an insurance agency,
 852 | or a property insurance appraisal firm, without regard to
 853 | whether a judgment of conviction has been entered by the court
 854 | having jurisdiction of such cases.

855 | (4) Knowingly employing any individual in a managerial
 856 | capacity or in a capacity dealing with the public who is under
 857 | an order of revocation or suspension issued by the department.

858 | (5) Committing any of the following acts with such

859 frequency as to have made the operation of the agency or firm
 860 hazardous to the insurance-buying public or other persons:

861 (a) Misappropriation, conversion, or unlawful withholding
 862 of moneys belonging to insurers or insureds or beneficiaries or
 863 to others and received in the conduct of business under the
 864 license.

865 (b) Unlawfully rebating, attempting to unlawfully rebate,
 866 or unlawfully dividing or offering to divide commissions with
 867 another.

868 (c) Misrepresentation of any insurance policy or annuity
 869 contract, or deception with regard to any such policy or
 870 contract, done either in person or by any form of dissemination
 871 of information or advertising.

872 (d) Violation of any provision of this code or of any
 873 other law applicable to the business of insurance in the course
 874 of dealing under the license.

875 (e) Violation of any lawful order or rule of the
 876 department.

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

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

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

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

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

889 (k) Demonstrated lack of fitness or trustworthiness to
 890 engage in the business of insurance arising out of activities
 891 related to insurance, ~~or~~ the insurance agency, or the property
 892 insurance appraisal firm.

893 (6) Failure to take corrective action or report a
 894 violation to the department within 30 days after an individual
 895 licensee's violation is known or should have been known by one
 896 or more of the partners, officers, or managers acting on behalf
 897 of the agency or firm. However, the existence of grounds for
 898 administrative action against a licensed agency or firm does not
 899 constitute grounds for action against any other licensed agency
 900 or firm, including an agency or firm that owns, is under common
 901 ownership with, or is owned by, in whole or in part, the agency
 902 or firm for which grounds for administrative action exist.

903 Section 26. Subsection (4) of section 626.641, Florida
 904 Statutes, is amended to read:

905 626.641 Duration of suspension or revocation.—

906 (4) During the period of suspension or revocation of a
 907 license or appointment, and until the license is reinstated or,
 908 if revoked, a new license issued, the former licensee or
 909 appointee may not engage in or attempt or profess to engage in
 910 any transaction or business for which a license or appointment

911 is required under this code or directly or indirectly own,
 912 control, or be employed in any manner by an agent, agency,
 913 adjuster, ~~or~~ adjusting firm, property insurance appraiser,
 914 property insurance appraisal umpire, or property insurance
 915 appraisal firm.

916 Section 27. Section 626.6515, Florida Statutes, is amended
 917 to read:

918 626.6515 Effect of suspension or revocation upon
 919 associated agencies or firms.—Upon suspension or revocation of
 920 the license of an insurance agency or property insurance
 921 appraisal firm, the department may at the same time revoke,
 922 suspend, or refuse to continue the license of any other
 923 insurance agency or property insurance appraisal firm under the
 924 management, ownership, control, or directorship of any person or
 925 persons who participated in activities which resulted in the
 926 suspension, revocation, or refusal to continue the initial
 927 license if acts occurred at that specific agency or firm
 928 location which are grounds for refusal, suspension, or
 929 revocation of a license under this code. The department shall
 930 not, during the period of revocation or suspension, grant any
 931 new license for the establishment of any additional agency or
 932 firm not in operation at the time of suspension, revocation, or
 933 refusal to any agency or firm under or proposed to be under
 934 substantially the same management, ownership, control, or
 935 directorship of individuals who directed or participated in
 936 activities which resulted in suspension, revocation, or refusal

937 | of an agency or firm license.

938 | Section 28. Subsections (1) and (2) of section 626.681,
 939 | Florida Statutes, are amended to read:

940 | 626.681 Administrative fine in lieu of or in addition to
 941 | suspension, revocation, or refusal of license, appointment, or
 942 | disapproval.—

943 | (1) Except as to insurance agencies or property insurance
 944 | appraisal firms, if the department finds that one or more
 945 | grounds exist for the suspension, revocation, or refusal to
 946 | issue, renew, or continue any license or appointment issued
 947 | under this chapter, or disapproval of a continuing education
 948 | course provider, instructor, school official, or monitor groups,
 949 | the department may, in its discretion, in lieu of or in addition
 950 | to such suspension or revocation, or in lieu of such refusal, or
 951 | disapproval, and except on a second offense or when such
 952 | suspension, revocation, or refusal is mandatory, impose upon the
 953 | licensee, appointee, course provider, instructor, school
 954 | official, or monitor group an administrative penalty in an
 955 | amount up to \$500 or, if the department has found willful
 956 | misconduct or willful violation on the part of the licensee,
 957 | appointee, course provider, instructor, school official, or
 958 | monitor group up to \$3,500. The administrative penalty may, in
 959 | the discretion of the department, be augmented by an amount
 960 | equal to any commissions received by or accruing to the credit
 961 | of the licensee or appointee in connection with any transaction
 962 | as to which the grounds for suspension, revocation, or refusal

963 related.

964 (2) With respect to insurance agencies or property
 965 insurance appraisal firms, if the department finds that one or
 966 more grounds exist for the suspension, revocation, or refusal to
 967 issue, renew, or continue any license issued under this chapter,
 968 the department may, in its discretion, in lieu of or in addition
 969 to such suspension or revocation, or in lieu of such refusal,
 970 impose upon the licensee an administrative penalty in an amount
 971 not to exceed \$10,000 per violation. The administrative penalty
 972 may, in the discretion of the department, be augmented by an
 973 amount equal to any commissions received by or accruing to the
 974 credit of the licensee in connection with any transaction as to
 975 which the grounds for suspension, revocation, or refusal
 976 related.

977 Section 29. Subsection (2) of section 626.7845, Florida
 978 Statutes, is amended to read:

979 626.7845 Prohibition against unlicensed transaction of
 980 life insurance.—

981 (2) Except as provided in s. 626.112(7) ~~626.112(6)~~, with
 982 respect to any line of authority specified in s. 626.015(10), no
 983 individual shall, unless licensed as a life agent:

984 (a) Solicit insurance or annuities or procure
 985 applications;

986 (b) In this state, engage or hold himself or herself out
 987 as engaging in the business of analyzing or abstracting
 988 insurance policies or of counseling or advising or giving

989 | opinions to persons relative to insurance or insurance contracts
 990 | other than:

- 991 | 1. As a consulting actuary advising an insurer; or
- 992 | 2. As to the counseling and advising of labor unions,
- 993 | associations, trustees, employers, or other business entities,
- 994 | the subsidiaries and affiliates of each, relative to their
- 995 | interests and those of their members or employees under
- 996 | insurance benefit plans; or

997 | (c) In this state, from this state, or with a resident of
 998 | this state, offer or attempt to negotiate on behalf of another
 999 | person a viatical settlement contract as defined in s. 626.9911.

1000 | Section 30. Section 626.8305, Florida Statutes, is amended
 1001 | to read:

1002 | 626.8305 Prohibition against the unlicensed transaction of
 1003 | health insurance.—Except as provided in s. 626.112(7)
 1004 | ~~626.112(6)~~, with respect to any line of authority specified in
 1005 | s. 626.015(6), no individual shall, unless licensed as a health
 1006 | agent:

- 1007 | (1) Solicit insurance or procure applications; or
- 1008 | (2) In this state, engage or hold himself or herself out
- 1009 | as engaging in the business of analyzing or abstracting
- 1010 | insurance policies or of counseling or advising or giving
- 1011 | opinions to persons relative to insurance contracts other than:
- 1012 | (a) As a consulting actuary advising insurers; or
- 1013 | (b) As to the counseling and advising of labor unions,
- 1014 | associations, trustees, employers, or other business entities,

1015 the subsidiaries and affiliates of each, relative to their
 1016 interests and those of their members or employees under
 1017 insurance benefit plans.

1018 Section 31. Paragraph (a) of subsection (2) of section
 1019 626.8411, Florida Statutes, is amended to read:

1020 626.8411 Application of Florida Insurance Code provisions
 1021 to title insurance agents or agencies.-

1022 (2) The following provisions of part I do not apply to
 1023 title insurance agents or title insurance agencies:

1024 (a) Section 626.112(8) ~~626.112(7)~~, relating to licensing
 1025 of insurance agencies.

1026 Section 32. Subsection (4) of section 626.8443, Florida
 1027 Statutes, is amended to read:

1028 626.8443 Duration of suspension or revocation.-

1029 (4) During the period of suspension or after revocation of
 1030 the license and appointment, the former licensee shall not
 1031 engage in or attempt to profess to engage in any transaction or
 1032 business for which a license or appointment is required under
 1033 this code or directly or indirectly own, control, or be employed
 1034 in any manner by any insurance agent or agency, ~~or~~ adjuster, ~~or~~
 1035 adjusting firm, property insurance appraiser, property insurance
 1036 appraisal umpire, or property insurance appraisal firm.

1037 Section 33. Part XIV of chapter 626, Florida Statutes,
 1038 consisting of sections 626.9961 through 626.9968, is created to
 1039 read:

1040 PART XIV

1041 PROPERTY INSURANCE APPRAISERS AND
 1042 PROPERTY INSURANCE APPRAISAL UMPIRES
 1043 626.9961 Short title.—This part may be referred to as the
 1044 "Property Insurance Appraiser and Property Insurance Appraisal
 1045 Umpire Law."
 1046 626.9962 Legislative purpose.—The Legislature finds it
 1047 necessary to regulate persons and companies that hold themselves
 1048 out to the public as qualified to provide services as property
 1049 insurance appraisers, property insurance appraisal umpires, and
 1050 property insurance appraisal firms to protect the public safety
 1051 and welfare and to avoid economic injury to the residents of
 1052 this state.
 1053 (2) This part applies only to property insurance
 1054 appraisers, property insurance appraisal umpires, and property
 1055 insurance appraisal firms as defined in this part.
 1056 626.9963 Part supplements licensing law.—This part is
 1057 supplementary to part I, the "Licensing Procedures Law."
 1058 626.9964 Definitions.—As used in this part, the term:
 1059 (1) "Appraisal" means the process of alternative dispute
 1060 resolution, as defined in a personal residential, commercial
 1061 residential, or commercial property insurance contract, for
 1062 determining the amount of loss after coverage is established and
 1063 the insurer and insured are unable to agree on the amount of the
 1064 loss, or for determining the scope of repairs if the insurer has
 1065 elected to repair the property and the insurer and insured are
 1066 unable to agree on the scope of repairs.

1067 (2) "Competent" means sufficiently qualified and capable
 1068 of performing an appraisal.

1069 (3) "Department" means the Department of Financial
 1070 Services.

1071 (4) "Property insurance appraisal firm" or "appraisal
 1072 firm" means a person, firm, partnership, corporation,
 1073 association, or other entity offering property insurance
 1074 appraisal services as an appraiser or umpire.

1075 (5) "Property insurance appraisal umpire" or "umpire"
 1076 means a person selected by the appraisers representing the
 1077 insurer and the insured, or, if the appraisers cannot agree, by
 1078 the court, who is charged with resolving issues that the
 1079 appraisers are unable to agree upon during the course of an
 1080 appraisal.

1081 (6) "Property insurance appraiser" or "appraiser" means a
 1082 person selected by an insurer or an insured to perform an
 1083 appraisal.

1084 626.9965 Qualification for license as a property insurance
 1085 appraiser or property insurance appraisal umpire.—

1086 (1) The department shall issue a license as a property
 1087 insurance appraiser or a property insurance appraisal umpire to
 1088 a person who meets the requirements of subsection (2) and is one
 1089 of the following:

1090 (a) A retired county, circuit, or appellate judge.

1091 (b) Licensed as an engineer pursuant to chapter 471 or is
 1092 a retired professional engineer as defined in s. 471.005.

1093 (c) Licensed as a general contractor, building contractor,
 1094 or residential contractor pursuant to part I of chapter 489.

1095 (d) Licensed or registered as an architect to engage in
 1096 the practice of architecture pursuant to part I of chapter 481.

1097 (e) A member of The Florida Bar.

1098 (f) Licensed as an adjuster pursuant to part VI of chapter
 1099 626, which license includes the property and casualty lines of
 1100 insurance. An adjuster must have been licensed for at least 3
 1101 years as an adjuster before he or she may be licensed as an
 1102 appraiser and must have been licensed for at least 5 years as an
 1103 adjuster before he or she may be licensed as an umpire.

1104 (2) An applicant may be licensed to practice in this state
 1105 as an appraiser or umpire if the applicant:

1106 (a) Is a natural person at least 18 years of age;

1107 (b) Is a United States citizen or legal alien who
 1108 possesses work authorization from the United States Bureau of
 1109 Citizenship and Immigration;

1110 (c) Is of good moral character;

1111 (d) Has paid the applicable fees specified in s. 624.501;
 1112 and

1113 (e) Has, prior to the date of the application for
 1114 licensure, satisfactorily completed education courses approved
 1115 by the department covering:

1116 1. Insurance claims estimating; and

1117 2. Insurance law, ethics for insurance professionals,
 1118 disciplinary trends, and case studies.

1119 (3) The department may not reject an application solely
 1120 because the applicant is or is not a member of a given appraisal
 1121 organization.

1122 626.9966 Application for property insurance appraisal firm
 1123 license.-

1124 (1) The department shall issue a license as a property
 1125 insurance appraisal firm to a person who files a written
 1126 application with the department and qualifies for such license.

1127 (2) An application for a property insurance appraisal firm
 1128 license must be signed by an individual required to be listed in
 1129 the application under paragraph (a). An appraisal firm may
 1130 permit a third party to complete, submit, and sign an
 1131 application on the appraisal firm's behalf; however, the
 1132 appraisal firm is responsible for ensuring that the information
 1133 on the application is true and correct and is accountable for
 1134 any misstatements or misrepresentations. The application for a
 1135 property insurance appraisal firm license must include:

1136 (a) The name of each owner, partner, officer, director,
 1137 president, senior vice president, secretary, treasurer, and
 1138 limited liability company member who directs or participates in
 1139 the management or control of the appraisal firm, whether through
 1140 ownership of voting securities, by contract, by ownership of any
 1141 agency bank account, or otherwise.

1142 (b) The residence address of each person required to be
 1143 listed in the application under paragraph (a).

1144 (c) The name, principal business street address, and valid

1145 e-mail address of the appraisal firm and the name, address, and
 1146 e-mail address of the appraisal firm's registered agent or
 1147 person or company authorized to accept service on behalf of the
 1148 firm.

1149 (d) The physical address of each branch location,
 1150 including its name, e-mail address, and telephone number, and
 1151 the date that the branch location began appraisal activities.

1152 (e) The name of the appraiser or umpire in full-time
 1153 charge of the firm office, including branch locations, and his
 1154 or her corresponding location.

1155 (f) The fingerprints of each of the following:

1156 1. A sole proprietor;

1157 2. Each individual required to be listed in the
 1158 application under paragraph (a); and

1159 3. Each individual who directs or participates in the
 1160 management or control of an incorporated firm. Fingerprints must
 1161 be taken by a law enforcement agency or other entity approved by
 1162 the department and must be accompanied by the fingerprint
 1163 processing fee specified in s. 624.501. Fingerprints must be
 1164 processed in accordance with s. 624.34. However, fingerprints
 1165 need not be filed for an individual who is currently licensed
 1166 and appointed under this chapter.

1167 (g) Such additional information as the department requires
 1168 by rule to ascertain the trustworthiness and competence of
 1169 persons required to be listed on the application and to
 1170 ascertain that such persons meet the requirements of this code.

1171 However, the department may not require that credit or character
 1172 reports be submitted for persons required to be listed on the
 1173 application.

1174 (3) The department shall issue a license to each appraisal
 1175 firm upon approval of the application, and each firm location
 1176 must display the license prominently in a manner that makes it
 1177 clearly visible to any customer or potential customer who enters
 1178 the firm location.

1179 (4) (a) Each place of business established by a property
 1180 insurance appraisal firm must be in the active full-time charge
 1181 of a licensed and appointed appraiser or umpire. The appraiser
 1182 or umpire is considered the appraiser in charge of the firm.
 1183 The appraiser or umpire in charge of an appraisal firm may also
 1184 be in charge of additional branch office locations of the firm.

1185 (b) Appraisal firms and each branch firm must file the
 1186 name and license number of the appraiser or umpire in charge and
 1187 the physical address of the firm location with the department at
 1188 the department's designated website. The designation of an
 1189 appraiser or umpire in charge may be changed at the option of
 1190 the firm. A change of the designated appraiser or umpire in
 1191 charge is effective upon notification to the department, which
 1192 shall be provided within 30 days after such change.

1193 (c) For the purposes of this subsection, an appraiser or
 1194 umpire in charge is the licensed and appointed appraiser or
 1195 umpire who is responsible for the supervision of all individuals
 1196 within a firm location.

1197 (d) An appraiser or umpire in charge of a firm is
 1198 accountable for misconduct or violations of this code committed
 1199 by the licensee or licensees under his or her supervision while
 1200 acting on behalf of the firm. This section does not render an
 1201 appraiser or umpire in charge criminally liable for an act
 1202 unless he or she personally committed the act or knew or should
 1203 have known of the act and of the facts constituting a violation
 1204 of this chapter.

1205 (e) A firm location may not conduct the business of
 1206 insurance appraisal unless an appraiser or umpire in charge is
 1207 designated by, and providing services to, the firm at all times.
 1208 If the appraiser or umpire in charge designated with the
 1209 department ends his or her affiliation with the firm for any
 1210 reason and the firm fails to designate another appraiser or
 1211 umpire in charge within the 30 days provided for in paragraph
 1212 (b) and such failure continues for 90 days, the firm license
 1213 shall automatically expire on the 91st day from the date the
 1214 designated appraiser or umpire in charge ended his or her
 1215 affiliation with the firm.

1216 (5) An individual who conducts business as an appraiser or
 1217 umpire in his or her individual name and not employing or
 1218 otherwise using the services of or appointing other licensees
 1219 shall be exempt from the appraisal firm licensing requirements
 1220 of this section.

1221 (6) A branch place of business that is established by a
 1222 licensed appraisal firm is considered a branch location and is

1223 not required to be licensed so long as it transacts business
 1224 under the same name and federal tax identification number as the
 1225 licensed appraisal firm and has designated with the department a
 1226 licensed appraiser or umpire in charge of the branch location
 1227 and the address and telephone number of the branch location have
 1228 been submitted to the department for inclusion in the licensing
 1229 record of the licensed appraisal firm within 30 days after
 1230 appraisal activities begin at the branch location.

1231 (7) If an appraisal firm is required to be licensed but
 1232 fails to file an application for licensure in accordance with
 1233 this section, the department shall impose on the firm an
 1234 administrative penalty of up to \$10,000.

1235 626.9967 Grounds for refusal, suspension, or revocation of
 1236 an appraiser or umpire license or appointment.—The department
 1237 may deny an application for license or appointment under this
 1238 part; suspend, revoke, or refuse to renew or continue a license
 1239 or appointment of an applicant, property insurance appraiser, or
 1240 property insurance appraisal umpire; or suspend or revoke
 1241 eligibility for licensure or appointment as an appraiser or
 1242 umpire if the department finds that one or more of the following
 1243 applicable grounds exist:

1244 (1) Violating a duty imposed upon him or her by law or by
 1245 the terms of a contract, whether written, oral, expressed, or
 1246 implied, during the course of an appraisal; aiding, assisting,
 1247 or conspiring with any other person engaged in any such
 1248 misconduct and in furtherance thereof; or forming the intent,

1249 design, or scheme to engage in such misconduct and committing an
 1250 overt act in furtherance of such intent, design, or scheme. An
 1251 appraiser or umpire commits a violation of this part regardless
 1252 of whether the victim or intended victim of the misconduct has
 1253 sustained any damage or loss; the damage or loss has been
 1254 settled and paid after the discovery of misconduct; or the
 1255 victim or intended victim is an insurer or customer or a person
 1256 in a confidential relationship with the appraiser or umpire or
 1257 is an identified member of the general public.

1258 (2) Having a registration, license, or certification to
 1259 practice or conduct any regulated profession, business, or
 1260 vocation revoked, suspended, or encumbered; or having an
 1261 application for such registration, licensure, or certification
 1262 to practice or conduct any regulated profession, business, or
 1263 vocation denied, by this or any other state, any nation, or any
 1264 possession or district of the United States.

1265 (3) Making or filing a report or record, written or oral,
 1266 which the appraiser or umpire knows to be false; willfully
 1267 failing to file a report or record required by state or federal
 1268 law; willfully impeding or obstructing such filing; or inducing
 1269 another person to impede or obstruct such filing.

1270 (4) Agreeing to serve as an appraiser or umpire if service
 1271 is contingent upon the appraiser or umpire reporting a
 1272 predetermined amount, analysis, or opinion.

1273 (5) Agreeing to serve as an umpire, if the fee to be paid
 1274 for his or her services is contingent upon the opinion,

1275 conclusion, or valuation he or she reaches.

1276 (6) Failure of an umpire or appraiser, without good cause,
 1277 to communicate within 5 business days of a request for
 1278 communication from another appraiser or the umpire or failure or
 1279 refusal to submit recommendations to the opposing appraiser
 1280 within 5 business days of completing the appraisal.

1281 (7) Violation of any ethical standard for appraisers and
 1282 umpires specified in s. 626.9968.

1283 626.9968 Ethical standards for property insurance
 1284 appraisers and property insurance appraisal umpires.-

1285 (1) CONFIDENTIALITY.-

1286 (a) Unless disclosure is otherwise required by law, an
 1287 appraiser or umpire shall maintain confidentiality of all
 1288 information revealed during an appraisal. However, an appraiser
 1289 may disclose such information to the person who hired him or
 1290 her.

1291 (b) An appraiser or umpire shall maintain confidentiality
 1292 in the storage and disposal of records and may not disclose any
 1293 identifying information if materials are used in research,
 1294 training, or statistical compilations.

1295 (2) FEES AND EXPENSES.-

1296 (a) The fees charged by an appraiser or umpire must be
 1297 reasonable and consistent with the nature of the case.

1298 (b) In determining fees, an appraiser:

1299 1.a. If charging on an hourly basis, may bill for services
 1300 only for actual time spent on or allocated for the appraisal.

1301 b. If charging based on a percentage of the claim, may not
 1302 receive more than 20 percent of any additional money paid on the
 1303 claim as a result of the appraisal process.

1304 2. May charge for costs actually incurred, and no other
 1305 costs.

1306 (c) In determining fees, an umpire:

1307 1. Must charge on an hourly basis and may bill only for
 1308 actual time spent on or allocated for the appraisal.

1309 2. May not charge, agree to, or accept as compensation or
 1310 reimbursement any payment, commission, or fee that is based on a
 1311 percentage of the value of the claim or that is contingent upon
 1312 a specified outcome.

1313 3. May charge for costs actually incurred, and no other
 1314 costs.

1315 (3) MAINTENANCE OF RECORDS.—An appraiser or umpire shall
 1316 maintain records necessary to support charges for services and
 1317 expenses, and, upon request, shall provide an accounting of all
 1318 applicable charges to the insurer and insured. An appraiser or
 1319 umpire shall retain original or true copies of any contracts
 1320 engaging his or her services, appraisal reports, and supporting
 1321 data assembled and formulated by the appraiser or umpire in
 1322 preparing appraisal reports for at least 5 years. The appraiser
 1323 or umpire shall make the records available to the department for
 1324 inspection and copying within 3 business days of a request. If
 1325 an appraisal has been the subject of, or has been admitted as
 1326 evidence in, a lawsuit, reports and records related to the

1327 appraisal must be retained for at least 2 years after the date
 1328 that the trial ends.

1329 (4) ADVERTISING.—An appraiser or umpire may not engage in
 1330 marketing practices that contain false or misleading
 1331 information. An appraiser or umpire shall ensure that any
 1332 advertisement of his or her qualifications, services to be
 1333 rendered, or the appraisal process are accurate and honest. An
 1334 appraiser or umpire may not make claims of achieving specific
 1335 outcomes or promises implying favoritism for the purpose of
 1336 obtaining business.

1337 (5) INTEGRITY AND IMPARTIALITY.—

1338 (a)1. An appraiser or umpire may not accept an appraisal
 1339 unless he or she can serve competently, promptly commence the
 1340 appraisal and, thereafter, devote the time and attention to its
 1341 completion in the manner expected by all persons involved in the
 1342 appraisal.

1343 2. An appraiser or umpire shall conduct the appraisal
 1344 process in a manner that advances the fair and efficient
 1345 resolution of issues that arise. An appraiser shall make all
 1346 reasonable efforts to prevent delays, harassment of the insured,
 1347 the insurer, or other participants, or other abuse or disruption
 1348 of the appraisal process.

1349 3. After an appraiser or umpire accepts a selection, the
 1350 appraiser or umpire may not withdraw or abandon the selection
 1351 unless compelled to do so by unanticipated circumstances that
 1352 would render it impossible or impracticable to continue or

1353 unless the facts and circumstances of the appraisal prove to be
 1354 beyond his or her skill or experience.

1355 4. An appraiser or umpire shall deliberate and decide all
 1356 issues within the scope of the appraisal, but may not render a
 1357 decision on any other issues. An appraiser or umpire shall
 1358 decide all matters justly, exercising independent judgment. An
 1359 appraiser or umpire may not delegate his or her duties to any
 1360 other person, but may employ the services of independent experts
 1361 to assist in preparing estimates.

1362 (b) An umpire may not engage in any business, provide any
 1363 service, or perform any act that would compromise his or her
 1364 integrity or impartiality.

1365 (6) SKILL AND EXPERIENCE.—An appraiser or umpire shall
 1366 decline or withdraw from an appraisal or request appropriate
 1367 assistance when the facts and circumstances of the appraisal
 1368 prove to be beyond his or her skill or experience.

1369 (7) GIFTS AND SOLICITATION.—During the appraisal process,
 1370 an appraiser or umpire may not solicit, give, or accept any
 1371 gift, favor, loan, or other item of value or solicit or
 1372 otherwise attempt to procure future work from any person who
 1373 participates in the appraisal.

1374 Section 34. For the 2016-2017 fiscal year, the sums of
 1375 \$74,851 in recurring funds and \$3,882 in nonrecurring funds from
 1376 the Insurance Regulatory Trust Fund and \$67,398 in recurring
 1377 funds and \$38,882 in nonrecurring funds from the Administrative
 1378 Trust Fund are appropriated to the Department of Financial

CS/HB 79

2016

1379 | Services, and two full-time equivalent positions with associated
1380 | salary rate of 83,106 are authorized, for the purpose of
1381 | implementing this act.

1382 | Section 35. This act shall take effect October 1, 2016.

**Governor's Budget
Recommendations**

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017



General Government Recommendations

FLORIDA 1ST FOR JOBS

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017

Governor Scott's priorities to help diversify the economy to make Florida First in job creation:

Tax Cuts for Florida Families and Businesses

Over \$1 billion in Tax Cuts

Making Florida more Competitive

Help small businesses succeed

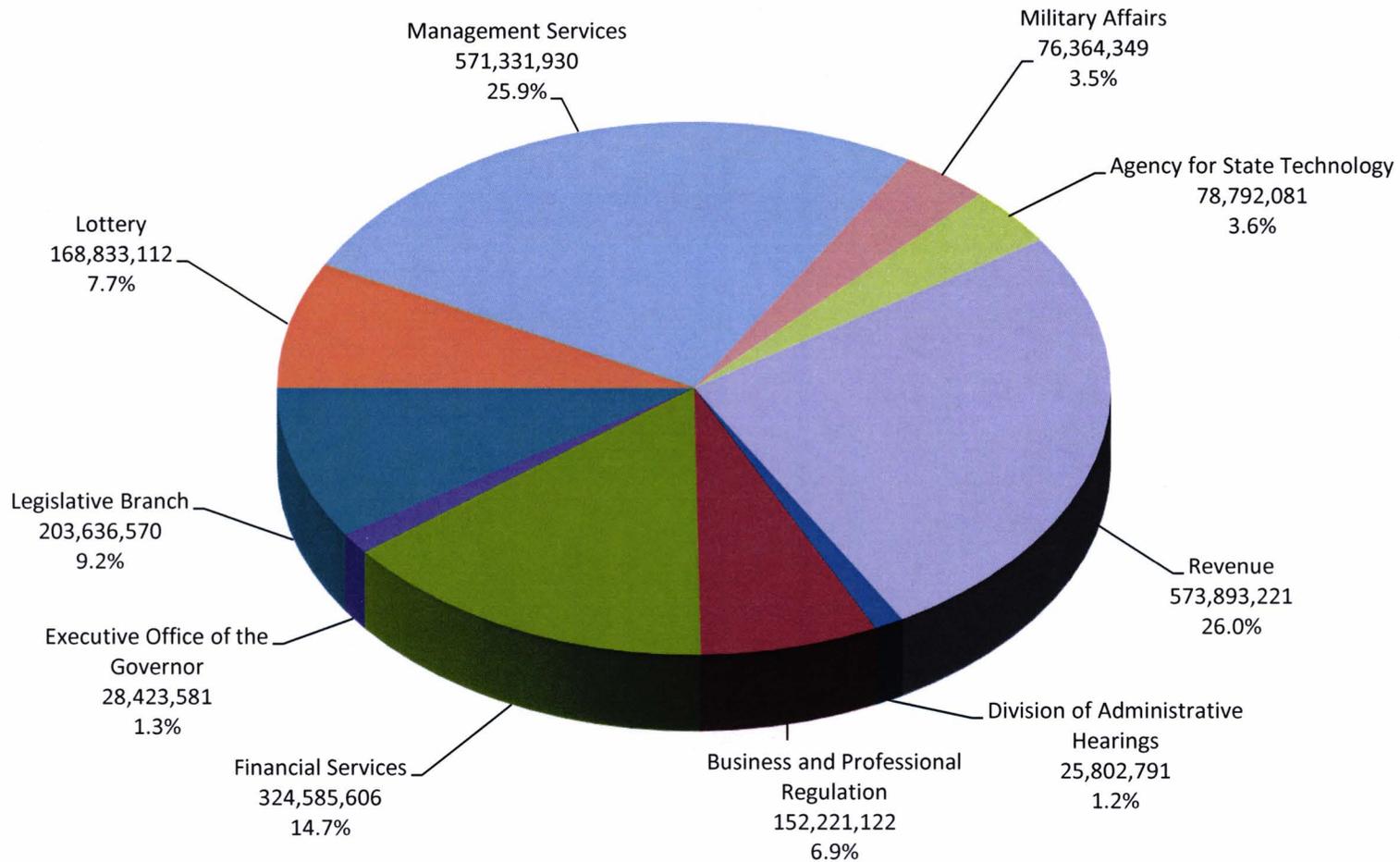
Investing Historic Funding in K-12 Education, State Colleges, and Universities

Florida will have the most highly skilled
workforce in the world

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017

Governor's Recommended Budget Fiscal Year 2016-17 General Government - \$2.2 billion



FLORIDA 1ST FOR JOBS

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017

Department of Business and Professional Regulation

- \$ 152 million / 1604.25 Full-Time Positions

- Performance based incentive plan to increase the retention of food and lodging inspectors - \$1.9 million
- Electronic Data Submission system - \$1.2 million
- Field technology for food and lodging inspections - \$176,000

Department of Business and Professional Regulation (cont.)

- 4 OPS medical gas inspectors - \$290,000
- Division of Drugs, Devices and Cosmetics - \$727,000
- Florida Boxing Commission - \$303,528

Department of the Lottery

- \$169 million / 420 Full-Time Positions

- Sales incentive plan - \$761,000
- IT and security equipment replacement - \$948,900
 - Replaces network equipment
 - Pro-Watch server replacement
 - Computer/server replacement
- Statewide network capacity increase - \$142,081
- Terminal games draw machines - \$119,700

Department of Management Services

- \$ 571 million/ 808.75 Full-Time Positions

- Florida Facilities Pool repair and renovation - \$19.9 million
- Aging government facilities infrastructure assessment
-\$.8 million
- Fleet management information system - \$1.7 million
- Dependent eligibility verification audit - \$1 million
- MyFloridaNet2 migration staff augmentation - \$.3 million

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017

Agency for State Technology

- \$79 million / 241 Full-Time Positions

- Customer growth - \$594,000
- Information technology security - \$992,000
- Remediation, compliance and replacement - \$1.8 million

Other Priority Issues

- Fiscally constrained counties - \$24.5 million
- Department of Revenue information technology security management - \$2.3 million
- State Fire Marshal fixed capital outlay, equipment and operational needs - \$1.3 million