

2023 Regular Session

HOUSE BILL NO. 604

BY REPRESENTATIVE GAROFALO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE: Provides for the appraisal process

1 AN ACT

2 To amend and reenact Part XI of Chapter 5 of Title 22 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 22:1807.1 through 1807.26, relative to the appraisal
4 process; to provide for an umpire roster; to provide for registration; to define certain
5 terms; to provide for qualifications; to provide for conflicts of interest; to provide for
6 certain obligations; to provide for umpire selection; to prohibit certain
7 communications; to provide for cost; to provide for deadlines; to provide for
8 submissions to the commissioner; to provide for objections; to make technical
9 changes; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Part XI of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 22:1807.1 through 1807.26, is hereby amended and reenacted to read as
13 follows:

14 PART XI. ~~REGISTRATION OF APPRAISERS FOR FIRE AND EXTENDED~~
15 ~~COVER~~AGE
16 SUBPART A. REGISTRATION

17 §1807.1. Registration required

18 A. No person shall act as, or hold himself out to be, an appraiser in
19 accordance with the provisions of ~~R.S. 22:1311(F)(2)~~ R.S. 22:1311 or 22:1892 unless
20 such person is registered with the commissioner ~~of insurance~~ as an appraiser.

1 B. Each person shall register with the commissioner on a form to be
2 prescribed by the commissioner and shall pay the fee required ~~by~~ pursuant to R.S.
3 22:821(B)(34).

4 C. Each registration submitted pursuant to this Part shall expire each year on
5 the anniversary date and may be renewed by filing a request for renewal on a form
6 ~~to be~~ prescribed by the commissioner and by paying the renewal fee required by R.S.
7 22:821(B)(34).

8 §1807.2. Rules and regulations

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

13 §1807.3. Enforcement

14 The commissioner ~~is hereby authorized to~~ may take ~~whichever~~ any actions
15 ~~are~~ necessary or appropriate to enforce the provisions of this Part and the
16 commissioner's regulations. The commissioner may order a person to cease and
17 desist from committing violations of this Part or the commissioner's regulations or
18 may issue an order prohibiting a person from acting as an appraiser and may rescind
19 the registration of any person, if the person has violated this Part or the
20 commissioner's regulations or orders.

21 SUBPART B. APPRAISAL PROCESS

22 §1807.11. Definitions

23 The following definitions apply to this Subpart:

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

27 (2) "Claimant" means a person who makes a claim under an insurance
28 policy.

1 (3) "Party" means an insurer or a claimant. "Party" includes employees and
2 other representatives of a party.

3 (4) "Umpire" means a person who is qualified to be an appraisal umpire
4 pursuant to the provisions of R.S. 22:1807.16 and selected by the appraisers or the
5 commissioner to participate in the appraisal process.

6 (5) "Umpire roster" means the roster of umpires maintained by the
7 commissioner.

8 (6) "Umpire selection panel" means a short list of potential umpires from the
9 umpire roster from which the commissioner will select an umpire.

10 §1807.12. Applicability

11 The provisions of this Subpart provide for the appraisal process if all of the
12 following apply:

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

14 (2) The claimant and insurer have a dispute as to the amount of loss the
15 insurer will pay for the accepted portion of the claim.

16 (3) The claimant or insurer demands an appraisal pursuant to the insurer's
17 policy.

18 §1807.13. Appraisal process

19 A. The insurer and the claimant shall each select an appraiser who is
20 independent and qualified pursuant to R.S. 22:1807.14.

21 B. Each party shall inform the other party of the fees to be charged by his
22 appraiser no later than five days after hiring an appraiser.

23 C.(1) The appraisers shall select an umpire who is independent and qualified
24 pursuant to R.S. 22:1807.16.

25 (2) If the appraisers are unable to agree on an umpire, either appraiser may
26 request the commissioner to select an umpire, which shall include all of the
27 following:

28 (a) The type of policy.

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

3 (c) The insurer's claim acceptance letter, including the amount the insurer
4 will pay for the loss.

5 (d) Any other information that the commissioner requests.

6 D. The selected umpire shall participate in the resolution of the dispute if the
7 appraisers fail to agree on a decision.

8 E. If the appraisers agree on the amount of loss, their decision is binding on
9 the parties as to the amount of loss the insurer will pay for the covered claim. If the
10 parties do not agree, and the umpire participates, an itemized decision agreed to by
11 any two of these three is binding on the parties as to the amount of loss the insurer
12 will pay for the claim.

13 §1807.14. Appraiser qualifications; conflicts of interest

14 A. To qualify as an appraiser, a person shall be one of the following:

15 (1) A Louisiana licensed engineer or architect with experience and training
16 in building construction, repair, estimating, or investigation of property damage.

17 (2) A Louisiana licensed adjuster or public adjuster with experience and
18 training in estimating property damage.

19 (3) A Louisiana licensed general contractor with experience and training in
20 building construction, repair, or estimating property damage.

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

23 (1) The appraiser is a current or former insurer or claimant employee.

24 (2) The appraiser is a current or former insurer or claimant contractor or
25 contractor's employee, except that it is not a potential conflict for the appraiser to be
26 a contractor solely to work on the pending appraisal.

27 (3) The appraiser is related within the third degree by consanguinity or
28 within the second degree by affinity to any of the following:

29 (a) A current or former insurer employee.

1 (b) A current or former insurer contractor or contractor's employee.

2 (c) The claimant or a representative of the claimant.

3 (d) A current or former claimant employee.

4 (e) A current or former claimant contractor, contractor's employee, or public
5 adjuster as provided in R.S. 22:1706.

6 (4) The appraiser is a current policyholder of the insurer.

7 (5) The appraiser currently has an open claim or acts as a representative or
8 public adjuster on an open claim with the insurer or previously filed a claim with the
9 insurer.

10 (6) The appraiser is a current employee or contractor of an insurer or a public
11 insurance adjusting company.

12 (7) The appraiser currently is a party or represents a party to a lawsuit with
13 the insurer or was a party or represented a party to a lawsuit with the insurer within
14 the previous five years.

15 (8) The appraiser adjusted the loss or acted as a public adjuster on the loss
16 involved in the claim, pursuant to R.S. 22:1706.

17 (9) The appraiser is related to the adjuster or public adjuster who adjusted
18 the loss.

19 (10) The appraiser is an employee of the adjusting company or public
20 insurance adjusting company that adjusted the loss or represented the claimant on the
21 loss.

22 (11) The appraiser has any other direct or indirect interest, financial or
23 otherwise, of any nature that substantially conflicts with an appraiser's duties.

24 §1807.15. Appraiser obligations

25 A. An appraiser shall disclose to both parties any potential conflicts of
26 interest, provided for in R.S. 22:1807.14, no later than five days after being hired and
27 before the appraiser begins work on the appraisal.

28 B. After an appraiser has accepted the responsibility for an appraisal, the
29 appraiser shall not withdraw or abandon the appraisal unless compelled to do so by

1 unanticipated circumstances that would render it impossible or impractical to
2 continue. The appraiser shall not charge a fee for services if the appraiser withdraws
3 or abandons the appraisal.

4 C. An appraiser shall postpone the appraisal for a reasonable amount of time
5 if a party shows good cause for a postponement.

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

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

9 (2) Follow the insurer's insurance policy when making the appraisal decision.

10 (3) Carefully decide all issues submitted for determination regarding the
11 amount of loss.

12 (4) Give the parties and the other appraiser an itemized written appraisal.

13 (5) Conduct the appraisal process to advance the fair and efficient resolution
14 of the matters submitted for decisions.

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

16 (1) Permit outside pressure to affect the appraisal.

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

18 (3) Communicate with an umpire without including the other party or the
19 other party's appraiser, except as permitted pursuant to R.S. 22:1807.22.

20 §1807.16. 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 any one of the following:

24 (a) An engineer or architect with experience and training in building
25 construction, repair, estimating, or investigation of property damage.

26 (b) An adjuster or public adjuster with experience and training in estimating
27 property damage.

28 (c) A general contractor with experience and training in building
29 construction, repair, or estimating property damage.

1 (d) An attorney licensed in Louisiana.

2 (e) A current or former judge of any Louisiana court of record or the
3 Louisiana Division of Administrative Law.

4 (2) Not have any disqualifying conflicts of interest listed in Subsection D of
5 this Section.

6 B. The following qualifications are preferred for umpires:

7 (1) Prior experience with the appraisal of property damage claims.

8 (2) Prior experience as an appraisal umpire on at least three property damage
9 claims in the previous twelve months.

10 C. A potential conflict of interest exists if any of the following apply to an
11 umpire:

12 (1) The umpire is a former association or claimant employee or contractor
13 or contractor's employee.

14 (2) The umpire is related within the third degree by consanguinity or within
15 the second degree by affinity to any of the following:

16 (a) A former insurer employee.

17 (b) A former insurer contractor or contractor's employee.

18 (c) A former claimant employee.

19 (d) A former claimant contractor or contractor's employee.

20 (3) The umpire is a current insurer policyholder.

21 (4) The umpire previously filed a claim with the insurer.

22 (5) The umpire is a current employee or contractor of an insurance company
23 or public insurance adjusting company.

24 (6) The umpire was a party or represented a party to a lawsuit with the
25 insurer within the previous five years.

26 D. A potential umpire has a disqualifying conflict of interest if any of the
27 following apply to the potential umpire:

28 (1) The umpire is a current insurer or claimant employee.

1 (2) The umpire is a current insurer or claimant contractor, or contractor's
2 employee, except that it is not a conflict for the umpire to be a contractor solely to
3 work on the pending appraisal.

4 (3) The umpire is related within the third degree by consanguinity or within
5 the second degree by affinity to any of the following:

6 (a) A current insurer employee.

7 (b) A current insurer contractor or contractor's employee.

8 (c) The claimant or a representative of the claimant.

9 (d) A current claimant employee.

10 (e) A current claimant contractor or contractor's employee.

11 (4) The umpire currently has an open claim or acts as a representative or
12 public adjuster on an open claim with the insurer,

13 (5) The umpire is a party to or represents a party to a current lawsuit with the
14 insurer.

15 (6) The umpire adjusted the loss or acted as a public adjuster on the loss
16 involved in the claim, pursuant to R.S. 22:1906.

17 (7) The umpire is related to the adjuster or public adjuster who adjusted the
18 loss.

19 (8) The umpire is an employee of the adjusting company or public insurance
20 adjusting company that adjusted the loss or represented the claimant on the loss.

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

23 §1807.17. Umpire roster

24 A. To be placed on the umpire roster, a person shall register with the
25 commissioner and meet the qualifications in R.S. 22:1807.16.

26 B. The registration shall include all of the following information:

27 (1) The person's contact information.

28 (2) The person's training and experience related to building construction,
29 repair, estimating, or investigating property damage.

1 (3) Any training and experience related to estimating property damage
2 claims.

3 (4) Whether the person's experience is with residential or commercial
4 property damage.

5 (5) Any relevant licenses or certifications.

6 (6) A general description of the approximate number, type of policies, and
7 value and complexity of property damage claims on which the applicant worked over
8 the previous three years.

9 (7) The parishes in which the person is willing to work.

10 (8) The type of policies, and value and complexity of claims on which the
11 person is willing to work.

12 (9) Any potential conflicts of interest as provided in R.S. 22:1807.16.

13 (10) Any professional disciplinary actions or criminal convictions.

14 (11) A current biography, resume, or curriculum vitae.

15 C. A person shall not be listed on the umpire roster until the commissioner
16 sends written notice of placement on the roster.

17 D. The commissioner may limit the number of umpires on the roster.

18 E. The commissioner shall publish the umpire roster on the department's
19 website. Published roster information shall include an umpire's name, contact
20 information, preferred types of claims, and preferred geographic areas.

21 F. The umpire shall notify the commissioner of a disqualifying conflict of
22 interest, as provided in R.S. 22:1807.16, within ten days of learning about the
23 conflict.

24 G. An umpire will be on the umpire roster for a term of three years unless
25 removed pursuant to R.S. 22:1807.18. To remain on the roster for additional terms,
26 an umpire is required to submit a new registration to the commissioner.

27 H. Notices and registrations sent to the commissioner pursuant to this
28 Section shall comply with the provisions of R.S. 22:1807.25.

29 §1807.18. Removal of umpire from roster

1 A. An umpire may request removal from the umpire roster at any time by
2 submitting a request conforming to the provisions of R.S. 22:1807.25.

3 B. The commissioner may, in his sole discretion, remove an umpire from the
4 umpire roster for any of the following:

5 (1) Alleged dishonest, incompetent, fraudulent, or unethical behavior.

6 (2) Alleged failure to respond promptly and completely to requests from the
7 commissioner, if the actions or failure to act are counter to the purpose of the
8 appraisal.

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

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

14 (5) A disqualifying conflict of interest listed in R.S. 22:1807.16.

15 (6) Failure to comply with any requirement of this Subpart.

16 (7) Other factors relevant to the umpire's qualifications, conflicts of interest,
17 or performance.

18 §1807.19. Umpire selection by commissioner

19 A. The provisions of this section apply if the appraisers are unable to agree
20 on an umpire and a party requests the commissioner to select an umpire.

21 B. The commissioner shall notify at least five umpires of possible inclusion
22 on an umpire selection panel.

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

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

26 (2) The proximity of the claimant and the umpire.

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

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

1 (5) The subject of the dispute.

2 (6) The type of policy.

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

4 (8) Any conflicts of interest.

5 (9) Other factors relevant to the dispute.

6 D. Each umpire notified pursuant to Subsection B of this Section shall
7 respond to the commissioner no later than five days after receiving the notice, stating
8 whether the umpire will accept or reject selection as umpire for the appraisal and
9 providing the following:

10 (1) An up-to-date resume, curriculum vitae, or brief biographical sketch of
11 the umpire.

12 (2) A statement as to whether the umpire is insured by the insurer.

13 (3) A description of the nature and extent of any prior knowledge the umpire
14 has regarding the dispute.

15 (4) A description of any contacts with either party, including insurer
16 employees, within the previous three years.

17 (5) A description of other known potential conflicts of interest as provided
18 in R.S. 22:1807.16.

19 (6) Any disqualifying conflicts of interest provided for in R.S. 22:1807.16.

20 E. Utilizing the information provided pursuant to this Section, the
21 commissioner shall determine which umpires will be on the umpire selection panel.
22 The commissioner shall send a list of the umpires on the umpire selection panel to
23 each party and each appraiser, along with the information the umpires provided
24 pursuant to this Section.

25 F. If the appraisers agree on an umpire on the umpire selection panel, the
26 insurer shall inform the commissioner no later than three days after the agreement.

27 G. If the appraisers do not agree upon the selection of an umpire from the
28 umpire selection panel, each appraiser or party may object to umpires on the umpire

1 selection panel pursuant to R.S. 22:1807.26, and the commissioner shall select an
2 umpire from the umpire selection panel to which neither appraiser objected.

3 H. The commissioner shall notify the umpire selected pursuant to Subsection
4 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. An umpire shall disclose any potential conflicts of interest provided for
8 in R.S. 22:1807.16 to both parties within five days after being hired and before the
9 beginning any work. A person shall not serve as umpire in an appraisal for which
10 the person has a disqualifying conflict of interest.

11 B. The umpire may begin work only if the insurer's appraiser and the
12 claimant's appraiser fail to reach an agreement on the appraisal amount and the
13 appraisers direct the umpire in writing to begin work.

14 C. The parties and appraisers may request the umpire to review any
15 information related to the claim including, but not limited to itemized estimates,
16 supporting documents, photographs, and diagrams. The umpire must review all
17 information the appraisers and parties submit related to the dispute, including the
18 itemized appraisals. At a party's request, the umpire may also consider any conflicts
19 of interest or objections to appraisers. The umpire shall allow each appraiser a fair
20 opportunity to present evidence and arguments. The umpire may ask questions and
21 request documents or other evidence, including expert reports.

22 D. The umpire's work shall only cover items about which the appraisers
23 disagree. The umpire shall review the differences and seek agreement with one or
24 both appraisers regarding the disputed items. The umpire may accept either
25 appraiser's scope, quantity, value, or cost regarding an item in dispute or may
26 develop an independent decision on an item in dispute. The umpire shall not visit
27 the claimant's property without consent from both appraisers.

28 E. An itemized decision agreed to by both appraisers or by one appraiser and
29 the umpire is binding on the parties as to the amount of loss the insurer will pay for

1 the claim. The umpire may enter into an itemized decision with one or both
2 appraisers on a compromise basis. The umpire may issue a decision if an agreement
3 is reached on the amount of the loss, even if there is disagreement as to some of the
4 individual items. The umpire shall promptly give the parties and the appraisers an
5 itemized written decision after a decision is reached.

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

8 (1) The umpire shall not withdraw or abandon the appraisal, unless
9 compelled to do so by unanticipated circumstances that would render it impossible
10 or impractical to continue.

11 (2) The umpire shall not be present or participate in settlement discussions,
12 unless requested by both parties.

13 (3) The umpire shall decide all matters fairly, exercising independent
14 judgment and integrity. An umpire shall not permit outside influence affect the
15 appraisal and shall not delegate the umpire's decision provided for in Subsection E
16 of this Section to any other person.

17 G. The umpire shall disclose all fees and state whether fees will be charged
18 for a minimum number of hours. The umpire may specify different charges for
19 different types or values of claims. The umpire shall not charge the parties on a
20 contingent fee basis, percentage of the decision, barter arrangement, gift, favor, or
21 in-kind exchange. The provisions of this Subsection do not apply to umpires
22 selected pursuant to R.S. 22:1807.19.

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 being selected 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 the parties of their right to object to the umpire
3 and the method through which the parties may object pursuant to R.S. 22:1807.26.

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

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

10 (4) The umpire shall charge an hourly rate of one-hundred fifty dollars and
11 may charge a two-hour minimum fee.

12 (5) The parties shall not pay an umpire on a contingent fee basis, percentage
13 of the decision, barter arrangement, gift, favor, or in-kind exchange.

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

18 §1807.22. Prohibited communications

19 A. All of the following provisions apply after an umpire is selected and
20 before the appraisal is resolved:

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

24 (2) The parties and appraiser shall not communicate with the umpire
25 regarding the appraisal without including the other party or appraiser, except 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 an umpire is notified that the umpire may be on an umpire selection
7 panel, the umpire shall not at any time communicate any information about the
8 appraisal with anyone besides the parties, the insurer, the appraisers, and the
9 commissioner. However, the umpire may communicate information about the
10 appraisal with the written consent of both parties.

11 §1807.23. Costs

12 A. Each party shall pay half of all reasonable and necessary costs incurred
13 or charged in connection with the appraisal, including all of the following:

14 (1) The appraisers' fees.

15 (2) The umpire's fee.

16 (3) The umpire's travel costs.

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

19 C. The commissioner is not responsible for any appraisal costs.

20 §1807.24. Extensions of deadlines

21 A. For good cause, the commissioner may extend any deadline provided in
22 this Subpart, except the deadline for the umpire to notify the parties that the umpire
23 is insured by the insurer.

24 B. To request the commissioner to extend a deadline, a party, appraiser, or
25 umpire shall send the request in writing to the commissioner pursuant to the
26 provisions of R.S. 22:1807.25. The request shall explain the good cause for the
27 extension. Good cause includes military deployment of the claimant.

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

4 §1807.25. Requests and submissions to the commissioner

5 A. Items submitted to the commissioner pursuant to this Subpart shall be
6 hand delivered, mailed, or sent in a manner that is otherwise acceptable to the
7 commissioner.

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

10 C. If a party submits a request to the commissioner pursuant to this section,
11 the party shall provide a copy of the request to the other party within the same day
12 the request is submitted to the commissioner.

13 §1807.26. Objections

14 A.(1) A party or appraiser may object to an umpire for good cause no later
15 than three days after the party or appraiser receives the selection panel, based on the
16 information provided with the selection panel or based on other information not
17 provided with the selection panel that is known to the party or the appraiser at the
18 time the selection panel is received.

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

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

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

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

27 B. For the purposes of this Section, good cause for an objection includes any
28 of the following:

29 (1) Any conflict of interest provided for in R.S. 22:1807.14 or 1807.16.

1 (2) An umpire who lacks independence or is unable to competently or
2 promptly handle the duties of an umpire.

3 (3) Any other reasons that would reasonably be expected to impair the
4 appraisal.

5 C. All objections shall be sent to the commissioner pursuant to the provisions
6 of R.S. 22:1807.25 and shall include all of the following information:

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

8 (2) The name of the person submitting the objection.

9 (3) The insurer's claim number.

10 (4) The name of the umpire that the party or appraiser wants to object to.

11 (5) An explanation of the good cause for objecting to the mediator or umpire.

12 (6) An explanation of any direct financial or personal interest that the umpire
13 has in the outcome of the dispute.

14 D. If the commissioner determines that good cause exists to replace an
15 umpire who was selected for a dispute, the commissioner shall select a replacement
16 umpire.

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 604 Original

2023 Regular Session

Garofalo

Abstract: Requires the La. Dept. of Insurance to establish and maintain an umpire registry to be known as the "Umpire Roster" which shall function as a repository individuals who can aid in the appraisal process.

Proposed law requires that the La. Dept. of Insurance (LDI) establish, inaugurate, and maintain a registry of individuals who successfully meet the qualifications demonstrated in proposed law, have no current or preexisting conflicts of interest that would prevent them from being unbiased in the appraisal process, and possess the credentials to effectively contribute to the appraisal process.

Present law prohibits and does not condone the false representation of an appraiser.

Present law forbids a person who is not a qualified or actual appraiser from conducting any business in furtherance of the appraisal process.

Proposed law retains present law and makes technical changes.

Present law provides that no person shall act as, or hold himself out to be, an appraiser unless such person has successfully registered with the commissioner of insurance as an appraiser.

Proposed law retains present law and makes technical changes.

Present law provides that an appraiser must register with the commissioner of insurance on a form prescribed by the commissioner and pay the requisite fee's as required by present law.

Proposed law retains present law and makes technical changes.

Present law stipulates that an appraiser's application shall remain on file for 1 year.

Proposed law retains present law and makes technical changes.

Present law empowers the commissioner of insurance to adopt rules and regulations in accordance with the Administrative Procedure Act. Present law further authorizes the commissioner of insurance to pursue all actions necessary, proper, and appropriate to enforce present law.

Proposed law retains present law and makes technical changes.

Present law authorizes the commissioner of insurance to obstruct an appraiser from committing violations of present law. Present law further empowers the commissioner of insurance to issue an order prohibiting a person from falsely presenting himself as an appraiser or exhibiting conduct that may be deemed a violation of present law.

Proposed law defines "appraiser", "claimant", "party", "umpire", "umpire roster", and "umpire selection panel".

Proposed law authorizes the initiation of an appraisal process, without limitation, if all of the following circumstances apply:

- (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.
- (3) The claimant or insurer demands an appraisal pursuant to the insurer's policy.

Proposed law mandates that the appraisal process begin with the insurer and the claimant selecting an appraiser. Proposed law further provides that the appraiser must be independent and qualified.

Proposed law provides that in order to qualify as an appraiser, a person must be one of the following:

- (1) A Louisiana licensed engineer or architect with experience and training in building construction, repair, estimating, or investigation of property damage.
- (2) A Louisiana licensed adjuster or public adjuster with experience and training in estimating property damage.
- (3) A Louisiana licensed general contractor with experience and training in building construction, repair, or estimating property damage.

Proposed law stipulates that an appraiser has a duty and obligation to consider all information provided by the parties and any other reasonably available evidence material to the claim, follow the insurer's insurance policy when making the appraisal process, and

carefully decide all issues submitted for termination regarding the amount of loss. Proposed law further mandates that an appraiser give the parties and the other appraiser an itemized written appraisal and conduct the appraisal process to advance the fair and efficient resolution of the matters submitted for decisions

Proposed law provides that a person will be not deemed qualified to serve as an appraiser if any potential or actual conflicts of interest exist.

Proposed law provides that once the appraisal process has commenced, the insurer and the claimant have an obligation to advise each other of the appraisal process fees within 5 days of successfully agreeing upon and selecting an appraiser.

Proposed law authorizes and empowers an appraiser to select an umpire who is independent and qualified.

Proposed law provides that if the claimant's appraiser and the insurer's appraiser fail to agree upon, select, or hire an umpire, the commissioner of insurance is obliged to select an umpire after reviewing the following: the type of policy, a description of the claim, the insurer's claim acceptance letter, and any other information that the commissioner requests.

Proposed law provides that the umpire shall participate in the resolution of the dispute if the appraisers fail to agree on a decision.

Proposed law provides that in order to qualify as an umpire, a person must meet the following requirements:

- (1) Be an engineer, architect, adjuster, general contractor, attorney, or a former or presiding judge.
- (2) Have no pre-existing or current conflicts of interest.

Proposed law mandates that to be placed on the umpire roster, a person must register with the commissioner of insurance and successfully meet the qualifications.

Proposed law stipulates the information that must be disclosed in an prospective candidate's registration form.

Proposed law provides that it is within the commissioners discretion to limit the number of umpires on the roster. Proposed law further provides that a person shall not be listed on the umpire roster until the commissioner sends written notice of placement on the roster.

Proposed law provides for the publication of the umpire roster.

Proposed law provides for the mandatory reporting of any or all conflicts of interest.

Proposed law provides that an umpire shall not remain on the roster for more than 3 years, unless and until, the umpire submits a new registration to the commissioner.

Proposed law provides for the voluntary and involuntary removal of an umpire from the roster.

Proposed law mandates that in the event that the insurer's appraiser and the claimant's appraiser cannot agree an umpire, the parties may request that the commissioner of insurance select the umpire. Proposed law further mandates that whomever the commissioner of insurance selects to serve as an umpire, must accept or reject the selection within 5 days.

Proposed law authorizes the commissioner of insurance to assemble and promulgate a umpire selection panel to assist him in assessing and considering specific qualifications, prior experience, and the resume's of prospective candidates.

Proposed law provides for the notification of selection by the commissioner of insurance to the selected umpire.

Proposed law provides that an umpire may only begin work if the insurer's appraiser and the claimant's appraiser fail to reach an agreement on the appraisal amount. Proposed law further provides that an appraiser must direct an umpire on when and where to begin work, and this direction must be relayed in writing.

Proposed law provides that the parties and the appraiser may request that the umpire review any information related to the claim including but not limited to itemized estimates, supporting documents, photographs, and diagrams.

Proposed law provides that before the umpire begins work, the parties and the umpire shall sign an appraisal contract which shall require the parties and the umpire to comply with the provisions of proposed law and provide that each party shall pay half of all appraisal costs.

Proposed law provides that the umpire's work shall only cover items about which the appraisers disagree. Proposed law further provides that the umpire review the differences and seek an agreement with one or both appraisers regarding the disputed items.

Proposed law prohibits an appraiser or umpire from doing any of the following:

- (1) Permit outside pressure to affect the appraisal.
- (2) Delegate the duty to decide to any other person.
- (3) Communicate with an umpire without the claimant, the insurer, or their appraiser being present.

Proposed law stipulates that the commissioner of insurance is not responsible for any of the fee's associated with the appraisal process.

Proposed law provides that each party shall pay half of all reasonable and necessary costs incurred or charged in connection with the appraisal process.

Proposed law provides that it is within the commissioner of insurance's discretion to extend deadlines. Proposed law provides that the commissioner of insurance shall not extend a deadline without first receiving a request in writing from a party, appraiser, or umpire.

(Amends and reenacts Part XI of Chapter 5 of Title 22 of the Louisiana Revised Statutes of 1950)