

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by adding
5 Section 5.866 as follows:

6 (30 ILCS 105/5.866 new)

7 Sec. 5.866. The Appraisal Management Company Recovery
8 Fund.

9 Section 10. The Real Estate License Act of 2000 is amended
10 by changing Section 10-45 as follows:

11 (225 ILCS 454/10-45)

12 (Section scheduled to be repealed on January 1, 2020)

13 Sec. 10-45. Broker price opinions and comparative market
14 analyses.

15 (a) A broker price opinion or comparative market analysis
16 may be prepared or provided by a real estate broker or managing
17 broker for any of the following:

18 (1) an existing or potential buyer or seller of an
19 interest in real estate;

20 (2) an existing or potential lessor or lessee of an
21 interest in real estate;

1 (3) a third party making decisions or performing due
2 diligence related to the potential listing, offering,
3 sale, option, lease, or acquisition price of an interest in
4 real estate; or

5 (4) an existing or potential lienholder or other third
6 party for any purpose other than as the primary basis to
7 determine the market value of an interest in real estate
8 for the purpose of a mortgage loan origination by a
9 financial institution secured by such real estate.

10 (b) A broker price opinion or comparative market analysis
11 shall be in writing either on paper or electronically and shall
12 include the following provisions:

13 (1) a statement of the intended purpose of the broker
14 price opinion or comparative market analysis;

15 (2) a brief description of the interest in real estate
16 that is the subject of the broker price opinion or
17 comparative market analysis;

18 (3) a brief description of the methodology used to
19 develop the broker price opinion or comparative market
20 analysis;

21 (4) any assumptions or limiting conditions;

22 (5) a disclosure of any existing or contemplated
23 interest of the broker or managing broker in the interest
24 in real estate that is the subject of the broker price
25 opinion or comparative market analysis;

26 (6) the name, license number, and signature of the

1 broker or managing broker that developed the broker price
2 opinion or comparative market analysis;

3 (7) a statement in substantially the following form:

4 "This is a broker price opinion/comparative market
5 analysis, not an appraisal of the market value of the real
6 estate, and was prepared by a licensed real estate broker
7 or managing broker who was not acting as ~~by~~ a State
8 certified real estate appraiser."; and

9 (8) such other items as the broker or managing broker
10 may deem appropriate.

11 (Source: P.A. 98-1109, eff. 1-1-15.)

12 Section 15. The Appraisal Management Company Registration
13 Act is amended by changing Sections 55 and 65 and by adding
14 Sections 56 and 57 as follows:

15 (225 ILCS 459/55)

16 Sec. 55. Fees.

17 (a) The fees for the administration and enforcement of this
18 Act, including, but not limited to, original registration,
19 renewal, and restoration fees, shall be set by the Department
20 by rule. The fees shall not be refundable.

21 (b) All fees and other moneys collected under this Act
22 shall be deposited in the Appraisal Administration Fund, except
23 as provided by Section 56 of this Act.

24 (Source: P.A. 97-602, eff. 8-26-11.)

1 (225 ILCS 459/56 new)

2 Sec. 56. Appraisal Management Company Recovery Fund.

3 (a) In addition to any other fee provided for under this
4 Act, the Secretary, upon the recommendation of the Board, may
5 charge a fee not to exceed \$500 to be paid at the time of
6 submission of an original application and each renewal
7 application to register as an appraisal management company.
8 These fees shall be deposited in the Appraisal Management
9 Company Recovery Fund.

10 (b) Any moneys remaining in the Appraisal Management
11 Company Recovery Fund at the close of the fiscal year shall not
12 lapse, but shall be carried forward into the succeeding fiscal
13 year.

14 (c) Notwithstanding any other law to the contrary, the
15 Appraisal Management Company Recovery Fund is not subject to
16 sweeps, administrative charge-backs, or any other fiscal or
17 budgetary maneuver that would in any way transfer any amounts
18 from the Appraisal Management Company Recovery Fund into any
19 other fund of the State.

20 (225 ILCS 459/57 new)

21 Sec. 57. Administration of the Appraisal Management
22 Company Recovery Fund.

23 (a) The Department, with the assistance of the Board,
24 shall, subject to appropriation, administer the Appraisal

1 Management Company Recovery Fund solely to provide restitution
2 to each State-certified general real estate appraiser or
3 State-certified residential real estate appraiser who has
4 suffered pecuniary loss as provided in subsection (b) of this
5 Section or to award the Department expenses, fines, or fees:

6 (1) as a result of an appraisal management company
7 ceasing to be registered with the Department, either
8 voluntarily or involuntarily or having been determined as
9 being bankrupt by a federal bankruptcy court;

10 (2) if an appraiser has received a final judgment from
11 a court of competent jurisdiction or a federal bankruptcy
12 court has discharged the debt in a bankruptcy proceeding;

13 (3) the unpaid appraisal fee was for an appraisal of
14 real estate located in the State of Illinois; and

15 (4) if no viable alternative for full restitution is
16 available, as determined by the Board.

17 If a federal bankruptcy court has discharged debts for
18 expenses, fines, or fees due to or levied by the Department in
19 accordance with this Act, the Board shall, prior to making a
20 recommendation to award any State-certified general real
21 estate appraiser or State-certified residential real estate
22 appraiser any funds, recommend awarding the Department
23 sufficient funds from the Appraisal Management Company
24 Recovery Fund to pay expenses, fines, or fees due the
25 Department from the bankrupt appraisal management company. The
26 award shall not exceed \$25,000, except as provided in this

1 Section.

2 No funds shall be paid without the approval, in writing, of
3 the Secretary.

4 (b) Each fund distribution for restitution shall be made
5 payable to the appropriate Illinois resident appraiser as
6 approved by the Secretary after consideration of the
7 recommendation of the Board. The amount to be paid to the
8 appraiser shall equal the actual amount of appraisal fees that
9 are proven to be owed to the appraiser by the relevant
10 appraisal management company and any reasonable and
11 appropriate court costs associated with determining the final
12 judgment in favor of the appraiser. If the amount of
13 restitution to be paid to any one or more appraisers at any one
14 time exceeds the balance in the Appraisal Management Company
15 Recovery Fund, the Board, in making its recommendation, shall:

16 (1) distribute as much of the restitution amount as
17 possible, which shall be deemed to satisfy in full any
18 claim the relevant appraisers have on payments from the
19 Appraisal Management Company Recovery Fund; and

20 (2) in the case of distributions to more than one
21 appraiser, provide for a pro rata distribution of the
22 available fund balance, which shall be deemed to satisfy in
23 full any claim the relevant appraisers have on payments
24 from the Appraisal Management Company Recovery Fund.

25 If, after payment of restitution is made as provided in
26 this subsection (b), any funds remain, the Department shall be

1 entitled to an award of any amounts remaining owed to the
2 Department after payment of the initial \$25,000 provided for in
3 subsection (a) of this Section.

4 (c) Whenever restitution or an award is paid by the
5 Appraisal Management Company Recovery Fund, the Fund shall be
6 subrogated to the amount of the restitution or award.

7 (d) The Department shall adopt rules in accordance with the
8 Illinois Administrative Procedure Act that impose the fees
9 assessed on appraisal management companies under Section 56 of
10 this Act whenever the balance of the Fund is less than \$500,000
11 and shall suspend imposing fees when the balance of the Fund is
12 \$500,000 or more.

13 (225 ILCS 459/65)

14 Sec. 65. Disciplinary actions.

15 (a) The Department may refuse to issue or renew, or may
16 revoke, suspend, place on probation, reprimand, or take other
17 disciplinary or non-disciplinary action as the Department may
18 deem appropriate, including imposing fines not to exceed
19 \$25,000 for each violation, with regard to any registration for
20 any one or combination of the following:

21 (1) Material misstatement in furnishing information to
22 the Department.

23 (2) Violations of this Act, or of the rules adopted
24 under this Act.

25 (3) Conviction of, or entry of a plea of guilty or nolo

1 contendere to any crime that is a felony under the laws of
2 the United States or any state or territory thereof or that
3 is a misdemeanor of which an essential element is
4 dishonesty, or any crime that is directly related to the
5 practice of the profession.

6 (4) Making any misrepresentation for the purpose of
7 obtaining registration or violating any provision of this
8 Act or the rules adopted under this Act pertaining to
9 advertising.

10 (5) Professional incompetence.

11 (6) Gross malpractice.

12 (7) Aiding or assisting another person in violating any
13 provision of this Act or rules adopted under this Act.

14 (8) Failing, within 30 days after requested, to provide
15 information in response to a written request made by the
16 Department.

17 (9) Engaging in dishonorable, unethical, or
18 unprofessional conduct of a character likely to deceive,
19 defraud, or harm the public.

20 (10) Discipline by another state, District of
21 Columbia, territory, or foreign nation, if at least one of
22 the grounds for the discipline is the same or substantially
23 equivalent to those set forth in this Section.

24 (11) A finding by the Department that the registrant,
25 after having his or her registration placed on probationary
26 status, has violated the terms of probation.

1 (12) Willfully making or filing false records or
2 reports in his or her practice, including, but not limited
3 to, false records filed with State agencies or departments.

4 (13) Filing false statements for collection of fees for
5 which services are not rendered.

6 (14) Practicing under a false or, except as provided by
7 law, an assumed name.

8 (15) Fraud or misrepresentation in applying for, or
9 procuring, a registration under this Act or in connection
10 with applying for renewal of a registration under this Act.

11 (16) Being adjudicated liable in a civil proceeding for
12 violation of a state or federal fair housing law.

13 (17) (Blank). ~~Failure to obtain or maintain the bond~~
14 ~~required under Section 50 of this Act.~~

15 (b) The Department may refuse to issue or may suspend
16 without hearing as provided for in the Civil Administrative
17 Code the registration of any person who fails to file a return,
18 or to pay the tax, penalty or interest shown in a filed return,
19 or to pay any final assessment of the tax, penalty, or interest
20 as required by any tax Act administered by the Illinois
21 Department of Revenue, until such time as the requirements of
22 any such tax Act are satisfied.

23 (Source: P.A. 97-602, eff. 8-26-11.)

24 (225 ILCS 459/50 rep.)

25 Section 20. The Appraisal Management Company Registration

1 Act is amended by repealing Section 50.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.