



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 213 of the 132nd G.A.

**Status:** As Reported by Senate Government Oversight & Reform

**Sponsor:** Rep. Dever

**Local Impact Statement Procedure Required:** No

**Subject:** Modifies the Appraisal Management Law

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### State Fiscal Highlights

- The bill requires the Real Estate Appraiser Board to oversee the licensing of appraisal management companies (AMCs). The bill allows the Board to establish initial license and annual license renewal fees by rule, provided those fees do not exceed \$2,000.
- All license fees and other fees established in the bill are deposited into the Real Estate Appraiser Operating Fund (Fund 6A40), currently used to cover the costs to license and certify all general and residential appraisers in the state. AMC oversight and disciplinary costs would also be paid from Fund 6A40.
- The bill also makes changes to the existing Real Estate Appraisal Law dealing with the treatment of out-of-state real estate appraisers and the disciplinary process for real estate appraisers. Regarding the latter, the bill outlines a process to be followed in reaching settlement agreements for certain disciplinary actions concerning licensed real estate appraisers. This may reduce administrative hearing costs in some circumstances.

### Local Fiscal Highlights

- The bill allows the Superintendent of Real Estate and Professional Licensing or the Real Estate Appraiser Board to use orders and subpoena powers for certain disciplinary actions. The bill further allows the Board or Superintendent to request county courts of common pleas and county sheriffs to help enforce these powers.
- Any such costs to county courts of common pleas or county sheriffs would likely be minimal, and absorbed as part of the daily operating costs of these offices.

# Detailed Fiscal Analysis

## Overview

The bill modifies the Appraisal Management Law. Primarily, the bill requires the licensure of appraisal management companies (AMCs) by the Division of Real Estate and Professional Licensing in the Department of Commerce. The bill also makes many changes to the Real Estate Appraiser Law and associated licensing requirements. This analysis will focus on those provisions that have a fiscal impact, particularly on the Division of Real Estate and Professional Licensing and the Real Estate Appraiser Board within the Department of Commerce. The LSC Bill Analysis contains details about all provisions of the bill.

## Appraisal Management Company Law

The bill requires the Real Estate Appraiser Board to adopt rules that establish licensure criteria applicable to AMCs. This includes (a) procedures for the criminal records checks that are required for initial licensure, (b) nonrefundable fees for the initial appraisal management company license (which cannot exceed \$2,000), annual renewal fees (which also cannot exceed \$2,000), and late filing fees (which cannot exceed \$1,000), and (c) requirements for settlement agreements that the Superintendent of Real Estate and Professional Licensing and an appraisal management company or other person can enter into under the bill. The LSC Bill Analysis outlines the other specific areas that these rules must cover.

## Licensing

Overall, the fiscal impact of the licensure of these companies will depend on a number of different factors, most importantly the fee schedule adopted by the Board as well as the total number of appraisal management companies that apply for licensure in Ohio. The table below provides a range of estimates of potential license fee revenue under the provisions of the bill based on different fee rates and applications. In establishing the values on the table, LSC tried to find how many AMCs were registered in other states that have already passed similar legislation. LSC found four similar states that made such information readily available. Among the four states studied, Arizona had 163 registrants, Georgia had 179, Illinois had 174, and Pennsylvania had 167.

Appraisal Management Company (AMC) Registration Fees				
Fee Charged	125 AMCs	150 AMCs	175 AMCs	200 AMCs
\$1,000 annually	\$125,000	\$150,000	\$175,000	\$200,000
\$1,500 annually	\$187,500	\$225,000	\$262,500	\$300,000
\$1,750 annually	\$218,750	\$262,500	\$306,250	\$350,000
\$2,000 annually	\$250,000	\$300,000	\$350,000	\$400,000

Any revenues collected under the fees established in the bill would be deposited into the Real Estate Appraiser Operating Fund (Fund 6A40). This fund is currently used by the Department of Commerce to license and certify all general and residential

appraisers in the state, including the investigation of complaints against licensees and the holding of disciplinary hearings.

### **Licensing and certification costs**

Under the bill, there are various duties prescribed to the Superintendent of Real Estate and Professional Licensing in order to carry out the Appraisal Management Company Law (please see the LSC Bill Analysis for a full list of duties). Overall, these duties are very similar to the existing authority that exists for the certification and licensing of general and residential appraisers. However, the Superintendent is also permitted to request that the Bureau of Criminal Identification and Investigation conduct a criminal records check of any owner or controlling person of a licensee that the Superintendent has reasonable cause to believe has committed a criminal offense. The Bureau of Criminal Identification and Investigation must obtain information from the FBI as part of the criminal records check. The Superintendent may assess the licensee that is the subject of such a check a fee equal to the fee assessed for the check.

Overall, the additional costs attributable to the certification and licensing of AMCs, much like the additional licensing revenue, will depend on the number of such companies that seek to register in Ohio. As a comparison, the Division of Real Estate and Professional Licensing licenses approximately 3,000 real estate appraisers. Expenditures from the Real Estate Appraiser Operating Fund (Fund 6A40) for these purposes were \$705,855 in FY 2017. For FY 2018, \$778,175 was appropriated to cover oversight of appraisers.

### **Investigations – orders and subpoenas**

The bill allows the Real Estate Appraiser Board and the Superintendent to compel, by order or subpoena, witnesses to testify in relation to any matter over which the Board has jurisdiction. The bill gives the Board the same power as judges of county courts to administer oaths, compel the attendance of witnesses, and punish witnesses for refusal to testify. The bill establishes requirements for actions relating to the right of the Board to conduct inquiries and investigations. Service of a subpoena may be made by sheriffs or by certified mail, return receipt requested. The bill also requires witnesses to receive the fees and mileage provided under the adjudication witness fees provision of the Revised Code.

Under the bill, if a person fails to file any statement or report, obey and subpoena, give testimony or anything else required by the Board, the Board may apply to the court of common pleas of any county in the state to compel compliance. After receiving such an application, the court may (1) make an order awarding process of subpoena for the person to appear and testify, (2) order any person to give testimony and answer questions, and (3) order any person to produce books, records, or papers, as required by the Board.

Overall, these provisions could increase the costs to the Real Estate Appraiser Board to certify and license AMCs as well as county courts of common pleas. However, any such costs to county courts of common pleas would appear to be minimal, as any

such instances of the orders and subpoena provisions of the bill would seem to be infrequent. The bill does contain many other provisions relating to the required licensure documents and procedures required for both the Board and applying AMCs that can be found in the LSC Bill Analysis. However, these provisions would appear to be primarily normal licensing operating procedures and are not specifically mentioned here as they would fall into the licensing and certification costs discussed above.

## **Real estate appraisers**

### **Out-of-state licenses**

The bill permits a person who has obtained a residential real estate appraiser license, a residential real estate appraiser certificate, or a general real estate appraiser certificate from another state to obtain a license or certificate issued under the Real Estate Appraisal Law provided that the state that issued the license or certificate has requirements that meet or exceed the requirements found under the Ohio Real Estate Appraisal Law. Currently, the laws from the other state have to be substantially similar to the Ohio Real Estate Appraisal Law. It is unclear as to whether or not this provision would result in more or fewer out-of-state licenses than would occur under the current law standards.

### **Disciplinary action**

The bill permits a certificate holder, registrant, or licensee to enter into a settlement agreement with the Superintendent of Real Estate and Professional Licensing when the Superintendent finds evidence exists that the certificate holder, registrant, or licensee violated one of the specified acts prohibited under the Real Estate Appraisal Law. Under current law, there would be an administrative hearing on these matters. Therefore, this provision could potentially reduce costs to the Division of Real Estate and Professional Licensing for conducting these administrative hearings. As an example, in FY 2015, there were 89 complaint cases filed against appraisers, six license suspensions, and one license revocation.

The bill also requires the Board to take disciplinary action when a certificate holder, applicant, or licensee, or applicant is convicted of or pleads to a crime involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities, including a violation of an existing or former Ohio law, any other state law, or U.S. law that is substantially equivalent. The bill requires the Real Estate Appraiser Board to take disciplinary action in several other situations that are discussed in more detail in the LSC Bill Analysis. Overall, mandating the Board to take action in these cases could increase the number of disciplinary actions, but it is unclear as to how many additional disciplinary actions would occur.