

GREEN SHEET REDIGEST

HB 609

2024 Regular Session

Firment

INSURANCE: Provides for the appraisal process and employment of umpires.

DIGEST

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.

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 authorizes a person aggrieved by a decision, act, or order of the commissioner to demand a hearing in accordance with the APA.

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 provides that proposed law does not authorize the commissioner to regulate the practice of law.

Proposed law provides an umpire appointed by a court is subject to the supervision of the appointing court for the performance of his duties.

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 a judge to select an umpire if the appraisers are unable to agree on an umpire.

Proposed law requires the selected umpire to participate in the resolution of the dispute if the appraisers fail to reach an agreement and instructs the umpire in writing to begin work or if the period for the appraisers to complete their work has expired, then either appraiser may instruct the umpire to begin work.

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. Further provides conflicts of interest that would disqualify an appraiser.

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 provides for an umpire selection panel. Provides that if appraisers do not agree to an umpire from the umpire selection panel, each appraiser may object and may agree, in writing, to the commissioner selecting an umpire from the umpire selection panel using a random selection method. Further provides that if the appraisers do not both agree in writing to the random selection, a judge will appoint the umpire.

Proposed law provides the job responsibilities of an umpire, lists prohibited activities, and specifies all prohibited communications. Provides any potential umpire electing to be included in the commissioner's umpire list is required to comply with the requirements of the proposed law.

Proposed law provides a judge selecting an umpire shall select an umpire qualified pursuant to proposed law.

Proposed law requires certain provisions of the proposed law apply when appraisers agree to request the commissioner to submit an umpire selection panel.

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 provides the request for an extension is required to be filed where the property is located.

Proposed law provides appraisers may jointly agree to extend a deadline.

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.

Proposed law provides certain requirements for an appraisal award.

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), 1807.1-1807.27, and 1892(G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Authorize a person aggrieved by a decision, act, or order of the commissioner to demand a hearing in accordance with the APA.
2. Provide that proposed law does not authorize the commissioner to regulate the practice of law.
3. Add a list of conflicts of interest that would disqualify an appraiser.
4. Remove the option for a judge to select an umpire from the list maintained by the commissioner. Require a judge to select an umpire qualified by proposed law.
5. Clarify proposed law to provide that if appraisers do not agree to an umpire from the umpire selection panel, each appraiser may object and may agree, in writing, to the commissioner selecting an umpire from the umpire selection panel using a random selection method. Further provide that if the appraisers do not both agree in writing to that selection, a judge will appoint the umpire.
6. Remove references to the commissioner's authority to appoint umpires.
7. Make technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill

1. Makes technical changes.
2. Provides an umpire is subject to the supervision of the appointing court under certain circumstances.
3. Provides either appraiser may instruct the umpire to begin work under certain circumstances.
4. Requires a judge selecting an umpire to select an umpire that is qualified pursuant to proposed law.
5. Requires certain provisions apply to appraisers that agree to request the commissioner to submit an umpire selection panel.
6. Provides the request for an extension is required to be filed where the property is located.
7. Provides appraisers may jointly agree to extend a deadline.

8. Provides certain requirements for appraisal awards.