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## DIGEST

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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)