

2024 Regular Session

HOUSE BILL NO. 609

BY REPRESENTATIVE FIRMENT

INSURANCE: Provides for the appraisal process and employment of umpires

1 AN ACT

2 To amend and reenact R.S. 22:821(B)(34)(introductory paragraph),1311(F)(2), Part XI of

3 Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, to be comprised of

4 R.S. 22:1807.1 through 1807.26, and 1892(G) relative to the insurance claim

5 appraisal process; to authorize the commissioner of insurance to collect fees for

6 appraisers and umpires; to authorize the commissioner of insurance to select umpires

7 during the appraisal process of a fire insurance claim under certain circumstances;

8 to modify relative to appraisal clauses within residential property and fire insurance

9 policies; to provide for registration policies and procedures for appraisers and

10 umpires; to provide for penalties; to authorize the commissioner of insurance to

11 impose a penalty upon or sanction violators; to provide for definitions; to provide for

12 an appraisal process; to provide for a selection process for appraisers or umpires; to

13 provide for qualifications for appraisers and umpires; to prohibit conflicts of interest;

14 to provide for job descriptions, responsibilities, and obligations; to prohibit certain

15 communication; to provide for costs; to provide for an effective date; and to provide

16 for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 22:821(B)(34)(introductory paragraph),1311(F)(2), Part XI of

19 Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950, comprised of R.S. 22:1807.1

20 through 1807.26, and 1892(G) are hereby amended and reenacted to read as follows:

1 §821. Fees

2 * * *

3 B. The commissioner shall collect the following fees in advance:

4 * * *

5 (34) For appraisers and umpires (one fee for either or both):

6 First time applicant. \$55.00

7 Renewal fee (every twelve months)... . . \$50.00

8 * * *

9 §1311. Fire insurance contract; standard provisions; variations

10 * * *

11 F. The form of the standard fire insurance policy of the state of Louisiana
12 (with permission to substitute for the word "company" a more accurate descriptive
13 term for the type of insurer) shall be as follows:

14 * * *

15 (2) SECOND PAGE OF STANDARD FIRE POLICY

16 Concealment, fraud-This entire policy shall be void if, whether before or after
17 a loss, the insured has willfully concealed or misrepresented any material fact or
18 circumstance concerning this insurance or the subject thereof, or the interest of the
19 insured therein, or in case of any fraud or false swearing by the insured relating
20 thereto.

21 Uninsurable and excepted property-This policy shall not cover accounts,
22 bills, currency, deeds, evidence of debt, money, or securities; nor, unless specifically
23 named hereon in writing, bullion, or manuscripts.

24 Perils not included-This company shall not be liable for loss by fire or other
25 perils insured against in this policy caused, directly or indirectly, by:

- 26 (a) enemy attack by armed forces, including action taken by military, naval,
27 or air forces in resisting an actual or an immediately impending enemy attack; (b)
28 invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped
29 power; (h) order of any civil authority except acts of destruction at the time of and

1 for the purpose of preventing the spread of fire, provided that such fire did not
2 originate from any of the perils excluded by this policy; (i) neglect of the insured to
3 use all reasonable means to save and preserve the property at and after a loss, or
4 when the property is endangered by fire in neighboring premises; (j) nor shall this
5 Company be liable for loss by theft.

6 Other insurance-Other insurance may be prohibited or the amount of
7 insurance may be limited by endorsement attached hereto.

8 Conditions suspending or restricting insurance-Unless otherwise provided in
9 writing added hereto, this Company shall not be liable for loss occurring:

10 (a) While the hazard is increased by any means within the control or
11 knowledge of the insured; or

12 (b) While a described building, whether intended for occupancy by owner
13 or tenant, is vacant, or unoccupied beyond a period of sixty consecutive days; or

14 (c) As a result of explosion or riot, unless fire ensues, and in that event for
15 loss by fire only.

16 Other perils or subjects-Any other peril to be insured against or subject of
17 insurance to be covered in this policy shall be by endorsement in writing hereon or
18 added hereto.

19 Added provisions-The extent of the application of insurance under this policy
20 and of the contribution to be made by this Company in case of loss, and any other
21 provision or agreement not inconsistent with the provisions of this policy, may be
22 provided for in writing added hereto, but no provisions may be waived except such
23 as by the terms of this policy is subject to change.

24 Waiver provisions-No permission affecting this insurance shall exist, or
25 waiver of any provision be valid unless granted herein or expressed in writing added
26 hereto. No provision, stipulation, or forfeiture shall be held to be waived by any
27 requirement or proceeding on the part of this Company relating to appraisal or to any
28 examination provided for herein.

1 Cancellation of policy-This policy shall be canceled at any time at the request
2 of the insured, in which case this Company shall, upon demand and surrender of this
3 policy, refund the excess of paid premium above the customary short rates for the
4 expired time. This policy may be canceled at any time by this Company by giving
5 to the insured a thirty-day written notice of cancellation, or ten-day written notice
6 when cancellation is for nonpayment of premium, with or without tender of the
7 excess paid premium above the pro rata premium for the expired time which excess,
8 if not tendered, shall be refunded on demand. Notice of cancellation shall state that
9 said excess premium, if not tendered, will be refunded on demand. Upon the written
10 request of the named insured, the insurer shall provide to the insured in writing the
11 reasons for cancellation of the policy. There shall be no liability on the part of and
12 no cause of action of any nature shall arise against any insurer or its agents,
13 employees, or representatives for any action taken by them to provide the reasons for
14 cancellation as required by this Paragraph.

15 Mortgagee interest and obligations-If loss hereunder is made payable in
16 whole or in part, to a designated mortgagee not named herein as the insured, such
17 interest in this policy may be canceled by delivering or mailing to such mortgagee
18 a thirty-day written notice of cancellation, or a ten-day written notice of cancellation
19 if cancellation is for nonpayment of premium.

20 If the insured fails to render proof of loss such mortgagee, upon notice, shall
21 render proof of loss in form herein specified within sixty (60) days thereafter and
22 shall be subject to the provisions hereof relating to appraisal and time of payment
23 and of bringing suit. If this Company shall claim that no liability existed as to the
24 mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be
25 subrogated to all the mortgagee's rights of recovery, but without impairing
26 mortgagee's rights to sue; or it may pay off the mortgage debt and require an
27 assignment thereof and of the mortgage. Other provisions relating to the interests
28 and obligations of such mortgagee may be added hereto by agreement in writing.

1 Pro rata liability-This Company shall not be liable for a greater proportion
2 of any loss than the amount hereby insured shall bear to the whole insurance
3 covering the property against the peril involved, whether collectible or not.

4 Requirements in case loss occurs-The insured shall give immediate written
5 notice to this Company of any loss, protect the property from further damage,
6 forthwith separate the damaged and undamaged personal property, put it in the best
7 possible order, furnish a complete inventory of the destroyed, damaged, and
8 undamaged property, showing in detail quantities, costs, actual cash value, and
9 amount of loss claimed; and within sixty days after loss, unless such time is extended
10 in writing by this Company, the insured shall render to this Company a proof of loss,
11 signed and sworn to by the insured, stating the knowledge and belief of the insured
12 as to the following: the time and origin of the loss, the interest of the insured and of
13 all others in the property, the actual cash value of each item thereof and the amount
14 of loss thereto, all encumbrances thereon, all other contracts of insurance, whether
15 valid or not, covering any of said property, any changes in the title, use, occupation,
16 location, possession, or exposures of said property since the issuing of this policy,
17 by whom and for what purpose any building herein described and the several parts
18 thereof were occupied at the time of loss and whether or not it then stood on leased
19 ground, and shall furnish a copy of all the descriptions and schedules in all policies
20 and, if required, verified plans and specifications of any building, fixtures, or
21 machinery destroyed or damaged. The insured, as often as may be reasonably
22 required shall exhibit to any person designated by this Company all that remains of
23 any property herein described, and submit to examinations under oath by any person
24 named by this Company, and subscribe the same; and, as often as may be reasonably
25 required, shall produce for examination all books of account, bills, invoices and other
26 vouchers, or certified copies thereof if originals be lost, at such reasonable time and
27 place as may be designated by this Company or its representatives, and shall permit
28 extracts and copies thereof to be made.

1 Appraisal-In case the insured and this Company shall fail to agree as to the
2 actual cash value or the amount of loss, then, on the written demand of either, each
3 shall select a competent and disinterested appraiser and notify the other of the
4 appraiser selected within twenty days of such demand. The appraisers shall first
5 select a competent and disinterested umpire; and failing for fifteen days to agree
6 upon such umpire, then on request of the insured or this Company such umpire shall
7 be selected by the commissioner of insurance or, if a lawsuit is filed, a judge of a
8 court of record in the state in which the property covered is located, in the manner
9 provided by law. The appraisers shall then appraise the loss, stating separately actual
10 cash value and loss to each item, and failing to agree, shall submit their differences,
11 only, to the umpire. An award in writing, so itemized, of any two when filed with
12 this Company shall determine the amount of actual cash value and loss. Each
13 appraiser shall be paid by the party selecting him and the expenses of appraisal and
14 umpire shall be paid by the parties equally.

15 Company's options-It shall be optional with this Company to take all, or any
16 part, of the property at the agreed or appraised value, and also to repair, rebuild, or
17 replace the property destroyed or damaged with other of like kind and quality within
18 a reasonable time, on giving notice of its intention to do so within thirty days after
19 the receipt of the proof of loss herein required.

20 Abandonment-There can be no abandonment to this Company of any
21 property.

22 When loss payable-The amount of loss for which this Company may be liable
23 shall be payable thirty days after proof of loss, as herein provided, is received by this
24 Company and ascertainment of the loss is made either by agreement between the
25 insured and this Company expressed in writing or by filing with this Company of an
26 award as herein provided.

27 Suit-No suit or action on this policy for the recovery of any first-party claim
28 shall be sustainable in any court of law or equity unless all the requirements of this

1 policy shall have been complied with, and unless commenced within twenty-four
2 months next after the inception of the loss.

3 Subrogation-This Company may require from the insured an assignment of
4 all right of recovery against any party for loss to the extent that payment therefor is
5 made by this Company.

6 * * *

7 PART XI. ~~REGISTRATION OF APPRAISERS FOR FIRE~~

8 AND EXTENDED COVERAGE

9 SUBPART A. REGISTRATION

10 §1807.1. Registration required

11 A. ~~No person shall~~ A person shall not act as, or hold himself out to be, an
12 appraiser in accordance with the provisions of ~~R.S. 22:1311(F)(2)~~ R.S. 22:1311,
13 1892, or any policy of property insurance covering immovables unless such person
14 is registered with the commissioner ~~of insurance~~ as an appraiser, an umpire, or both.

15 B. Each person shall register with the commissioner on a form ~~to be~~
16 prescribed by the commissioner and shall pay the fee required by R.S.
17 22:821(B)(34).

18 C. Each registration submitted pursuant to this ~~Part shall expire~~ Subpart
19 expires each year on the anniversary date and may be renewed by filing a request for
20 renewal on a form ~~to be~~ prescribed by the commissioner and by paying the renewal
21 fee required by R.S. 22:821(B)(34).

22 §1807.2. Rules and regulations

23 The commissioner ~~of insurance is hereby authorized to~~ may adopt such
24 regulations, in accordance with the Administrative Procedure Act, ~~as are necessary~~
25 to effectuate the requirements of this Part ~~to regulate registration of appraisers for~~
26 ~~fire and extended coverage.~~

27 §1807.3. Enforcement

28 The commissioner ~~is hereby authorized to~~ may take ~~whichever~~ any actions
29 ~~are~~ necessary or appropriate to enforce the provisions of this Part and the

1 commissioner's regulations. The commissioner may order a person to cease and
2 desist from committing violations of this Part or the commissioner's regulations, ~~or~~
3 may issue an order prohibiting a person from acting as an appraiser or umpire, and
4 may rescind the registration of any person, ~~if the person has violated~~ who violates
5 this Part or the commissioner's regulations or orders.

6 SUBPART B. APPRAISAL PROCESS

7 §1807.11. Definitions

8 The following definitions apply to this Subpart:

9 (1) "Appraiser" means a person who is qualified to be an appraiser pursuant
10 to the provisions of R.S. 22:1807.14 and selected by an insurer or a claimant to
11 participate in the appraisal process.

12 (2) "Claimant" means a person who makes a first-party claim under a policy
13 of property insurance.

14 (3) "Good cause" means any of the following:

15 (a) Any conflict of interest provided for in R.S. 22:1807.14 or 1807.17.

16 (b) An umpire who lacks independence or is unable to discharge the duties
17 of an umpire competently or promptly.

18 (c) Any other reasons that would reasonably be expected to impair an
19 appraisal.

20 (4) "Immediate family" as the term relates to an appraiser or umpire means
21 his children, the spouses of his children, his siblings and their spouses, his parents,
22 his spouse, and the parents of his spouse.

23 (5) "Party" means an insurer or a claimant. "Party" includes employees,
24 contractors, and other representatives of a party.

25 (6) "Umpire" means a person who is qualified to be an appraisal umpire
26 pursuant to the provisions of R.S. 22:1807.17 and selected by the appraisers, the
27 commissioner, or a judge to participate in the appraisal process.

28 (7) "Umpire selection panel" means a list of potential umpires prepared by
29 the commissioner for selection of an umpire pursuant to R.S. 22:1807.19.

1 §1807.12. Applicability

2 The provisions of this Subpart provide for the appraisal process if all of the
3 following apply:

4 (1) An insurer has accepted coverage for a claim, in full or in part.

5 (2) The claimant and insurer have a dispute as to the amount of loss the
6 insurer will pay for the accepted portion of the claim under the policy.

7 (3) The policy is issued, issued for delivery, or renewed in this state.

8 (4) The property that is the subject of the claim is located in this state or the
9 dispute is subject to jurisdiction in this state.

10 (5) The claimant or insurer demands an appraisal pursuant to the policy.

11 §1807.13. Appraisal process

12 A. Upon a demand for appraisal, the insurer and the claimant shall each
13 select an appraiser who is independent and qualified pursuant to R.S. 22:1807.14.

14 B.(1) If the appraisers are unable to agree on the amount of loss, they shall
15 select an umpire who is independent and qualified pursuant to R.S. 22:1807.17.

16 (2) If the appraisers are unable to agree on an umpire, either appraiser may
17 submit a request to the commissioner or the judge, if a lawsuit has been filed, to
18 select an umpire, which shall include all of the following:

19 (a) The type of policy.

20 (b) A description of the claim and, if known, the claimed value of the loss.

21 (c) The insurer's itemized estimate and a statement of payments made to
22 date.

23 (d) Any other information that the commissioner or judge requests.

24 C. The selected umpire shall participate in the resolution of the dispute if the
25 appraisers fail to reach agreement and instruct the umpire in writing to begin work.

26 D. An itemized decision agreed to by both appraisers or by one appraiser and
27 the umpire shall set the amount of loss the insurer will pay for the claim subject to
28 applicable policy terms, limits, deductibles, and conditions. The umpire may enter
29 into an itemized decision with either or both appraisers on a compromise basis. The

1 umpire may issue an itemized decision if there is agreement on the amount of the
2 loss, even if there is disagreement as to some of the individual items.

3 §1807.14. Appraiser qualifications; conflicts of interest

4 A. To qualify as an appraiser, a person shall meet all of the following
5 criteria:

6 (1) Have at least three years of experience in the profession in which he is
7 licensed.

8 (2) Have experience or training in estimating property damage.

9 (3) Be any one of the following with an active license:

10 (a) A professional engineer licensed pursuant to R.S. 37:681 et seq. or the
11 laws of another state.

12 (b) An architect licensed pursuant to R.S. 37:141 et seq.

13 (c) An adjuster licensed pursuant to R.S. 22:1661 et seq.

14 (d) A public adjuster licensed pursuant to R.S. 22:1691 et seq.

15 (e) A general contractor licensed pursuant to R.S. 37:2150 et seq.

16 B. A potential conflict of interest exists if any of the following apply to an
17 appraiser:

18 (1) The appraiser is a party to a lawsuit against the insurer.

19 (2) The appraiser has any other direct or indirect interest, financial or
20 otherwise, of any nature that substantially conflicts with the appraiser's duties.

21 §1807.15. Appraiser registration; revocation

22 A. An appraiser shall meet the qualifications in R.S. 22:1807.14 and register
23 by filing with the commissioner all of the following information:

24 (1) Contact information.

25 (2) Training and experience in the profession in which he is licensed.

26 (3) Training and experience related to estimating property damage claims.

27 (4) Whether the professional experience and training are in residential or
28 commercial property.

29 (5) Any relevant licenses or certifications.

1 (6) A general description of the approximate number, types of policies, and
2 value and complexity of property damage claims on which the applicant worked over
3 the previous five years.

4 (7) The parishes in which the appraiser is willing to work.

5 (8) The types of policies and value and complexity of claims on which the
6 appraiser is willing to work.

7 (9) Any professional disciplinary actions or criminal convictions he has had.

8 (10) A current biography, resume, or curriculum vitae.

9 B. The commissioner shall publish a list of appraisers on the department's
10 website. Published information shall include an appraiser's name, contact
11 information, preferred types of claims, and preferred geographic areas.

12 C. The commissioner may, in his sole discretion, revoke the registration of
13 an appraiser for any of the following reasons:

14 (1) Dishonest, incompetent, fraudulent, or unethical behavior.

15 (2) A disciplinary action by any other agency or disciplinary authority
16 against the appraiser, regardless of whether the agency or disciplinary authority's
17 regulation relates to the appraisal.

18 (3) Conviction of, or accepting deferred adjudication for, a crime pursuant
19 to state or federal law.

20 (4) Failure to comply with any requirement of this Subpart.

21 (5) Other factors relevant to the appraiser's qualifications, conflicts of
22 interest, or performance.

23 §1807.16. Appraiser obligations

24 A. An appraiser shall disclose to the parties any potential conflicts of
25 interest, provided for in R.S. 22:1807.14, no later than five days after hiring by a
26 party and before beginning work on an appraisal.

27 B. After accepting responsibility for an appraisal, the appraiser shall not
28 withdraw or abandon the appraisal unless compelled to do so by unforeseen
29 circumstances that would render it impossible or impracticable to continue.

1 C. An appraiser shall postpone an appraisal for a reasonable amount of time
2 if a party shows reasonable cause for a postponement.

3 D. An appraiser has a duty to do all of the following:

4 (1) Consider all information provided by the parties and any other reasonably
5 available evidence material to the claim.

6 (2) Carefully decide all issues submitted for determination regarding the
7 amount of loss.

8 (3) Give the parties and the other appraiser an itemized written appraisal.

9 (4) Conduct the appraisal process to advance the fair and efficient resolution
10 of the matters submitted for decision.

11 E. An appraiser shall not do any of the following:

12 (1) Permit outside pressure to affect an appraisal.

13 (2) Delegate the duty to decide to any other person.

14 (3) Communicate with an umpire without including the other party or the
15 other party's appraiser, except as permitted in R.S. 22:1807.22.

16 (4) Charge the parties on a contingent fee basis, percentage of the decision,
17 barter arrangement, gift, favor, or in-kind exchange.

18 (5) Charge a fee for services if the appraiser withdraws or abandons the
19 appraisal.

20 §1807.17. Umpire qualifications; conflicts of interest

21 A. To qualify as an umpire, a person shall meet all of the following
22 requirements:

23 (1) Be either of the following:

24 (a) An appraiser qualified pursuant to R.S. 22:1807.14.

25 (b) An attorney licensed in this state with experience in first-party property
26 damage litigation.

27 (2) Have no disqualifying conflicts of interest listed in Subsection B of this
28 Section, unless, after full disclosure, the parties agree in writing to waive an
29 otherwise disqualifying conflict of interest.

1 B. A disqualifying conflict of interest for an umpire exists if any of the
2 following apply:

3 (1) The umpire or a member of his immediate family is any of the following:

4 (a) A party to the claim.

5 (b) A current employee or contractor of a party.

6 (c) A current employee of the adjuster or public adjuster, including business
7 entity licensees, who adjusted the loss.

8 (2) The umpire currently has an open claim or acts as a representative or
9 public adjuster on an open claim with the insurer that is a party to the appraisal.

10 (3) The umpire is a party or a member or employee of a law firm that
11 represents a party to a current lawsuit with the insurer that is a party to the appraisal.

12 (4) The umpire has any other direct or indirect interest, financial or
13 otherwise, of any nature that substantially conflicts with the umpire's duties.

14 §1807.18. Umpire registration; revocation

15 A. An umpire shall meet the qualifications in R.S. 22:1807.17 and register
16 by filing with the commissioner all of the following information:

17 (1) Contact information.

18 (2) Training and experience in the profession in which he is licensed.

19 (3) Training and experience related to estimating property damage claims.

20 (4) Whether the professional experience and training are in residential or
21 commercial property.

22 (5) Any relevant licenses or certifications.

23 (6) A general description of the approximate number, type of policies, and
24 value and complexity of property damage claims on which the applicant worked over
25 the previous five years.

26 (7) The parishes in which the umpire is willing to work.

27 (8) The types of policies and value and complexity of claims on which the
28 umpire is willing to work.

29 (9) Any professional disciplinary actions or criminal convictions he has had.

1 (10) A current biography, resume, or curriculum vitae.

2 B. The commissioner shall publish a list of umpires on the department's
3 website. Published information shall include an umpire's name, contact information,
4 preferred types of claims, and preferred geographic areas.

5 C. The commissioner may, in his sole discretion, revoke the registration of
6 an umpire for any of the following reasons:

7 (1) Dishonest, incompetent, fraudulent, or unethical behavior.

8 (2) A disciplinary action by any other agency or disciplinary authority
9 against the umpire, regardless of whether the agency or disciplinary authority's
10 regulation relates to the appraisal.

11 (3) Conviction of, or accepting deferred adjudication for, a crime pursuant
12 to state or federal law.

13 (4) Failure to comply with any requirement of this Subpart.

14 (5) Other factors relevant to the umpire's qualifications, conflicts of interest,
15 or performance.

16 §1807.19. Umpire selection by commissioner or judge

17 A. The provisions of this Section apply if the appraisers are unable to agree
18 on an umpire and a party requests the commissioner or a judge to select an umpire.

19 B. A judge selecting an umpire shall do either of the following:

20 (1) Request the commissioner to submit an umpire selection panel pursuant
21 to this Section.

22 (2) Select from the list of umpires maintained by the commissioner.

23 C. In creating an umpire selection panel, the commissioner may consider the
24 following:

25 (1) The umpire's preferred geographic locations and preferred types of
26 claims.

27 (2) The proximity of the claimant's property and the umpire.

28 (3) The umpire's areas of training and expertise.

1 (4) The extent of the umpire's experience with appraisal and property
2 damage claims.

3 (5) The subject of the dispute.

4 (6) The type of policy.

5 (7) The value and complexity of the claim.

6 (8) Any conflicts of interest.

7 (9) Other factors relevant to the dispute.

8 D.(1) Using a random selection method, the commissioner shall notify at
9 least five umpires of possible inclusion on an umpire selection panel.

10 (2) Each umpire notified shall respond to the commissioner no later than five
11 days after receiving the notice, stating whether the umpire will accept or reject
12 selection as umpire for an appraisal.

13 (3) Each umpire accepting selection shall respond by providing all of the
14 following information:

15 (a) A current resume, curriculum vitae, or brief biographical sketch of the
16 umpire.

17 (b) A statement as to whether the umpire is insured by the insurer.

18 (c) Any prior knowledge the umpire has regarding the dispute.

19 (d) Any disqualifying conflict of interest provided for in R.S. 22:1807.17.

20 E. The commissioner shall do both of the following:

21 (1) Create the umpire selection panel.

22 (2) Send the information provided pursuant to this Section and the umpire
23 selection panel list to the parties and appraisers.

24 F. If the appraisers select an umpire from the umpire selection panel, the
25 appraisers shall inform the commissioner no later than three days after the
26 agreement.

27 G. If the appraisers do not agree to an umpire from the umpire selection
28 panel, each appraiser or party may object to umpires on the umpire selection panel
29 pursuant to R.S. 22:1807.26, and the commissioner shall select an umpire from the

1 umpire selection panel to which neither appraiser objected, using a random selection
2 method.

3 H. The commissioner shall notify the umpire selected pursuant to Subsection
4 G of this Section and give the umpire the claim information provided for in R.S.
5 22:1807.13.

6 §1807.20. Umpire obligations

7 A.(1) The umpire shall disclose any disqualifying conflicts of interest
8 provided for in R.S. 22:1807.17 to both parties within five days after hiring by a
9 party and before beginning any work.

10 (2) The umpire shall recuse himself from an appraisal for which there exists
11 a disqualifying conflict of interest unless the parties agree in writing to waive any
12 conflict of interest.

13 B. The umpire shall not do either of the following:

14 (1) Begin work until the appraisers direct the umpire in writing to begin,
15 upon their failure to reach an agreement.

16 (2) Visit the claimant's property without consent from both appraisers.

17 C. The umpire shall do all of the following:

18 (1) Address only items about which the appraisers disagree.

19 (2) Review the differences and seek agreement with either or both of the
20 appraisers regarding the disputed items.

21 (3) Allow each appraiser a fair opportunity to present evidence and
22 arguments.

23 (4) Review all information submitted by the appraisers and parties, which
24 is related to the dispute, including the itemized appraisals or estimates, supporting
25 documents, photographs, and diagrams.

26 (5) Prepare an itemized written decision and promptly provide it to the
27 parties and the appraisers.

28 D. The umpire may do any of the following:

1 (1) Ask questions and request documents or other evidence, including expert
2 reports.

3 (2) Consider any conflicts of interest or objections to appraisers upon request
4 of a party.

5 (3) Accept either appraiser's scope, quantity, value, or cost regarding an item
6 in dispute or develop an independent decision on an item in dispute.

7 E. Upon accepting an appointment to be the umpire for an appraisal, the
8 umpire shall adhere to the following duties:

9 (1) The umpire shall decide all matters fairly, exercising independent
10 judgment and integrity.

11 (2) The umpire shall not do any of the following:

12 (a) Withdraw or abandon the appraisal, unless compelled by unforeseen
13 circumstances that would render it impossible or impracticable to continue.

14 (b) Be present for or participate in settlement discussions, unless requested
15 by both parties.

16 (c) Permit outside influence to affect the appraisal.

17 (d) Delegate the umpire's decision to any other person.

18 F.(1) The umpire shall disclose all fees. The umpire may specify different
19 charges for types or values of claims. The provisions of this Paragraph do not apply
20 to umpires selected pursuant to R.S. 22:1807.19.

21 (2) The umpire shall not charge the parties on a contingent fee basis,
22 percentage of the decision, barter arrangement, gift, favor, or in-kind exchange.

23 §1807.21. Additional obligations for commissioner-selected umpires

24 All of the following obligations apply to an umpire selected by the
25 commissioner:

26 (1) No later than seven days after receiving notice of selection for an
27 appraisal, the umpire shall send a written notice to the parties and the appraisers,
28 containing the following:

29 (a) The identity of the umpire.

1 (b) Whether the umpire is insured by the insurer.

2 (c) A statement informing each party of his respective right to object to the
3 umpire and the method through which the parties may object pursuant to R.S.
4 22:1807.26.

5 (2) Before the umpire begins work, the parties and the umpire shall sign an
6 appraisal contract which shall require the parties and the umpire to comply with the
7 provisions of this Subpart and provide that each party shall pay the appraisal costs
8 provided for in R.S. 22:1807.23.

9 (3) The umpire shall notify the commissioner upon completion of the
10 appraisal process and upon reaching an appraisal decision.

11 (4) The umpire shall charge an hourly rate set by the commissioner and may
12 charge a minimum two-hour fee.

13 (5) The umpire may charge for reasonably incurred travel costs, including
14 mileage, meals, and lodging. If the umpire charges for reasonably incurred travel
15 costs, he shall provide an estimate of the travel costs as an addendum to the contract
16 provided for in Paragraph (2) of this Section.

17 §1807.22. Prohibited communications

18 A. All of the following provisions apply after an umpire's selection and
19 before the appraisal process ends:

20 (1) The umpire shall not communicate separately with either party or either
21 party's appraiser regarding the pending appraisal unless the umpire notifies the other
22 party and gives the other party the opportunity to participate.

23 (2) The parties and respective appraisers shall not communicate with the
24 umpire regarding the appraisal without including the other party or appraiser, except
25 that:

26 (a) An appraiser may identify the parties' counsel or experts.

27 (b) An appraiser may discuss logistical matters, such as setting the time and
28 place of meetings or making other arrangements for the conduct of the proceedings.

1 The appraiser initiating this contact with the umpire shall promptly inform the other
2 appraiser.

3 (c) If an appraiser fails to attend a meeting or conference call after receiving
4 notice, or if both parties agree in writing, the opposing appraiser may discuss the
5 claim with the umpire who is present.

6 B. After receiving notice of a possible inclusion on a umpire selection panel,
7 the umpire shall not at any time communicate information about the appraisal with
8 any individual besides the parties, the insurer, the appraisers, and the commissioner.
9 However, the umpire may communicate information about the appraisal with the
10 written consent of both parties.

11 §1807.23. Costs

12 A. Each party is responsible for and shall pay the following:

13 (1) His own appraiser fees and expenses.

14 (2) Half of the reasonable and necessary costs incurred for an umpire's fee
15 and expenses.

16 (3) Half of any reasonable and necessary costs incurred to conduct the
17 appraisal.

18 B. If the parties settle before the umpire begins work, the umpire shall not
19 charge a fee.

20 C. The parties shall not pay an appraiser or umpire on a contingent fee basis,
21 percentage of the decision, barter arrangement, gift, favor, or in-kind exchange.

22 D. The commissioner is not responsible for any appraisal fees, expenses, or
23 costs.

24 §1807.24. Extensions of deadlines

25 A. The commissioner may extend any deadline provided in this Subpart for
26 reasonable cause, except the deadline for the umpire to notify the parties that the
27 umpire is insured by the insurer.

28 B. To request the commissioner to extend a deadline, a party, appraiser, or
29 umpire shall send the request in writing to the commissioner pursuant to the

1 provisions of R.S. 22:1807.25. The request shall explain the reasonable cause for the
2 extension. Reasonable cause includes military deployment of the claimant.

3 C. Deadline extensions shall not exceed an aggregate of one hundred twenty
4 days. This limit does not apply to extensions of the deadline to file an objection
5 because of an umpire being insured by the insurer.

6 §1807.25. Requests and submissions to the commissioner

7 A. Notices, requests, and other items submitted to the commissioner pursuant
8 to this Subpart shall be hand-delivered, mailed, or sent in a manner that is otherwise
9 acceptable to the commissioner.

10 B. For the purposes of the deadlines imposed by this Subpart, the date
11 applicable to an item is the date the commissioner receives the item.

12 C. If a party submits a request to the commissioner pursuant to this Section,
13 the party shall provide a copy of the request to the other party on the same day and
14 in the same manner.

15 §1807.26. Objections

16 A.(1) A party or appraiser may object to an umpire for good cause no later
17 than ten days after the party or appraiser receives the selection panel.

18 (2) A party or appraiser may object to an umpire for good cause, no later
19 than thirty days after the appraisal is complete, based on information not provided
20 with the selection panel and discovered after the selection of the umpire.

21 (3) A party or appraiser may object to an umpire because the umpire is
22 insured by the insurer no later than the earlier of either of the following:

23 (a) Seven days after receiving the umpire selection panel and the information
24 provided therewith.

25 (b) Seven days before the umpire begins work.

26 B. Parties and appraisers shall send all objections to the commissioner
27 pursuant to the provisions of R.S. 22:1807.25, or to the judge if a lawsuit has been
28 filed, which shall include all of the following information:

29 (1) The names of the parties involved in the dispute.

- 1 (2) The name of the person submitting the objection.
- 2 (3) The insurer's claim number.
- 3 (4) The name of the umpire that the party or appraiser objects to.
- 4 (5) An explanation of the good cause for objecting to the umpire.
- 5 (6) An explanation of any direct financial or personal interest that the umpire
- 6 has in the outcome of the dispute.

7 C.(1) If the commissioner determines that good cause exists to replace an
 8 umpire who was selected for a dispute, the commissioner shall select an umpire from
 9 the umpire selection panel to which neither appraiser objected, using a random
 10 selection method.

11 (2) If the judge determines that good cause exists to replace an umpire who
 12 was selected for a dispute, the judge shall select a replacement umpire.

13 * * *

14 §1892. Payment and adjustment of claims, policies other than life and health and
 15 accident; vehicle damage claims; extension of time to respond to claims
 16 during emergency or disaster; penalties; arson-related claims suspension

17 * * *

18 G. Residential property insurance policies shall contain the following
 19 provision, with permission to substitute the words "this company" with a more
 20 accurate descriptive term for the insurer:

21 "Appraisal. If you and this Company fail to agree as to the amount of loss,
 22 either party may demand that the amount of the loss be set by appraisal. If either
 23 party makes a written demand for appraisal, each party shall select a competent
 24 appraiser and notify the other party of their appraiser's identity within twenty days
 25 of receipt of the written demand for appraisal. The appraisers shall select a
 26 competent and impartial umpire. If after fifteen days the appraisers have not agreed
 27 upon who will serve as umpire, the umpire shall be appointed by the commissioner
 28 of insurance or, if a lawsuit is filed, a judge of the court of record in which the
 29 property is located. The appraisers shall appraise the loss pursuant to law. If the

1 appraisers submit written notice of an agreement as to the amount of the loss to this
2 Company, the amount agreed upon shall set the amount of the loss. If the appraisers
3 fail to agree within thirty days, the appraisers shall submit their differences along
4 with any supporting documentation to the umpire, who shall appraise the loss. The
5 appraisers may extend the time to sixty days for which they shall agree upon the
6 amount of loss or submit their differences and supporting documents to the umpire,
7 if the extension is agreed to by the appraisers from both parties. A written agreement
8 signed by the umpire and either party's appraiser shall set the amount of the loss,
9 pursuant to the appraisal process, but shall not preclude either party from exercising
10 its rights under the policy or the law. Each appraiser shall be paid by the party
11 selecting that appraiser. Other expenses of the appraisal and the expenses of the
12 umpire shall be divided and paid in equal shares by you and this Company. If there
13 is an appraisal award, all applicable policy terms, limits, deductibles, and conditions
14 shall apply. If you file a lawsuit relative to this policy against this Company prior
15 to a demand for appraisal, the lawsuit will be held in abatement during the period
16 between a timely demand for appraisal and the deadline for execution of an appraisal
17 award, pursuant to this clause. The court of record in which the property is located
18 may enforce the deadlines of this clause, set a reasonable deadline for timely
19 demanding appraisal after all parties have filed pleadings in a lawsuit, and require
20 compliance with discovery and disclosure obligations relative to aspects of the
21 lawsuit unrelated to the appraisal."

* * *

22
23 Section 2. The provisions of this Act shall apply to the policies of property insurance
24 issued, delivered, or renewed on or after January 1, 2025.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 609 Original

2024 Regular Session

Firmment

Abstract: Provides for the employment of umpires in the appraisal process.

Present law authorizes appraisals of property and authorizes the commissioner of insurance (commissioner) to collect fees from appraisers.

Proposed law retains present law and further authorizes the commissioner to collect fees from umpires employed in an appraisal process.

Present law employs a requisite form for standard fire insurance policies within the state of La.

Proposed law retains present law but requires the commissioner to select an umpire to assist in the appraisal process of a fire insurance claim in certain circumstances.

Present law prohibits a person from purporting to be an appraiser unless he is registered with the commissioner on a form prescribed by the commissioner and has paid the required fees. Further requires an appraiser to renew registration on an annual basis.

Proposed law extends present law to umpires and otherwise retains present law.

Present law authorizes the commissioner to enforce present law. Authorizes the commissioner to order a person to cease and desist from committing violations or acting as an appraiser. Further authorizes the commissioner to rescind the registration of any person who violates present and proposed law.

Proposed law extends present law to umpires and otherwise retains present law.

Proposed law defines "appraiser", "claimant", "good cause", "immediate family", "party", "umpire", and "umpire selection panel".

Proposed law requires an appraisal process under the following conditions:

- (1) An insurer has accepted coverage for a claim, in full or in part.
- (2) The claimant and insurer have a dispute as to the amount of loss the insurer will pay for the accepted portion of the claim under the policy.
- (3) The policy is issued, delivered, or renewed in this state.
- (4) The property that is the subject of the claim is located in this state or the dispute is subject to jurisdiction in this state.
- (5) The claimant or insurer demands an appraisal process.

Proposed law requires the insurer and claimant to each select an appraiser upon a demand for appraisal. Further requires respective appraisers to select an umpire if the appraisers are unable to agree on the amount of loss.

Proposed law authorizes the commissioner or a judge to select an umpire if the appraisers are unable to agree on an umpire.

Proposed law requires appraisers to meet both of the following criteria:

- (1) Have at least 3 years of experience in the profession in which he is licensed.
- (2) Have experience or training in estimating property damage.

Proposed law requires appraisers to meet at least one of the following criteria:

- (1) Be a licensed professional engineer.
- (2) Be a licensed architect.
- (3) Be a licensed adjuster.
- (4) Be a licensed public adjuster.
- (5) Be a licensed general contractor.

Proposed law provides for conflicts of interest and obligates an appraiser to notify the parties of any potential conflicts of interest.

Proposed law provides a registration process for interested appraisers. Further outlines the information for applicants to provide to the commissioner for registration.

Proposed law requires the commissioner to publish a list of appraisers on the Dept. of Insurance's website. Further provides for the list to contain the names, contact information, preferred types of claims, and preferred geographic areas of each appraiser.

Proposed law requires an appraiser to do all of the following:

- (1) Consider all information provided by the parties and any other reasonably available evidence material to the claim.
- (2) Carefully decide all issues submitted for determination regarding the amount of loss.
- (3) Give the parties and the other appraiser an itemized written appraisal.
- (4) Conduct the appraisal process to advance the fair and efficient resolution of the matter.

Proposed law prohibits appraisers from doing the following:

- (1) Permitting outside pressure to affect the appraisal.
- (2) Delegating the duty to decide to any other person.
- (3) Communicating with an umpire without including the other party or the other party's appraiser.
- (4) Charging the parties on a contingent fee basis, percentage of the decision, barter arrangement, gift, favor, or in-kind exchange.
- (5) Charging a fee for services if the appraiser withdraws or abandons the appraisal.

Proposed law requires an umpire to be either of the following:

- (1) A qualified appraiser.
- (2) An attorney licensed in the state of La. with experience in first-party property damage litigation.

Proposed law provides relative to conflicts of interest. Further requires an umpire to disclose any potential conflicts of interest.

Proposed law provides for the registration process for interested umpires. Further outlines the information for applicants to provide to the commissioner for registration.

Proposed law requires the commissioner to publish the list of umpires on the Dept. of Insurance's website. Further provides for the list to contain the names, contact information, preferred types of claims, and preferred geographic areas of each umpire.

Proposed law authorizes the commissioner to revoke the registration of an umpire under certain circumstances.

Proposed law authorizes the commissioner or a judge to select an umpire when the appraisers cannot agree.

Proposed law provides for an umpire selection panel.

Proposed law provides the job responsibilities of an umpire, lists prohibited activities, and specifies all prohibited communications.

Proposed law requires each responsible party to pay the following:

- (1) His own appraiser fees and expenses.
- (2) Half of the reasonable and necessary costs incurred for the umpire's fee and expenses.
- (3) Half of any reasonable and necessary costs incurred to conduct the appraisal.

Proposed law prohibits parties from paying an appraiser or umpire on a contingent fee basis, percentage of the decision, barter arrangement, gift, favor, or in-kind exchange.

Proposed law provides for an extension of deadlines in certain circumstances.

Proposed law requires notices, requests, and other items submitted to the commissioner to be hand delivered, mailed, or sent in an otherwise acceptable manner.

Proposed law authorizes an appraiser or party to object to an umpire for good cause shown within 10 days after the party or appraiser receives the selection panel.

Present law requires residential property insurance policies to contain an appraisal clause and provides specific language.

Proposed law retains present law but amends the appraisal clause to require the commissioner to select an umpire to assist in the appraisal process of a residential property insurance claim in certain circumstances.

Proposed law applies to policies of property insurance issued, issued for delivery, or renewed on or after January 1, 2025.

(Amends R.S. 22:821(B)(34)(intro. para.), 1311(F)(2), 1807.1-1807.26, and 1892(G))