



Sen. William R. Haine

Filed: 5/6/2015

09900HB3333sam001

LRB099 08627 MLM 35207 a

1 AMENDMENT TO HOUSE BILL 3333

2 AMENDMENT NO. _____. Amend House Bill 3333 by replacing
3 everything after the enacting clause with the following:

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12 (Section scheduled to be repealed on January 1, 2020)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

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

4 (1) an existing or potential buyer or seller of an
5 interest in real estate;

6 (2) an existing or potential lessor or lessee of an
7 interest in real estate;

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

12 (4) an existing or potential lienholder or other third
13 party for any purpose other than as the primary basis to
14 determine the market value of an interest in real estate
15 for the purpose of a mortgage loan origination by a
16 financial institution secured by such real estate.

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

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

22 (2) a brief description of the interest in real estate
23 that is the subject of the broker price opinion or
24 comparative market analysis;

25 (3) a brief description of the methodology used to
26 develop the broker price opinion or comparative market

1 analysis;

2 (4) any assumptions or limiting conditions;

3 (5) a disclosure of any existing or contemplated
4 interest of the broker or managing broker in the interest
5 in real estate that is the subject of the broker price
6 opinion or comparative market analysis;

7 (6) the name, license number, and signature of the
8 broker or managing broker that developed the broker price
9 opinion or comparative market analysis;

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

11 "This is a broker price opinion/comparative market
12 analysis, not an appraisal of the market value of the real
13 estate, and was prepared by a licensed real estate broker
14 or managing broker who was, not acting as ~~by~~ a State
15 certified real estate appraiser."; and

16 (8) such other items as the broker or managing broker
17 may deem appropriate.

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

19 Section 15. The Appraisal Management Company Registration
20 Act is amended by changing Sections 55 and 65 and by adding
21 Sections 56 and 57 as follows:

22 (225 ILCS 459/55)

23 Sec. 55. Fees.

24 (a) The fees for the administration and enforcement of this

1 Act, including, but not limited to, original registration,
2 renewal, and restoration fees, shall be set by the Department
3 by rule. The fees shall not be refundable.

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

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

8 (225 ILCS 459/56 new)

9 Sec. 56. Appraisal Management Company Recovery Fund.

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

17 (b) Any moneys remaining in the Appraisal Management
18 Company Recovery Fund at the close of the fiscal year shall not
19 lapse, but shall be carried forward into the succeeding fiscal
20 year.

21 (c) Notwithstanding any other law to the contrary, the
22 Appraisal Management Company Recovery Fund is not subject to
23 sweeps, administrative charge-backs, or any other fiscal or
24 budgetary maneuver that would in any way transfer any amounts
25 from the Appraisal Management Company Recovery Fund into any

1 other fund of the State.

2 (225 ILCS 459/57 new)

3 Sec. 57. Administration of the Appraisal Management
4 Company Recovery Fund.

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

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

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

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

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

23 If a federal bankruptcy court has discharged debts for
24 expenses, fines, or fees due to or levied by the Department in
25 accordance with this Act, the Board shall, prior to making a

1 recommendation to award any State-certified general real
2 estate appraiser or State-certified residential real estate
3 appraiser any funds, recommend awarding the Department
4 sufficient funds from the Appraisal Management Company
5 Recovery Fund to pay expenses, fines, or fees due the
6 Department from the bankrupt appraisal management company. The
7 award shall not exceed \$25,000, except as provided in this
8 Section.

9 No funds shall be paid without the approval, in writing, of
10 the Secretary.

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

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

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

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

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

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

20 (225 ILCS 459/65)

21 Sec. 65. Disciplinary actions.

22 (a) The Department may refuse to issue or renew, or may
23 revoke, suspend, place on probation, reprimand, or take other
24 disciplinary or non-disciplinary action as the Department may
25 deem appropriate, including imposing fines not to exceed

1 \$25,000 for each violation, with regard to any registration for
2 any one or combination of the following:

3 (1) Material misstatement in furnishing information to
4 the Department.

5 (2) Violations of this Act, or of the rules adopted
6 under this Act.

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

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

17 (5) Professional incompetence.

18 (6) Gross malpractice.

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

21 (8) Failing, within 30 days after requested, to provide
22 information in response to a written request made by the
23 Department.

24 (9) Engaging in dishonorable, unethical, or
25 unprofessional conduct of a character likely to deceive,
26 defraud, or harm the public.

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

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

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

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

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

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

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

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

22 (b) The Department may refuse to issue or may suspend
23 without hearing as provided for in the Civil Administrative
24 Code the registration of any person who fails to file a return,
25 or to pay the tax, penalty or interest shown in a filed return,
26 or to pay any final assessment of the tax, penalty, or interest

1 as required by any tax Act administered by the Illinois
2 Department of Revenue, until such time as the requirements of
3 any such tax Act are satisfied.

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

5 (225 ILCS 459/50 rep.)

6 Section 20. The Appraisal Management Company Registration
7 Act is amended by repealing Section 50.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."