



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2962

by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.891 new
225 ILCS 459/55
225 ILCS 459/56 new
225 ILCS 459/57 new
225 ILCS 459/65
225 ILCS 459/50 rep.

Amends the Appraisal Management Company Registration Act. Creates the Appraisal Management Company Recovery Fund. Provides that upon recommendation of the Board, the Secretary of Financial and Professional Regulation may charge a fee no greater than \$500 to be paid at the time of submission of an original application and each renewal application to register as an appraisal management company, and directs those fee to be deposited in the Appraisal Management Company Recovery Fund (AMCRF). Provides that any money remaining in the in the AMCRF at the close of the fiscal year will not lapse, but it shall be carried forward into the succeeding fiscal year. Provides that notwithstanding any other law to the contrary, the AMCRF is not subject to sweeps, administrative charge-backs, or any other fiscal budgetary maneuver that would in any way transfer any amounts from the AMCRF into any other fund of the State. Requires in writing, the approval of the Secretary prior to any funds being paid. Provides specifications for the use of fund money which will be paid to any appraisal management companies who are owed restitution. Repeals provision that a registrant under the Act must maintain a \$25,000 bond that may be used only for the recovery of expenses or the collection of fines or fees due to or levied by the Department of Financial and Professional Regulation. Makes other changes. Effective immediately.

LRB101 07592 JRG 52639 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 5.891 as follows:

6 (30 ILCS 105/5.891 new)

7 Sec. 5.891. The Appraisal Management Company Recovery
8 Fund.

9 Section 10. The Appraisal Management Company Registration
10 Act is amended by changing Sections 55 and 65 and by adding
11 Sections 56 and 57 as follows:

12 (225 ILCS 459/55)

13 Sec. 55. Fees.

14 (a) The fees for the administration and enforcement of this
15 Act, including, but not limited to, original registration fees,
16 renewal fees, appraiser panel fees, appraiser management
17 company national registry fees, and restoration fees, shall be
18 set by the Department by rule. The fees shall not be
19 refundable.

20 (b) All fees and other moneys collected under this Act
21 shall be deposited in the Appraisal Administration Fund, except

1 as provided in subsection (d) of this Section.

2 (c) The Department shall establish by rule a process for
3 calculating, collecting, and paying appraiser panel fees and,
4 where applicable, appraiser management company national
5 registry fees in a manner consistent with Title XI of the
6 federal Financial Institutions Reform, Recovery, and
7 Enforcement Act of 1989.

8 (d) The administration fee charged by the multi-state
9 licensing system shall be paid directly to the multi-state
10 licensing system.

11 (Source: P.A. 100-604, eff. 7-13-18.)

12 (225 ILCS 459/56 new)

13 Sec. 56. Appraisal Management Company Recovery Fund.

14 (a) In addition to any other fee provided for under this
15 Act, the Secretary, upon the recommendation of the Board, may
16 charge a fee not to exceed \$500 to be paid at the time of
17 submission of an original application and each renewal
18 application to register as an appraisal management company.
19 These fees shall be deposited in the Appraisal Management
20 Company Recovery Fund.

21 (b) Any funds remaining in the Appraisal Management Company
22 Recovery Fund at the close of the fiscal year shall not lapse,
23 but shall be carried forward into the succeeding fiscal year.

24 (c) Notwithstanding any other law to the contrary, the
25 Appraisal Management Company Recovery Fund is not subject to

1 sweeps, administrative charge-backs, or any other fiscal or
2 budgetary maneuver that would in any way transfer any amounts
3 from the Appraisal Management Company Recovery Fund into any
4 other fund of the State.

5 (225 ILCS 459/57 new)

6 Sec. 57. Administration of the Appraisal Management
7 Company Recovery Fund.

8 (a) The Department, with the assistance of the Board,
9 shall, subject to appropriation, administer the Appraisal
10 Management Company Recovery Fund solely to provide restitution
11 to each State-certified general real estate appraiser or
12 State-certified residential real estate appraiser who has
13 suffered pecuniary loss as provided in subsection (b) of this
14 Section or to award the Department expenses, fines, or fees:

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

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

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

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

1 If a federal bankruptcy court has discharged debts for
2 expenses, fines, or fees due to or levied by the Department in
3 accordance with this Act, the Board shall, prior to making a
4 recommendation to award any State-certified general real
5 estate appraiser or State-certified residential real estate
6 appraiser any funds, recommend awarding the Department
7 sufficient funds from the Appraisal Management Company
8 Recovery Fund to pay expenses, fines, or fees due the
9 Department from the bankrupt appraisal management company. The
10 award shall not exceed \$25,000, except as provided in this
11 Section.

12 No funds shall be paid without the approval, in writing, of
13 the Secretary.

14 (b) Each fund distribution for restitution shall be made
15 payable to the appropriate Illinois resident appraiser as
16 approved by the Secretary after consideration of the
17 recommendation of the Board. The amount to be paid to the
18 appraiser shall equal the actual amount of appraisal fees that
19 are proven to be owed to the appraiser by the relevant
20 appraisal management company and any reasonable and
21 appropriate court costs associated with determining the final
22 judgment in favor of the appraiser. If the amount of
23 restitution to be paid to any one or more appraisers at any one
24 time exceeds the balance in the Appraisal Management Company
25 Recovery Fund, the Board, in making its recommendation, shall:

26 (1) distribute as much of the restitution amount as

1 possible, which shall be deemed to satisfy in full any
2 claim the relevant appraisers have on payments from the
3 Appraisal Management Company Recovery Fund; and

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

9 If, after payment of restitution is made as provided in
10 this subsection (b), any funds remain, the Department shall be
11 entitled to an award of any amounts remaining owed to the
12 Department after payment of the initial \$25,000 provided for in
13 subsection (a) of this Section.

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

17 (d) The Department shall adopt rules in accordance with the
18 Illinois Administrative Procedure Act that impose the fees
19 assessed on appraisal management companies under Section 56 of
20 this Act whenever the balance of the Fund is less than \$500,000
21 and shall suspend imposing fees when the balance of the Fund is
22 \$500,000 or more.

23 (225 ILCS 459/65)

24 Sec. 65. Disciplinary actions.

25 (a) The Department may refuse to issue or renew, or may

1 revoke, suspend, place on probation, reprimand, or take other
2 disciplinary or non-disciplinary action as the Department may
3 deem appropriate, including imposing fines not to exceed
4 \$25,000 for each violation, with regard to any registration for
5 any one or combination of the following:

6 (1) Material misstatement in furnishing information to
7 the Department.

8 (2) Violations of this Act, or of the rules adopted
9 under this Act.

10 (3) Conviction of, or entry of a plea of guilty or nolo
11 contendere to any crime that is a felony under the laws of
12 the United States or any state or territory thereof or that
13 is a misdemeanor of which an essential element is
14 dishonesty, or any crime that is directly related to the
15 practice of the profession.

16 (4) Making any misrepresentation for the purpose of
17 obtaining registration or violating any provision of this
18 Act or the rules adopted under this Act pertaining to
19 advertising.

20 (5) Professional incompetence.

21 (6) Gross malpractice.

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

24 (8) Failing, within 30 days after requested, to provide
25 information in response to a written request made by the
26 Department.

1 (9) Engaging in dishonorable, unethical, or
2 unprofessional conduct of a character likely to deceive,
3 defraud, or harm the public.

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

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

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

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

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

18 (15) Fraud or misrepresentation in applying for, or
19 procuring, a registration under this Act or in connection
20 with applying for renewal of a registration under this Act.

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

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

25 (18) Failure to pay appraiser panel fees or appraisal
26 management company national registry fees.

1 (b) The Department may refuse to issue or may suspend
2 without hearing as provided for in the Civil Administrative
3 Code of Illinois the registration of any person who fails to
4 file a return, or to pay the tax, penalty or interest shown in
5 a filed return, or to pay any final assessment of the tax,
6 penalty, or interest as required by any tax Act administered by
7 the Illinois Department of Revenue, until such time as the
8 requirements of any such tax Act are satisfied.

9 (c) An appraisal management company shall not be registered
10 or included on the national registry if the company, in whole
11 or in part, directly or indirectly, is owned by a person who
12 has had an appraiser license or certificate refused, denied,
13 canceled, surrendered in lieu of revocation, or revoked under
14 the Real Estate Appraiser Licensing Act of 2002 or the rules
15 adopted under that Act, or similar discipline by another state,
16 the District of Columbia, a territory, a foreign nation, a
17 governmental agency, or an entity authorized to impose
18 discipline if at least one of the grounds for that discipline
19 is the same as or the equivalent of one of the grounds for
20 which a licensee may be disciplined as set forth under this
21 Section.

22 (Source: P.A. 100-604, eff. 7-13-18; revised 10-22-18.)

23 (225 ILCS 459/50 rep.)

24 Section 15. The Appraisal Management Company Registration
25 Act is amended by repealing Section 50.

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