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Kentucky Real Estate Appraisers Board

MEMORANDUM

From: Larry Disney

To: Appraisal Management Companies Registered in Kentucky

Date: September 12, 2013

Subject: Amended KRS 324A.155 and 163 Recovery Fund

As of June 25, 2013, the above referenced Kentucky statute became law within the Commonwealth of Kentucky.

With the passage of the above regulations, the requirement for an Appraisal Management Company to pay a surety bond ceased to exist. Therefore, instead of paying for and submitting proof of a surety bond with both the initial and renewing applications received after June 25, 2013, each company will pay the registration fee of \$2,000 plus the fee established for recovery fund payment.

Although KRS 324A.155, Section (2) allows a fee of \$800, the board unanimously voted for the initial recovery fee to be \$300. Therefore, the administrative regulations for revising the application form and requirement to pay the fund are currently being drafted.

Until the administrative regulation is completed, and the Administrative Regulations Review Subcommittee has approved the language and the regulation becomes final, the board staff cannot accept or recommend approval of the 2013-2014 AMC renewal applications.

At this time, it is anticipated that the administrative regulation language will be approved no later than October 1, 2013. The KREAB staff will notify all registered companies in writing and via the website as soon as the regulation is approved.

The following language is included within the KRS 324A statutes, also available for reading on the KREAB web site, KREAB.ky.gov.



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**324A.155 Appraisal management company recovery fund Purposes --
Lapsing.**

(1) There is hereby created and established in the State Treasury the appraisal management company recovery fund. The fund shall be administered by the board for the purposes set forth in Section 2 of this Act.

(2) In addition to the license fees provided for in Section 5 of this Act, upon issuance of every appraisal management company's registration, and every regular annual renewal date thereafter, the board shall charge each registrant an amount not to exceed eight hundred dollars (\$800) per year to be deposited in the appraisal management company recovery fund.

(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 46, sec. 1, effective June 25, 2013.

324A.163 Administration of appraisal management company recovery fund --Restitution to real property appraisers -- Administrative regulations --Annual public statement of income and expenses

(1) The board shall administer the appraisal management company recovery fund solely to provide restitution to each Kentucky licensed or certified real property appraiser who has suffered pecuniary loss:

(a) As a result of an appraisal management company ceasing to be Registered with the board, either voluntarily or involuntarily;

(b) If an appraiser has received a final judgment from a court of competent jurisdiction within the Commonwealth; and

(c) If no viable alternative for full restitution is available, as determined by the board.

(2) Each fund distribution for restitution shall be made payable to the appropriate appraiser as determined by the board. The amount to be paid to the appraiser shall equal the actual amount of appraisal fees that are proven to be owed to the appraiser by the relevant appraisal management company and any reasonable and appropriate court costs associated



with determining the final judgment in favor of the appraiser. If the amount of restitution to be paid to any one (1) or more appraisers at any one (1) time exceeds the balance in the fund, the board shall:

- (a) Distribute as much of the restitution amount as possible, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund; and
- (b) In the case of distributions to more than one (1) appraiser, provide for a pro rata distribution of the available fund balance, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund.

(3) Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.

(4) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

- (a) Ensure that the balance of the fund established in KRS 324A.155 shall not fall below three hundred thousand dollars (\$300,000); and
- (b) Impose the fees assessed upon appraisal management companies under KRS 324A.155 whenever the balance of the fund is less than three hundred thousand dollars (\$300,000). The board shall cease imposing the fees when the balance of the fund is three hundred thousand dollars (\$300,000).

(5) Within one hundred twenty (120) days after the end of each fiscal year, the board shall make public, in accordance with KRS 424.180 and 424.190, a statement of income and expenses of the appraisal management company recovery fund, the details of which are in accordance with generally accepted accounting principles.

Effective: June 25, 2013

History: Created 2013 Ky. Acts ch. 46, sec. 2, effective June 25, 2013.

