Sunset Review: Evaluation of the
State Commission of Real Estate Appraisers and Home Inspectors



Department of Legislative Services October 2011

Sunset Review: Evaluation of the State Commission of Real Estate Appraisers and Home Inspectors

Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland

October 2011

Primary Staff for This Report

Flora M. Arabo
Evan M. Isaacson

Other Staff Who Contributed to This Report

Laura J. McCarty
Mindy McConville
Michael C. Rubenstein
Nancy Scaggs

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 / Washington Area: 301-970-5400
Other Areas: 1-800-492-7122, Extension 5400
TDD: 410-946-5401 / 301-970-5401
Maryland Relay Service: 1-800-735-2258
E-mail: libr@mlis.state.md.us
Home Page: http://mlis.state.md.us

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Karl S. Aro
Executive Director

Warren G. Deschenaux
Director

October 31, 2011

The Honorable Thomas V. Mike Miller, Jr.
The Honorable Michael E. Busch
Honorable Members of the General Assembly

Ladies and Gentlemen:

The Department of Legislative Services (DLS) has completed its evaluation of the State Commission of Real Estate Appraisers and Home Inspectors as required by the Maryland Program Evaluation Act. This evaluation process is more commonly known as "sunset review" because the agencies subject to evaluation are usually subject to termination; typically, legislative action must be taken to reauthorize them. This report was prepared to assist the committees designated to review the commission – the Senate Finance Committee and the House Economic Matters Committee – in making their recommendations to the full General Assembly. The commission is scheduled to terminate on July 1, 2013.

The commission was not scheduled for a preliminary evaluation under statute until 2010; however, DLS accelerated the review process for this commission to more evenly distribute the number of evaluations conducted each year. The preliminary sunset evaluation conducted during the 2009 interim found several issues for further DLS investigation in a full sunset evaluation. However, after examining each of the issues identified in the preliminary evaluation during the 2010 interim, DLS determined that a full evaluation and final dispositive recommendations could not be completed due to the enactment of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) in July 2010. Therefore, DLS notified the Senate Finance Committee and the House Economic Matters Committee that the full evaluation would not be completed until at least the 2011 interim.

DLS has evaluated the effect of the Dodd-Frank legislation on the commission, as well as the changes made by legislation enacted following the 2011 legislative session of the General Assembly. DLS finds that there is a continued need for regulation of the real estate appraisal and home inspector industries and that the commission generally complies with its statutory and regulatory mandate. However, given the expanded scope of duties for the commission following the enactment of recent State and federal legislation and the persistence of several issues facing the commission, there is a need for the commission to report to the Senate Finance Committee and the House Economic Matters Committee on progress in resolving several matters.

The commission should be granted until October 1, 2013, to discuss actions taken to resolve several issues identified in the evaluation. This includes an evaluation of the sufficiency of funds appropriated in the fiscal 2012 budget to establish a panel of expert real estate appraisers capable of eliminating the current backlog of complex appraiser complaints and resolving all new appraiser complaints within the one-year period established by federal policy. In addition, the commission should report on its monitoring of other issues that were identified in the preliminary evaluation but potentially resolved by the enactment of legislation in the 2011 session, including the disparity in fees between real estate appraisers and home inspectors. The commission must also report on its efforts to reestablish reciprocal licensing agreements with the real estate appraiser regulatory bodies of other jurisdictions. The report includes a recommendation to change the commission's name to conform to its expanded responsibilities and the repeal of an obsolete reporting requirement.

In total, DLS offers seven recommendations, including recommending that the commission's termination date be extended by 10 years to July 1, 2023. Draft legislation to implement the recommended statutory changes is included as an appendix to the report.

We would like to acknowledge the cooperation and assistance provided by the commission, its staff, and officials from the Department of Labor, Licensing, and Regulation throughout the review process. The commission was provided a draft copy of the report for factual review and comment prior to its publication; written comments on behalf of the commission are included as an appendix to this report.

Sincerely,

Warren G. Deschenaux
Director

WGD/EMI/mlm

Contents

Executive Summary vii

Chapter 1. Introduction 1
Sunset Review Process 1
Research Activities 2
Report Organization 2

Chapter 2. State Commission of Real Estate Appraisers and Home Inspectors 5
The Real Estate Appraisal Industry 5
Establishment of the Commission 6
Commission Membership and Structure 8
Appraiser and Home Inspector Licensing Programs 10
Licensing and Certification Activity Varies Due to Statutory and Economic Changes 14

Chapter 3. Findings of the Preliminary Evaluation 17
Growing Complaint Backlogs Lead to Noncompliance with Federal Law 17
Fiscal Condition of the Commission 21
Fee Structure Has Allowed for Disparity in Revenues among Programs 24
Reciprocity Policy Has Changed 25

Chapter 4. The Dodd-Frank Wall Street Reform and Consumer Protection Act 27
Examination of the Housing Bubble Exposes Issues in the Appraisal Industry 27
Dodd-Frank Will Significantly Affect Commission Activities and Workload 29
Dodd-Frank Reciprocity Mandate Unlikely to Result in Policy Change 30

Chapter 5. 2011 Legislation Addresses Findings of the Preliminary Evaluation 33
Regulation of Appraisal Management Companies 33
New State Commission of Real Estate Appraisers and Home Inspectors Fund 33
Fee-setting Authority Expanded 34
Fiscal Impact of Chapters 269 and 270 36

Chapter 6. Findings and Recommendations 41
Commission Should Be Extended 41
Resolution of Complaint Backlog Remains Uncertain 41
Newly Established Special Fund Enhances Commission's Self-sufficiency 42
New Law Ends Possibility of Cross-subsidization between the Two Professions 42
Despite New Federal Requirement, Commission Unlikely to Reinstitute Reciprocity Agreements 43
Additional Recommendations 44

Appendix 1. Membership of the State Commission of Real Estate Appraisers and Home Inspectors 45

Appendix 2. Draft Legislation..47

Appendix 3. Written Comments on Behalf of the State Commission of Real Estate Appraisers and Home Inspectors..55

Executive Summary

Pursuant to the Maryland Program Evaluation Act, the Department of Legislative Services (DLS) has evaluated the State Commission of Real Estate Appraisers and Home Inspectors, the entity charged with implementing and administering a program in compliance with federal appraisal laws and regulations and with licensing and regulating home inspectors. The commission is scheduled to terminate July 1, 2013. The seven recommendations in this evaluation are summarized below.

The State Commission of Real Estate Appraisers and Home Inspectors has demonstrated professionalism and efficiency in carrying out its day-to-day operations. The staff has proven to be knowledgeable and capable of executing the tasks for which it is responsible. The commission's deficiencies have been largely the result of a lack of resources, which has been addressed through recent legislation and budget actions.

Recommendation 1: The State Commission of Real Estate Appraisers and Home Inspectors should be continued, and legislation should be enacted to extend its termination date to July 1, 2023, with an evaluation date of July 1, 2022.

The federal Appraisal Subcommittee (ASC) requires state appraisal regulatory bodies to resolve complaints filed against real estate appraisers within one year from the date the complaint is received. Maryland has consistently failed to meet this standard, which has been noted by ASC in several compliance reviews conducted over the past decade. Maryland is far from the only state to face difficulties in meeting the one-year standard of ASC, but the persistence of the problem and the lack of any additional resources dedicated to resolving complex appraisal complaints has resulted in a large and growing backlog of complaints, many of which have been open for two years or more. A key factor in the creation of the backlog is the lack of availability of experienced appraisers to review the merits of each complaint.

However, the fiscal 2012 budget provided the commission with $30,000 in new funding to create a panel of experienced real estate appraisers to address complex appraisal complaints that require a technical review for resolution. While the additional funding is certain to help address the growing backlog of complaints and lack of technical reviews, it is unknown whether this funding will be sufficient to eliminate the commission's backlog of appraiser complaints and process new complaints requiring technical reviews within the required one-year period.

Recommendation 2: The commission should submit a report to the Senate Finance Committee and the House Economic Matters Committee by October 1, 2013, on the extent to which the creation of a technical review panel has assisted in the elimination of the backlog. Specifically, the report should evaluate the rate at which the newly established panel is able to resolve open complaints with $30,000 in funding for fiscal 2012 and any funding that may be

provided for this purpose in fiscal 2013 as well as whether additional funding and staffing will be needed to eliminate the backlog and process new complaints within an appropriate period of time.

While the additional $30,000 appropriation is necessary for the commission to address the growing backlog of real estate appraiser complaints, the commission has generated revenue in excess of expenditures on an annual basis. However, until fiscal 2012, the commission had been reliant on general fund appropriations, which were often insufficient to allow the commission to meet its obligations.

Chapters 269 and 270 of 2011 established a special fund and expanded the commission's role to include regulation of appraisal management companies (AMCs). They also required the commission, in conjunction with the Department of Labor, Licensing, and Regulation (DLLR), to set commission fees at a level to cover its costs. The commission adopted a new fee structure on August 9, 2011, which is expected to provide sufficient revenue to offset the anticipated operating cost of regulating each of the three professions it now oversees. DLS expects that the established fees and newly created fund will be well received by ASC.

Until recently, the commission set the home inspector licensing fees at the statutory maximum of $400. Because the actual number of home inspectors greatly exceeded earlier estimates, home inspector fees have generated substantially more revenue than expected. Additionally, the home inspector licensing fees have been significantly higher than real estate appraiser fees, which were set in statute. Thus, concerns have arisen about the disparity in fees for each profession and the resources needed to regulate them. While there had previously not been any statutory mechanisms to address this disparity, Chapters 269 and 270 of 2011 now require that the new fees established for each program approximate the costs of regulating each profession.

Recommendation 3: The commission should report to the committees by October 1, 2013, on the methodology used to develop the fee structure for each profession, including the direct and indirect costs attributable to each profession. In addition, the commission should report, by October 1, 2013, on whether the fee structure has eliminated or minimized cross-subsidization and ensured sufficient special fund revenue to support each of the commission's three functions. This will enable appropriate oversight to ensure that the new special fund addresses the concerns expressed in the most recent ASC compliance review while maintaining compliance with Chapters 269 and 270.

Traditionally, federal law encouraged, but did not require, reciprocal licensing among states for real estate appraisers. In 2009 Maryland rescinded each reciprocity agreement it had established with other jurisdictions after citing concerns about less stringent licensing and certification standards in those jurisdictions. ASC reviewers have since noted the lack of a reciprocal licensing policy for the commission as an area of concern. While the recent federal financial reform legislation contained a mandate regarding reciprocal licensing for state appraiser licensing units, the conditions associated with the mandate may mean that new reciprocal licensing agreements are unlikely.

Recommendation 4: The commission should reevaluate the licensing standards of other jurisdictions with which Maryland had reciprocity agreements in the past and report its findings as part of its report to the General Assembly. The report should include a detailed assessment of what steps other jurisdictions have taken or intend to take, if any, to establish licensing requirements on par with Maryland's standards. The report should also include steps the commission is taking to reinstate reciprocity agreements, where appropriate, and how it will monitor the progress of other jurisdictions with lesser standards. The report should be submitted to the committees by October 1, 2013.

Chapters 269 and 270 of 2011 require all AMCs conducting business in Maryland to register with the commission.

Recommendation 5: The General Assembly should rename the commission in order to reflect its newly delegated responsibilities and the appraisal management company industry that it now oversees.

The federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) authorized new grants to assist states in maintaining compliance with federal laws and policies. It is unclear whether or when the commission will receive grant funding, how much funding may be provided, or what conditions may be attached to such assistance. Further, discussions with ASC officials have revealed that the funding referred to in statute may not actually be provided in the form of direct grants to the states and may instead be used to support national training seminars and other services to state regulatory bodies. Due to longstanding staffing shortages, the commission has at times in the past failed to send representatives to national conferences.

Recommendation 6: Commission staff should take advantage of training opportunities created by federal agencies with any money that may be authorized under Dodd-Frank and should attend national conferences and training seminars whenever appropriate.

Chapter 470 of 2001 expanded the commission's regulatory purview to encompass home inspectors and required DLLR to study the appropriateness of incorporating oversight of home inspectors with the commission. Due to the substantial delay in implementation of the home inspector licensing program, the study was also delayed. However, in 2006 DLLR submitted a letter to the General Assembly that the report would be completed once the home inspector program was implemented. To date, no report has been submitted.

Recommendation 7: Given that the home inspector and real estate appraiser programs have been operating together effectively for several fiscal years, the General Assembly should repeal the requirement for the report on implementation of the home inspector licensing program.

Chapter 1. Introduction

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 last underwent a full evaluation in 2001. At the time of the evaluation, the commission's authority had recently 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 specified 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.

The commission 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 each year. The preliminary sunset evaluation conducted during the 2009 interim found several issues for further DLS investigation in a full sunset evaluation, including a continuation of the finding from the 2001 full evaluation that the real estate appraiser complaint resolution process faced significant delays.

However, after examining each of the issues identified in the preliminary evaluation, DLS determined that a full evaluation and final dispositive recommendations could not be completed due to the enactment of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) in July 2010. Therefore, DLS notified the Senate Finance Committee and the House Economic Matters Committee that the full evaluation would not be completed until at least the 2011 interim. The effect of this postponement has been mitigated by the previous and unrelated decision to expedite the preliminary evaluation to the 2009 interim, providing ample time to complete the final evaluation prior to the commission's scheduled termination in July 2013.

Research Activities

DLS utilized several standard research activities to complete the full evaluation of the State Commission of Real Estate Appraisers and Home Inspectors.

Literature and Document Reviews

The study team reviewed literature on the regulation and practice of real estate appraisals and home inspections, including standards and guidance established by the federal Appraisal Subcommittee and nongovernmental institutions such as the Appraisal Foundation. In addition, the study team reviewed literature from pertinent State and national professional associations, such as the American Society of Home Inspectors and the Appraisal Institute. The team reviewed and analyzed the commission's internal documents such as meeting minutes, federal field reviews, and the commission's complaint and financial records.

Structured Interviews and Site Visits

Interviews with commission staff; key personnel from the Department of Labor, Licensing, and Regulation (DLLR); the chair; and the vice-chair were conducted in person or over the telephone. These interviews focused on possible solutions to the issues identified, with responses also used to evaluate the commission's management, administrative processes, organizational structure, and statutory authority. In addition, the study team maintained correspondence and telephone contact with federal regulators and professional associations. Finally, the study team attended several meetings of the commission to gain a better understanding of the issues confronting the commission and of the disciplinary process.

Report Organization

Chapter 2 provides an overview of the real estate appraisal and home inspection industries and State and federal oversight of those industries by the commission and several federal entities. **Chapter 3** discusses the issues identified by the preliminary evaluation and provides an update on the status of each issue using relevant data. **Chapter 4** explains how the enactment of recent federal financial reform legislation has significantly affected the commission's responsibilities. **Chapter 5** examines how new legislation enacted during the 2011 session of the Maryland General Assembly has substantially altered the nature of the issues identified by the preliminary evaluation and the level of resources available to address each issue. **Chapter 6** provides recommendations to address issues raised throughout the report that have not been resolved by the legislation discussed in Chapter 5. Commission members are listed in **Appendix 1.** **Appendix 2** is the draft legislation to implement the statutory recommendations made by DLS. The commission has reviewed a draft of this evaluation, and DLLRs response on behalf of the commission is contained in **Appendix 3.** Appropriate factual corrections and clarifications have been made throughout the document. Therefore, references in those comments may not reflect this published version of the report.

Chapter 2. State Commission of Real Estate Appraisers and Home Inspectors

The Real Estate Appraisal Industry

Real estate appraisers provide estimates of the value of commercial and residential real property to their clients. Real estate appraisals are most often associated with the purchase of a home and are often shared with the buyer, seller, and broker involved in a real estate transaction. Generally, however, an appraiser's client is a mortgage lender seeking an accurate value for the home that serves as collateral in the loan transaction. Maryland law specifically defines an "appraisal" to exclude an opinion made by a licensed real estate broker as to the recommended selling price of a home. Appraisal services are also 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. This crisis was characterized by the failure of hundreds of savings and loans associations and required billions of dollars in federal assistance to resolve. The U.S. Congress passed the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) in response to losses the federal government suffered during the crisis. FIRREA included appraisal reforms contained in Title XI of the law after finding evidence of incompetent and fraudulent appraisal practices in the years preceding the crisis. The primary intent of Title XI is to protect federal deposit insurance funds and the customers and depositors of federally insured banking institutions from future losses associated with real estate and to promote sound lending practices.

Title XI of FIRREA created a framework for the establishment of national uniform standards governing the licensing of real estate appraisers and the quality of their appraisals. Title XI prohibited the appraisal of property in a federally related transaction, valued in excess of the federal *de minimis* amount, by an appraiser without a license or certification. Subsequently, dozens of states established real estate appraisal boards and commissions consistent with the new national standards. Federally related transactions include those 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; the current *de minimis* amount is $250,000 for most transactions.

According to the federal Appraisal Subcommittee, 29 states, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands require state licensing or certification of all real estate appraisers, regardless of whether the appraisal is provided in connection with a federally related transaction. Fourteen states, including Maryland, require an appraiser to be state licensed or certified only in connection with federally related transactions. The remaining seven 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. It is not unusual for a lender to impose its own more stringent licensing requirements or to allow only a credentialed appraiser to perform an appraisal for a nonfederally related transaction.

Establishment of the Commission

Chapter 594 of 1990 established the commission, originally named the State Commission of Real Estate Appraisers, to implement and administer a program in compliance with Title XI of FIRREA. Thus, the commission ensures that the licenses and certifications it grants are consistent with the education and experience requirements set by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation, a nonprofit appraiser education organization given statutory authority under FIRREA to develop generally accepted appraisal standards for federally related transactions and minimum certification and licensing requirements for appraisers. The commission must also enforce the Uniform Standards of Professional Appraisal Practice (USPAP), established by the Appraisal Foundation's Appraisal Standards Board (ASB). USPAP provides the criteria that an appraiser must follow in performing an appraisal and details the information that must be provided within an appraisal report.

Commission Expands to Incorporate Oversight of Home Inspectors

Although residential real estate appraisers and home inspectors are sometimes mistaken by the public as the same entities, the two professions provide significantly different services. Whereas a residential appraiser provides a lender with an estimate of the value of collateral in a mortgage transaction, a home inspector provides a prospective homebuyer with an evaluation of the condition of the physical structure and various systems in a house. There are also significantly different issues facing each of the two industries and differing concerns for those tasked with providing oversight. Nevertheless, Chapter 470 of 2001 gave jurisdiction to the commission to regulate home inspectors. Thus, the commission was renamed the State Commission of Real Estate Appraisers and Home Inspectors and tasked with implementing a mandatory licensing program for Maryland home inspectors.

In 1991, Texas became the first state to require licensing of home inspectors. Today, at least 29 other states require licensing, certification, or registration of home inspectors according to the American Society 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. At least five additional states have enacted laws that regulate the practice of home inspections, but they do not require state licensure, certification, or registration, as was the case in Maryland prior to the passage of Chapter 470.

With few exceptions, Chapter 470 requires that an individual be licensed by the commission before engaging in the business of providing home inspections. In order to obtain a home inspector license, an applicant must have a high school diploma or equivalent and complete a minimum number of hours of a nationally or commission-approved off-site training course. A prospective licensee must also obtain general liability insurance and submit proof of the insurance with the required application and application fee. Chapter 160 of 2008 raised the minimum number of required training hours from 48 to 72 and raised the general liability insurance coverage from $50,000 to $150,000.

Chapter 470 created a separate license that grandfathered home inspectors with a certain level of education or experience or with membership in one of several nationally recognized professional organizations before July 1, 2002. Chapter 470 also authorized a home inspector to be licensed through reciprocity. Thus, an applicant who pays the application fee and holds a valid out-of-state home inspector's license, or otherwise meets Maryland licensing requirements, may be licensed by reciprocity at the commission's discretion.

In addition to these licensing requirements, the regulatory system created by Chapter 470 for home inspectors includes compliance with professional standards of business and codes of practice, establishes mandatory disclosures and required components for each inspection report, and imposes criminal and civil penalties for specified misconduct.

Finally, in light of the significant differences between the real estate appraisal and home inspection industries, Chapter 470 required the Department of Labor, Licensing, and Regulation (DLLR) to study the appropriateness of incorporating oversight of home inspectors within the commission. As noted below, because of the substantial delay in implementation of the home inspector licensing program, the study and report were also delayed. However, in 2006 DLLR submitted a letter to the General Assembly indicating that the report would be completed once the program was implemented. To date, no report has been submitted.

Commission's Implementation of Home Inspection Licensing Significantly Delayed

Chapter 470 required licensing of home inspectors in Maryland effective October 1, 2001. The fiscal and policy note for Chapter 470 estimated that the $182,500 in new licensing fee revenues would not cover the estimated $254,000 needed to license home inspectors, primarily due to an estimated $182,500 charge for initial computer services. Due to cost containment efforts in fiscal 2002 and 2003, funds were not appropriated to implement Chapter 470, and Chapter 226 of 2002 formally postponed the licensing requirement until July 1, 2003. However, cost containment measures continued, and it was not until fiscal 2007 that funds were appropriated to allow the commission to begin licensing home inspectors.

Commission Membership and Structure

Commission Representation Reflects Changing Scope of Commission

The commission consists of 15 commissioners appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation and the advice and consent of the Senate. Chapter 470 increased the commission membership from 9 to 15 commissioners, to include representation of home inspectors and additional consumers. Chapters 269 and 270 of 2011 altered the membership by reducing, from five to four, the number of commissioners representing consumers and adding a commissioner to represent appraisal management companies (AMCs). Currently, at least two members must be certified general real estate appraisers; two must be certified or licensed real estate appraisers; four must be licensed home inspectors; two must represent financial institutions; one must represent an AMC; and four must be consumer members. Chapters 269 and 270 are two of the most recent enactments affecting the commission, as shown in **Exhibit 2.1**.

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. The consumer members may not be holders of any commission credential or otherwise subject to regulation by the commission. Each member must be a Maryland resident. Commission members are appointed by the Governor with the advice of the Secretary and the advice and consent of the Senate. The Governor is authorized by law to remove a commission member on grounds of incompetency or misconduct. A chair and vice-chair are elected annually by the members. If the chair is a real estate appraiser, the vice-chair must be a home inspector and vice versa.

Four current members have exceeded the two-term limit. Of those four members, one represents financial institutions, one represents consumers, and two are licensed home inspectors. The one expired consumer member currently holds a membership position that will be eliminated and replaced by a position to be filled with a new AMC member. 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. They have been granted permission to serve additional terms to coincide with the initiation of the home inspector program. Additionally, the chair position was vacated in 2011 with the death of the former longstanding chair Patrick Murphy. The commission voted to promote the previous vice-chair to serve as the new chair and elected a new vice-chair.

Exhibit 2.1
Major Legislative Changes Since the 2001 Sunset Evaluation

Year	Chapter	Change
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
2010	153	Authorizes the commission to levy a civil penalty of up to $5,000 against a home inspector in lieu of administrative sanctions
		Requires the commission to consider certain factors related to granting or renewing a home inspector license and to the issuance of a fine
2011	269/270	Establish the commission as a special fund entity
		Grant the commission authority to set fees for regulation of appraisal management companies (AMCs)
		Require AMCs to register with the commission to operate in the State and imposes regulatory requirements on AMCs

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

Source: Laws of Maryland

New Committees Established to Handle Additional Commission Functions

The commission has established four standing committees: two education/application committees and two complaint committees, with one each for appraisers and home inspectors. 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, at which time the standing committees present their actions and recommendations to the full commission.

In addition, the commission is required to institute various hearing boards. The real estate appraisers hearing board is required by statute to be composed of one representative from a financial institution, one consumer member, and one appraiser with a level of licensure or certification at least equal to the individual under review. The home inspectors hearing board must be composed of two licensed home inspectors and one consumer member. Chapters 269 and 270 of 2011 required the establishment of a new hearing board for alleged violations of the new requirements and prohibitions pertaining to AMCs.

Appraiser and Home Inspector Licensing Programs

Real Estate Appraiser Qualifications

Maryland issues four types of real estate appraiser credentials, which meets the requirements of FIRREA and also allows for the regulation of appraisers who do not work on federally related transactions. A **real estate appraiser trainee** license authorizes the 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 if it involves only 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 residential or 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 2.2**.

In addition to the four types of appraiser credentials, the commission issues temporary real estate appraiser permits to out-of-state appraisers. 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 also authorized to issue to an out-of-state appraiser a license or certificate if the applicant is a licensed or certified real estate appraiser in a state that shares reciprocity with Maryland. Such reciprocal licensing is authorized 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 credentialed in the other state after meeting requirements that are substantially equivalent to Maryland's requirements. Additionally, the commission may only grant a waiver of examination to an out-of-state appraiser if the state in which the applicant is credentialed also waives the examination to a similar extent for appraisers credentialed in Maryland. However, as noted in **Chapter 3**, the commission has rescinded all reciprocity agreements it previously reached with other states, which has complicated the process of reciprocal licensing for appraisers.

Home Inspector License Qualifications

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 commission is authorized to issue a reciprocal license if the home inspector 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.

Exhibit 2.2
Appraiser License Scope and Qualifications

	Scope of License	Qualifications
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

Commission Examinations

To obtain an initial appraiser license or certification, an applicant must pay an examination fee of $100 and successfully pass the National Uniform Licensing and Certification Examinations. The examinations are administered by a private testing service under contract with the State. In order to sit for an examination, applicants must complete several forms attesting to their satisfactory completion of the relevant education and experience requirements and submit the forms to the testing vendor for delivery to the commission. The commission then reviews the forms and attached documentation and notifies the testing service when the applicant is approved to schedule an exam. Testing centers in Maryland are available in Baltimore, College Park, Crofton, Hagerstown, Lanham, and Salisbury. Examination applicants can learn their test scores immediately after taking the exam. National passage rates for first-time takers of the exams ranged from approximately 50% to 65% in 2010, with a 55% rate for Maryland applicants. Applicants who fail the examination may retake the exam as soon as three days following the previous exam, but they must pay another fee upon registration for the new exam.

The commission has contracted with the same testing service vendor to proctor the National Home Inspector Examination. Applicants must register with the Examination Board of Professional Home Inspectors, an independent nonprofit corporation established in 1999, before taking an exam. Applicants must pay to the vendor a $225 registration fee each time a test is taken. There are no limits to the number of times an applicant may retake an examination, but there is a mandatory 30-day waiting period between each exam.

Continuing Education Requirements

Real estate appraisers must renew licenses and certificates within three years of issuance. The commission mails renewal applications approximately 30 days prior to the expiration date, and the appraiser must return the application with the renewal payment for the relevant type of credentials as shown in **Exhibit 2.3**. In addition, the appraiser is responsible for completing a total of 42 hours of appraisal-related continuing education, which must include the 7-hour national USPAP Update Course or its equivalent. While proof of completed education courses is not required as part of the renewal process, the commission requires license and certificate holders to retain all course completion certificates for presentation during random audits. An appraiser who fails to renew a license or certificate during the effective period may seek reinstatement if all continuing education and filing requirements are satisfied and a reinstatement fee of $25 is paid.

Home inspectors have not traditionally been subject to comparable education, training, examination, or continuing education requirements as real estate appraisers. Prior to 2008, home inspector applicants were required to complete a minimum of 48 hours of off-site training approved by a national home inspection organization or the commission and have a high school diploma or its equivalent. However, Chapter 160 of 2008 enhanced the applicant training requirements to include 72 hours of *on-site* training as well as completion of the National Home Inspector Examination or an equivalent exam.

Exhibit 2.3
Licensing and Certification Fees as of August 2011

	Original	Renewal	Out-of-state
Real Estate Appraiser (Three-year Term)			
Trainee	$75	$75	N/A
Licensed	150	200	$150
Certified Residential	175	200	175
Certified General	175	200	175
Home Inspector (Two-year Term)	450	400	450

Notes: 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 commission has begun the process of approving new fees to comply with Chapters 269 and 270 of 2011, as noted in Chapter 4.

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

During the 2011 session, Senate Bill 147 (Chapter 186) further expanded the occupational requirements of home inspectors by phasing in new continuing education standards necessary for license renewal. The requirements include 30 hours of coursework during the two-year licensing period, but they do not apply to the first renewal of a license or to licenses that expire on or before September 30, 2013. Individuals applying to renew a license that expires between October 1, 2013, and September 30, 2014, must fulfill 50% of the continuing professional competency requirements. Individuals renewing a license that expires after October 1, 2014, must complete all continuing professional competency requirements established by the commission. The commission is now in the process of promulgating the necessary regulations and implementing a functional home inspector education subcommittee to oversee the new requirements.

Licensing and Certification Activity Varies Due to Statutory and Economic Changes

All real estate appraiser credentials are valid for three years and may be renewed for additional three-year terms on payment of the renewal fee. The total number of real estate appraisers under the commission's jurisdiction peaked in fiscal 2007 at around 5,400, which is more than twice the number of license or certificate holders from 10 years earlier. However, as shown in **Exhibit 2.4**, the number of real estate appraisers has since declined significantly over the past four years, including a 44% reduction in the number of licensed appraisers, an 82% reduction in the number of trainees, and a reduction of 42% for all classes of appraisers. Despite the significant overall decline, other notable trends include 42% growth in the number of residential real estate appraiser certificates, with a 30% spike between fiscal 2007 and 2008, as well as a remarkably stable number of certified general appraisers. DLLR officials have described the overall decline in the number of active appraiser credentials as nearly unprecedented, with a comparable decline only evident among licensees of the Maryland Real Estate Commission.

Exhibit 2.4

Credential Holders, by Type

Fiscal 2006-2011*

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Real Estate Appraiser Credentials						
Trainee	2,385	2,334	1,929	1,201	711	426
Licensed	1,302	1,325	1,287	1,119	912	734
Certified Residential	856	951	1,241	1,221	1,229	1,215
Certified General	759	753	793	779	735	722
Home Inspector Licenses	-	-	631	661	844	822

*License count taken in May or June 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 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 had to complete additional hours of classroom study, and an applicant for an original appraiser's certificate also had to 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.

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. Another important factor behind this trend was the new appraiser certification requirements for Federal

Housing Administration-backed loans. As of October 1, 2009, only certified appraisers may provide appraisal services in connection with Federal Housing Administration-backed loans. Thus, as shown in **Exhibit 2.5**, the share of licensed appraisers has declined slightly, while the share of appraisers holding certificates has increased from less than one-third of appraisers under the commission's jurisdiction to nearly two-thirds.

Exhibit 2.5

Share of Commission Real Estate Appraiser Credentials, by Type

Fiscal 2006-2011

Year	Trainee License	Residential License	Certified Residential	Certified General
2006	45%	25%	16%	14%
2007	44%	25%	18%	14%
2008	37%	25%	24%	15%
2009	28%	26%	28%	18%
2010	20%	25%	34%	20%
2011	14%	24%	39%	23%

Note: Percentage totals may not sum to 100 due to rounding.

Source: State Commission of Real Estate Appraisers and Home Inspectors

Economic factors have also contributed to many of these trends. For example, national home prices, as measured by the S&P/Case-Shiller 20-City Composite Home Price Index, doubled between January 2000 and November 2005, peaking in April 2006, and have since declined by nearly one-third. The declining home prices have also caused a similarly significant drop in the number of home sales, which in turn, have lowered the demand for appraisals, causing many appraisers to leave the industry and dissuading new entrants. As noted in further detail below, the industry has also undergone substantial regulatory reform at the State and federal level, which may be causing additional uncertainty and difficulty for current and prospective appraisers.

As previously noted, home inspectors were not licensed by the commission until fiscal 2007. In fiscal 2008 there were about 630 licensees, and despite the poor housing market conditions, the number of home inspectors holding licenses rose to about 840 in fiscal 2010 before declining slightly to 822 licensees in fiscal 2011.

Chapter 3. Findings of the Preliminary Evaluation

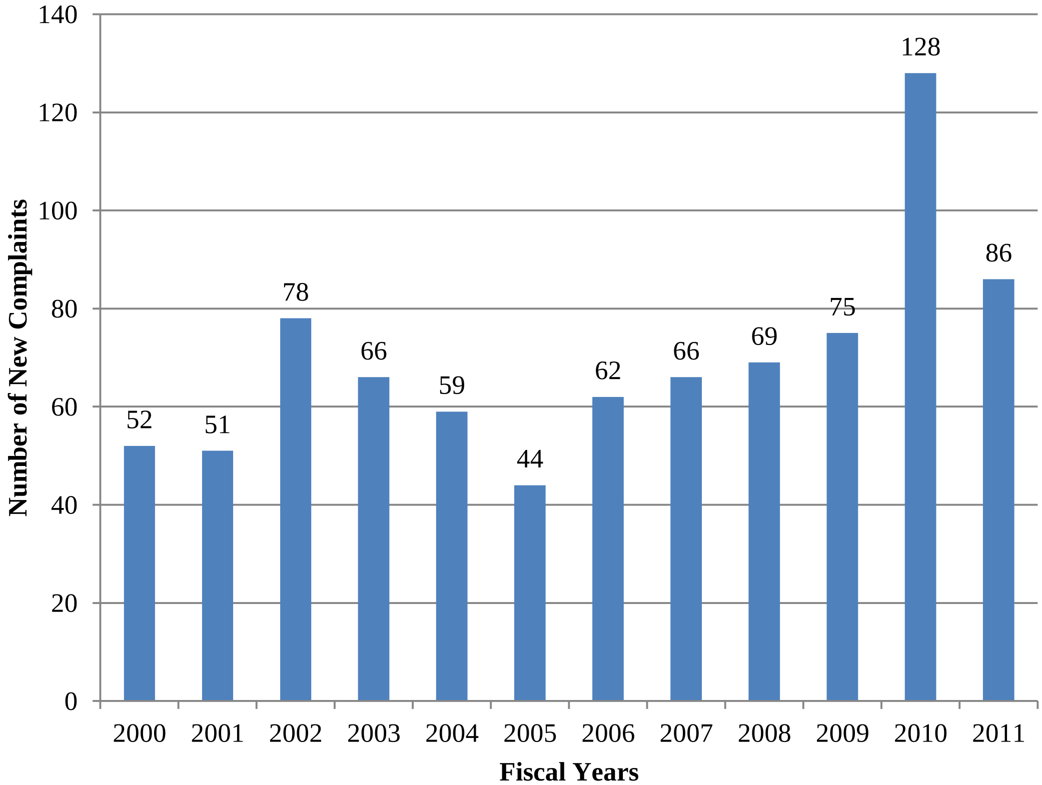
The preliminary sunset evaluation conducted in 2009 found four significant issues for further investigation in the final sunset evaluation (1) the persistent failure by the State Commission of Real Estate Appraisers and Home Inspectors to resolve appraiser complaints within the federally required one-year time limit; (2) the lack of a special fund to ensure that revenues generated by the commission are available to carry out the commission's mandate; (3) cross-subsidization between regulated professions through the commission's fee structure; and (4) the suspension of the commission's reciprocal licensing agreements for out-of-state appraisers.

Growing Complaint Backlogs Lead to Noncompliance with Federal Law

The preliminary evaluation revealed significant increases in the volume of appraisal complaints. The steady volume of complaints received annually by the commission is displayed in **Exhibit 3.1**. The complaint volume, coupled with the high percentage of those requiring technical review and the lack of resources to conduct such reviews, raised concerns by the federal Appraisal Subcommittee (ASC) and the Department of Legislative Services (DLS) about substantial delays in the processing of complaints. Of the 70 open complaints currently before the commission, 42 are still awaiting technical review. A technical review performed by a qualified appraiser is often necessary for complaints due to the complexity of the appraisal and the nature of the complaint. However, the commission does not employ an appraiser to conduct technical reviews. Instead, it relies on a single unpaid volunteer who is unable to provide the hours needed to conduct reviews in a timely manner.

On average the number of days to close a complaint is significant. In fiscal 2006, the 62 complaints received took an average of nearly one year – 335 days – to resolve. Although the average length of time to resolution has steadily decreased since 2006, it only reflects complaints that actually have been closed. Many complaints dating back to 2007 are currently lingering before the commission. In many cases they require a technical review and are, therefore, still open for resolution. Those complaints, having remained open for many years in some cases, will increase the average resolution time when they are finally closed.

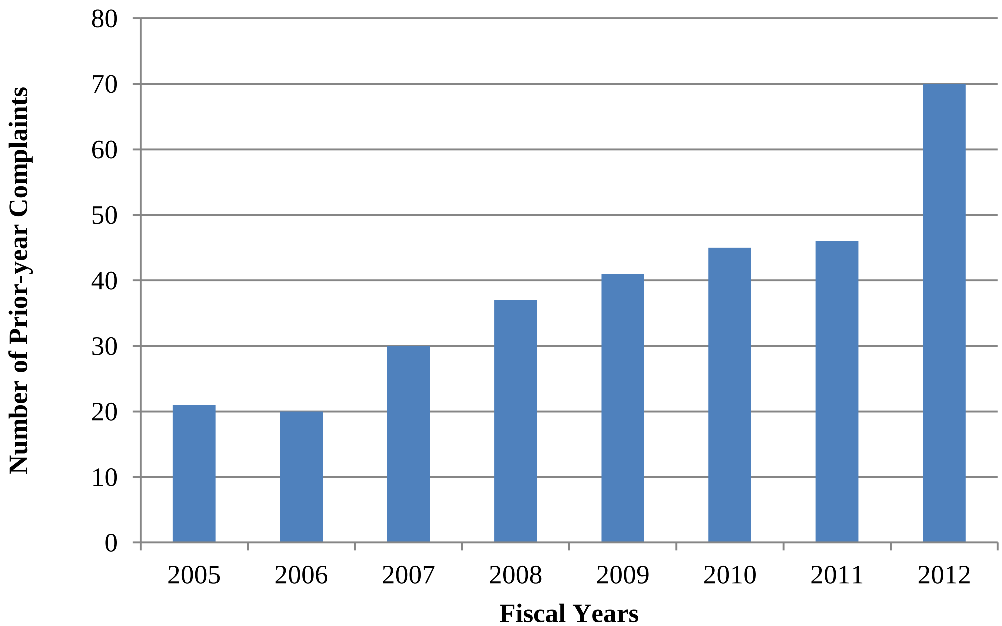
Exhibit 3.1
Appraisal Complaints Received
Fiscal 2000-2011



Source: State Commission of Real Estate Appraisers and Home Inspectors

The commission at one time had a small budget of $2,700 and $3,800 during fiscal 2006 and 2007, respectively, for the purpose of maintaining a small panel of expert reviewers to provide technical reviews on a contractual basis. The commission has commented on the usefulness of the panel as a steady pool of available reviewers. However, in fiscal 2008, the commission did not receive panel funding, and in fiscal 2009, the commission's panel appropriation of $10,000 was eliminated for cost-containment purposes and has not been reestablished. In the years since, the commission has relied on several volunteers to assist with technical reviews. As a result, complaints have remained open for greater periods of time. Accordingly, the number of unresolved complaints has increased each year, resulting in a growing backlog. **Exhibit 3.2** demonstrates that, since fiscal 2006, the commission's cumulative backlog of complaints has more than tripled and, as a result, the commission will begin fiscal 2012 with a backlog of 70 open complaints filed in prior fiscal years.

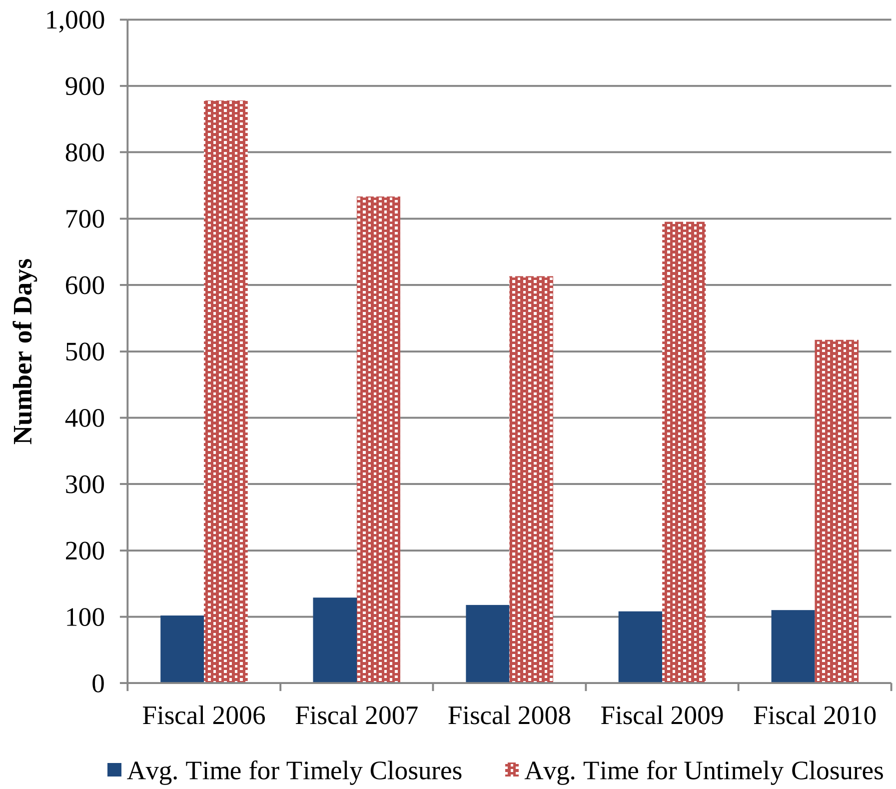
Exhibit 3.2
Cumulative Backlog of Appraisal Complaints
Fiscal 2005-2012



Source: State Commission of Real Estate Appraisers and Home Inspectors

The decrease in the average amount of time needed to close a complaint appears inconsistent with the growing backlog reflected in Exhibit 3.2. However, this apparent contradiction is due to differences in the types of complaints. For example, while some complaints require a technical review from an expert appraiser, other complaints do not and may be processed by the commission very quickly. **Exhibit 3.3** reveals that, while some cases are indeed closed very quickly, others take months or even years to resolve. For example, an average of 58 complaints not requiring a technical review are received annually and require only 108 days to close – very timely as measured against the ASC standard of one year. However, the complaints that require technical review take 687 days on average to resolve, well above the federal one-year standard. Many such cases awaiting technical review have not yet been resolved and are not counted toward the average closure time. Instead, these cases merely add to the commission's already large backlog of open complaints.

Exhibit 3.3
Average Time to Close Simple and Complex Complaints
Fiscal 2006-2010



Source: State Commission of Real Estate Appraisers and Home Inspectors

ASC requires that state commissions resolve complaints against real estate appraisers in one year or less. This standard is necessary to ensure that states are addressing consumer concerns, violations of the states' codes of conduct, and possible illegal activity in a timely manner. The persistence of this issue is primarily the result of very limited staff resources and the absence of a permanent technical reviewer or review panel to investigate complaints involving technical appraisal issues.

Although the most recent ASC citation was a repeat finding and continues to be an area of serious concern, the preliminary evaluation noted that ASC's authority to sanction the commission has traditionally faced serious practical limitations. Traditionally, the federal government's only significant recourse to address substantial noncompliance by a state appraiser regulatory body was to decertify that agency. However, this action would have severe consequences for both individual appraisers and the real estate and mortgage lending industries of the affected state. To date, no such action has ever been taken against a state appraiser regulatory body. As a result of this lack of an effective enforcement policy, many states, including Maryland, have been slow to provide resources that would bring them into compliance with the ASC requirement to resolve complaints in a timely manner.

Fiscal Condition of the Commission

Revenue collected by the commission is generated through licensing fees, fines, and other fees charged for services provided. Until fiscal 2012, revenue collected by the commission was credited to the general fund rather than a dedicated purpose special fund; therefore, the commission has traditionally relied on appropriations from the general fund to cover its operating expenses.

Commission Revenue Has Benefited the General Fund

Revenue generated by the commission's collection of fees varies by year, as shown in **Exhibit 3.4**. Commission licenses and certifications for real estate appraisers must be renewed every three years and home inspector licenses must be renewed biennially. As a result, revenues fluctuate every two to three years to reflect the renewal cycle based on licenses that were initially issued when the commission began regulating each profession. For instance, revenues generated by the licensing and certification fees for real estate appraisers peaked in fiscal 2007 and again three years later in fiscal 2010, since a real estate license or certificate is valid for three years. Likewise, revenue generated by the home inspector program was high in fiscal 2008, the first full year of the program, and again in 2010. The commission's expenses, however, are primarily fixed and, therefore, have only varied in response to budgetary pressures or additions to its statutory responsibilities. The result is that the annual excess or gap is a direct function of revenue totals. Fiscal 2010, for instance, was a high revenue year for both the appraiser and inspector programs and produced excess revenues of $196,303 – the highest amount in at least five years.

During the five-year period from fiscal 2007 through 2011, the appraiser and home inspector programs generated a combined $1.7 million in revenue. On a long-term basis, revenue has been relatively stable. The commission collected $311,358 for both programs in fiscal 2011, which is only $7,137 less than fiscal 2007. Thus, despite the new source of revenue from the licensing of home inspectors, overall revenues have been flat due to the significant decrease in the number of credentialed appraisers. On the basis of a three-year cycle, revenue grew by just $74,654 from the fiscal 2006 through 2008 cycle to the fiscal 2009 through 2011 cycle, while commission expenditures decreased by about $124,880, despite the additional responsibilities resulting from the licensing of home inspectors. The reason expenditures have declined in the face of increasing responsibilities is that the State has recently enacted various cost-containment measures. Such measures have included the elimination of the commission's executive director and a contractual position that was added in 2007 to handle the increased workload created by the home inspector licensing program. However, rather than being redirected to support the commission's activities and statutory responsibilities, the excess revenues have benefited the State's general fund.

Exhibit 3.4
Fiscal History of the
State Commission of Real Estate Appraisers and Home Inspectors

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Positions	1.00	2.00	2.00	1.00	1.00	1.00
Revenues						
Appraiser Revenues	$199,845	$250,545	$171,953	$119,423	$205,436	$155,000
Home Inspector Revenues	-	67,950	234,725	170,525	192,930	156,358
Total Revenues	**$199,845**	**$318,495**	**$406,678**	**$289,948**	**$398,366**	**$311,358**
Expenditures						
Direct Expenditures	$250,272	$156,674	$187,455	$154,796	$136,804	$153,545
Direct Legal Expenditures*	0	0	0	48,998	51,856	46,635
O&P Cost Allocation**	22,337	31,724	50,780	27,692	0	0
DLLR Indirect Expenditures	46,528	18,284	27,738	20,561	13,403	12,622
Total Expenditures	**$319,137**	**$206,682**	**$265,973**	**$252,047**	**$202,063**	**$212,802**
Excess/(Gap)***	**($119,292)**	**$111,813**	**$140,705**	**$37,901**	**$196,303**	**$98,556**

*Legal expenditures were not calculated as indirect costs for general fund boards and commissions until fiscal 2009.
**O&P was considered an indirect cost until fiscal 2010 when it was folded into direct costs.
***From fiscal 2007 through 2011, the excess benefitted the general fund.

O&P: Occupational and Professional Licensing

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

Shrinking Budget Inconsistent with Growing Responsibilities

During the five-year period from fiscal 2007 through 2011, the commission covered all of its expenses and generated a considerable surplus, even including indirect expenses that are not paid by the commission but nevertheless incurred by the Department of Labor, Licensing, and Regulation (DLLR). Such indirect expenses include the Occupational and Professional (O&P) Licensing Cost Allocation, which is the department's estimate of central expenses. This includes central phone lines that are paid by DLLR as well as budgetary and legal support provided by DLLR staff, neither of which was historically paid with commission revenues. This process was changed in fiscal 2010 when the commission began budgeting the indirect costs for O&P Cost Allocation and including them as a direct expenditure. Additional indirect expenses incurred by this and all commissions within DLLR range from information technology support and upgrades to assistance from other divisions such as the Office of the Secretary.

Although its revenues have generally exceeded its expenditures, cost-containment measures have left the commission underfunded as its workload grows. In every year except fiscal 2008, the commission's general fund appropriation has been reduced. This includes fiscal 2011, although Exhibit 3.4 reflects the fact that actual fiscal 2011 expenditures exceeded the appropriation, further emphasizing the commission's need for additional funding to carry out its duties. As previously noted, the commission did receive additional funding to address the increased workload from the newly added home inspector program; however, some of that funding was later eliminated in fiscal 2009 when the commission lost one position that had been created for the purpose of assisting with the implementation of the new program. During the four-year period from fiscal 2008 – the first full year in which the commission regulated home inspectors – through fiscal 2011, the total expenditures attributed to the commission dropped by $53,171 or 20.0% despite its expanded scope of responsibility. Decreases in the commission's budget are also being made coincident with a change in the O&P Cost Allocation, which has increased direct expenditures by roughly $30,000 per year.

The new home inspector licensing program and a substantial increase in appraiser complaints have significantly increased the commission's workload, while cost-cutting measures have reduced the commission's staff to one person. This issue was noted in the preliminary sunset evaluation and has been cited as a major concern by both ASC and the Appraisal Institute. Because the commission's workload exceeded available resources, the preliminary evaluation noted that, although the commission was able to address its day-to-day operations and appropriately perform its core functions, certain problems have continued to grow. Most notably, without sufficient funding, the commission has continued to rely on one unpaid volunteer appraiser to provide technical reviews. As noted earlier, this has exacerbated the backlog of unresolved complaints against appraisers.

State and Federal Authorities Prefer Self-funding

ASC is required by federal law to oversee state appraiser licensing units, which is accomplished through compliance reviews. According to ASC, these reviews consist of an assessment of state licensing units' compliance with Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), internal ASC policy statements, and Appraiser Qualifications Board (AQB) criteria. A compliance review focuses on three key components of Title XI (1) implementation and enforcement of Uniform Standards of Professional Appraisal Practice (USPAP) and the AQB criteria; (2) adequacy of a state's statutory or regulatory authority, funding, and staffing to successfully carry out Title XI-related functions; and (3) consistency with Title XI in the decisions of the licensing unit. States may be found to be in "substantial compliance," "not in substantial compliance," or "not in compliance," and preliminary findings are provided along with 60 days for states to respond. New ASC policy requires compliance reviewers to consider a state's response to the initial findings.

ASC does not require states to establish a special fund for state appraiser licensing units. However, ASC cited the commission in the November 2010 compliance review for not having "sufficient legal and administrative resources to perform… [its] duties" and further noted that it was "concerned that without sufficient resources, the Program may not be able to investigate and resolve complaints timely." Although a special fund to capture the programs' revenue and provide sufficient resources to the commission is not currently a federal requirement, discussions with the ASC Executive Director have revealed a strong preference for special-funded commissions. Given that the commission was generating revenues in excess of expenditures on a consistent basis and that the commission was underfunded and facing a significantly growing workload, the preliminary evaluation noted that the option of creating a special fund should be explored. Additionally, this issue was raised during the 2009 legislative session with the introduction of House Bill 331; however, the bill was withdrawn prior to receiving a hearing.

Fee Structure Has Allowed for Disparity in Revenues among Programs

Original, renewal, and reciprocal licensing fees for each type of credential issued by the commission are shown in Exhibit 2.3. Unlike real estate appraiser fees, which were set by statute, the commission was granted the authority to set home inspector licensing fees by regulation, subject to a statutory maximum, when it began regulating the home inspector industry. 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. DLLR had originally estimated that there would be 450 home inspectors in Maryland. As of June 2011, there were 822 licensed home inspectors in the State, which therefore generate nearly twice the revenue originally anticipated.

At 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.

Based on the significant differences in licensing fees, coupled with the number of home inspector licenses, the preliminary sunset evaluation raised concerns about the disparity in revenue generated by the two programs as compared with the cost of running each program. From fiscal 2009 through 2011, the appraiser program generated $479,859 compared with $519,813 for the home inspector program. By contrast, as of June 2011 there were 3,097 credentialed appraisers in the State but only 822 home inspectors. Thus, although inspectors represented only 21% of the individuals that the commission was required to regulate in fiscal 2011, the inspector program provided over half of the commission's revenue during that same year.

The commission traditionally was general-funded and did not track appraiser and inspector program expenses separately, making it difficult to estimate how shared resources are split among the two professions. However, the commission became special-funded beginning in fiscal 2012, and pursuant to Chapters 269 and 270, cross-subsidization among professions is prohibited, as further discussed in **Chapter 5**. Even so, the volume of home inspector complaints has remained relatively low during the short period the commission has processed such complaints. The commission did not handle 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. As of August 15, 2011, the commission had processed only 56 complaints against inspectors since it began oversight of the industry in 2008, and all but one complaint 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. Thus, while there is currently a significant disparity in complaints against appraisers compared to home inspectors, this differential may narrow in future years.

Reciprocity Policy Has Changed

Another issue identified by the preliminary evaluation is the suspension of the commission's reciprocal licensing agreements with real estate appraisal licensing units from other jurisdictions. Traditionally, federal law has only encouraged reciprocal licensing among states, while Maryland law authorizes, but does not require, licensing for out-of-state appraisers. Until 2009, Maryland had established reciprocity with several surrounding and other key jurisdictions. However, the commission expressed concerns that the less stringent licensing and certification standards in bordering jurisdictions provided a less rigorous alternative to earning a credential in Maryland for those seeking to practice in the State. This disparity in standards between Maryland and other jurisdictions was particularly evident following the nationwide change in criteria released by AQB in 2008.

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, after 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.

While these new and more stringent requirements apply nationally, states were given flexibility in implementing the new standards. States that adopted the "firm date," such as Maryland, gave notice that all appraisers that receive a credential in Maryland after January 1, 2008, must meet all new education, experience, and examination criteria established by AQB. Many other states adopted a "segmented" approach, which grandfathered any of the three segments (education, experience, examination) that were completed by an appraiser applicant prior to 2008. This difference in policy, in addition to substantial differences among states in their requirements for new appraiser trainees, led the commission to rescind all reciprocal licensing agreements in 2009.

The preliminary sunset evaluation noted the lack of reciprocity as a potential issue for study, referencing findings by ASC compliance reviewers. In November 2010, the compliance review conducted by ASC did not find the commission out of compliance with relevant policy requirements, but it did state that the prolonged suspension of its reciprocity policy remained an area of concern. The commission has attempted to negotiate new reciprocal licensing agreements with the former partnering jurisdictions. However, these attempts have mostly failed due in part to a lack of cooperation and responsiveness. Staff has acknowledged the concern of ASC and the issue raised by DLS in the preliminary sunset evaluation and indicated that the effort to reinstate reciprocity will continue.

Chapter 4. The Dodd-Frank Wall Street Reform and Consumer Protection Act

Examination of the Housing Bubble Exposes Issues in the Appraisal Industry

As nationwide home valuations began to dramatically increase in the past decade coincident with a rise in mortgage fraud, federal financial agencies and outside entities with expertise in the residential real estate and mortgage industries began to question the effectiveness of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) and the oversight of the appraisal industry. In 2004, the U.S. Government Accountability Office (GAO) released a report in which it expressed concerns about the efficacy of the existing regulatory structure for the appraisal industry, including a lack of enforcement and compliance resources among state agencies and commissions. While some actions were taken to address the concerns found by GAO, it was not until after the housing market began its precipitous decline that reform of the real estate appraisal industry began in earnest.

Desire for reform of the appraisal and mortgage lending industries also grew out of several law enforcement investigations, which found collusion between lenders and appraisers, fraudulent real estate schemes, and a shifting emphasis toward expediting home sales rather than maintaining the quality of appraisals. Because real estate appraisers are an essential piece of the mortgage lending process, they have received blame as one of several important causes of the recent national housing market decline, which in turn was linked to the financial crisis.

Since decades of development of appraisal independence standards by federal, state, and private actors failed to prevent a relapse of widespread problems within the mortgage industry, stricter scrutiny is now being exercised over the linkages between appraisers and others in the industry, as well as over the potential conflicts of interest affecting appraisers. Conflicts of interest arise when personal interests create a bias that prevents an appraiser from exercising independent professional judgment.

In May 2009, the Federal Housing Finance Agency instituted a new set of rules known as the Home Valuation Code of Conduct (HVCC) in response to an investigation led by the New York Attorney General. HVCC was designed to strengthen independence standards for appraisals associated with mortgages sold to the federal government-sponsored enterprises ("Fannie Mae" and "Freddie Mac"), and the rules were considered central to the integrity of the real estate appraisal industry.

Essentially, HVCC established a buffer between real estate appraisers and loan officers by setting guidelines regarding conflicts of interest and the solicitation and selection of appraisers. By prohibiting certain forms of communication between lenders and appraisers, it was expected that HVCC would help to prevent the collusion that investigators had found throughout the mortgage lending industry and reduce the influence that those in the industry could have on the appraised valuation of a dwelling used as security in a mortgage transaction.

HVCC had an immediate and substantial impact on the appraisal industry. According to testimony provided to the U.S. House Committee on Financial Services by the President of the Appraisal Institute, member appraisers reported that the amount of pressure to provide appraisals with predetermined values from others in the industry had "decreased substantially."

At the same time, a relatively new type of business known as an appraisal management company (AMC), which had gradually proliferated over the several preceding decades, began to grow rapidly to fill the demand created by HVCC for a buffer between appraisers and lending institutions. Through an AMC, a lending institution has continuing access to a roster of appraisers, without the administrative burden of managing the roster or the business risk associated with ensuring compliance with appraisal regulations. Often, AMCs provide additional services, such as title work for the subject property, and package these services at a low price to be completed within a short period as agreed upon with the lender. AMCs quickly solidified their dominant role in the industry, reaching an estimated 70% share of the market by 2011, according the Appraisal Institute.

While AMCs were designed to provide a solution to the lack of appraiser independence, they began to raise a series of significant new issues for the industry. Notably, appraiser compensation declined significantly and the quality of appraisals assigned by AMCs is perceived to have degraded, due in part to unreasonable deadlines and appraisals done outside the geographic scope of competence of the appraisers. By 2009, several states had enacted laws to register AMCs and bring them within the purview of appraisal regulatory bodies.

Although HVCC was designed to restore appraisal independence standards, it also resulted in myriad ill effects predicted by early critics of the arrangement and quickly became a target of the U.S. Congress in its reform efforts following the financial crisis of 2008. The resulting financial reform legislation repealed HVCC, while preserving many of the same appraiser independence measures. These new measures have been adopted by Fannie Mae and Freddie Mac as appraisal independence requirements designed to protect homebuyers, investors, and the housing market from appraisal bias by eliminating conflicts of interest affecting appraisers.

In addition, the new Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) significantly amended Title XI of FIRREA, the legal framework controlling national uniform appraisal standards and state appraiser licensing bodies. It also extended consumer protections under the Truth in Lending Act to cover the appraisal industry and enhanced federal regulatory oversight within the federal Appraisal Subcommittee (ASC) and through other existing and new federal agencies. Dodd-Frank thereby became the centerpiece of the effort to coordinate new regulations and policies from federal banking regulators, government-sponsored enterprises, and other federal agencies necessary to keep appraisers independent of any conflicts of interest that might affect real estate valuations.

Dodd-Frank Will Significantly Affect Commission Activities and Workload

The new federal law will have several significant effects on the State Commission of Real Estate Appraisers and Home Inspectors. First, the law requires AMCs to be subject to registration and regulation by states. Second, Dodd-Frank significantly increases ASC oversight of state appraiser licensing units and expands its means of enforcement over noncompliant units. Third, the law requires that states ensure certain appraisal laws conform with newly established standards. And, finally, several provisions are expected to generate a significant increase in complaints that will need to be handled by the commission, which is already burdened with a substantial backlog of unresolved complaints against appraisers.

Traditionally, the real estate appraisal industry consisted mostly of independent appraisers doing business as sole proprietors or as partners or members in small business associations. The structure and processes of the commission reflected this traditional structure with appraiser and home inspector members and hearing boards. Dodd-Frank requires states to regulate AMCs and, as noted in further detail in **Chapter 5**, Maryland has recently joined many other states in enacting laws to regulate AMCs well in advance of the federal statutory deadline. Thus, the commission has begun promulgating regulations, implementing the necessary changes to the commission, hiring additional staff, and procuring resources to oversee AMCs.

Bringing AMCs within the purview of the commission will be difficult, not only due to the existing workload of the commission, but also because of the various other new requirements of Dodd-Frank that must also be implemented. For example, the law gives ASC additional authority to monitor the states' regulation of AMCs and to levy new and more credible sanctions against noncompliant states. This will likely increase the level of scrutiny from ASC and yield more requests for the commission to take corrective actions.

Fortunately, recently released federal policy guidance indicates that many amendments to the current oversight process will not begin until the cycle of compliance reviews that begins in 2013; given that the next compliance review for Maryland is expected to begin in February 2012, it will not likely be until early 2014 that the commission will face scrutiny under some of the new federal standards. Further, the remaining federal rulemakings required by Dodd-Frank are not anticipated to be completed this year, and perhaps not for several more years. This should provide sufficient time for the commission to obtain the resources necessary to meet all new and existing federal rules by their required implementation dates. These yet-to-be promulgated rulemakings are not expected to significantly affect the structure or workload of the commission.

However, the passage of Dodd-Frank has created several changes that will soon affect, or may already be affecting, the commission's workload, particularly in the number of appraiser complaints it receives. For example, additional complaints against appraisers are anticipated to arise as a result of the national appraiser complaint hotline to be established pursuant to Dodd-Frank. Additionally, a greater number of complaints is likely to be generated as a result of new consumer protection and consumer education provisions in the law. Finally, the new duties and restrictions on both appraisers and AMCs will result in a new source of complaints that will be filed against each other. All of these factors are likely to substantially increase the number of complaints each year and may add to the already sizable backlog, which could expose the commission to the new and more effective sanction authority of ASC.

It should be noted, however, that the new legislation may also benefit the commission. One provision in Dodd-Frank amended the current uses of federal appraiser registry fee revenues to include the provision of grants to states in order to assist in maintaining compliance with federal laws and policies. However, it is as yet unclear whether or when the commission will receive grant funding, how much funding may be provided, or what the conditions attached to such assistance might be. Further, discussions with ASC officials have revealed that the funding referred to in statute may not actually be provided in the form of direct grants to the states and may instead be used to support national training seminars and other services to state regulatory bodies.

Dodd-Frank Reciprocity Mandate Unlikely to Result in Policy Change

Section 1122 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 3351) eliminated the prior requirement for ASC to "encourage the States to develop reciprocity agreements" and established a mandatory system of reciprocity instead. The amendment now prohibits the appraisal of a federally related transaction by an appraiser unless he or she is credentialed in a state that has a reciprocity policy meeting certain conditions. Although the new prohibition is intended to have severe and disruptive effects on states that do not comply with the federal reciprocity standards, the provision was written with several conditions that are relevant to the commission's current circumstances. Specifically, one of the two conditions requires that the state from which an appraiser is credentialed must have equivalent licensure and certification standards as the state from which the appraiser is seeking licensure in order for the mandate of reciprocity to apply.

Thus, despite the new "mandatory" reciprocity standard, the conditional prohibition actually ratifies the commission's current approach to reciprocal licensing by allowing for the continuing denial of agreements with jurisdictions that do not meet or exceed the commission's own standards. Thus, even if Virginia, the District of Columbia, or another jurisdiction complies with all federal licensing or certification standards, including all new provisions under Dodd-Frank, if those standards do not meet or exceed any standards established by the commission, then the commission may still refuse to grant reciprocity.

Two principal factors continue to prevent a reinstatement of reciprocity with the commission's former partners. First, the commission has appraiser trainee licensing and supervision requirements that exceed other jurisdictions' standards, notwithstanding the new requirement in Dodd-Frank that all states adopt the minimum qualification requirements of the Appraiser Qualifications Board (AQB) for trainees and supervisors. The commission notes that, even with new trainee programs in jurisdictions that did not previously have them, the standards are not equivalent to those currently set by the commission. Discussions with the Appraisal Institute confirmed that this disparity in standards is significant, particularly given the in-classroom education requirements in Maryland. In discussions with officials from the Appraisal Institute and ASC, there was no indication that Maryland ought to lower its standards merely to facilitate reciprocity. Instead, each organization generally concurred that the commission ought to monitor the policies that are preventing reciprocal licensing from occurring and ensure that no inappropriate denial in reciprocity exists. Thus, a change in this policy is not recommended at this time.

The second main reason for the decision to rescind reciprocity was a divergence in licensing standards between Maryland and other states that began in 2008 with the new AQB criteria, as noted in greater detail in **Chapter 3**. While Maryland chose the firm date approach to implementing the new criteria, many other states, including jurisdictions that had reciprocity agreements with Maryland at the time, chose to follow the less stringent segmented approach to earning new appraisal credentials. The passage of the Dodd-Frank legislation did nothing to affect this divergence in state policies. However, it should be noted that, while the effect of the segmented approach was to grandfather many appraisers under some of the standards in effect prior to 2008 for a long period of time, the disparity in standards that occurred on January 1, 2008, may be interpreted by federal authorities as a short-term or temporary divergence that no longer qualifies as a reasonable ground to refuse reciprocity. It is unclear how this issue will be treated by ASC or possibly by a federal court. Nevertheless, it is only one of two independent grounds supporting the commission's decision to withhold reciprocity for real estate appraisers.

In the absence of a full reciprocal licensing agreement with other jurisdictions, Maryland has relied upon the combination of temporary permits and waivers of examination for appraisal applicants on a case-by-case basis. A temporary permit authorizes an appraiser to conduct work in Maryland for a particular assignment for a period of up to six months. A waiver of examination may be granted for an appraiser who otherwise qualifies for a credential under the standards set by the commission and if the appraiser applicant has recently passed the national examination.

In this way, the commission still provides several means for out-of-state appraisers to conduct business in Maryland rather than denying access and impermissibly discriminating against qualified appraisers residing in other states. And while a full reciprocal licensing agreement would expedite and facilitate the provision of credentials to out-of-state appraisers, an appropriate use of the waiver-of-examination policy remains a viable method of providing credentials for qualified applicants from other jurisdictions. Mitigating the lack of a reciprocity policy are the weakened housing market conditions, which have significantly reduced the demand for Maryland licenses and certifications from out-of-state appraisers. As of July 2011, commission staff had received only about a dozen requests for a waiver of examination since the rescission of its reciprocity agreements in 2009.

Chapter 5. 2011 Legislation Addresses Findings of the Preliminary Evaluation

During the 2011 regular session, the General Assembly responded to the Dodd-Frank Act by passing legislation that addressed several key provisions of the new federal law. Principally, Chapters 269 and 270 (1) require appraisal management companies (AMCs) to register with the State Commission of Real Estate Appraisers and Home Inspectors as a condition to offering appraisal management services in Maryland; (2) establish the commission as a special-fund entity; and (3) authorize the commission to set appropriate fees to approximate the costs of regulating the real estate appraisal, home inspector, and AMC industries. In addition, the State budget, as adopted, provided additional funding to assist the commission with its current duties, particularly the difficulties facing the commission's processing of appraiser complaints.

Regulation of Appraisal Management Companies

Chapters 269 and 270 require all AMCs conducting business in Maryland to register with the commission. AMC registration must be renewed annually, and the fees are to be determined by the commission through regulation. In order to qualify for registration, an AMC must submit specified documentation and certifications, including that its appraisers are appropriately credentialed and that all appraisals will follow relevant laws, policies, and professional standards. The law also requires an AMC to designate a "controlling person," who must be of good character and reputation and who must submit to a background investigation. Moreover, a registered AMC may not be owned by a person to whom an appraisal license or certificate has been refused, or who surrendered a license in a dishonorable fashion, unless the credential was later granted or restored.

The new law also prohibits certain acts and establishes certain expectations for AMCs, authorizes the commission to sanction AMCs in violation of the law's restrictions, and creates additional protections for the appraisers who are employed by AMCs. Due to the new responsibility to oversee the registration of AMCs, the law also requires the commission to add a representative of an AMC to its membership and establish a three-member AMC complaint hearing board similar to the existing appraiser and home inspector hearing boards. Finally, the law states that if the AMC registration process is not established by the July 1, 2011 effective date, AMCs may continue to operate in the State for 120 days after the registration process becomes available. As of August 2011, the registration process was incomplete but under consideration by the commission.

New State Commission of Real Estate Appraisers and Home Inspectors Fund

The new legislation establishes the State Commission of Real Estate Appraisers and Home Inspectors Fund as a special nonlapsing fund administered by the Department of Labor, Licensing, and Regulation (DLLR). The revenues of the real estate appraiser, home inspector, and AMC industries are credited to the fund beginning in fiscal 2012. As a special-fund entity, the commission's direct and indirect costs of fulfilling its statutory and regulatory duties are now covered with special funds. Thus, the bill repeals the requirement that the commission dedicate all revenues it receives to the general fund.

Under the terms of the legislation, any unspent and unencumbered money in the fund at the end of each fiscal year in excess of $100,000 reverts to the general fund in addition to all interest earnings. This requirement provides an incentive for the commission to approximate revenues closely to the estimated operating costs, which is also required by the law in setting the newly authorized fees.

Fee-setting Authority Expanded

Historically, the commission has only had authority to establish and alter fees for the registration of home inspectors, whereas real estate appraiser fees were set in statute. By contrast, the new legislation provides the commission with the authority to set reasonable fees by regulation for all three of the industries that it regulates. However, that authority has several restrictions. First, the commission is prohibited from increasing a State-established fee by more than 12.5% per year (once the initial fees are set). Second, the fees must be set at a level that reasonably approximates the cost of maintaining the commission in accordance with calculations made by DLLR as to the direct and indirect costs attributable to the commission. Finally, the legislation specifies that the fees established for each profession must approximate the costs of regulating each profession, rather than allowing one profession's fees to cross-subsidize the operating costs of another.

On August 9, 2011, the commission adopted a new fee schedule for the licensing of real estate appraisers and home inspectors as listed in **Exhibit 5.1**; however, those fees have not yet taken effect. It also established licensing fees for AMCs. As required by Chapters 269 and 270, the proposed fee structure will allow each profession to sustain itself and eliminate the potential for cross-subsidization, based on DLLR's assessment of the operating costs of regulating each profession.

Overall, fees for appraisers will increase while fees for inspectors will decrease under the new fee structure. Although appraiser trainees will pay double their current rates, the commission attempted to mitigate any hardship on trainees by lowering the initial license fees from the originally proposed levels. Licensed appraisers will pay an additional $175 for an original license but only an additional $125 for a renewal license. Certified residential and general real estate appraisers will pay an additional $150 for original certifications and an additional $125 for renewals. The end result is that all licensed and certified appraisers will now pay one flat fee of $325 for all original, renewal, and reciprocal licenses. The reinstatement fee increases from $25 to $75. It should be noted that licensed and certified appraiser fees shown here include the $75 National Registry fee, which is transferred to the federal Appraisal Subcommittee (ASC) and does not add to State revenue.

Under the newly adopted fees, the home inspector license will decrease by $75. This will reduce the likelihood that revenue generated by this program will subsidize the costs of the appraiser program, as discussed in further detail in **Chapter 2**. Application and reinstatement fees for home inspectors remain unchanged. DLLR indicates that, when it proposed this fee structure, it took into account any potential increases or decreases in the total number of licensed appraisers and inspectors expected to be registered in Maryland, based on the growth and attrition rates for each profession.

Exhibit 5.1

New Licensing Fees Adopted by the Commission on August 9, 2011

	Old Fee Schedule			**New Fee Schedule**		
	Original	**Renewal**	**Out-of-state**	**Original**	**Renewal**	**Out-of-state**
Real Estate Appraisers (Triennial)						
Trainee	$75	$75	N/A	$150	$150	N/A
Licensed	150	200	$150	325	325	$325
Certified Residential	175	200	175	325	325	325
Certified General	175	200	175	325	325	325
Reinstatement		25			75	
Home Inspector (Biennial)	400	400	400	325	325	325
Application	50		50	50		50
Reinstatement		50			50	
AMC (Annual)	N/A	N/A	N/A	2,250	2,500	
Nonrefundable Initial Application Review	N/A	N/A	N/A	250		

Notes:
All appraiser fees shown include a $75 National Registry fee that each appraiser must pay in addition to Maryland's licensing fee set by the commission. National Registry fees are transferred to the Appraisal Subcommittee and do not impact State revenues.

Beginning January 1, 2012, the National Registry fee will be increased from $75 to $120 for each three-year license issued (increasing the annualized rate from $25 to $40 per year). This increase is exempted from the 12.5% cap because it does not affect State revenue.

Source: Department of Labor, Licensing, and Regulation

Finally, AMC original and renewal licensure fees are established at $2,500 under the new fee structure. Of that amount, $250 represents a nonrefundable application review fee in the case of original licenses. AMCs must renew their licensure on an annual basis, meaning this program is likely to have the most stable annual revenue stream when compared to the real estate appraiser and home inspector programs. It is not yet known how many AMCs are currently operating in Maryland and, of those, how many will register with the commission or choose to discontinue operations in the State. Given that uncertainty, and because the number of licensed appraisers has declined in recent years, the commission expects the fee structure will be revisited on an annual or biennial basis.

Fiscal Impact of Chapters 269 and 270

The commission expects the regulation of AMCs to necessitate the hiring of additional staff. This includes a full-time administrative assistant responsible for handling the day-to-day activities of the commission, particularly the implementation of AMC oversight; an investigator primarily to handle AMC-related complaints, as well as an expected increase in home inspector complaints; and a half-time assistant Attorney General to manage the complaint resolution process and provide general legal support to the commission related to AMCs. Additionally, it would also require one-time start-up costs, including the upgrade of DLLR's e-licensing software system. DLLR officials have told commission members at recent meetings that the authorization for 2.5 new positions is unprecedented within the State's fiscal climate for boards and commissions, which reflects both the significance of the new legislation and of the issues facing the commission.

Concurrent with the passage of Chapters 269 and 270 during the 2011 session, a supplemental budget appropriated funds to cover the operating costs of the commission's newly expanded authority to regulate the AMC industry. The supplemental budget provided an additional $286,147 in special funds for the commission's AMC regulation responsibilities, as shown in **Exhibit 5.2**. In addition, it rescinded the general fund appropriation for the commission's regulation of real estate appraisers and home inspectors, providing instead a special fund appropriation.

Exhibit 5.2
State Commission of Real Estate Appraisers and Home Inspectors
Supplemental Funding for the Regulation of AMCs
Fiscal 2012

Positions	2.5
Salaries and Fringe Benefits	$146,355
Contractual Support	14,577
One-time Start-up Costs (including electronic licensing)	34,990
Ongoing Operating Expenses	20,225
Indirect Costs[1]	70,000
Total Legislative Appropriation for AMC Regulation	**$286,147**

[1]Allocated to other divisions within DLLR.

Source: The operating budget bill of 2012

The fiscal 2012 budget provides full funding for the direct costs related to the regulation of AMCs, including additional required staff. This includes salaries and benefits for 2.5 new positions, although the commission has indicated that, until AMC regulation begins, these staff will assist with other appraiser and home inspector responsibilities. Moreover, the budget funds the hiring of contractual staff, one-time start-up costs such as database upgrades, and ongoing operating expenses such as phones and computers. Indirect costs – like usage of the licensing system, general services offices, and a portion of the salaries of some senior DLLR staff – are also allocated to the fund, increasing total costs by $70,000.

Fee Revenues Must Cover Costs of Regulation

To offset the costs of regulating AMCs, fees must be set at a level to ensure both direct and indirect costs of the regulatory program are covered. Both Chapters 269 and 270 and the operating budget assumed the commission would collect $300,000 annually for the regulation of AMCs. This was based on the assumption that DLLR would assess a $2,000 fee for both an initial AMC registration and for annual renewals, and that 150 AMCs would register with the commission in fiscal 2012. Despite the July 1, 2011 effective date of the bill, however, Chapters 269 and 270 did not establish the fee in statute. As such, the registration fees must be set by regulation, though it is expected that the registration of AMCs cannot realistically begin until calendar 2012.

As reflected in **Exhibit 5.3**, the commission now expects to collect $250,000 for AMC application and registration fees in fiscal 2012. This is reflective of the new fee structure adopted by the commission on August 9, 2011. The commission also estimates that 100 AMCs will register in the first year, rather than 150 as assumed in the fiscal and policy note for Chapters 269 and 270. Although real estate appraiser fees will increase under the new fee structure, the decline in the number of appraisers will cause fiscal 2012 revenue to remain nearly level compared with fiscal 2011. However, the decreased fee for home inspectors will result in a decline in that revenue, which is necessary to bring home inspector revenues in line with relevant expenditures for that program. The commission's total fiscal 2012 revenue is expected to exceed expenditures by only $21,000 at fiscal year-end. None of this surplus is expected to be directed to the general fund in fiscal 2013 because it is below the $100,000 cap set by Chapters 269 and 270.

Budget Includes Funding to Create Technical Review Panel

The fiscal 2012 budget also provided the commission with $30,000 in new funding to create a panel of technical reviewers. The panel will comprise expert real estate appraisers qualified to conduct technical reviews of pending appraiser complaints. The structure of the panel is currently undefined. However, the Department of Legislative Services expects that the commission will set up a panel similar to the one that was functioning during fiscal 2006 and 2007, as noted in **Chapter 3**. While the additional funding will help address the growing backlog of complaints resulting from the recent lack of technical reviews, it is unknown whether a review panel based on an appropriation of $30,000 will be sufficient to eliminate the commission's backlog of complaints within a reasonable amount of time while disposing of incoming complaints within the required period of one year. The panel is not yet operational, although the commission is currently evaluating the procurement process for technical review services.

Exhibit 5.3

State Commission of Real Estate Appraisers and Home Inspectors Funding

Fiscal 2006-2012

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012[3]
Revenues							
Appraiser Revenues	$199,845	$250,545	$171,953	$119,423	$205,436	$155,000	$160,000
Home Inspector Revenues	-	67,950	234,725	170,525	192,930	156,358	130,000
AMC Revenues	-	-	-	-	-	-	250,000
Total Revenues	**$199,845**	**$318,495**	**$406,678**	**$289,948**	**$398,366**	**$311,358**	**$540,000**
Expenditures							
Appraisers and Inspectors							
Direct Expenditures	$250,272	$156,674	$187,455	$154,796	$136,804	153,545	267,000
Direct Legal Expenditures	0	0	0	48,998	51,856	46,635	20,000
O&P Cost Allocation[1]	22,337	31,724	50,780	27,692	0	0	0
DLLR Indirect Expenditures	46,528	18,284	27,738	20,561	13,403	12,622	20,000
Total Expenditures	**$319,137**	**$206,682**	**$265,973**	**$252,047**	**$202,063**	**$212,802**	**$307,000**
AMCs							
Direct Expenditures	-	-	-	-	-	-	172,000
Direct Legal Expenditures	-	-	-	-	-	-	15,000
O&P Cost Allocation	-	-	-	-	-	-	
DLLR Indirect Expenditures	-	-	-	-	-	-	25,000
Total Expenditures	-	-	-	-	-	-	**$212,000**
Surplus/(Gap)[2]	**($119,292)**	**$111,813**	**$140,705**	**$37,901**	**$196,303**	**$98,556**	**$21,000**

[1]O&P was considered an indirect cost until fiscal 2010, when it became a reimbursable cost item that was reflected in each board subprogram budget. After that point O&P allocations were folded into direct costs.

[2]100% of the surplus from fiscal 2006 through 2011 benefited the general fund. Beginning in fiscal 2012, the fund balance may be no greater than $100,000 and only any remainder will be transferred to the general fund.

[3]Fiscal 2012 revenue based on new fee structure adopted by commission on August 9, 2011. AMC revenues based on an assumed base of 100 registered AMCs.

O&P: Occupational and Professional Licensing

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

Chapter 6. Findings and Recommendations

Commission Should Be Extended

Real estate appraisers and home inspectors provide services that are essential to real property transactions. Appraisal management companies (AMCs) have quickly become dominant in the real estate appraisal industry and are now a focal point for state and federal regulators, as reflected by the passage of new legislation during the 2011 session of the Maryland General Assembly. Given the recent turmoil in the housing market, which is the second such crisis in the past 30 years, there is continued need for regulation by the State Commission of Real Estate Appraisers and Home Inspectors, albeit with additional resources and an expanded scope to reflect the new realities of the real estate and mortgage lending industries.

The State Commission of Real Estate Appraisers and Home Inspectors has demonstrated professionalism and efficiency in carrying out its day-to-day operations. The staff has proven to be knowledgeable and capable of executing the tasks for which it is responsible. The commission's deficiencies have been largely the result of a lack of resources, which has been addressed through recent legislation and budget actions.

Recommendation 1: The State Commission of Real Estate Appraisers and Home Inspectors should be continued, and legislation should be enacted to extend its termination date to July 1, 2023, with an evaluation date of July 1, 2022.

Resolution of Complaint Backlog Remains Uncertain

The preliminary evaluation revealed significant increases in the volume of appraisal complaints in recent years. The complaint volume, coupled with the high percentage of those requiring technical review, raised concerns about substantial delays in the processing of complaints. Of the 70 open complaints currently before the commission, 42 – more than half – are still awaiting technical review. A technical review performed by a qualified appraiser is often necessary to resolve an open complaint due to the complexity and technical nature of an appraisal. However, the commission does not employ an appraiser to conduct technical reviews.

The fiscal 2012 budget provided the commission with $30,000 in new funding to create a panel of technical reviewers. While the additional funding is certain to help address the growing backlog of complaints and lack of technical reviews, it is unknown whether this funding will be sufficient to eliminate the commission's backlog of complaints and process new complaints requiring technical reviews within the required one-year period.

Recommendation 2: The commission should submit a report to the Senate Finance Committee and the House Economic Matters Committee by October 1, 2013, on the extent

to which the creation of a technical review panel has assisted in the elimination of the backlog. Specifically, the report should evaluate the rate at which the newly established panel is able to resolve open complaints with $30,000 in funding for fiscal 2012 and any funding that may be provided for this purpose in fiscal 2013 as well as whether additional funding and staffing will be needed to eliminate the backlog and process new complaints within an appropriate period of time.

Newly Established Special Fund Enhances Commission's Self-sufficiency

Revenue collected by the commission is generated through fees, fines, and other charges, and until fiscal 2012, was directed to the general fund. The commission relied on appropriations from the general fund to cover its operating expenses. The preliminary evaluation found that the commission's average annual revenues outpaced expenditures, generating significant excess revenues. However, due to the lack of a special fund arrangement, this surplus was directed to the general fund and not retained by the commission to procure the resources it needed to meet its obligations. And due to recent cost-containment efforts, the general fund appropriation for the commission had fallen short of the amount necessary to correct critical deficiencies that had arisen.

However, Chapters 269 and 270 of 2011 established a special fund and required the commission, in conjunction with the Department of Labor, Licensing, and Regulation (DLLR), to set commission fees at a level to cover its costs. The commission adopted a new fee structure on August 9, 2011, which will allow for sufficient revenue to offset the anticipated operating cost of regulating each of the three professions it now oversees. Moreover, the commission may benefit from any surplus below $100,000 at the end of the year, which may assist with unanticipated expenses in future years. The Department of Legislative Services expects that the established fees and newly created fund will be well received by federal reviewers because it helps the commission be more effective.

New Law Ends Possibility of Cross-subsidization between the Two Professions

Until recently, the commission set, by regulation, the home inspector licensing fees at the statutory maximum of $400 based on the number of home inspector licensees and based on the 2002 estimate of costs for operating the program. Because the actual number of home inspectors greatly exceeds the earlier estimate, home inspector fees have generated substantially more revenue than expected. In addition, home inspector licensing fees had been significantly higher than real estate appraiser fees, which were set in statute. Based on the significant differences in licensing fees and the resources that the commission spends on oversight of each profession, the preliminary sunset evaluation raised concerns about the disparity in revenue generated by the commission's two licensing programs at that time. While there had previously not been any statutory mechanisms to address this disparity, Chapters 269 and 270 of 2011 now require that the new fees established for each program approximate the costs of regulating each profession.

Recommendation 3: The commission should report to the committees by October 1, 2013, on the methodology used to develop the fee structure for each profession, including the direct and indirect costs attributable to each profession. In addition, the commission should report, by October 1, 2013, on whether the fee structure has eliminated or minimized cross-subsidization and ensured sufficient special fund revenue to support each of the commission's three functions. This will enable appropriate oversight to ensure that the new special fund addresses the concerns expressed in the federal Appraisal Subcommittee's most recent compliance review while maintaining compliance with Chapters 269 and 270.

Despite New Federal Requirement, Commission Unlikely to Reinstitute Reciprocity Agreements

Traditionally, federal law encouraged, but did not require, reciprocal licensing among states. In 2009 Maryland rescinded each reciprocity agreement it had established with other jurisdictions after citing concerns about less stringent licensing and certification standards. Federal compliance reviewers have since noted the lack of a reciprocal licensing policy as an area of concern, prompting commission staff to investigate whether any changes have taken place in other jurisdictions to warrant a renewal of reciprocity. While the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) mandated reciprocal licensing, the conditions associated with the mandate may have little effect on the likelihood of a renewal of reciprocity with former partnering jurisdictions.

Two principal factors continue to dissuade the commission from reinstating reciprocity with the commission's former partners. First, the commission has real estate appraiser trainee licensing and supervision requirements that exceed other jurisdictions' standards. Second, the new Appraiser Qualifications Board (AQB) criteria released in January 2008 resulted in a significant divergence in licensing standards between Maryland and other jurisdictions due to the implementation timeline chosen by each jurisdiction. Maryland chose the more stringent approach by establishing a firm date by which the new criteria apply to appraiser applicants, including those credentialed under prior rules.

In the absence of a full reciprocal licensing agreement with other key jurisdictions, Maryland has relied upon the combination of temporary permits and waivers of examination for individual applicants on a case-by-case basis. In this way, the commission still provides several means for out-of-state appraisers to conduct business in Maryland rather than denying access and impermissibly discriminating against qualified appraisers residing in other states.

Recommendation 4: The commission should reevaluate the licensing standards of other jurisdictions with which Maryland had reciprocity agreements in the past and report its

findings as part of its report to the General Assembly. The report should include a detailed assessment of what steps other jurisdictions have taken or intend to take, if any, to establish licensing requirements on par with Maryland's standards. The report should also include steps the commission is taking to reinstate reciprocity agreements, where appropriate, and how it will monitor the progress of other jurisdictions with lesser standards. The report should be submitted to the committees by October 1, 2013.

Additional Recommendations

Chapters 269 and 270 of 2011 require all AMCs conducting business in Maryland to register with the commission. The new law also prohibits certain acts and establishes certain expectations for AMCs, authorizes the commission to sanction AMCs in violation of the law's restrictions, and creates additional protections for the appraisers who are employed by AMCs.

Recommendation 5: The General Assembly should rename the commission in order to reflect its newly delegated responsibilities and the appraisal management company industry that it now oversees.

Discussions with federal Appraisal Subcommittee officials have revealed that the new funding opportunity created by the Dodd-Frank Act may not be provided in the form of direct grants to the states but may instead be used to support national training seminars and provide other services to state appraisal boards and commissions. Due to longstanding staffing shortages, the commission has at times in the past failed to send representatives to national conferences.

Recommendation 6: Commission staff should take advantage of training opportunities created by federal agencies with any money that may be authorized under Dodd-Frank and should attend national conferences and training seminars when appropriate.

Chapter 470 of 2001 expanded the commission's regulatory purview to encompass home inspectors and required DLLR to study the appropriateness of incorporating oversight of home inspectors with the commission. Due to the substantial delay in implementation of the home inspector licensing program, the study was also delayed. However, in 2006 DLLR submitted a letter to the General Assembly that the report would be completed once the home inspector program was implemented. To date, no report has been submitted.

Recommendation 7: Given that the home inspector and real estate appraiser programs have been operating together effectively for several fiscal years, the General Assembly should repeal the requirement for the report on implementation of the home inspector licensing program.

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

Commission Members

George Fair, Chair, Home Inspector Industry Member
Nathaniel Hauser, Vice-Chair, Appraiser Industry Member
Steven J. McAdams, Appraiser Industry Member
David A. Hanson, Home Inspector Industry Member
John E. Jordan, Home Inspector Industry Member
David L. Brauning, Financial Member
Denise Herndon, Appraisal Management Company Member
John D. Grewell, Home Inspector Industry Member
Trevor Lee, Consumer Member
David J. Hodnett, Financial Member
Donald DeCastro, Consumer Member
Maryann L. Rush, Appraiser Industry Member
J. Otis Smith, Consumer Member
Christopher Pirtle, Consumer Member
Vacancy, Appraiser Industry Member

Commission Staff

Patricia Schott, Administrator

Appendix 2. Draft Legislation

C2 2lr0571

Bill No.: ____________________

Requested: ____________________

Committee: ____________________

By: **Leave Blank**

Drafted by: Isaacson
Typed by: Gail
Stored – 10/31/11
Proofread by ____________________
Checked by ____________________

A BILL ENTITLED

AN ACT concerning

State Commission of Real Estate Appraisers and Home Inspectors – Sunset Extension and Program Evaluation

FOR the purpose of continuing the State Commission of Real Estate Appraisers and Home Inspectors in accordance with the provisions of the Maryland Program Evaluation Act (sunset law) by extending to a certain date the termination provisions relating to the statutory and regulatory authority of the Commission; requiring that an evaluation of the Commission be performed on or before a certain date; requiring the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date; repealing a requirement for the Commission to submit a certain report to certain committees of the General Assembly on or before a certain date; renaming the Commission; making conforming changes; and generally relating to the State Commission of Real Estate Appraisers and Home Inspectors.

BY repealing and reenacting, with amendments,
Article – Business Occupations and Professions
Section 16–101(g) to be under the amended title "Title 16. Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors"; 16–201 and 16–217(c)(2) to be under the amended subtitle "Subtitle 2. State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors"; and 16–801 and 16–802

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – Business Regulation
Section 2–106.7(a) and (b)(1), 2–106.8(a), and 2–108(a)(25)
Annotated Code of Maryland
(2010 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section 8–403(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 8–403(b)(59)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing
Chapter 470 of the Acts of the General Assembly of 2001
Section 3

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Business Occupations and Professions

Title 16. Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

16–101.

(g) "Commission" means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

Subtitle 2. State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

16–201.

There is a State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors in the Department.

16–217.

(c) (2) The Comptroller shall distribute the fees to the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors Fund established in § 2–106.7 of the Business Regulation Article.

16–801.

This title may be cited as the "Maryland Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors Act".

16–802.

Subject to the evaluation and reestablishment provisions of the Maryland Program Evaluation Act, this title and all regulations adopted under this title shall terminate and be of no effect after July 1, [2013] **2023**.

Article – Business Regulation

2–106.7.

(a) (1) In this section the following words have the meanings indicated.

(2) "Commission" means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

(3) "Fund" means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors Fund.

(b) (1) There is a State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors Fund in the Department.

2–106.8.

(a) In this section, "Commission" means the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

2–108.

(a) The following units are in the Department:

(25) the State Commission of Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors.

Article – State Government

8–403.

(a) On or before December 15 of the 2nd year before the evaluation date of a governmental activity or unit, the Legislative Policy Committee, based on a preliminary evaluation, may waive as unnecessary the evaluation required under this section.

(b) Except as otherwise provided in subsection (a) of this section, on or before the evaluation date for the following governmental activities or units, an evaluation shall be made of the following governmental activities or units and the statutes and regulations that relate to the governmental activities or units:

(59) Real Estate Appraisers, **APPRAISAL MANAGEMENT COMPANIES,** and Home Inspectors, State Commission of (§ 16–201 of the Business Occupations and Professions Article: July 1, **[**2012**]** **2022**);

Chapter 470 of the Acts of 2001

[SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Labor, Licensing, and Regulation shall report to the Senate Finance Committee and the House Economic Matters Committee on or before December 1, 2002, in accordance with § 2–1246 of the State Government Article, on the impact of incorporating a licensing authority for home inspectors into the State Commission of Real Estate Appraisers. The report shall include:

(1) an evaluation of the ability of the Commission to operate separate regulatory schemes and hearing boards for home inspectors and real estate appraisers;

(2) a summary of the number of home inspector licenses issued and the number of complaints received against home inspectors; and

(3) the appropriateness of the current licensing fee for home inspectors.]

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the State Commission of Real Estate Appraisers, Appraisal Management Companies, and Home Inspectors shall report to the Senate Finance Committee and the House Economic Matters Committee, in accordance with § 2–1246 of the State Government Article, on the following:

(1) the extent to which the creation of an appraisal technical review panel has assisted in the satisfactory resolution of appraiser complaints, including:

(i) the percentage of complaints that are resolved within 1 year for complaints received in fiscal years 2012 and 2013;

(ii) the number of complaints that are not resolved within 1 year, and the date that each unresolved complaint was received;

(iii) the average amount expended by the technical review panel to complete each technical review in fiscal years 2012 and 2013; and

(iv) an estimate of the additional funding necessary, if any, for the technical review panel to conduct reviews of any remaining complaints that have not been resolved within 1 year;

(2) the methodology used to establish the Commission's fee schedules for each profession, including:

(i) the direct and indirect costs attributable to the Commission's activities regarding regulation of:

1. real estate appraisers;

2. appraisal management companies; and

3. home inspectors; and

(ii) an evaluation of whether the fees established for each profession or industry have been appropriately set so as to produce funds to approximate the cost of regulating each profession or industry as required by § 2–106.8 of the Business Regulation Article; and

(3) any reciprocal licensing agreements that the Commission has established with other state real estate appraiser licensing or certification bodies, including:

(i) an evaluation of the licensing standards of any jurisdiction that had been a party to a prior reciprocal licensing agreement, and any steps taken by such jurisdictions to enhance licensing standards necessary to reestablish a reciprocal licensing agreement with the Commission;

(ii) a statement regarding the reason that a reciprocal licensing agreement cannot be established with a jurisdiction that had previously been a party to a prior agreement;

(iii) the methods the Commission will undertake to monitor future changes in the standards of other jurisdictions for purposes of establishing reciprocal licensing agreements; and

(iv) any additional measures that the Commission intends to take toward the goal of establishing reciprocal licensing agreements with other jurisdictions.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.

Appendix 3. Written Comments on Behalf of the State Commission of Real Estate Appraisers and Home Inspectors

STATE OF MARYLAND
DLLR
DEPARTMENT OF LABOR, LICENSING AND REGULATION

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
500 North Calvert Street, 3rd Floor
Baltimore, MD 21202-3651
Stanley J. Botts, Commissioner

October 26, 2011

Warren G. Deschenaux, Director
Department of Legislative Services
Office of Policy Analysis
Maryland General Assembly
90 State Circle
Annapolis, MD 21401-1991

Re: Commission of Real Estate Appraisers and Home Inspectors
Sunset Review

Dear Mr. Deschenaux:

Pursuant to your letter of October 14, 2011, I am pleased to present this response on behalf of the Department of Labor, Licensing and Regulation and the Maryland Commission of Real Estate Appraisers and Home Inspectors regarding the draft sunset report forwarded to us for review and comment. We have provided Flora Arabo and Evan Isaacson with a single factual correction indicating that there is currently no direct contract between DLLR and PSI Examinations regarding the administration of the National Home Inspectors Examination. We have also provided a piece of previously unavailable data indicating that indirect costs for FY11 attributable to the Commission were established at $12,622. Our substantive response to the draft report is attached, with comments referenced by recommendation number.

The Department appreciates the professional manner in which Ms. Arabo and Mr. Isaacson conducted the review. Please feel free to contact me if you have any questions regarding this response.

Sincerely,

Harry Loleas

Harry Loleas
Deputy Commissioner

cc: Alexander M. Sanchez, Esq., Secretary
Leonard Howie, Assistant Secretary
Stanley J. Botts, Commissioner
Patricia Schott, Administrator
George Fair, Chairman of Maryland Home Improvement Commission
Donni M. Turner, Director of Legislative and Intergovernmental Affairs

TTY USERS, CALL VIA THE MARYLAND RELAY SERVICE
INTERNET: WWW.DLLR.STATE.MD.US • E-MAIL: OP@DLLR.STATE.MD.US

MARTIN O'MALLEY, GOVERNOR • ANTHONY G. BROWN, LT.GOVERNOR • ALEXANDER M. SANCHEZ, SECRETARY

COMMENTS OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION AND THE COMMISSION OF REAL ESTATE APPRAISERS AND HOME INSPECTORS REGARDING THE SUNSET EVALUATION OF THE COMMISSION BY THE DEPARTMENT OF LEGISLATIVE SERVICES

NOVEMBER 2011

Recommendation 1: The State Commission of Real Estate Appraisers and Home Inspectors should be continued, and legislation should be enacted to extend its termination date to July 1, 2023, with an evaluation date of July 1, 2022.

Response: The Department and the Commission support the extension of the termination date for the Commission.

Recommendation 2: The commission should submit a report to the Senate Finance Committee and the Economic Matters Committee by October 1, 2013, on the extent to which the creation of a technical review panel has assisted in the elimination of the backlog. Specifically, the report should evaluate the rate at which the newly established panel is able to resolve open complaints with $30,000 in funding for fiscal 2012 and any funding that may be provided for this purpose in fiscal 2013 as well as whether additional funding and staffing will be needed to eliminate the backlog and process new complaints within an appropriate period of time.

Response: The Department and the Commission will provide the requested report as outlined in the recommendation to the Senate Finance Committee and the Economic Matters Committee. The report will evaluate the impact of the panel on case resolution and the sufficiency of funding in FY 12 and FY 13.

Recommendation 3: The commission should report to the committees by October 1, 2012, on the methodology used to develop the fee structure for each profession, including the direct and indirect costs attributable to each profession. In addition, the commission should report, by October 1, 2013, on whether the fee structure has eliminated or minimized cross-subsidization and ensured sufficient special fund revenue to support each of the commission's three functions. This will enable appropriate oversight to ensure that the new special fund addresses the concerns expressed in the federal Appraisal Subcommittee's most recent compliance review while maintaining compliance with Chapters 269 and 270.

Response: The Department and the Commission will prepare the requested report as outlined in the recommendation and provide it to the General Assembly. We are mindful of the mandate to avoid cross subsidization. Initial fees were established based on estimates regarding the implementation of licensing and regulation of Appraisal

Management Companies and the experience of regulating appraisers and home inspectors. Once additional experience is registered in dealing with the three groups, it is expected that fees will periodically be adjusted to reasonably reflect the funds required and the amounts reasonably attributable to the qualification, licensure and regulation of each group individually.

Recommendation 4: The commission should reevaluate the licensing standards of other jurisdictions with which Maryland had reciprocity agreements in the past, and report its findings as part of its report to the General Assembly. The report should include a detailed assessment of what steps other jurisdictions have taken or intend to take, if any, to establish licensing requirements on par with Maryland's standards. The report should also include steps the Commission is taking to reinstate reciprocity agreements where appropriate, and how it will monitor the progress of other jurisdictions with lesser standards. The report should be submitted to the committees by October 1, 2013.

Response: The Commission recognizes the importance of reciprocity and supports offering it to qualified individuals. The Commission is currently giving consideration to the reinstatement of reciprocal licensing agreements with other jurisdictions affecting individuals licensed and certified prior to January 1, 2008. The Commission will work in conjunction with its federal regulators to determine how the Commission might treat reciprocity with other jurisdictions in light of its adoption of the firm date scenario of the 2008 Appraiser Qualifications Board Criteria, affecting individuals licensed and certified after January 1, 2008.

The Commission will prepare the requested report as outlined in the recommendation and provide it to the General Assembly.

Recommendation 5: The General Assembly should rename the commission in order to reflect its newly delegated responsibilities and the appraisal management company industry that it now oversees.

Response: The Commission supports this recommendation.

Recommendation 6: Commission staff should take advantage of training opportunities created by federal agencies with any money that may be authorized under Dodd-Frank and should attend national conferences and training seminars when appropriate.

Response: The Commission supports this recommendation. The Commission has filed the appropriate application to seek membership into the Association of Appraiser Regulatory Officials (AARO), whose mission is to improve the administration and enforcement of real estate appraisal laws in member jurisdictions. AARO strives to raise the level of competence and professionalism of its members by offering appraisal related education programs and training. Because money authorized under the Dodd-Frank Act is not currently appropriated or available, the Commission is utilizing its own funds to cover the annual $350 membership fee charged by the organization, as well as any expenses related to training. AARO Training often takes place in Washington D.C., which would keep costs at a moderate level.

Recommendation 7: Given that the home inspector and real estate appraiser programs have been operating together effectively for several fiscal years, the General Assembly should repeal the requirement for the report on implementation of the home inspector licensing report.

Response: The Department and the Commission support this recommendation.