

Preliminary Evaluation of the State Commission of Real Estate Appraisers and Home Inspectors

Recommendation: Full Evaluation

The Sunset Review Process

This evaluation was undertaken under the auspices of the Maryland Program Evaluation Act (§ 8-401 *et seq.* of the State Government Article), which establishes a process better known as “sunset review” because most of the agencies subject to review are also subject to termination. Since 1978, the Department of Legislative Services (DLS) has evaluated about 70 State agencies according to a rotating statutory schedule as part of sunset review. The review process begins with a preliminary evaluation conducted on behalf of the Legislative Policy Committee (LPC). Based on the preliminary evaluation, LPC decides whether to waive an agency from further (or full) evaluation. If waived, legislation to reauthorize the agency typically is enacted. Otherwise, a full evaluation typically is undertaken the following year.

The State Commission of Real Estate Appraisers and Home Inspectors was not scheduled for a preliminary evaluation under statute until 2010; however, DLS accelerated the review process for this commission – along with several others – to more evenly distribute the number of evaluations conducted over the next few interims. The State Commission of Real Estate Appraisers and Home Inspectors last underwent a full evaluation in 2001. At the time of the evaluation, the commission’s authority recently had been expanded to include licensing of home inspectors, though the commission had not yet implemented the home inspector licensing program. In its evaluation report, DLS recommended, among other things, that the commission take certain measures to address delays in the real estate appraiser complaint resolution process and that the General Assembly alter certain appraiser licensing fees. Following the evaluation, the General Assembly passed legislation that altered various appraiser licensing fees and extended the commission to July 1, 2013.

In conducting this evaluation, DLS staff reviewed commission meeting minutes, prior sunset evaluations, evaluation responses, and relevant State statutes and regulations; analyzed financial data and complaint records; interviewed commission members and staff; and attended a commission meeting and a meeting of the commission’s Appraiser Complaint Committee.

The commission reviewed a draft of this preliminary evaluation and provided the written comments attached as **Appendix 1**. Appropriate factual corrections and clarifications have been made throughout the document.

The Real Estate Appraisal Industry

Real estate appraisers provide estimates of the value of commercial and residential real property. Although real estate appraisal services are most often associated with mortgage lending, appraisal services are used for a variety of other purposes, including estate planning and property insurance.

The real estate appraisal industry underwent significant changes following the savings and loan crisis of the 1980s. After finding evidence of fraudulent appraisal practices throughout the industry, the U.S. Congress passed the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). Title XI of FIRREA created a framework for the establishment of national uniform standards for the licensing of appraisers and the performance of appraisal services. However, Title XI did not mandate a national appraiser licensing system. Rather, the Act authorized states to license appraisers, subject to federal oversight and consistent with certain minimum standards.

Under FIRREA, an individual must be a licensed or certified appraiser to perform an appraisal in connection with a federally related transaction valued in excess of the federal *de minimis* amount, which currently is \$250,000 for most transactions. Federally related transactions include transactions that involve federally insured financial institutions, the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Association (Freddie Mac), or a financing program with the U.S. Department of Housing and Urban Development (HUD) or Veterans Administration.

As of 2008, 29 states, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands require licensing or certification of all real estate appraisers, regardless of whether the appraisal is provided in connection with a federally related transaction. Thirteen states, including Maryland, require licensing or certification only in connection with federally related transactions that are valued in excess of the federal *de minimis* amount. The remaining eight states maintain a voluntary system of appraiser licensing and certification by which individuals may acquire a license or certificate in order to appraise property in connection with federally related transactions.

In many instances, lending institutions impose their own licensing requirements that are more stringent than state and federal law mandate. It is not unusual for a lender to require licensing or certification of appraisers that provide appraisal services in connection with a loan issued by the lender, regardless of whether the transaction is federally related.

Federal Oversight of State Appraiser Licensing and Regulation

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (Appraisal Subcommittee) is charged with monitoring state appraiser licensing units. The Appraisal Subcommittee is composed of representatives appointed by the heads of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office

of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and HUD. To ensure compliance with federal law, the Appraisal Subcommittee audits state appraiser licensing units every two years.

In addition to monitoring state appraiser licensing units, the Appraisal Subcommittee is charged with overseeing the entities that develop uniform appraisal standards and minimum appraiser qualification criteria. The Appraisal Standards Board (ASB) is responsible for developing and maintaining uniform appraisal standards, which are published as the Uniform Standards of Professional Appraisal Practice (USPAP). The Appraiser Qualifications Board (AQB) develops and maintains uniform appraiser qualification criteria. ASB and AQB are independent boards of the Appraisal Foundation, a private, not-for-profit corporation established by the appraisal profession.

Title XI of FIRREA requires that the Appraisal Subcommittee:

- monitor state licensing and certification of appraisers who perform appraisals in connection with federally related transactions;
- monitor state enforcement of appraisal standards for federally related transactions;
- maintain a national registry of state licensed and certified appraisers;
- monitor the Appraisal Foundation and its independent boards, which are responsible for establishing uniform appraiser qualification criteria and USPAP; and
- report annually to the U.S. Congress.

The Home Inspection Industry

Whereas an appraiser estimates the value of real property, a home inspector evaluates the physical condition of a residential structure and identifies those components and systems that may require repair or replacement. A typical home inspector's report, usually prepared in connection with the proposed sale of a property, covers the condition of a home's heating and air conditioning systems, plumbing and electrical systems, roof, walls, ceilings, floors, windows, doors, visible insulation, foundation, and structural components.

In 1991, Texas became the first state to require licensing of home inspectors. Today, at least 29 states, including Maryland, require licensing, certification, or registration of home inspectors. State licensing, certification, and registration laws vary among jurisdictions, but most require that a home inspector complete a minimum amount of education or training, pass an examination, and comply with certain standards of practice.

Licensure in Maryland

Real Estate Appraisers

Maryland issues four types of real estate appraiser licenses, which meets the requirements of FIRREA and also allows for the regulation of appraisers who do not work on federally qualified transactions. A **real estate appraiser trainee** license authorizes the license holder to provide appraisal services while training to become a licensed or certified appraiser. A real estate appraiser trainee must work under the supervision of a certified residential or certified general real estate appraiser.

A **licensed real estate appraiser** may provide appraisal services in connection with a federally related transaction for (1) noncomplex one- to four-unit residential property if the value of the transaction is less than \$1,000,000; and (2) any type of property (residential or commercial) if the value of the transaction is less than \$250,000.

Unlike a licensed appraiser, a **certified residential real estate appraiser** is not limited by the complexity of the property or the value of the transaction when it comes to appraising residential property. A certified residential real estate appraiser may provide appraisal services for all types of residential property, without any limit as to the value of the transaction. A certified residential real estate appraiser, like a licensed appraiser, also may provide appraisal services for commercial property if the value of the transaction is less than \$250,000.

Finally, a **certified general real estate appraiser** may provide appraisal services for all types of residential and commercial property, regardless of the value of the transaction. For a summary of the education, training, and experience requirements for each type of appraiser license, see **Exhibit 1**.

As of June 1, 2009, there were 3,119 licensed or certified appraisers in Maryland and 1,201 appraiser trainees.

Exhibit 1
Appraiser License Scope and Qualifications in Maryland

	<u>Scope of License</u>	<u>Qualifications</u>
Licensed Real Estate Appraiser Trainee	May provide appraisal services while under the supervision of a certified residential real estate appraiser or a certified general real estate appraiser	75 tested hours of commission approved real estate appraisal courses, of which 15 hours are classroom instruction on USPAP
Licensed Real Estate Appraiser	May provide appraisal services in federally related transactions for (1) noncomplex one- to four-unit residential properties if the transaction is less than \$1,000,000; (2) complex one- to four-unit residential properties if the transaction is less than \$250,000; and (3) commercial properties if the transaction is less than \$250,000	(1) 150 hours of coursework approved by the commission; and (2) a minimum of 2,000 hours of appraisal work compiled over a period of at least 24 months
Certified Residential Real Estate Appraiser	May provide appraisal services in federally related transactions for (1) all one- to four-unit residential properties; and (2) commercial properties if the transaction is less than \$250,000	(1) 200 hours of coursework approved by the commission; (2) an associate's degree or higher or, in lieu of a degree, 21 semester credit hours in courses prescribed by the commission; and (3) a minimum of 2,500 hours of appraisal work compiled over a period of at least 24 months
Certified General Real Estate Appraiser	May provide appraisal services in federally related transactions for all types of residential and commercial properties	(1) 300 hours of coursework approved by the commission; (2) a bachelor's degree or higher or, in lieu of a degree, 30 semester credit hours in courses prescribed by the commission; and (3) a minimum of 3,000 hours of appraisal work compiled over a period of at least 30 months, of which at least 1,500 hours involves nonresidential property

Source: State Commission of Real Estate Appraisers and Home Inspectors; Code of Maryland Regulations

In addition to the four types of appraiser licenses, the commission issues temporary real estate appraiser permits to individuals licensed or certified in another state. A temporary permit allows an individual to provide real estate appraisal services in the State in connection with a particular appraisal assignment for a maximum term of six months. The fee for a temporary permit is \$75.

The commission is authorized to issue an appraiser license or certificate by reciprocity if the applicant is a licensed or certified real estate appraiser in a state that shares reciprocity with Maryland. Reciprocal licensing is permitted if the applicant provides adequate evidence that he or she otherwise meets Maryland's licensing or certification requirements, holds an active license or certificate in good standing in the other state, and became licensed or certified in the other state after meeting requirements that are substantially equivalent to Maryland's requirements. Reciprocal licensing is not available for appraiser trainees.

The commission most recently had reciprocal licensing agreements with nine states, including Delaware, Virginia, and West Virginia. However, due to variations among states in their implementation of the new federal education requirements for appraiser licensing and certification, as well as concerns about deficiencies in other states' licensing and certification practices, the commission suspended those agreements earlier this year.

Home Inspectors

Chapter 470 of 2001 required licensing of home inspectors in Maryland effective October 1, 2001. However, Chapter 226 of 2002 postponed the licensing requirement until July 1, 2003. Due largely to budgetary issues, the commission did not begin licensing home inspectors until fiscal 2007, when it first received an appropriation to fund the home inspector licensing program. As of June 1, 2009, there were 900 licensed home inspectors in Maryland.

An applicant for a home inspector's license must have a high school diploma; complete at least 72 hours of an on-site training course that, at a minimum, requires the completion of the National Home Inspector Examination or its equivalent; and maintain general liability insurance of at least \$150,000. The fee for an original home inspector license is \$400, plus an application fee of \$50. The license is valid for two years and may be renewed for an additional two-year term at a cost of \$400.

The commission is authorized to issue a home inspector license by reciprocity if the applicant is licensed in another state and either the applicant meets Maryland's current licensing requirements or, at the time of licensing in the other state, that state's licensing requirements were at least equivalent to the licensing requirements in Maryland. The commission has not entered into any reciprocal licensing agreements with home inspector licensing units in other states.

The State Commission of Real Estate Appraisers and Home Inspectors

The commission is within the Department of Labor, Licensing, and Regulation (DLLR). The General Assembly established the commission, originally named the State Commission of Real Estate Appraisers, in 1990 to implement and administer a real estate appraiser licensing and certification program that complied with Title XI of FIRREA. As noted above, Chapter 470 of 2001 expanded the commission's authority to include the licensing and regulation of home inspectors.

In general, the commission:

- licenses and certifies real estate appraisers in accordance with standards developed under FIRREA;
- licenses home inspectors;
- enforces appraiser and home inspector standards of practice;
- processes and investigates complaints against licensees; and
- enforces disciplinary actions taken against licensees.

The commission comprises 15 members appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation and the advice and consent of the Senate. At least two members are certified general real estate appraisers; two are certified or licensed real estate appraisers; two represent financial institutions; four are licensed home inspectors; and five are consumer members. Members serve staggered three-year terms and may not serve more than two consecutive terms. At the end of a term, a member continues to serve until a successor is appointed and qualifies.

Five current members have exceeded the two-term limit. Of those five members, one represents financial institutions, two are consumer members, and two are licensed home inspectors. The licensed home inspector members serving beyond the two-term limit have served on the commission since 2001, when the General Assembly expanded the authority of the commission to include licensing and regulation of home inspectors. Although the commission did not implement the home inspector licensing program until 2007, the presence of home inspector members at commission meetings prior to 2007 was necessary to achieve a quorum.

A chairman and vice chairman are elected annually by the members. If the chairman is a real estate appraiser, the vice chairman must be a home inspector and vice versa. The Governor is authorized to remove a member for incompetence or misconduct.

The commission has four standing committees: the Real Estate Appraiser Education/Application Committee; the Real Estate Appraiser Complaint Committee; the Home Inspector Education/Application Committee; and the Home Inspector Complaint Committee. The education/application committees review and approve pre-license education courses and continuing education courses offered by various providers. The complaint committees review complaints and make recommendations to the commission regarding how to proceed with each complaint. Although State law requires that the commission meet at least once every calendar quarter, the commission and its standing committees generally meet every two months.

The day-to-day operations of the commission are carried out by one full-time administrator. State law provides for an executive director of the commission; however, that position was eliminated in October 2008, as a result of budget cuts. The executive director's responsibilities are now handled by the commission's administrator and DLLR's Assistant Commissioner of Home and Mechanical Services.

The commission also relies on volunteer expert appraisers to review appraisals in connection with appraiser complaints (see below). Currently, the commission relies almost exclusively on one individual to provide technical reviews of appraiser complaints. Investigative services are provided by an investigator assigned to DLLR's Division of Occupational and Professional Licensing. Legal services are provided by an Assistant Attorney General (AAG), who also provides legal services for other boards and commissions within DLLR. The AAG attends commission meetings, advises the commission on legal matters, and assists the commission in the preparation of proposed regulations and legislation. Additional AAGs assigned to DLLR present cases on behalf of the commission at formal hearings.

Commission Enforces Standards of Practice

Another core function of the commission is the regulation and enforcement of real estate appraisal and home inspection services. The commission may deny, revoke, or suspend a license or certificate; reprimand a license or certificate holder; and impose civil penalties for a violation of the Maryland Real Estate Appraisers and Home Inspectors Act.

Real estate appraiser complaints generally fall into one of two categories: valuation disputes and continuing education violations. Complaints involving valuation disputes are usually initiated by a homeowner or lender who disagrees with the appraiser's valuation of a specific property. Complaints of this nature often require that an expert appraiser conduct a technical review of the appraisal. Complaints relating to continuing education violations are initiated by the commission when a random audit reveals that an appraiser failed to complete mandatory continuing education. The commission randomly audits at least 10% of appraisers for continuing education compliance at the time of license renewal.

The commission regularly resolves continuing education complaints by entering into consent agreements with appraisers. The complaints are not complicated and usually are resolved within a few months. Valuation complaints, on the other hand, take significantly longer

to resolve. If the complaint is referred for a technical review, that process alone takes a minimum of six months to complete.

Home inspector complaints generally allege that the home inspector failed to disclose some defect with the home. With complaints of this nature, the issue is usually whether the home inspector violated the Minimum Standards of Practice.

Major Legislative and Regulatory Changes

Since DLS last conducted a sunset evaluation of the commission, the General Assembly passed legislation that altered real estate appraiser licensing and certification fees, altered the training requirement for home inspector license applicants, and increased the amount of general liability insurance a home inspector must carry. For a summary of significant State legislation, see **Exhibit 2**.

Exhibit 2

Major Legislative Changes Since the 2001 Sunset Evaluation

<u>Year</u>	<u>Chapter</u>	<u>Change</u>
2002	226	Extends termination date of the commission by 10 years to July 1, 2013 Alters the qualifications for real estate appraisers serving on the commission Exempts home inspectors from licensing until July 1, 2003 Codifies the license application fee for real estate appraisers and appraiser trainees at \$75* Increases from \$75 to \$125 the license renewal fee for real estate appraisers Increases from \$100 to \$125 the certificate renewal fees for certified residential and general real estate appraisers*
2007	649	Requires that an appraiser trainee be supervised by a certified residential or certified general real estate appraiser
2008	160	Requires an applicant for a home inspector's license to complete at least 72 hours of on-site training and pass the National Home Inspector Examination or its equivalent Raises from \$50,000 to \$150,000 the level of general liability insurance that a licensed home inspector must maintain

*License application fees and certificate renewal fees were previously set by regulation.

Source: Laws of Maryland

In addition to these legislative changes, the commission made significant regulatory changes. In order to comply with new minimum education requirements adopted by AQB, the commission increased the education requirements for individuals applying for an original real estate appraiser license or certificate. As of January 1, 2008, anyone applying for an original real estate appraiser license must complete at least 150 hours of classroom study, anyone applying for an original residential real estate appraiser certificate must complete at least 200 hours of classroom study, and anyone applying for an original general real estate appraiser certificate must complete at least 300 hours of classroom study. Before January 1, 2008, the required hours of classroom study were 90 hours for an appraiser license, 120 hours for a residential appraiser certificate, and 180 hours for a general appraiser certificate.

Additionally, as of January 1, 2008, an applicant for an original residential or general real estate appraiser certificate must hold a college degree or, in lieu of a degree, have completed certain college-level coursework. Previously, a college degree or college coursework were not required for appraiser certification.

Licensing Activity Spikes Briefly Due to New Standards

The real estate appraiser license and the general and residential real estate appraiser certificates are valid for three years and may be renewed for additional three-year terms at a cost of \$200. **Exhibit 3** summarizes the total number of licensees each year since fiscal 2005.

Exhibit 3 Number of License Holders, by Type of License Fiscal 2005-2009*

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Real Estate Appraiser Licenses					
Real Estate Appraiser Trainee	1,989	2,385	2,334	1,929	1,201
Licensed Real Estate Appraiser	1,153	1,302	1,325	1,287	1,119
Certified Residential Real Estate Appraiser	800	856	951	1,241	1,221
Certified General Real Estate Appraiser	745	759	753	793	779
Home Inspector Licenses	-	-	99	631	900

*License count taken on or about June 1 of each year.

Note: The commission did not begin licensing home inspectors until fiscal 2007.

Source: State Commission of Real Estate Appraisers and Home Inspectors

Commission staff attributes the spike in the number of real estate appraiser trainees in fiscal 2006 and 2007 to the new licensing standards that went into effect on January 1, 2008.

Beginning on that date, an applicant for an appraiser's license or certificate must complete additional hours of classroom study, and an applicant for an original appraiser's certificate also must hold a college degree or have completed certain college-level coursework. In anticipation of this change, an unusually large number of individuals obtained appraiser trainee licenses to be subject to the prior (less stringent) qualifications for an appraiser license or certificate. Since the effective date of the new licensing standards, the number of appraiser trainees has dropped sharply. Economic factors may also have contributed to the pattern.

The drop in the number of licensed appraisers from 1,325 in fiscal 2007 to 1,119 in fiscal 2009, as well as the increase in certified residential and general appraisers during that period, from 1,704 in fiscal 2007 to 2,000 in fiscal 2009, is partly due to the same dynamic. The requirement that applicants for an appraiser certificate hold a college degree or complete certain college level coursework encouraged some appraiser trainees and licensed appraisers to make the transition to residential or general certified appraiser before January 1, 2008. However, the primary forces behind this trend are the new appraiser certification requirements for Federal Housing Administration (FHA) and HUD loans. As of October 1, 2009, only certified appraisers may provide appraisal services in connection with FHA and HUD loans.

Real Estate Appraiser Complaint Volume Rising Sharply

While the number of home inspector complaints has remained low, the number of appraiser complaints spiked dramatically in 2009. The number of appraiser complaints filed through July 31, 2009, is equal to the number of appraiser complaints filed in all of calendar 2008. At this rate, the projected volume of appraiser complaints for calendar 2009 far exceeds the volume in prior years. **Exhibit 4** shows the commission's complaint volume by calendar year.

Commission staff attributes the increase in complaint volume to the recent downturn in the housing market, which has led to declining property values in many areas. According to commission staff, declining property values likely are fueling valuation disputes. Commission staff also notes that the complexities of appraising real estate in the current market have compelled the commission to refer an unusually high percentage of appraiser complaints for a technical review.

The commission administrator reviews each consumer complaint to determine whether the complaint falls within the commission's jurisdiction. If the commission has jurisdiction over a complaint, it is referred to the appropriate complaint committee: the Real Estate Appraiser Complaint Committee or the Home Inspector Complaint Committee. The complaint committee reviews the complaint for probable cause and makes a recommendation to the commission as to whether to proceed with or dismiss the complaint.

Exhibit 4
Complaint Activity by Year
Calendar 2005-2009

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009*</u>
Real Estate Appraisers					
Complaints Received	50	65	75	59	59
Closed as of July 31, 2009	49	60	65	45	10
Active as of July 31, 2009	1	5	10	14	49
Home Inspectors**					
Complaints Received	-	-	-	10	6
Closed as of July 31, 2009	-	-	-	10	6
Active as of July 31, 2009	-	-	-	0	0

*Received through July 31, 2009

**The commission did not process complaints relating to home inspections conducted prior to February 11, 2008, the effective date of COMAR 09.36.06 (Home Inspector Code of Ethics) and COMAR 09.36.07 (Minimum Standards of Practice).

Source: State Commission of Real Estate Appraisers and Home Inspectors

In the case of appraiser complaints, the Real Estate Appraiser Complaint Committee generally refers more complicated complaints to an expert appraiser for a technical review before making a recommendation to the full commission. The expert appraiser conducts an independent appraisal of the property and submits a report to the complaint committee. If a hearing is held on the complaint, the expert appraiser also serves as a witness during the hearing.

The commission, for the most part, relies on one part-time volunteer to perform technical reviews. Historically, when funding has been available, the commission has utilized the services of paid expert appraisers. However, funding for expert appraisers has been limited and sporadic, amounting to no more than approximately \$6,000 in any year. The commission has attempted to increase the number of available volunteer expert appraisers by establishing the Volunteer Expert Review Appraiser program, but the program proved ineffective in attracting competent appraisers. Because of the volume of appraiser complaints referred for a technical review and the commission's reliance on one part-time volunteer to perform the reviews, technical reviews usually take at least 6 to 12 months to complete.

If the commission chooses to proceed with the complaint, the complaint is scheduled for a hearing with the Office of Administrative Hearings (OAH) or the commission's Hearing Board. Most complaints, particularly those referred for a technical review, are heard by an administrative law judge (ALJ) with OAH. Because of the volume of complaints handled by OAH, it often takes four to six months before a hearing date is scheduled.

ALJs have 90 days from the date of a hearing to file their decisions and recommended orders with the commission. An ALJ's decision and recommended order are reviewed by the commission, which may affirm, modify, or reverse the order. The respondent may file an exception to the commission's proposed order, in which case a hearing is held before the commission's Hearing Board. Once the commission's order becomes final, the respondent may file an appeal in circuit court.

Complaint Volume for Home Inspectors Is Low

The volume of home inspector complaints has remained relatively low during the short period the commission has processed home inspector complaints. The commission did not process home inspector complaints concerning inspections conducted before February 11, 2008, because the commission had not yet adopted the Home Inspector Code of Ethics and Minimum Standards of Practice.

The commission has processed only 16 home inspector complaints, and all of those complaints were dismissed. However, commission members and staff expect the volume of home inspector complaints to increase in the coming years as the licensing program matures.

Commission Cited by Appraisal Subcommittee

Following its most recent audit of the commission, completed in August 2008, the Appraisal Subcommittee cited the commission for failing to comply with Title XI of FIRREA and the Appraisal Subcommittee's Policy Statement 10E with respect to the timely resolution of appraiser complaints. Policy Statement 10E provides that, absent special documented circumstances, "final administrative decisions ... should occur within one year of the complaint filing date." At the time of the audit, the commission had 53 outstanding appraiser complaints, 22 of which were more than one year old.

The timely resolution of appraiser complaints has been an ongoing issue for the commission, and it is a common problem among state appraiser regulatory units. Of the 190 appraiser complaints received from calendar 2005 through 2007, 52 complaints (27%) were not resolved within one year. As of July 31, 2009, 1 complaint from 2005, 5 complaints from 2006, 10 complaints from 2007, and 14 complaints from 2008 remained open. The high complaint volume, coupled with the high percentage of complaints referred for a technical review, likely will lead to greater delays in the processing of appraiser complaints. Of the 35 state units audited by the Appraisal Subcommittee in 2007, the subcommittee found that 18 failed to resolve complaints in a timely manner.

Title XI of FIRREA authorizes the Appraisal Subcommittee to decertify a state's appraiser licensing program if the program fails to meet federal standards. Decertification would put an end to virtually all mortgage lending in the state. Given the severity of this sanction, the Appraisal Subcommittee has never exercised this power.

Commission Is Self-supporting, but Future Stability Is Uncertain

Revenue collected by the commission is credited to the general fund. Sources of revenue include licensing fees, fines, and other fees charged for services provided. The commission relies on appropriations from the general fund to cover its operating expenses. Original, renewal, and reciprocal licensing fees for each of the licenses issued by the commission are shown in **Exhibit 5**.

Exhibit 5 Licensing Fees as of July 2009

	<u>Original</u>	<u>Renewal</u>	<u>Reciprocal</u>
Real Estate Appraisers (3-year License Term)			
Real Estate Appraiser Trainee	\$75	\$75	N/A
Licensed Real Estate Appraiser	150	200	\$150
Certified Residential Real Estate Appraiser	175	200	175
Certified General Real Estate Appraiser	175	200	175
Home Inspector (2-year License Term)	450	400	450

Note: The licensing fees for licensed real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers include a \$75 federal registry fee, which is maintained in a separate special fund and transmitted periodically to the federal Appraisal Subcommittee.

The original and reciprocal licensing fees for home inspectors include a \$50 application fee.

Source: State Commission of Real Estate Appraisers and Home Inspectors; Code of Maryland Regulations

Uneven Fees Create Concerns

Unlike appraiser licensing and certification fees, which are set by statute, the commission sets home inspector licensing fees, subject to a statutory maximum. The commission set home inspector licensing fees at the statutory maximum of \$400 based on the anticipated number of home inspector licensees and the expected costs of operating the program. According to the fiscal note accompanying Chapter 470 of 2001, DLLR estimated in 2001 that there were approximately 450 home inspectors in Maryland. As of June 1, 2009, there are 900 licensed home inspectors in the State, double DLLR's 2001 estimate.

At their current levels, home inspector licensing fees are significantly higher than appraiser licensing fees. The annualized renewal fee for a home inspector license is \$200 per year, whereas the annualized renewal fee for an appraiser license, residential appraiser certificate, and general appraiser certificate, excluding the \$75 federal registry fee, is just over \$41 per year. The difference in fees is due to the number of anticipated licensees in each program and the anticipated costs of operating the respective programs.

The significant difference in licensing fees, coupled with the current number of home inspector licensees, raises concerns about potential cross-subsidization of the commission's licensing programs. Recent cost containment measures appear to have limited the potential for program cross-subsidization. Nonetheless, as discussed in greater detail below, there is the potential for future cross-subsidization, particularly if the cost of operating one of the programs is substantially less than the revenue generated by that program.

Revenues and Workload Both Expanding

As **Exhibit 6** shows, with the exception of fiscal 2006, the commission's revenues generally have covered its expenditures. However, cost containment measures have left the commission underfunded as its workload grows.

Exhibit 6 Fiscal History Fiscal 2004-2009

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Revenues						
Appraiser Revenues	\$226,006	\$168,570	\$199,845	\$250,545	\$171,953	\$119,423
Home Inspector Revenues	-	-	-	67,950	234,725	170,525
Total Revenues	\$226,006	\$168,570	\$199,845	\$318,495	\$406,678	\$289,948
Expenditures						
Direct Expenditures	\$181,852	\$87,871	\$250,272	\$271,641	\$187,455	\$154,796
Direct Legal Expenditures	0	0	0	0	0	48,998
O&P Cost Allocation	32,333	27,455	22,337	31,724	50,780	27,692
DLLR Indirect Expenditures	0	11,696	46,528	18,284	27,738	20,561
Total Expenditures	\$214,185	\$127,022	\$319,137	\$321,649	\$265,973	\$252,047
Surplus/(Gap)	\$11,821	\$41,548	(\$119,292)	(\$3,154)	\$140,705	\$37,901

O&P: Occupational and Professional Licensing

Source: Department of Labor, Licensing, and Regulation; Maryland Governor's Budget Books, Fiscal 2006-2010

From fiscal 2007 through 2009 the appraiser program generated approximately \$542,000 compared with approximately \$473,000 generated by the home inspector program. Thus, despite the higher fees for home inspectors, the programs generated comparable levels of revenue, with the appraiser program, on average, generating roughly \$23,000 more per year than the home inspector program. The fiscal 2006 funding gap is largely attributable to increased costs incurred that year in preparation for the 2007 implementation of the home inspector licensing program. The commission incurred start-up costs and added a contractual position to handle the increased workload. DLLR staff describes the decrease in expenditures from fiscal 2004 to 2005 as an

apparent aberration that was observed in several other boards but could not explain the specific cause of the decrease.

Over the fiscal 2007 to 2009 three-year cycle, the commission covered all of its expenses and generated a considerable surplus. During that period, the appraiser and home inspector programs generated a combined \$1,015,000 in revenue, of which approximately \$473,000 was generated by the new home inspector program. Commission expenditures, however, have not kept pace with revenue growth. Despite revenue growth of more than \$420,000 from the fiscal 2004 through 2006 cycle to the fiscal 2007 through 2009 cycle, commission expenditures increased by just under \$180,000. Growth in commission expenditures has been limited by various cost containment measures, including the elimination of the commission's executive director position and the elimination of the contractual position that was added to handle the increased workload created by the home inspector licensing program. From fiscal 2007 to 2009, commission expenditures decreased from \$321,000 to \$252,000.

At the same time, the commission's workload increased. The new home inspector licensing program has added to the commission's workload, as has the recent spike in appraiser complaints. Cost cutting measures have limited the commission to one staff person, though it appears that commission staff has been able to keep up with the day-to-day operations of the commission. However, commission staff anticipates an increase in home inspector complaints, which will create additional work for the commission. Moreover, the appraiser complaint process has been a consistent problem for the commission. The commission has been unable to meet federal complaint processing standards, and its continued reliance on an unpaid volunteer appraiser appears to be the primary cause of the delay. Commission staff raised concerns that appraiser complaint processing delays will increase due to the recent spike in appraiser complaints.

Potential Cross-subsidization of Programs

Although recent cost cutting within the commission has limited the possibility of program cross-subsidization, there is a risk that the home inspector program will subsidize the real estate appraiser program, particularly as State budget conditions improve and cost containment measures loosen. The commission consistently struggles to process appraiser complaints in a timely manner and was cited in 2008 for failing to meet federal complaint processing standards. The primary cause of the complaint processing delay is the backlog with the commission's expert appraiser. To address that backlog, the commission has attempted to pay for expert appraisal services; however, funding for that purpose, when available, has been limited. These persistent delays in the appraiser complaint process suggest that the appraiser program is in need of additional funding.

Given the apparent need for such funding, it is possible that the commission could meet that need by funding the appraiser program at levels that exceed appraiser revenues while funding the home inspector program at levels below home inspector revenues. The commission expects the volume of home inspector complaints to grow, which would increase the cost of operating that program and reduce or eliminate the potential for cross-subsidization.

Nonetheless, if home inspector complaints do not grow substantially, the board could use excess home inspector revenue to cross-subsidize the appraiser program.

Currently, there is no statutory mechanism that might prevent such cross-subsidization. Though the commission set home inspector licensing fees at a level that approximated the cost of operating the program, the commission is not obligated by statute to do so. At the same time, appraiser licensing fees are not within the commission's control, as those fees are set by statute.

Recommendation

Generally, the commission is a well-run and professional organization. Nonetheless, it continues to struggle to meet federal standards regarding the timely resolution of appraiser complaints. Due to an unusually high volume of appraiser complaints and the commission's reliance on one unpaid volunteer appraiser to perform technical reviews, delays in the appraiser complaint process may worsen. Persistent delays in the appraiser complaint process, as well as the recent spike in appraiser complaints, suggest the need for additional funding for expert appraisers.

Commission revenues increased considerably with the addition of the home inspector licensing program, yet commission expenditures have not kept pace with the growth in revenues. Although the commission's single staff person has been able to keep up with the day-to-day operations of the commission, the commission's workload is increasing. At the same time, cost containment measures have led to the elimination of the commission's executive director position and a contractual position.

The commission's cost containment measures have limited the possibility of program cross-subsidization, but there is a risk that the home inspector program could subsidize the appraiser program as cost containment measures are lifted. Given the apparent ongoing need for funding to pay for expert appraisers, the relatively low volume of home inspector complaints, and the absence of any statutory mechanism to prevent program cross-subsidization, the potential for cross-subsidization does exist.

The commission also recently suspended its reciprocal licensing agreements with other state appraiser licensing units. Although appraisers can obtain a temporary appraiser permit in Maryland and other states for specific appraisal assignments, the suspension of reciprocal licensing could have a significant effect on the region's appraisal industry.

Therefore, the Department of Legislative Services recommends that the State Commission of Real Estate Appraisers and Home Inspectors undergo a full evaluation to:

- **explore ways in which the commission might shorten its appraiser complaint resolution process;**

- **assess the need for a fee increase for real estate appraisers to provide funding for expert appraiser services;**
- **examine the option of funding the commission through a special fund;**
- **explore the need to implement measures to prevent cross-subsidization between the appraiser and home inspector programs; and**
- **review the status of reciprocal licensing agreements with other states' appraiser and home inspector licensing units.**

Appendix 1.
Written Comments of the State Commission of Real Estate
Appraisers and Home Inspectors

November 30, 2009

Mr. Michael C. Rubenstein
Principal Policy Analyst
Department of Legislative Services
90 State Circle
Annapolis, MD 21401-1991

Dear Mr. Rubenstein:

On behalf of the Department of Labor, Licensing and Regulation and the Commission of Real Estate Appraisers and Home Inspectors ("Commission"), I wish to acknowledge receipt of your letter and the draft report of the Preliminary Evaluation of the State Commission of Real Estate Appraisers and Home Inspectors that was prepared by the Department of Legislative Services ("DLS").

The Commission reviewed the preliminary evaluation and found no factual errors in the report. The report indicates that the Commission is a well-run and professional organization, but recommends that the Commission undergo a full evaluation to explore ways to improve the Commission's program. The Commission accepts the recommendation and looks forward to working with the staff of the DLS in addressing the issues that were raised in the report.

Should you have any questions, feel free to call me at (410) 230-6165.

Sincerely,



Patricia Schott, Administrator
Maryland Commission of Real Estate Appraisers and
Home Inspectors

cc: Alexander M. Sanchez, Secretary
Stanley Botts, Commissioner, Occupational & Professional Licensing
Harry Loleas, Deputy Commissioner, Occupational & Professional Licensing
Steven McAdams, Chair, Commission of Real Estate Appraisers and Home Inspectors