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General Counsel**

This association has been formed to establish and maintain the highest level of professional standards and services for the purposes of protecting the rights of the insured and insurers in the Appraisal process.

THE APPRAISAL PROCESS

CURRENT CONDITIONS AND NEEDED CHANGES

By

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Purpose and Objectives:

- To establish and organize Insurance Appraisers and Insurance Umpires to better serve the interests of all parties in a fair and equitable manner while maintaining the highest standards of professional and ethical conduct.
- To establish representation before governmental agencies in matters involving legislative or administrative issues of general importance regarding Appraisers and Umpires.

- To assist in the enactment of all laws and regulations pertaining to Insurance Appraisers and Umpires that may be enacted by the U.S. Government, the Florida Legislature and/or the Department of Financial Services.
- Improve the understanding of the insurance appraisal process by educating umpires, appraisers, government bodies, and other interested parties based upon case law, proposed legislation and our member's professional experience.

- Establish universal forms and procedures to facilitate the expeditious and proper handling of insurance appraisals.

CURRENT STATUS:

- THE APPRAISAL PROCESS IS PART OF THE INSURANCE CONTRACT OF SOME CARRIERS

MOST APPRAISAL PROVISIONS SAY:

- DEMAND AN APPRAISAL OF THE LOSS. IN THIS EVENT, EACH PARTY WILL CHOOSE A **COMPETENT** APPRAISER WITHIN 20 DAYS AFTER RECEIVING A WRITTEN REQUEST FROM THE OTHER. THE TWO APPRAISERS WILL CHOOSE AN UMPIRE. IF THEY CANNOT AGREE UPON AN UMPIRE WITHIN 15 DAYS, YOU OR WE MAY REQUEST THAT THE CHOICE BE MADE BY A JUDGE OF A COURT OF RECORD IN THE STATE...EACH SIDE WILL BEAR THEIR OWN COSTS AND SPLIT THE COSTS OF THE UMPIRE EQUALLY

- THE APPRAISAL LANGUAGE IS DIFFERENT IN EACH COMPANY'S POLICY IF THE APPRAISAL PROCESS EXISTS
- CITIZENS POLICY LANGUAGE CHANGES ON JANUARY 1ST TO

CONDITIONS

E. Mediation Or Appraisal

2. Appraisal. If you and we fail to agree on the amount of loss, either may request an appraisal of the loss by presenting the other party with a written request for appraisal of the amount of loss. If the other party agrees in writing to participate in appraisal, then appraisal shall proceed pursuant to the terms of a written agreement between the parties

CASE LAW

- APPRAISAL CLAUSES ARE TREATED SIMILARLY TO ARBITRATION CLAUSES. SEE **ALLSTATE INS. CO. V. SUAREZ**, 786 SO.2D 645,646 (FLA. 3D DCA 2001)
- PERSONAL BIAS OF INSURED HOMEOWNER'S APPRAISER AGAINST INSURER DID NOT RENDER HIM INCOMPETENT TO SERVE AS AN APPRAISER; THE POLICY REQUIRED THE APPRAISER TO BE COMPETENT, BUT DID NOT REQUIRE HIM TO BE NEUTRAL OR INDEPENDENT... **CITIZENS PROPERTY INSURANCE CORP V. M.A. & F.H. PROPERTIES LTD.**, 948 SO.2D 1017 (FLA. 3D 2007)

- WHEN THE INSURER ADMITS THAT THERE IS A COVERED LOSS, BUT THERE IS A DISAGREEMENT ON THE AMOUNT OF LOSS, IT IS FOR THE APPRAISERS TO ARRIVE AT THE AMOUNT TO BE PAID. IN THAT CIRCUMSTANCE, THE APPRAISERS ARE TO INSPECT THE PROPERTY AND SORT OUT HOW MUCH IS TO BE PAID ON ACCOUNT OF A COVERED PERIL. IN DOING SO, THEY ARE TO EXCLUDE PAYMENT FOR A CAUSE NOT COVERED, SUCH AS NORMAL WEAR AND TEAR, DRY ROT, OR VARIOUS OTHER DESIGNATED, EXCLUDED CAUSES.

**GONZALEZ V. STATE FARM, 805 SO.2D 815
(FLA 1996)**

- CAUSATION IS A COVERAGE QUESTION FOR THE COURT WHEN AN INSURER WHOLLY DENIES THAT THERE IS A COVERED LOSS AND AN AMOUNT-OF-LOSS QUESTION FOR THE APPRAISAL PANEL WHEN AN INSURER ADMITS THAT THERE IS A COVERED LOSS, THE AMOUNT OF WHICH IS DISPUTED.

IT IS PERMISSIBLE FOR AN APPRIASAL PANEL TO DECIDE CAUSATION ISSUES WHEN CAUSATION IS NOT A COVERAGE QUESTION, BUT RATHER AN AMOUNT-OF-LOSS QUESTION. **STATE FARM V. LICEA, 685 SO.2D 1285 (FLA. 1996)**

- COURT ORDERED UMPIRE TO DERIVE AT AMOUNT OF TOTAL LOSS AND TO BREAKDOWN THAT AMOUNT BY EXCLUDED CAUSES, UMPIRE DID NOT COMPLY WITH THAT ORDER, AND UMPIRE MADE FACTUAL FINDINGS AS TO CAUSATION EVEN THOUGH COURT HAD RESERVED CAUSATION ISSUE FOR ITSELF. KENDALL LAKES TOWNHOMES V. AGRICULTURAL EXCESS, 916 SO.2D 12 (FLA. 3RD DCA 2005)

CURRENT REQUIREMENTS TO BE AN UMPIRE AND/OR APPRAISER

- APPRAISER - NONE FOR INSURANCE COMPANY

ARGUABLY MUST BE PUBLIC ADJUSTER
FOR THE INSURED

626.854 "Public adjuster" defined; prohibitions.--

The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

- (1) A "public adjuster" is any person, except a duly licensed attorney at law as hereinafter in s. [626.860](#) provided, who, for money, commission, or any other thing of value, prepares, completes, or files an insurance claim form for an insured or third-party claimant or who, for money, commission, or any other thing of value, acts or aids in any manner on behalf of an insured or third-party claimant in negotiating for or effecting the settlement of a claim or claims for loss or damage covered by an insurance contract or who advertises for employment as an adjuster of such claims, and also includes any person who, for money, commission, or any other thing of value, solicits, investigates, or adjusts such claims on behalf of any such public adjuster.
- (2) This definition does not apply to:
 - (a) A licensed health care provider or employee thereof who prepares or files a health insurance claim form on behalf of a patient.
 - (b) A person who files a health claim on behalf of another and does so without compensation.

- UMPIRE – COMPETENT, NOT DEFINED
- WHAT HAPPENS WHEN AN ADJUSTER (PUBLIC, INDEPENDENT OR COMPANY) LOSES THEIR LICENSE

THEY BECOME APPRAISERS AND/OR UMPIRES

- EVEN CONVICTED FELONS CAN BE APPRAISERS/UMPIRES

WHAT IS NEEDED:

A. LICENSING

1. APPRAISER NEEDS TO BE AN ADVOCATE FOR HIS CLIENT (INSURER/INSURED)
2. AN UMPIRE NEEDS TO BE SIMILAR TO A JUDGE NEUTRAL AND DECIDES BETWEEN THE TWO APPRAISERS
 - a) (NO SPLITTING THE BABY)
 - b) THE UMPIRE NEEDS TO MAKE HIS/HER OWN DETERMINATION OF DAMAGES AND
 - c) ONLY RULE ON THE DIFFERENCES BETWEEN THE APPRAISERS

- B. STANDARDS INCLUDING NO CONVICTED FELONS AND NO ONE WHO HAS HAD THEIR LICENSE REVOKED (INSURANCE ADJUSTERS, ENGINEERS, GC, ATTORNEY, CPA OR MARINE SURVEYOR)

- C. MUST HAVE AT LEAST ONE PROFESSIONAL LICENSE IN THE STATE OF FLORIDA (INSURANCE ADJUSTER, ENGINEER, GENERAL CONTRACTOR, ATTORNEY, CPA, MARINE SURVEYOR)

D. EDUCATION (BOTH APPRAISER AND UMPIRE)

1. CLASSES ON INSURANCE POLICY INTERPRETATION
2. CLASSES ON CONSTRUCTION INCLUDING WAYS TO REPAIR/REPLACE AND ESTIMATING
3. ENGINEERING CLASSES TO HELP DETERMINE CAUSES OF LOSS
4. ORIGIN AND CAUSE CLASSES ON FIRE INVESTIGATIONS
5. ACCOUNTING PRINCIPALS FOR BUSINESS INCOME CLAIMS

**E. STANDARD POLICY LANGUAGE OR
STATUTORY LANGUAGE DEFINING
APPRAISAL**

QUESTIONS