

Preliminary Evaluation of the Elevator Safety Review Board

Recommendations:	Waive from full evaluation Extend termination date by 10 years to July 1, 2029 Require preliminary evaluation by December 15, 2026 Direct board to assess long-term financial stability and report on findings and plan to address any problems
-------------------------	--

Date Established: 2001

Most Recent Prior Evaluation: Preliminary evaluation in 2011, with an update in 2012

Waived from full evaluation and extended termination date by five years to July 1, 2019; required follow-up report by October 1, 2012 (submitted)

Composition: Ten members consisting of the Commissioner of Labor and Industry as an *ex officio* member, seven members representing specified sectors of the elevator maintenance and repair industries, and two members of the public

Staff: One full-time (executive director)

Other shared personnel support the board (assistant Attorney General, investigator, regulations coordinator, fiscal and information technology personnel)

Regulated Professions: Elevator contractors, elevator mechanics, elevator renovator contractors, elevator renovator mechanics, and accessibility lift mechanics

Authorizing Statute: Title 12, Subtitle 8, Public Safety Article

Evaluation Completed by: Sierra Boney, Department of Legislative Services, 2016

The Elevator Safety Review Board and Fund

The Elevator Safety Review Board was established by Chapter 703 of 2001, initially as a nine-member board within the Department of Labor, Licensing, and Regulation (DLLR) to license elevator contractors and elevator mechanics (a full description of these professions is contained in the “Licensing Requirements” section below). Prior to this, operation of an elevator was subject to statutory registration and inspection requirements, but there were no specific statutory provisions regulating the field of elevator installation and maintenance.

Chapter 703 took effect October 1, 2001. **Exhibit 1** summarizes legislation related to the board and to elevator safety more generally since then.

The Elevator Safety Review Board currently consists of 10 members, including:

- the Commissioner of Labor and Industry as an *ex officio* member;
- one member representing a major elevator manufacturing company;
- one member representing an elevator servicing company;
- one member representing the architectural design profession;
- one member representing a municipal corporation in the State;
- one member representing a building owner or manager;
- one member representing labor involved in the installation, maintenance, and repair of elevators;
- one member representing the elevator interior renovation industry; and
- two members of the public.

With the exception of the one *ex officio* member, the members are appointed by the Governor with the advice and consent of the Senate. The Governor initially appointed the board in 2003, but no appropriation was made to allow the board to function. As a result of the lack of funding, the board did not issue any licenses until 2011, and it temporarily ceased operations in 2008.

Exhibit 1
Legislative Changes Related to Elevator Safety Review Board

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2001	703	Establishes the Elevator Safety Review Board within the Department of Labor, Licensing, and Regulation and requires licensing of elevator contractors and elevator mechanics.
2003	254	Creates elevator renovator contractor and elevator renovator mechanic licensure categories and requires the board to adopt regulations governing the qualifications and scope of practice of an applicant for these licenses.
2007	408	Authorizes third-party qualified elevator inspectors to perform specified elevator inspections to alleviate backlog of overdue elevator inspections.
2008	484	Establishes the Elevator Safety Review Board Fund to retain fee revenues generated from the licensing of elevator mechanics and contractors, the registration of third-party elevator inspectors, fees charged for follow-up elevator inspections, and fees charged for elevator inspections in which pre-inspection criteria have not been met. At the end of each fiscal year, revenues in excess of 10% of the board's direct and indirect costs revert to the general fund.
2012	49	Requires the Elevator Safety Review Board to provide a certification of licensure on request of any person and on payment of a specified fee set by the board; allows for specified information to be contained in the certification of licensure; and requires the board to reinstate an expired license under specified circumstances.
	306 & 307	Require a person to be licensed by the board as an accessibility lift mechanic before providing specified services; require the board to adopt regulations to certify a licensed accessibility lift mechanic as an accessibility lift mechanic specialist; authorize the Elevator Safety Review Board to establish fees for the application, issuance, and renewal of licenses issued to accessibility lift mechanics; and establish requirements for an applicant for an accessibility lift mechanic license.
	454 & 455	Alter the membership of the Elevator Safety Review Board to add a member representing the elevator interior renovation industry.
2014	288	Extends the termination date for the Elevator Safety Review Board by five years to July 1, 2019, and requires a preliminary evaluation of the board by December 15, 2016.

Source: Laws of Maryland

Special Fund Created to Support Board

Following the board's cessation of activities due to lack of funding, Chapter 484 of 2008 established the Elevator Safety Review Board Fund, a special fund to cover the direct and indirect cost of the board's statutory and regulatory duties. The fund's sources of revenue include registration fees for third-party inspectors, the board's licensing fees, fees from follow-up inspections conducted by State inspectors, and fees charged for elevator inspections in which pre-inspection criteria have not been met.

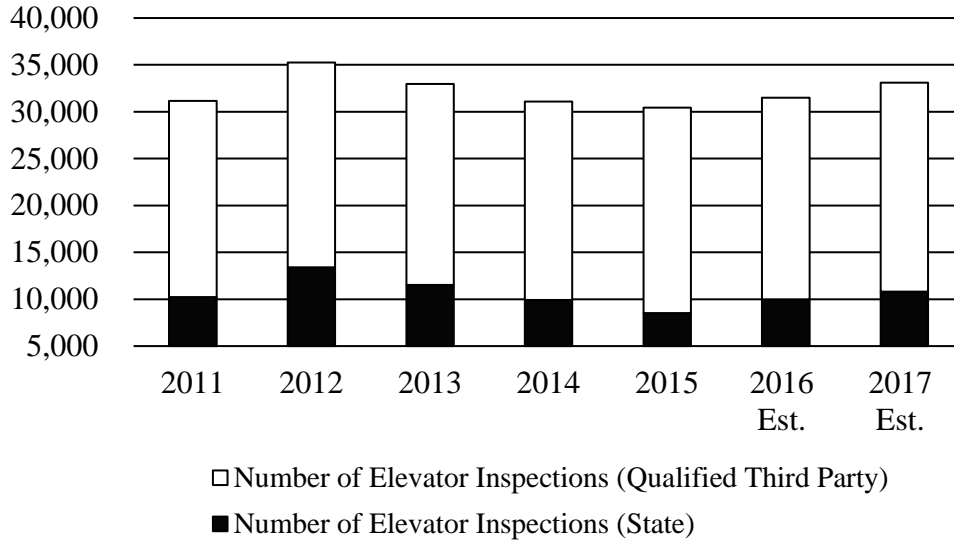
With the creation of the Elevator Safety Review Board and the designation of a dedicated funding source, funding for the board was appropriated in fiscal 2009, and board members were appointed for three-year terms.

Certification of Third-party Elevator Inspectors Enhances Safety and Supports the Board

A report by the Office of Legislative Audits published in April 2006 disclosed that a significant number of elevators were past due for inspections, with about 450 of them being past due by at least one year. This prompted the enactment of Chapter 408 of 2007 to allow the State to register certified third-party inspectors to conduct annual inspections of elevators that have already been licensed by the State following an initial inspection by a State inspector. Registration of the third-party inspectors is carried out by the Safety Inspection Unit in DLLR's Division of Labor and Industry (DLI), not by the board. However, as noted above, registration fees for third-party inspectors are paid into the Elevator Safety Review Board Fund to support the board's activities.

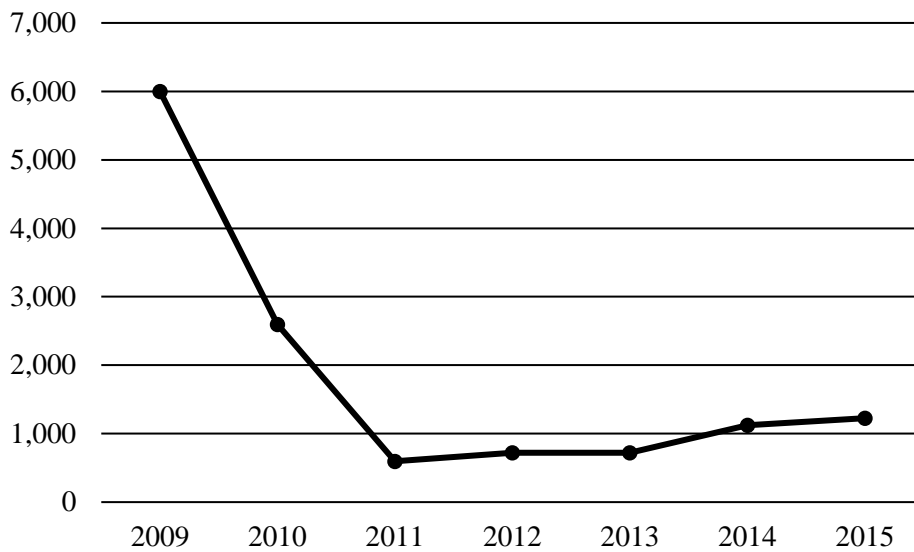
In 2010, the first year of third-party inspections, certified inspectors conducted 12,434 inspections on behalf of the State. That number has increased as shown in **Exhibit 2**, with third-party inspectors consistently inspecting more than double the number of elevators that State inspectors are required to inspect. As a result of the use of third-party inspectors, the number of elevators in the backlog dropped significantly, as shown in **Exhibit 3**. At its peak, the backlog was 6,000 inspections, or approximately 19% of all required inspections. As shown in Exhibit 3, there are only 1,226 backlogged inspections in 2015, or roughly 2% to 5% of the total. Although much lower than the peak of 6,000, it is more than double the number of backlogged inspections since the 2011 low of 529. The board asserts that, while the number of backlogged inspections has increased in recent years, it is due to an increase in the overall number of elevators.

Exhibit 2
Number of Inspections by State and Third-party Inspectors
Fiscal 2011-2017



Source: Department of Labor, Licensing, and Regulation

Exhibit 3
Backlogged Inspections
Fiscal 2009-2015



Source: Department of Labor, Licensing, and Regulation

Licensing Requirements

The board currently issues five distinct licenses: elevator contractor, elevator mechanic, elevator renovator contractor, elevator renovator mechanic, and accessibility lift mechanic. Licensing activity primarily centers around the first two categories of licensure, which were established when the board was created.

Elevator Contractor

An “elevator contractor” is defined as a person who is engaged in the business of erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator or accessibility lift units. An applicant for an elevator contractor license needs to have at least five years of work experience in the elevator industry in construction, maintenance, service, or repair.

Elevator Mechanic

An “elevator mechanic” is defined as a person who is engaged in the actual erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing elevator or accessibility lift units. An applicant for an elevator mechanic license can qualify for a license in one of three ways:

- have an acceptable combination of documented experience and education credits – with at least three years of recent and active work experience in the elevator industry, in construction, maintenance, and service or repair, as verified by current and previous employers – and pass a written examination administered by the board on the Safety Code;
- have completed at least three years of recent and active work experience in the elevator industry and have a certificate of completion of the mechanic examination of a nationally recognized training program; or
- have a certificate of completion of an apprenticeship program for elevator mechanics that meets specified standards.

Elevator Renovator Contractor

An “elevator renovator contractor” is engaged in the business of performing work on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle. Unlike an elevator contractor, a renovator contractor does not perform work that affects the elevator’s moving operation. An applicant for an elevator renovator contractor’s license must:

- demonstrate to the board an acceptable combination of experience and education; and
- pass an exam approved by the board.

Elevator Renovator Mechanic

An “elevator renovator mechanic” performs work on the interior of an elevator involving the removal or installation of the nonstructural surface of the elevator’s wall, ceiling, floor, rail, or handle. Unlike an elevator mechanic, a renovator mechanic does not perform work that affects the elevator’s moving operation. An applicant for the elevator renovator mechanic license must:

- demonstrate to the board an acceptable combination of experience and education; and
- pass an exam approved by the board.

Accessibility Lift Mechanic

An “accessibility lift mechanic” is engaged in erecting, constructing, wiring, altering, replacing, maintaining, repairing, dismantling, or servicing commercial stairway chairlifts, vertical platform lifts, or incline platform lifts. The qualifications necessary for licensure as an accessibility lift mechanic are comparable to those for an elevator mechanic. Because the accessibility lift mechanic license is still relatively new, the board can offer a conditional license until January 1, 2017, to a candidate while the candidate is completing the educational component required for full licensure.

Biennial Licensing Fees Are Capped in Statute

All licenses issued by the board are for two-year terms, and the board is required to establish fees for the application, issuance, and renewal of all licenses that it issues. The fees are subject to statutory caps, which are:

- \$100 per year for an elevator mechanic, elevator renovator mechanic, or accessibility lift mechanic; and
- \$150 per year for an elevator contractor or elevator renovator contractor.

Exhibit 4 outlines the current licensing fees that have been set and the caps to which they are subject. In general, all initial licensing fees are slightly below their statutory caps and all renewal licensing fees, except for the accessibility lift mechanic license fee, are set to the maximum level allowed by statute. All licensing fees collected by the board are to be paid into the Elevator Safety Review Board Fund.

Exhibit 4
Licensing and Renewal Fee Structure

	<u>Fee</u>	<u>Cap</u>
Initial License		
Elevator Mechanic	\$175	\$200
Elevator Renovator Mechanic	175	200
Elevator Contractor	275	300
Elevator Renovator Contractor	275	300
Accessibility Lift Mechanic	125	200
Renewal		
Elevator Mechanic	200	200
Elevator Renovator Mechanic	200	200
Elevator Contractor	300	300
Elevator Renovator Contractor	300	300
Accessibility Lift Mechanic	150	200

Source: Department of Labor, Licensing, and Regulation

Complaints

Since licenses have been issued by the board, there have only been three complaints to the board. None of these complaints originated from customers, but rather from other licensees alleging that work was being done by people without licenses. The average length of time to resolve these complaints was 216 days, with all of them being formally closed because of a lack of evidence to issue any fines or penalties against the subject of the complaints. The three complaints all took a significant amount of time to close because it was difficult for the board to follow up with the complainants and get the information necessary to substantiate their complaints.

Fiscal History of the Elevator Safety Review Board

The Elevator Safety Review Board was created by Chapter 703 of 2001, but the board did not have a funding source until the Elevator Safety Review Board Fund was created by Chapter 484 of 2008. After the fund was created, the board still did not generate any licensing fee revenue because it was not issuing licenses. The only revenues generated between 2009 and 2011 were from:

- registration of third-party inspectors;

- initial elevator inspections; and
- follow-up elevator inspections in which pre-inspection criteria have not been met.

The revenues from the three referenced activities were collected by DLI, and, because of an account coding error, were accidentally comingled with other revenue for the Safety Inspection Unit in the division. As a result, during the initial 2011 preliminary evaluation, DLLR could not provide an accurate accounting of the revenues for the Elevator Safety Review Board Fund for fiscal 2009 through 2011. In response to this error and DLLR's subsequent inability to provide an accurate accounting, the Department of Legislative Services (DLS) recommended that a decision on whether to waive a full evaluation be postponed for one year and requested a follow-up report from DLLR with a comprehensive accounting of the revenues. In the 2012 update, the issue of comingling funds was satisfactorily corrected, the full evaluation was waived, and the board was reauthorized for five years.

The board maintains licensing records by calendar year rather than by fiscal year. The board began issuing licenses at the end of calendar 2011, with most coming on line in calendar 2012, with the early revenue being accounted for in fiscal 2013. As seen in **Exhibit 5**, the initial number of licenses for elevator contractors and elevator mechanics totaled 448, which included existing mechanics who were not previously licensed as well as those new to the profession. In the following year, calendar 2013, there were almost 100 fewer total licenses issued, with 210 new licenses issued and 152 renewals for the grandfathered licensees, for a total of 362 licenses issued. License numbers for each following year generally reflect the two-year licensing cycle; figures for calendar 2016 reflect a partial year. Even so, licensing activity is lower than anticipated when the board was established as well as when subsequent additional categories of licensure were established. To date, the fund's revenues have fully supported the board's activities.

Statute requires that any fund balance greater than 10% of the actual expenses of operating the board each year revert to the general fund. Since fiscal 2014, the fund has ended the fiscal year with fund balances over 10% of board expenditures (which has been interpreted as 10% of direct costs), resulting in reversions that can be seen in **Exhibit 6**. The exhibit also shows a one-time increase in the expenditures in fiscal 2015 due to consulting fees to help automate the licensing system. Based on an analysis by DLS, revenues are generally consistent with licensing, inspection, and registration activity; therefore, no changes in licensing or registration fees are recommended at this time. However, the projections for fiscal 2017, which show increasing costs and decreasing revenues, may represent a single-year fluctuation, but they may also be indicative of a longer-term problem for the board.

Exhibit 5
Licensing Activity
Calendar 2012-2016

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016*</u>
Initial Full Licenses					
Elevator Contractor Company	13	11	7	2	3
Elevator Mechanic	435	196	93	52	20
Elevator Renovator Contract Company	0	1	1	1	0
Elevator Renovator Mechanic		2	6		0
Accessibility Lift Mechanic	0	0	3	2	0
Renewal Licenses					
Elevator Contractor Company	0	11	12	19	8
Elevator Mechanic	0	141	353	286	131
Elevator Renovator Contract Company	0	0	0	1	1
Elevator Renovator Mechanic	0	0	0	0	5
Accessibility Lift Mechanic	0	0	0	0	0
Total New and Renewal Licenses Issued	448	362	475	363	168

*Reflects licensing activity as of June 30, 2016.

Source: Department of Labor, Licensing, and Regulation

Exhibit 6
Fiscal History of the Elevator Safety Review Board Fund
Fiscal 2013-2017 (Estimated)

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016 Est.</u>	<u>FY 2017 Est.</u>
Beginning Balance	\$0	\$0	\$12,047	\$16,544	\$12,170
Revenues	126,252	237,012	229,493	234,587	195,000
Total Funds Available	\$126,252	\$237,012	\$241,540	\$251,131	\$207,170
Direct Costs	\$90,552	\$120,470	\$165,438	\$121,706	-
Indirect Costs	8,277	8,294	10,440	9,276	-
Legal Costs	27,422	15,022	7,697	1,670	-
Total Expenditures	126,252	143,786	183,575	132,651	\$172,000
Reversion	0	81,178	41,421	106,309	19,670
Ending Fund Balance	\$0	\$12,047	\$16,544	\$12,170	\$15,500

Notes: Numbers may not sum to total due to rounding. The fiscal 2017 estimated year-end fund balance reflects 10% of anticipated direct costs for the board.

Source: Department of Labor, Licensing, and Regulation

Conclusions and Recommendations

The board appears to be operating within its statutory authority and meeting its mandated duties. In the early years of the board, the lack of funding caused the board to disband, but that was resolved with the establishment of the Elevator Safety Review Board Fund and various dedicated revenue sources to support it. Licensing began in 2011 and has continued at a fairly stable level, and the funding from all of the revenue streams is consistent with licensing, inspection, and registration activity. However, the number of licensees in all categories is lower than anticipated when those categories were established. Further, if projected increased costs and decreased revenues for fiscal 2017 are realized and persist in subsequent years, it is not clear whether the board will have sufficient funding to support its regulatory activity in the long term – largely due to the current statutory reversion requirement.

As the board is fulfilling its mission, DLS recommends that the Legislative Policy Committee waive the Elevator Safety Review Board from full evaluation and that legislation be enacted to extend the board’s termination date by 10 years to July 1, 2029. A preliminary evaluation of the board should be completed by December 15, 2026.

However, to ensure the board has the funding necessary to maintain operations, DLS also recommends that the board take certain actions and report on them. Specifically, the board, with assistance from DLLR, should assess its projected licensing activity *vis a vis* projected expenditures to determine whether modifications to its revenue stream are necessary to ensure long-term financial stability. The assessment should encompass why licensing activity has been lower than anticipated when the categories of licensure were established; whether current estimates of higher spending and lower revenues for fiscal 2017 are realized and represent a trend; and licensing, revenue, and expenditure projections for the five-year period from fiscal 2018 through 2022. By October 1, 2018, the Elevator Safety Review Board should report to the Senate Finance Committee, the House Economic Matters Committee, and DLS on the results of that assessment and how it plans to ensure the board has sufficient funding to continue operating. The board’s report should discuss options related to reducing spending, increasing fees charged by the board to the maximum currently statutorily allowed, adjusting the statutory fee cap to allow for even higher fees, whether other fees that support the Elevator Safety Review Board Fund should be increased slightly, and modifying the reversion requirement to allow the board to retain a greater percentage of the fund balance annually. DLLR should then submit departmental legislation at the 2019 session to implement any necessary statutory changes.

Appendix 1.
Written Comments of the Elevator Safety Review Board

The board reviewed a draft of this preliminary evaluation, and notified the Department of Legislative Services that it did not have any written comments or suggested changes to the draft.